IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	No. 1:19cr124
HYDRO EXTRUSION USA, LLC,	)	
f/k/a Sapa Extrusions, Inc.,	)	
Defendant.	)	

JOINT MOTION FOR APPROVAL OF DEFERRED PROSECUTION AGREEMENT AND EXCLUSION OF TIME UNDER THE SPEEDY TRIAL ACT

The United States of America and the defendant, Hydro Extrusion USA, LLC, formerly known as Sapa Extrusions, Inc. (collectively, "**Sapa Extrusions**"), by their respective attorneys, move this Honorable Court for entry of an Order approving the attached Deferred Prosecution Agreement and to continue all further criminal proceedings, including trial, until further motion of the parties. In support thereof, the parties state as follows:

1. The Speedy Trial Act requires that the trial of a defendant charged in an Information occur within 70 days from the later of the filing of the Information or the date on which the defendant appeared before a judicial officer in the court in which the charge is pending. *See* 18 U.S.C. § 3161(c)(1).

2. The Speedy Trial Act, 18 U.S.C. § 3161(h)(2), further provides that:

> The following periods of delay shall be excluded in computing the time within which an information . . . must be filed, or in computing the time within which the trial of any such offense must commence:
>
> . . .
>
> Any period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.

3. On or about April 12, 2019, the United States and **Sapa Extrusions** entered into a written Deferred Prosecution Agreement (the "Agreement"), a true, correct, and complete copy of which is attached hereto and incorporated by reference as Exhibit 1.

4. In Paragraph 1 of the Agreement, **Sapa Extrusions** agreed to waive indictment and agreed to the filing of a one-count Information in this Court charging it with mail fraud, in violation of 18 U.S.C. § 1341.

5. Pursuant to Paragraphs 4 and 5 of the Agreement, and in light of **Sapa Extrusions**'s willingness to: (i) admit, accept, and acknowledge responsibility for its actions as detailed in the Statement of Facts attached to the Agreement; (ii) engage in swift and extensive remediation; (iii) continue its cooperation with the United States; (iv) continue its commitment to enhance its internal controls; and (v) pay the monetary penalty referred to in Paragraph 7 of the Agreement, the United States of respectfully recommends, pursuant to 18 U.S.C. § 3161(h)(2), that this Court approve the Agreement and that the prosecution of **Sapa Extrusions** on the Information filed pursuant to Paragraph 1 of the Agreement be deferred for a period of three years from the date on which the Information is filed.

6. The United States and **Sapa Extrusions** believe that such a delay and speedy trial exclusion will allow the defendant to demonstrate its good conduct and therefore seek the approval of this Court to delay trial. *See* 18 U.S.C. § 3161(h)(2). The United States and **Sapa Extrusions** believe that such a delay would serve the ends of justice and would outweigh the best interest of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

7. **Sapa Extrusions** joins in this motion and expressly waives any and all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, 18 U.S.C. § 3161, Federal Rule of Criminal Procedure 48(b), and any applicable Local Rules of the United States

District Court for the Eastern District of Virginia for the period that the Agreement is in effect.

8. The United States of America agrees that if **Sapa Extrusions** fully complies with all its obligations under the Agreement, the United States, within six months of the Agreement's expiration, will move this Court to dismiss with prejudice the Information filed against the defendant.

For all the reasons stated above, the United States and defendant **Sapa Extrusions** respectfully request that this Court enter an Order approving the Agreement and continuing all further criminal proceedings, including trial, for a period of three years from the date on which the Information is filed, excluding the three years in computing the time within which any trial must be commenced upon the charge contained in the Information filed against **Sapa Extrusions** pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(2).

Respectfully submitted,

G. Zachary Terwilliger
United States Attorney

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division, U.S. Department of Justice

By: _____/s/_____
Ryan S. Faulconer
Counsel for the United States
Assistant United States Attorney
U.S. Attorney's Office
2100 Jamieson Ave
Alexandria, VA
Phone: 703-299-3700
Fax: 703-299-3981
Email: ryan.faulconer2@usdoj.gov

By: _____/s/_____

Emily Scruggs
Laura L. Connelly
Counsel for the United States
Trial Attorneys
United States Department of Justice
Criminal Division, Fraud Section
1400 New York Ave NW
Washington, DC 20005
Phone: 202-514-7023
Fax: 202-514-7021
Email: emily.scruggs@usdoj.gov
laura.l.connelly@usdoj.gov

I hereby agree that I have consulted with outside counsel and fully understand all of **Hydro Extrusion USA, LLC**'s rights with respect to a speedy trial, including the right to begin trial within 70 days of the Information or its first appearance before this Court, as required by Title 18, United States Code, Section 3161(c). I have read this motion for an extension of the speedy trial deadline and carefully reviewed every part of it with outside counsel. I certify that I am the President of **Hydro Extrusion USA, LLC** and that I have been duly authorized by **Hydro Extrusion USA, LLC** to agree voluntarily to this motion on behalf of the Company.

Date: 4-10-19

Charles J. Straface, President
Hydro Extrusion USA, LLC
f/k/a Sapa Extrusions, Inc.
Defendant

We are outside counsel for the defendant in this case. We have fully explained to the defendant the defendant's right to have trial commence within 70 days of the Information or its first appearance before this Court, as required by Title 18, United States Code, Section 3161(c). Specifically, we have reviewed the terms and conditions of Title 18, United States Code, Section 3161(c), and we have fully explained to the defendant the provisions that may apply in this case. To our knowledge, the defendant's decision to agree to an extension of time to commence trial is an informed and voluntary one.

Date: _____

Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP

I hereby agree that I have consulted with outside counsel and fully understand all of **Hydro Extrusion USA, LLC**'s rights with respect to a speedy trial, including the right to begin trial within 70 days of the Information or its first appearance before this Court, as required by Title 18, United States Code, Section 3161(c). I have read this motion for an extension of the speedy trial deadline and carefully reviewed every part of it with outside counsel. I certify that I am the President of **Hydro Extrusion USA, LLC** and that I have been duly authorized by **Hydro Extrusion USA, LLC** to agree voluntarily to this motion on behalf of the Company.

Date: _____

Charles J. Straface, President
Hydro Extrusion USA, LLC
f/k/a Sapa Extrusions, Inc.
Defendant

We are outside counsel for the defendant in this case. We have fully explained to the defendant the defendant's right to have trial commence within 70 days of the Information or its first appearance before this Court, as required by Title 18, United States Code, Section 3161(c). Specifically, we have reviewed the terms and conditions of Title 18, United States Code, Section 3161(c), and we have fully explained to the defendant the provisions that may apply in this case. To our knowledge, the defendant's decision to agree to an extension of time to commence trial is an informed and voluntary one.

Date: 4-10-19

Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2019, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing ("NEF") to all counsel of record.

_____/s/_____
Ryan S. Faulconer
Assistant United States Attorney

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	No. 1:19cr124
HYDRO EXTRUSION USA, LLC,	)	
f/k/a Sapa Extrusions, Inc.,	)	
Defendant.	)	

DEFERRED PROSECUTION AGREEMENT

Defendant Hydro Extrusion USA, LLC, formerly known as Sapa Extrusions, Inc. (the "Company"), pursuant to authority granted by the Company's sole member reflected in Attachment B, the United States Department of Justice, Criminal Division, Fraud Section, and the United States Attorney's Office for the Eastern District of Virginia (together the "United States"), enter into this deferred prosecution agreement (the "Agreement").

Criminal Information and Acceptance of Responsibility

1. The Company acknowledges and agrees that the United States will file the attached one-count Criminal Information in the United States District Court for the Eastern District of Virginia charging the Company with mail fraud, in violation of Title 18, United States Code, Section 1341. In so doing, the Company: (a) knowingly waives its right to indictment on this charge, as well as all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); and (b) knowingly waives any objection with respect to venue to any charges by the United States arising out of the conduct described in the Statement of Facts attached hereto as Attachment A and consents to the filing of the Information, as provided under the terms of this Agreement, in

the United States District Court for the Eastern District of Virginia. The United States agrees to defer prosecution of the Company pursuant to the terms and conditions described below.

2. The Company admits, accepts, and acknowledges that it is responsible under United States law for the acts of its officers, directors, employees, and agents as charged in the Information, and as set forth in the attached Statement of Facts, and that the allegations described in the Information and the facts described in the attached Statement of Facts are true and accurate. Should the United States pursue the prosecution that is deferred by this Agreement, the Company stipulates to the admissibility of the attached Statement of Facts in any proceeding, including any trial, guilty plea, or sentencing proceeding, and will not contradict anything in the attached Statement of Facts at any such proceeding.

Term of the Agreement

3. This Agreement is effective for a period beginning on the date on which the Information is filed and ending three years from that date (the "Term"). The Company agrees, however, that, in the event the United States determines, in its sole discretion, that the Company has knowingly violated any provision of this Agreement or has failed to completely perform or fulfill each of the Company's obligations under this Agreement, an extension or extensions of the Term may be imposed by the United States, in its sole discretion, for up to a total additional time period of one year, without prejudice to the United States' right to proceed as provided in Paragraphs 14-18 below. Any extension of the Agreement extends all terms of this Agreement, including the terms of the reporting requirement in Attachment D, for an equivalent period. Conversely, in the event the United States finds, in its sole discretion, that there exists a change in circumstances sufficient to eliminate the need for the reporting requirement in Attachment D, and that the other provisions of this Agreement have been satisfied, the Agreement may be terminated

early. If the Court rejects the Agreement, all the provisions of the Agreement shall be deemed null and void, and the Term shall be deemed to have not begun.

Relevant Considerations

4. The United States enters into this Agreement based on the individual facts and circumstances presented by this case and the Company, including:

a. the Company and its direct subsidiary, Hydro Extrusion Portland, Inc. (formerly known as Sapa Profiles, Inc. and hereafter referred to as "SPI"), have agreed to resolve their criminal liability related to the United States' criminal and civil investigations into a lengthy fraud scheme involving the fraudulent certification of mechanical properties for extrusions manufactured at SPI's Portland, Oregon, aluminum manufacturing facilities for use in a variety of applications, including by the National Aeronautics and Space Administration ("NASA") and the U.S. Department of Defense's Missile Defense Agency ("MDA");

b. the criminal resolution has two components: (1) this Agreement; and (2) a negotiated plea agreement between the United States and SPI under which SPI has agreed to, among other things, plead guilty to one count of mail fraud, in violation of Title 18, United States Code, Section 1341, to pay restitution in the amount of $34,108,001.11, and to pay a forfeiture money judgment in the amount of $1,837,099. The SPI plea agreement is incorporated by reference into this Agreement (Attachment E);

c. SPI is currently in negotiations with the U.S. Department of Justice's Civil Division, Commercial Litigation Branch, Fraud Section (the "Civil Division") to resolve its civil liability for related civil claims, including under the federal False Claims Act. Consistent with JM 1-12.100 (Coordination of Corporate Resolution Penalties in Parallel and/or Joint Investigations and Proceedings Arising from the Same Misconduct), the United States will recommend to the

Civil Division that they credit any restitution amounts that SPI pays to the government under the terms of the SPI plea agreement towards the civil settlement amount in any related civil settlement agreement;

d. SPI has been suspended from doing business with the U.S. government;

e. the Company and SPI did not receive voluntary disclosure credit because they did not voluntarily and timely disclose to the United States the conduct described in the Statement of Facts attached hereto as Attachment A ("Statement of Facts");

f. the Company and SPI received full credit for their cooperation with the United States' investigation and the Civil Division's parallel civil investigation. The Company and SPI's cooperation included: conducting an independent internal investigation and making regular factual presentations to the United States; facilitating witness interviews of current and former SPI employees; collecting, analyzing, and organizing voluminous evidence and information for the United States; providing counsel for certain witnesses; and responding to the United States' requests for evidence and information;

g. by the conclusion of the investigation, the Company and SPI provided to the United States all relevant facts known to them, including information about the individuals involved in the misconduct described in the attached Statement of Facts and conduct disclosed to the United States prior to the Agreement;

h. the Company and SPI have engaged in extensive remedial measures to address the misconduct, including: (1) terminating two employees who participated in the misconduct, severing the employment of one employee for failure to properly investigate and report a complaint related to the misconduct, and disciplining one employee for failing to stop the misconduct; (2) implementing state-of-the-art equipment to automate the tensile testing process;

(3) conducting Company-wide audits at all U.S. tensile labs and developing an ongoing audit plan; (4) increasing Company resources devoted to compliance, including creating and hiring two new leadership positions, a Vice President of Quality and Continuous Improvement and a Director of Compliance; (5) expanding its compliance program by strengthening written policies and procedures, including a Code of Conduct, an Employee Handbook, and a Quality Manual for the production of extrusions, and enhancing the compliance hotline; (6) increasing and improving the Company's quality and compliance training for all employees; and (7) revamping internal quality controls and quality audit processes. The Company and SPI also disclosed the misconduct to customers and made extensive efforts to address customers' questions and concerns;

i. although the Company had an inadequate compliance program during the period of the conduct described in the Statement of Facts, the Company has been enhancing and has committed to continuing to enhance its compliance program and internal controls, including ensuring that its compliance program satisfies the minimum elements set forth in Attachment C to this Agreement (Corporate Compliance Program);

j. based on the Company's and SPI's remediation, the state of the Company's compliance program, and the Company's agreement to report to the United States as set forth in Attachment D to this Agreement (Corporate Compliance Reporting), the United States determined that an independent compliance monitor was unnecessary;

k. the nature and seriousness of the offense conduct, including that SPI employees engaged in efforts over a lengthy period to falsify test results and issue false certifications for mechanical properties for extrusions manufactured at SPI's Portland, Oregon, aluminum manufacturing facilities for use in a variety of applications, including by NASA and the MDA;

l. the Company has no prior criminal history;

m. the Company has agreed to continue to cooperate with the United States in any ongoing investigation of the conduct of the Company, its subsidiaries, parents, and affiliates and its officers, directors, employees, agents, business partners, distributors, and consultants relating to violations of federal criminal laws; and

n. accordingly, after considering (a) through (m), above, the United States believes that the appropriate resolution of this case is a deferred prosecution agreement with the Company and a guilty plea by SPI under which SPI will pay restitution in the amount of $34,108,001.11 and a forfeiture money judgment in the amount of $1,837,099.

Future Cooperation and Disclosure Requirements

5. The Company shall cooperate fully with the United States in any and all matters relating to the conduct described in this Agreement and the attached Statement of Facts and other conduct under investigation by the United States at any time during the Term until the later of the date upon which all investigations and prosecutions arising out of such conduct are concluded, or the end of the Term. At the request of the United States, the Company shall also cooperate fully with other domestic or foreign law enforcement and regulatory authorities and agencies in any investigation of the Company, its parent company or its affiliates, or any of its present or former officers, directors, employees, agents, and consultants, or any other party, in any and all matters relating to the conduct described in this Agreement and the attached Statement of Facts and other conduct under investigation by the United States. The Company's cooperation pursuant to this Paragraph is subject to applicable law and regulations, as well as valid claims of attorney-client privilege or attorney work product doctrine; however, the Company must provide to the United States a log of any information or cooperation that is not provided based on an assertion of law,

regulation, or privilege, and the Company bears the burden of establishing the validity of any such an assertion. The Company agrees that its cooperation pursuant to this paragraph shall include, but not be limited to, the following:

a. The Company shall truthfully disclose all factual information with respect to its activities, those of its parent company and affiliates, and those of its present and former directors, officers, employees, agents, and consultants, including any evidence or allegations and internal or external investigations, about which the Company has any knowledge or about which the United States may inquire. This obligation of truthful disclosure includes, but is not limited to, the obligation of the Company to provide to the United States, upon request, any document, record or other tangible evidence about which the United States may inquire of the Company.

b. Upon request of the United States, the Company shall designate knowledgeable employees, agents or attorneys to provide to the United States the information and materials described in Paragraph 5(a) above on behalf of the Company. It is further understood that the Company must at all times provide complete, truthful, and accurate information.

c. The Company shall use its best efforts to make available for interviews or testimony, as requested by the United States, present or former officers, directors, employees, agents and consultants of the Company. This obligation includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with domestic or foreign law enforcement and regulatory authorities. Cooperation under this Paragraph shall include identification of witnesses who, to the knowledge of the Company, may have material information regarding the matters under investigation.

d. With respect to any information, testimony, documents, records or other tangible evidence provided to the United States pursuant to this Agreement, the Company consents

to any and all disclosures to other governmental authorities, including United States authorities and those of a foreign government of such materials as the United States, in its sole discretion, shall deem appropriate.

6. In addition to the obligations in Paragraph 5, during the Term, should the Company learn of any evidence or allegation of a violation of U.S. federal law, the Company shall promptly report such evidence or allegation to the United States.

Payment of Monetary Penalty

7. The United States and the Company agree that application of the United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") to determine the applicable fine range yields the following analysis:

a. The 2014 U.S.S.G. are applicable to this matter.

b. Offense Level. Based upon U.S.S.G. § 2B1.1, the total offense level is 29, calculated as follows:

(a)(1)	Base Offense Level	7
(b)(1)(K)	Losses greater than $7 million but less than $20 million	+20
(b)(2)(A)	Ten or more victims	+ 2
TOTAL		29

c. Base Fine. Based upon U.S.S.G. § 8C2.4(a)(3), the base fine is $15,503,686.87. Under U.S.S.G. § 8C2.4(a), the base fine is the greater of either the amount from the Offense Level Fine Table or the pecuniary loss from the offense. While the base fine for a Total Offense Level of 29 is $8,100,000, the pecuniary loss from the offense is $15,503,636.87.

d. Culpability Score. Based upon U.S.S.G. § 8C2.5, the culpability score is 6, calculated as follows:

(a)	Base Culpability Score	5
(b)(3)(B)	the unit of the organization within which the	

	offense was committed had 200 or more employees and an individual within high-level personnel of the organization participated in, condoned, or was willfully ignorant of the offense	+3
(g)(2)	the organization fully cooperated in the investigation and clearly demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct.	-2
TOTAL		6

Calculation of Fine Range:

Base Fine	$15,503,686.87
Multipliers	1.2 (min)/2.4(max)
Fine Range	$18,604,364.24 – $37,208,728.49

The United States is not requiring the Company to pay a monetary penalty under this Agreement, which is conditioned on SPI entering its guilty plea and (1) paying $34,108,001.11 in restitution, and (2) paying a forfeiture money judgment in the amount of $1,837,099. The United States and the Company agree that this disposition is appropriate given the facts and circumstances of this case, including the relevant considerations outlined above. Furthermore, nothing in this Agreement shall be deemed an agreement by the United States that no monetary penalty may be imposed in any future prosecution in the event of a breach of this Agreement, and the United States is not precluded from arguing in any potential future prosecution that the Court should impose a penalty and the amount of such penalty.

Conditional Release from Liability

8. Subject to Paragraphs 14-18, the United States agrees, except as provided in this Agreement, that it will not bring any criminal case against the Company relating to any of the conduct described in the attached Statement of Facts or the criminal Information filed pursuant to this Agreement. The United States, however, may use any information related to the conduct described in the attached Statement of Facts against the Company: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement; (c) in a prosecution or other proceeding relating to any crime of violence; or (d) in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the United States Code.

a. This Agreement does not provide any protection against prosecution for any future conduct by the Company.

b. In addition, this Agreement does not provide any protection against prosecution of any individuals, regardless of their affiliation with the Company.

Corporate Compliance Program

9. The Company represents that it has implemented and will continue to implement a compliance and ethics program designed to prevent and detect violations of U.S. federal law throughout its operations, including those of its affiliates, agents, and joint ventures, and those of its contractors and subcontractors, including, but not limited to, the minimum elements set forth in Attachment C.

10. In order to address any deficiencies in its internal controls, policies, and procedures, the Company represents that it has undertaken, and will continue to undertake in the future, in a manner consistent with all of its obligations under this Agreement, a review of its existing internal controls, policies, and procedures regarding compliance with U.S. federal law. Where necessary

and appropriate, the Company agrees to adopt a new compliance program, or to modify its existing one, including internal controls, compliance policies, and procedures in order to ensure that its compliance program is designed and implemented to effectively detect and deter violations of U.S. federal law. The compliance program will include, but not be limited to, the minimum elements set forth in Attachment C.

Corporate Compliance Reporting

11. The Company agrees that it will report to the United States annually during the Term regarding remediation and implementation of the compliance measures described in Attachment C. These reports will be prepared in accordance with Attachment D.

Deferred Prosecution

12. In consideration of the undertakings agreed to by the Company herein, the United States agrees that any prosecution of the Company for the conduct set forth in the attached Statement of Facts be and hereby is deferred for the Term. To the extent there is conduct disclosed by the Company that is not set forth in the attached Statement of Facts, such conduct will not be exempt from further prosecution and is not within the scope of or relevant to this Agreement.

13. The United States further agrees that if the Company fully complies with all of its obligations under this Agreement, the United States will not continue the criminal prosecution against the Company described in Paragraph 1 and, at the conclusion of the Term, this Agreement shall expire. Within six months after the Agreement's expiration, the United States shall seek dismissal with prejudice of the criminal Information filed against the Company described in Paragraph 1, and agrees not to file charges in the future against the Company based on the conduct described in this Agreement and the attached Statement of Facts.

Breach of the Agreement

14. If, during the Term, the Company (a) commits any felony under U.S. federal law; (b) provides in connection with this Agreement deliberately false, incomplete, or misleading information, including in connection with its disclosure of information about individual culpability; (c) fails to cooperate as set forth in Paragraphs 5 and 6 of this Agreement; (d) fails to implement a compliance program as set forth in Paragraphs 9 and 10 of this Agreement and Attachment C; or (e) otherwise fails to completely perform or fulfill each of the Company's obligations under the Agreement, regardless of whether the United States becomes aware of such a breach after the Term is complete, the Company shall thereafter be subject to prosecution for any federal criminal violation of which the United States has knowledge, including, but not limited to, the charges in the Information described in Paragraph 1, which may be pursued by the United States in the U.S. District Court for the Eastern District of Virginia or any other appropriate venue. Determination of whether the Company has breached the Agreement and whether to pursue prosecution of the Company shall be in the United States' sole discretion. Any such prosecution may be premised on information provided by the Company or its personnel. Any such prosecution relating to the conduct described in the attached Statement of Facts or relating to conduct known to the United States prior to the date on which this Agreement was signed that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the Company, notwithstanding the expiration of the statute of limitations, between the signing of this Agreement and the expiration of the Term plus one year. Thus, by signing this Agreement, the Company agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement shall be tolled for the Term plus one year. In addition, the Company agrees that the statute of limitations as to any

violation of federal law that occurs during the Term will be tolled from the date upon which the violation occurs until the earlier of the date upon which the United States is made aware of the violation or the duration of the Term plus five years, and that this period shall be excluded from any calculation of time for purposes of the application of the statute of limitations.

15. In the event the United States determines that the Company has breached this Agreement, the United States agrees to provide the Company with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty days of receipt of such notice, the Company shall have the opportunity to respond to the United States in writing to explain the nature and circumstances of such breach, as well as the actions the Company has taken to address and remediate the situation, which explanation the United States shall consider in determining whether to pursue prosecution of the Company.

16. In the event that the United States determines that the Company has breached this Agreement: (a) all statements made by or on behalf of the Company to the United States or to the Court, including the attached Statement of Facts, and any testimony given by the Company before a grand jury, a court, or any tribunal, or at any legislative hearings, whether prior or subsequent to this Agreement, and any leads derived from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the United States against the Company; and (b) the Company shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that any such statements or testimony made by or on behalf of the Company prior or subsequent to this Agreement, or any leads derived therefrom, should be suppressed or are otherwise inadmissible. The decision whether conduct or statements of any current director, officer or employee, or any person acting on behalf of, or at the direction of, the Company, will be imputed

to the Company for the purpose of determining whether the Company has violated any provision of this Agreement shall be in the sole discretion of the United States.

17. The Company acknowledges that the United States has made no representations, assurances, or promises concerning what sentence may be imposed by the Court if the Company breaches this Agreement and this matter proceeds to judgment. The Company further acknowledges that any such sentence is solely within the discretion of the Court and that nothing in this Agreement binds or restricts the Court in the exercise of such discretion.

18. On the date that the period of deferred prosecution specified in this Agreement expires, the Company, by the President of the Company and the Vice President and Treasurer of the Company, will certify to the United States that the Company has met its disclosure obligations pursuant to Paragraph 6 of this Agreement. Each certification will be deemed a material statement and representation by the Company to the executive branch of the United States for purposes of 18 U.S.C. §§ 1001 and 1519, and it will be deemed to have been made in the judicial district in which this Agreement is filed.

Sale, Merger, or Other Change in Corporate Form of Company

19. Except as may otherwise be agreed by the parties in connection with a particular transaction, the Company agrees that in the event that, during the Term, it undertakes any change in corporate form, including if it sells, merges, or transfers business operations that are material to the Company's consolidated operations, or to the operations of any subsidiaries or affiliates involved in the conduct described in the attached Statement of Facts, as they exist as of the date of this Agreement, whether such sale is structured as a sale, asset sale, merger, transfer, or other change in corporate form, it shall include in any contract for sale, merger, transfer, or other change in corporate form a provision binding the purchaser, or any successor in interest thereto, to the

obligations described in this Agreement. The purchaser or successor in interest must also agree in writing that the United States' ability to determine a breach under this Agreement is applicable in full force to that entity. The Company agrees that the failure to include these provisions in the transaction will make any such transaction null and void. The Company shall provide notice to the United States at least 30 days prior to undertaking any such sale, merger, transfer, or other change in corporate form. The United States shall notify the Company prior to such transaction (or series of transactions) if it determines that the transaction(s) will have the effect of circumventing or frustrating the enforcement purposes of this Agreement. At any time during the Term the Company engages in a transaction(s) that has the effect of circumventing or frustrating the enforcement purposes of this Agreement, the United States may deem it a breach of this Agreement pursuant to Paragraphs 14-18 of this Agreement. Nothing herein shall restrict the Company from indemnifying (or otherwise holding harmless) the purchaser or successor in interest for penalties or other costs arising from any conduct that may have occurred prior to the date of the transaction, so long as such indemnification does not have the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined by the United States.

Public Statements by Company

20. The Company expressly agrees that it shall not, through present or future attorneys, officers, directors, employees, agents or any other person authorized to speak for the Company make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by the Company set forth above or the facts described in the attached Statement of Facts. Any such contradictory statement shall, subject to cure rights of the Company described below, constitute a breach of this Agreement, and the Company thereafter shall be subject to prosecution as set forth in Paragraphs 16-17 of this Agreement. The decision whether any public statement by any such

person contradicting a fact contained in the attached Statement of Facts will be imputed to the Company for the purpose of determining whether it has breached this Agreement shall 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 attached Statement of Facts, the United States shall so notify the Company, and the Company may avoid a breach of this Agreement by publicly repudiating such statement(s) within five business days after notification. The Company shall be permitted to raise defenses and to assert affirmative claims in other proceedings relating to the matters set forth in the attached Statement of Facts provided that such defenses and claims do not contradict, in whole or in part, a statement contained in the attached Statement of Facts. This Paragraph does not apply to any statement made by any present or former officer, director, employee, or agent of the Company in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on behalf of the Company.

21. The Company agrees that if it, its parent company, or any of its direct or indirect subsidiaries or affiliates issues a press release or holds any press conference in connection with this Agreement, the Company shall first consult with the United States to determine (a) whether the text of the release or proposed statements at the press conference are true and accurate with respect to matters between the United States and the Company; and (b) whether the United States has any objection to the release.

22. The United States agrees, if requested to do so, to bring to the attention of law enforcement and regulatory authorities the facts and circumstances relating to the nature of the conduct underlying this Agreement, including the nature and quality of the Company's cooperation and remediation. By agreeing to provide this information to such authorities, the United States is

not agreeing to advocate on behalf of the Company, but rather is agreeing to provide facts to be evaluated independently by such authorities.

Limitations on Binding Effect of Agreement

23. This Agreement is binding on the Company and the United States but specifically does not bind any other component of the Department of Justice, other federal agencies, or any state, local or foreign law enforcement or regulatory agencies, or any other authorities, although the United States will bring the cooperation of the Company and its compliance with its other obligations under this Agreement to the attention of such agencies and authorities if requested to do so by the Company.

24. The United States and the Company agree that this Agreement is null and void if SPI does not enter its guilty plea and does not pay restitution of $34,108,001.11 and forfeiture of $1,837,099.

Notice

25. Any notice to the United States under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to Trial Attorney Emily Scruggs, Criminal Division, U.S. Department of Justice, 1400 New York Avenue, N.W., Washington, D.C. 20005, and to Assistant United States Attorney Ryan Faulconer, United States Attorney's Office for the Eastern District of Virginia, 2100 Jamieson Ave., Alexandria, Virginia 22314. Any notice to the Company under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to Legal Department, 6250 N. River Road, Suite 5000, Rosemont, Illinois 60018. Notice shall be effective upon actual receipt by the United States or the Company.

Complete Agreement

26. This Agreement, including its attachments, sets forth all the terms of the agreement between the Company and the United States. No amendments, modifications or additions to this Agreement shall be valid unless they are in writing and signed by the United States, the attorneys for the Company, and a duly authorized representative of the Company.

AGREED:

FOR HYDRO EXTRUSION USA, LLC
f/k/a SAPA EXTRUSIONS, INC:

Date: 4-10-19 By: Charles J. Straface
Charles J. Straface
President
Hydro Extrusion USA, LLC

Date: _____ By: _____
Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP

FOR THE U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, FRAUD SECTION:

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

Date: 4/12/19 BY: FOR EMILY SCRUGGS
Emily Scruggs
Laura Connelly
Trial Attorneys

FOR THE UNITED STATES ATTORNEY'S OFFICE

G. Zachary Terwilliger
United States Attorney
Eastern District of Virginia

Date: 4/12/19 BY: _____
Ryan Faulconer
Assistant United States Attorney

AGREED:

FOR HYDRO EXTRUSION USA, LLC
f/k/a SAPA EXTRUSIONS, INC:

Date: _____ By: _____
Charles J. Straface
President
Hydro Extrusion USA, LLC

Date: 4.10.19 By: _____
Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP

FOR THE U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, FRAUD SECTION:

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

Date: _____ BY: _____
Emily Scruggs
Laura Connelly
Trial Attorneys

FOR THE UNITED STATES ATTORNEY'S OFFICE

G. Zachary Terwilliger
United States Attorney
Eastern District of Virginia

Date: _____ BY: _____
Ryan Faulconer
Assistant United States Attorney

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for Hydro Extrusion USA, LLC, formerly known as Sapa Extrusions, Inc. (the "Company"). I understand the terms of this Agreement and voluntarily agree, on behalf of the Company, to each of its terms. Before signing this Agreement, I consulted outside counsel for the Company. Counsel fully advised me of the rights of the Company, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

I have carefully reviewed the terms of this Agreement with the sole member of the Company. I have advised and caused outside counsel for the Company to advise the sole member fully of the rights of the Company, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into the Agreement.

No promises or inducements have been made other than those contained in this Agreement. Furthermore, no one has threatened or forced me, or to my knowledge any person authorizing this Agreement on behalf of the Company, in any way to enter into this Agreement. I am also satisfied with outside counsel's representation in this matter. I certify that I am the President of the Company and that I have been duly authorized by the Company to execute this Agreement on behalf of the Company.

Date: 4-10-19

HYDRO EXTRUSION USA, LLC

By: Charles J. Straface

Charles J. Straface
President

CERTIFICATE OF COUNSEL

I am counsel for Hydro Extrusion USA, LLC, formerly known as Sapa Extrusions, Inc. (the "Company") in the matter covered by this Agreement. In connection with such representation, I have examined relevant Company documents and have discussed the terms of this Agreement with the Company's sole member. Based on our review of the foregoing materials and discussions, I am of the opinion that the representative of the Company has been duly authorized to enter into this Agreement on behalf of the Company and that this Agreement has been duly and validly authorized, executed, and delivered on behalf of the Company and is a valid and binding obligation of the Company. Further, I have carefully reviewed the terms of this Agreement with the sole member and the President of the Company. I have fully advised them of the rights of the Company, of possible defenses, of the Sentencing Guidelines' provisions and of the consequences of entering into this Agreement. To my knowledge, the decision of the Company to enter into this Agreement, based on the authorization of the sole member, is an informed and voluntary one.

Date: 4.10.19

By: Kristin Graham Koehler

Kristin Graham Koehler
Sidley Austin LLP
Counsel for Hydro Extrusion USA, LLC

ATTACHMENT A

STATEMENT OF FACTS

The following Statement of Facts is incorporated by reference as part of the deferred prosecution agreement the United States Department of Justice, Criminal Division, Fraud Section, and the United States Attorney's Office for the Eastern District of Virginia (together "the United States") and **Hydro Extrusion USA, LLC**, f/k/a Sapa Extrusions, Inc. ("**Sapa Extrusions**"). The parties agree and stipulate that the following information is true and accurate. As set forth in paragraph 2 of the Agreement, **Sapa Extrusions** admits, accepts, and acknowledges that it is responsible for the acts of its officers, employees, and agents as set forth below. Should the United States pursue the prosecution that is deferred by this Agreement, **Sapa Extrusions** agrees that it will neither contest the admissibility of, nor contradict, this Statement of Facts in any such proceeding. If this matter were to proceed to trial, the parties agree that the United States would prove beyond a reasonable doubt, by admissible evidence, the facts below and the allegations set forth in the criminal information attached to this Agreement. This evidence would establish the following:

I. Introduction

1. From at least in or around 1996 through in or about September 2015, in a continuing course of conduct within the Eastern District of Virginia and elsewhere, certain employees of a **Sapa Extrusions** subsidiary, **Hydro Extrusion Portland, Inc.** (f/k/a **Sapa Profiles, Inc.**) (collectively, "**SPI**"), engaged in a scheme (a) to conceal the inconsistent quality of aluminum extrusions produced by **SPI** for (and shipped to) its customers, including U.S. government prime contractors and subcontractors, by altering thousands of failing tensile test results on those extrusions; (b) to increase **SPI**'s and its parent entity's profits and productivity by preventing

delays in production and the costly scrapping of metal; and (c) to obtain bonuses for the employees involved, which were calculated in part based on a production metric.

II. Factual Background

*A. **SPI**-Related Entities and Individuals*

2. **SPI** is an Oregon corporation headquartered in Rosemont, Illinois, that manufactured aluminum extrusions in specific shapes for use in a variety of applications. In or about 2000, **SPI** acquired a variety of facilities from Anodizing, Inc., including the Technical Dynamics Aluminum ("TDA") plant and a main plant, both located in and around Portland, Oregon. The TDA plant specialized in smaller extrusions, including for contractors to the National Aeronautics and Space Administration ("NASA") and the U.S. Department of Defense's Missile Defense Agency ("MDA"). As of 2015, **SPI** had approximately 650 employees.

3. **Sapa Extrusions** is a Delaware limited liability company headquartered in Rosemont, Illinois, with several subsidiaries in the United States, including **SPI**. As a general matter, **SPI**'s profits and losses passed up to **Sapa Extrusions**, which provided legal, human resources, and certain quality control functions for **SPI**.

4. **Plant Manager A**, who began working at the TDA plant in or about 1968, was the TDA plant manager from in or about 1986 through in or about 2009. **Plant Manager A**'s responsibilities included overseeing production at the TDA plant, as well as reviewing and approving results of testing done on aluminum extruded at the TDA plant before extrusions were sent to customers.

5. **Dennis Balius** was the tensile lab supervisor at **SPI**'s main plant in Portland, Oregon, from in or about 2003 through in or about September 2015. At various points throughout his employment as the tensile lab supervisor, **Balius**'s responsibilities included overseeing the

main tensile testing lab (the "lab"), reviewing test results, training the lab technicians, and conducting floor audits. While employed by **SPI**, Balius supervised, among others, more than 20 lab technicians responsible for conducting tensile tests, and with respect to the conduct described in this statement of facts, **Balius** organized, led, supervised, and managed their conduct.

B. ***SPI****'s Manufacturing, Testing, and Certification of Aluminum Extrusions*

6. **SPI** produced its aluminum extrusions by pushing aluminum billets (*i.e.*, aluminum in a round, square, rectangular, or hexagonal bar shape) at different speeds and temperatures through dies to produce specific shapes needed by particular customers. Depending on the mechanical properties requirements needed, the extrusions were then quenched (*i.e.*, rapidly cooled either by misting water on them, blowing air on them, or both) and stretched to ensure straightness. In some instances, the extrusions were then put through a heat-treating process (*i.e.*, the metal is placed into a large oven at different temperatures and for different lengths of time) to ensure that the extrusions reached the required hardness.

7. **SPI** produced its aluminum extrusions in a variety of alloys (specific chemical combinations of different metals) and tempers (which designate how the metal is treated immediately after its creation). ASTM International ("ASTM") and SAE International Group ("SAE") set different mechanical properties specifications and testing processes for different combinations of aluminum tempers and alloys. These specifications and processes were designed to ensure that the aluminum met a certain threshold level of consistency and reliability. The mechanical properties specifications set by SAE are generally referred to as "AMS specifications."

8. Depending on the particular customer that ordered aluminum extrusions from **SPI**, **SPI** generally certified that its extrusions met a variety of ASTM or AMS specifications. Those included ASTM or AMS specifications for three mechanical properties: yield strength, ultimate

tensile strength, and elongation. These three mechanical properties are measured through a process called "tensile testing," in which a small sample of an aluminum extrusion is slowly stretched and then ripped apart by a machine, which measures the force applied to the sample at each stage of the test.

9. In the tensile testing process, yield strength ("yield") is the point at which the aluminum extrusion sample becomes permanently and irreversibly deformed. Ultimate tensile strength ("UTS") is a calculation of the maximum amount of stress the sample can sustain before it breaks. Elongation is the increase in the length of the aluminum extrusion sample before it breaks during tensile testing.

10. **SPI** generally conducted its tensile testing at the main plant where **Balius** worked. That testing included the testing of samples of extrusions produced at the TDA plant where **Plant Manager A** worked. The method by which **SPI** recorded and communicated the results of its tensile testing within the company changed over time and differed depending on the plant involved and the location at which the testing was performed.

11. Prior to the mid-2000s, the TDA plant typically sent a sample of an extrusion lot to **SPI**'s internal testing lab with a "Samples" form on which plant personnel handwrote, among other things, the sample identification number and customer name. After the lab completed the tensile testing on the sample, the lab technician handwrote in the remaining fields on the Samples form, which included the yield, UTS, and elongation test results. The lab then faxed the Samples form back to the TDA plant, where a TDA plant employee, generally **Plant Manager A**, would review the test results on the Samples form. **Plant Manager A** or another TDA plant employee were then supposed to determine whether the tensile test results met the applicable ASTM or AMS specifications and could be sent to the customer, or alternatively, whether re-testing or scrap of the

aluminum was required in accordance with ASTM or AMS specifications. If aluminum was scrapped, it would result in additional cost to **SPI**, and ultimately, reduced profits for **SPI**. A similar process was followed for samples that were sent to an external lab.

12. After **Plant Manager A** or another TDA plant employee reviewed the test results on the testing lab's Samples form or on the certification from an external lab, the results would be typed onto a test certificate, which was then signed by a TDA plant employee. The test certificate was included on the invoice that was shipped with the aluminum extrusion orders to **SPI**'s customers.

13. In the mid-2000s, **SPI** began to implement different means by which to communicate testing results between the main plant and locations such as the TDA plant using typewritten sample sheets. In or about 2006, **SPI** began using a computerized software known as Axapta full-time, which permitted **SPI** to produce test certifications to ASTM specifications directly from the software system without requiring the handwritten Samples sheets referenced above. From 2006 through the remainder of the timeframe discussed in this statement of facts, **SPI** used Axapta to track the results of tensile testing at the main plant and to produce test certifications that were shipped with extrusions to **SPI**'s customers.

*C. **SPI**'s Role as a Supplier to U.S. Government Contractors*

14. **SPI**'s customers included U.S. government contractors who ultimately provided **SPI**-manufactured aluminum extrusions to U.S. government agencies, including NASA and the MDA. Specifically, one of **SPI**'s customers was Contractor A, a U.S. government contractor headquartered in Dulles, Virginia, within the Eastern District of Virginia. In or about October 1998, NASA awarded prime contract # NAS10-99005 ("Contract 9005"), with a maximum face value of $400 million, to Contractor A. In addition, Contractor A served as a subcontractor to the

MDA on prime contract # HQ0006-01-C-0001 ("Contract 0001"), which was awarded to Contractor X in or about January 2001 with a face value of approximately $7.39 billion. Contractor A worked in part through and with Contractor B as a subcontractor on Contract 0001. The prime contracts and subcontracts associated with Contracts 9005 and 0001 required that the aluminum extrusions provided to NASA and the MDA be certified to meet certain AMS specifications. NASA and the MDA relied on the accuracy of **SPI**'s certifications.

15. Both Contract 9005 and Contract 0001 called for the use of an aluminum "frangible joint" in rockets provided to NASA and missiles provided to the MDA, respectively. The aluminum extrusions produced by **SPI** and provided through Contractor A to NASA were used on frangible joints for NASA rocket launches, and the aluminum extrusions produced by **SPI** and provided through Contractors A, B, and X to the MDA were used on frangible joints on MDA missiles.

III. Criminal Conduct: SPI's Alteration of Tensile Test Results and False Certifications

16. As described in greater detail below, from at least as early as 1996 and lasting through in or about September 2015, certain **SPI** employees knowingly executed a scheme and artifice to defraud **SPI**'s customers, and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises, by falsifying thousands of tensile test results to conceal inconsistent production practices at **SPI**, increase **SPI**'s profits and productivity, and obtain bonuses that were tied to production metrics for employees involved in the scheme. From the beginning of the scheme through in or about 2006, **Plant Manager A** led a portion of the scheme through which he and other employees at the TDA plant made handwritten alterations to more than 2,000 tensile test results affecting more than 200 customers, including results that were falsely certified in or about May 2002 and ultimately shipped to Contractor A in the Eastern

District of Virginia with extrusions intended for the U.S. government. In addition, from in or about 2002 through in or about September 2015, **Balius** led a second portion of the scheme through which he and other employees at the main plaint's testing lab made alterations in **SPI**'s computer systems to at least 4,000 tensile test results affecting more than 250 customers.

A. ***Plant Manager A*** *and the Handwritten Alterations at* ***SPI****'s TDA Plant*

17. Beginning at least as early as 1996, **Plant Manager A** and other employees at the TDA plant engaged in a practice of making handwritten alterations to failing test results on TDA Samples forms that were sent back from the main plant with failing test results. **Plant Manager A** and others would make these handwritten changes by, for example, changing a "1" to a "7" or the like, in order to change an actually failing test result to a falsely passing result by increasing the numbers above the required minimum results. **Plant Manager A**, who was colorblind, would at times make the handwritten alterations in a different color ink than the (usually black) color on the Samples form that came from the main plant's testing lab. **Plant Manager A** would also, on other occasions, white out failing numbers and write in passing ones.

18. After **Plant Manager A** and others made the handwritten alterations to the test result numbers, **Plant Manager A** or another individual would write "OK" next to the test result (rather than "Re-Test" or the like) to indicate that the test results passed the applicable minimum standards, even though they knew that the test results were actually failing. **Plant Manager A** or another individual would then provide the Samples sheets with the altered test results to an administrative assistant who would then type the altered results onto a certification form that would be signed by a TDA plant employee and sent to the customers. These falsified certification forms materially misled **SPI**'s customers by indicating that the aluminum was from a lot that had passed

tensile testing and thus met the applicable specifications, when in reality the lot had not actually passed tensile testing.

19. For example, on or about January 20, 2000, Contractor A ordered 5 extrusions from **SPI** for use in frangible joints to be provided to the U.S. government. The TDA plant sent two samples to External Lab A for testing, and after both samples failed, the metal was scrapped. Thereafter, on or about February 15, 2000, new material was extruded. The Samples form came back from the **SPI** main plant testing lab with failing yield results. A "2" was changed to a "7" to make the yield results appear passing, and a TDA plant employee wrote "OK" next to the altered test result. Thereafter, a falsified certification was created and sent to Contractor A in the Eastern District of Virginia with the extruded aluminum. Contractor A received the falsified certification on or about February 18, 2000.

20. **Plant Manager A** and others also engaged in this handwritten alteration practice in relation to test results received from External Lab A. This included whiting out failing test results, altering the numbers (where possible) of failing results to make them appear to be passing, and changing the intended destination of a test result intended for one customer to another customer.

21. For example, in or about early April 2002, Contractors A and B, in two separate orders, ordered approximately 45 aluminum extrusions (5 to be shipped to Contractor A and 40 to Contractor B) from **SPI** for use in frangible joints to be provided to the U.S. government. On or about April 24, 2002, **Plant Manager A** reviewed a Samples form that showed failing test results for the product to be provided to Contractor A and wrote on the form that the product needed to be re-tested. On or about April 29, 2002, the TDA plant extruded new material and received back failing test results on the Samples form for both Contractor A's and Contractor B's orders on or

about May 5, 2002. **Plant Manager A** again reviewed the form and wrote that the product needed to be re-tested. **SPI** then communicated to Contractor A that the "material failed the mechanical property tests for the second time," that new material would be extruded, and that it would be tested again. On or about May 13, 2002, the TDA plant extruded new material and sent approximately four samples to External Lab A for testing—one for the Contractor A order and three for the Contractor B order.

22. On or about May 17, 2002, External Lab A sent back failing test results to the TDA plant for all four samples on three separate External Lab A certification forms. Rather than scrapping the metal yet again, the TDA plant altered the test results. Specifically, the elongation result on the first test result on one of the forms was altered from a failing "5" to a passing "8" (the yield and UTS results from that single test were passing). **Plant Manager A** wrote "O.K." on the form, the second (failing) test result on that form was whited out, and **Plant Manager A** handwrote in Contractor A's name next to Contractor B's—therefore causing false certifications to be created and sent to Contractors A and B. Those included a false certification form shipped by **SPI** to Contractor A's Dulles-based facility within the Eastern District of Virginia on or about May 20, 2002. Extrusions from this falsely certified but actually failing lot of material were ultimately provided to the MDA.

23. Towards the end of the handwritten alteration scheme, **Plant Manager A** instructed another TDA plant employee not to let **Balius**, who was conducting an audit of the TDA plant, look at a file cabinet in which **Plant Manager A** retained the Samples forms that showed the altered test results. **Plant Manager A**'s instruction piqued the TDA plant employee's curiosity, and that employee looked at the Samples forms, which showed the obvious alterations that had been made and the volume of them in the preceding years. The TDA plant employee brought the

alterations to the attention of **Balius** and pointed **Balius**'s attention to the file cabinet. **Balius** reviewed the Samples forms and told the employee that **Balius** would talk to **Plant Manager A** about the alterations. Approximately three to six months later, the same TDA plant employee also raised the alterations practice with the quality assurance manager at the **SPI** main plant. That quality assurance manager responded that because **SPI** was set to implement the Axapta software, **Plant Manager A** would soon not have the ability to engage in the handwritten alteration practice.

B. ***Balius*** *and the Computerized Alterations at* ***SPI****'s Main Plant*

24. Starting in or about 2002, **Balius** learned how to alter tensile test results in the **SPI** testing lab. In or about 2003, **Balius** took over as the testing lab supervisor, and in or about 2006, **SPI** began using the Axapta software system. At some point after learning how to make alterations in the **SPI** computer systems, **Balius** told **Plant Manager A** that alterations were occurring in the main plant testing lab and that **Balius** was going to make some changes. **Plant Manager A** agreed with the changes.

25. From in or about 2002 through in or about September 2015, **Balius** led a practice of altering thousands of test results, primarily within the Axapta software. To further this practice, **Balius** created a set of written procedures explaining how to alter test results; although the procedures were originally intended to instruct lab technicians how to correct typographical errors, they were actually used to alter (and instruct new lab technicians how to alter) failing test results.

26. **Balius** communicated with lab technicians in a variety of ways to instruct them to alter test results. **Balius** did so verbally, through the exchange of handwritten notes, and via email. When communicating with lab technicians via email, **Balius** would often instruct technicians to "bump" or "move" test results that were actually failing up to numbers that would falsely appear

to be passing. In other instances, when lab technicians asked **Balius** what to do regarding failing test results, **Balius** would go into the computer system himself and alter results.

27. In addition to altering test results, **Balius** also instructed lab technicians to violate other testing standards. For example, **Balius** instructed technicians to perform only a single re-test after a sample failed, even though ASTM specifications required two passed retests after a failed sample. **Balius** also instructed lab technicians to increase the speed of the testing machine, in violation of the ASTM specifications, to increase the speed with which they could perform tests, and to turn the speed down before customer visits or lab audits. **Balius** also cut and instructed lab technicians to cut samples for testing that did not adhere to ASTM specifications.

28. Among the hundreds of customers that received false certifications as a result of the conduct led by **Balius** was commercial Customer A, to which **SPI** sent by commercial carrier a shipment of aluminum that was falsely certified on or about March 20, 2014.

29. In or about July 2014, a lab technician who had been instructed by **Balius** to alter test results reported the conduct to the main plant manager for **SPI**. Specifically, that lab technician wrote:

> I have been working in the QA [quality assurance] department for about 2 years. In the course of this time I have received instruction from quality management to fake tests, pass failing material and enter fake data to make it look legitimate. As the plant manager I don't know if you support this or are unaware but if I were in sales I couldn't look a customer in the eye and say that "certified" material is what they are getting, they get something, but a lot of the time it is not certified according to specifications I see here in the tensile lab.
>
> The fake tests get my employee number on the certification sheet and for my own peace of mind I would hope for some explanation or a change in policy. QA management has only told me not to speak of this with anyone and offered no other explanation for why we tell customers lies. This is a daily practice so you can imagine how many customers are affected. I am dreading when I am asked to bump up

> test results or fake a test for important customers like [Car Manufacturer T] for example. I am sure I will be fired if this email is seen by QA management so keep that in mind but do what you think is best with this information. I work days and would be willing to show you what I am talking about but that again would likely lead to me being fired.

In response to the email above, the main plant manager instructed the quality assurance manager (also referenced above at paragraph 23) to speak to the lab technician who wrote the email. The computerized alteration practice did not stop.

C. NASA-OIG Investigation and Discovery of Alteration Scheme

30. In or about April 2013, **SPI** received an Office of Inspector General ("OIG") subpoena from NASA-OIG, which was investigating the impact of **SPI** extrusions on NASA. **SPI** hired outside counsel, who conducted an internal investigation, interviewed witnesses, and produced responsive documents. Initially, **SPI** produced black-and-white scanned copies of the Samples forms, which did not clearly show the alterations made by **Plant Manager A** and those working with him. In 2014, NASA-OIG and the Civil Division of the U.S. Department of Justice requested the original Samples forms for certain test records. In the course of producing these documents, **SPI**'s outside counsel identified the handwritten changes made by **Plant Manager A** in different-colored ink to many of these documents.

31. Thereafter, **SPI**'s outside counsel interviewed **Balius**, who did not disclose the computerized alteration scheme. Similarly, the main plant manager did not disclose any alteration scheme, nor did he disclose the July 2014 email from the lab technician referenced above, when interviewed by **SPI** outside counsel in 2014. Indeed, the computerized alteration scheme was not disclosed until the summer of 2015, when **SPI**'s quality department and counsel discovered that the **Balius**-led conduct persisted even in the midst of the internal investigation of the **Plant**

Manager A-led conduct. By September 2015, **SPI** terminated the employment of **Balius** and others involved.

D. Losses, Illegal Gains, and Other Relevant Financial Impact

32. In total, from in or about 1996 through in or about 2006, **Plant Manager A** and others at the TDA plant falsified approximately 2,019 test results that were sent to more than 200 **SPI** customers, including Contractors A and B. **SPI** earned approximately $420,000 in profits from these orders, which totaled gross sales of approximately $2.1 million. During the scheme, **Plant Manager A** was paid approximately $170,130 in bonuses that were tied in part to a production metric.

33. In total, from in or about 2003 through in or about September 2015, **Balius** and other lab technicians at the **SPI** main plant testing lab altered at least 4,126 test results, resulting in false certifications being sent to approximately 251 **SPI** customers. **SPI** earned approximately $1,417,099 in profits from these orders, which totaled gross sales of approximately $6,828,434.26. Because of the different ways that **Balius** and other lab technicians falsified test results and violated ASTM standards, and the unavailability of data for the duration of the time period, these numbers understate the total amount of altered results (and falsified test results) that were part of the **Balius**-led conduct. During the scheme, **Balius** was paid approximately $51,412.50 in bonuses that were tied in part to a production metric.

34. As a result of the schemes outlined above, the MDA has determined that the total replacement cost related to aluminum extrusions received by the MDA and produced by **SPI** is approximately $15,332,811. In addition, NASA has estimated that as a result of its investigation into the impact of **SPI** extrusions on NASA operations, NASA has incurred approximately $9,003,303.22 in investigative and other costs. This includes costs associated with testing that

showed that NASA received extrusions related to an order in or about March 2007 that was shipped by **SPI** to Contractor A in the Eastern District of Virginia and ultimately used on extrusions provided to NASA. Although tensile test results of the extrusions received by NASA failed, the certification sent by **SPI** to Contractor A showed passing tensile test results. None of the parties have been able to recover the underlying computer data from the original 2007 tensile test results from this order to determine whether they were altered as a result of the **Balius**-led scheme.

35. As a result of the **Balius**-led computerized alteration conduct and the resulting notices by the U.S. government and **SPI** to potential **SPI** customers, **SPI** issued refunds and repaid other customer expenses totaling more than $2 million. In addition, as of the date of this statement of facts, the United States has identified approximately $170,925.87 in additional losses to commercial customers.

IV. Conclusion

36. **SPI**'s employees' actions in furtherance of the offense charged in this case, including but not limited to the acts described above, were done willfully, knowingly, and with the specific intent to violate the law, and not because of accident, mistake, or other innocent reason.

37. The foregoing statement of facts is a summary of the principal facts that constitute the legal elements of the offense of mail fraud. This summary does not describe all of the evidence that the United States would present at trial or all of the relevant conduct that would be used to determine **SPI**'s sentence or fine under the Sentencing Guidelines. **SPI** acknowledges that the foregoing statement of facts does not describe all of **SPI**'s conduct relating to the offense charged in this case.

FOR HYDRO EXTRUSION USA, LLC
f/k/a SAPA EXTRUSIONS, INC:

Date: 4-10-19

By: Charles J. Straface
Charles J. Straface
President
Hydro Extrusion USA, LLC

Date: _____

By: _____
Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP

FOR THE U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, FRAUD SECTION:

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

Date: _____

BY: FOR EMILY SCRUGGS
Emily Scruggs
Laura Connelly
Trial Attorneys

FOR THE UNITED STATES ATTORNEY'S OFFICE

G. Zachary Terwilliger
United States Attorney
Eastern District of Virginia

Date: _____

BY: _____
Ryan Faulconer
Assistant United States Attorney

FOR HYDRO EXTRUSION USA, LLC
f/k/a SAPA EXTRUSIONS, INC:

Date: _____ By: _____
Charles J. Straface
President
Hydro Extrusion USA, LLC

Date: 4.10.19 By: _____
Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP

FOR THE U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, FRAUD SECTION:

Robert A. Zink
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Date: _____ BY: _____
Emily Scruggs
Laura Connelly
Trial Attorneys

FOR THE UNITED STATES ATTORNEY'S OFFICE

G. Zachary Terwilliger
United States Attorney
Eastern District of Virginia

Date: _____ BY: _____
Ryan Faulconer
Assistant United States Attorney

ATTACHMENT B

CERTIFICATE OF CORPORATE RESOLUTIONS

WHEREAS, Hydro Extrusion USA, LLC, formerly known as Sapa Extrusions, Inc. (the "Company" or "Sapa Extrusions") has been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section, and the United States Attorney's Office for the Eastern District of Virginia (together the "United States") regarding issues arising in relation to fraudulent certifications of mechanical properties for parts manufactured at Hydro Extrusion Portland, Inc. f/k/a Sapa Profiles, Inc.'s Portland, Oregon aluminum manufacturing facilities for use in a variety of applications, including aeronautic uses such as rockets and military hardware; and

WHEREAS, in order to resolve such discussions, it is proposed that the Company enter into a certain agreement with the United States; and

WHEREAS, the Company's President, Charles J. Straface, together with outside counsel for the Company, have advised the sole member of the Company of its rights, possible defenses, the Sentencing Guidelines' provisions, and the consequences of entering into such agreement with the United States;

Therefore, the sole member has RESOLVED that:

1. The Company (a) acknowledges that the United States will file of the one-count Information charging the Company with mail fraud, in violation of Title 18, United States Code, Section 1341; (b) agrees to waive its right to grand jury indictment on such charge and enters into a deferred prosecution agreement (the "Agreement") with the United States; and (c) understands that the United States is not requiring the Company to pay a monetary penalty under the Agreement, which is conditioned on Hydro Extrusion Portland, Inc. f/k/a Sapa Profiles, Inc.

entering its guilty plea and (1) paying $34,108,001.11 in restitution, and (2) paying a forfeiture money judgment in the amount of $1,837,099;

2. The Company accepts the terms and conditions of this Agreement, including, but not limited to, (a) a knowing waiver of its rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); and (b) a knowing waiver for purposes of this Agreement and any charges by the United States arising out of the conduct described in the attached Statement of Facts of any objection with respect to venue and consents to the filing of the Information, as provided under the terms of this Agreement, in the United States District Court for the Eastern District of Virginia; and (c) a knowing waiver of any defenses based on the statute of limitations for any prosecution relating to the conduct described in the attached Statement of Facts or relating to conduct known to the United States prior to the date on which this Agreement was signed that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement;

3. The President of the Company, Charles J. Straface, is hereby authorized, empowered and directed, on behalf of the Company, to execute the Agreement substantially in such form as reviewed by the sole member at this meeting with such changes as the President of the Company, Charles J. Straface, may approve;

4. The President of the Company, Charles J. Straface, is hereby authorized, empowered and directed to take any and all actions as may be necessary or appropriate and to approve the forms, terms or provisions of any agreement or other documents as may be necessary or appropriate, to carry out and effectuate the purpose and intent of the foregoing resolutions; and

5. All of the actions of the President of the Company, Charles J. Straface, which actions would have been authorized by the foregoing resolutions except that such actions were

taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved, and adopted as actions on behalf of the Company.

Date: 4.8.19

By: _____

Jacquelyne M. Belcastro
Corporate Secretary
Hydro Extrusion USA, LLC

ATTACHMENT C

CORPORATE COMPLIANCE PROGRAM

In order to address any deficiencies in its internal controls, compliance code, policies, and procedures regarding compliance with federal law, Hydro Extrusion USA, LLC, f/k/a Sapa Extrusions, Inc. (the "Company") agrees to continue to conduct, in a manner consistent with all of its obligations under this Agreement, appropriate reviews of its existing internal controls, policies, and procedures.

Where necessary and appropriate, the Company agrees to modify its compliance program, including internal controls, compliance policies, and procedures in order to ensure that it maintains an effective system of internal accounting controls designed to ensure the making and keeping of fair and accurate books, records, and accounts, as well as policies and procedures designed to effectively detect and deter violations of federal law. At a minimum, this should include, but not be limited to, the following elements to the extent they are not already part of the Company's existing internal controls, compliance code, policies, and procedures:

High-Level Commitment

1. The Company will ensure that its directors and senior management provide strong, explicit, and visible support and commitment to its corporate policy against violations of federal law and its compliance code.

Policies and Procedures

2. The Company will develop and promulgate a clearly articulated and visible corporate policy against violations of federal law, which policy shall be memorialized in a written compliance code.

3. The Company will develop and promulgate compliance policies and procedures designed to reduce the prospect of violations of federal law and the Company's compliance code, and the Company will take appropriate measures to encourage and support the observance of ethics and compliance policies and procedures against violation of federal law by personnel at all levels of the Company. These policies and procedures shall apply to all directors, officers, and employees and, where necessary and appropriate, outside parties acting on behalf of the Company. The Company shall notify all employees that compliance with the policies and procedures is the duty of individuals at all levels of the company.

4. The Company will ensure that it has a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts. This system should be designed to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets.

Periodic Risk-Based Review

5. The Company will develop these compliance policies and procedures on the basis of a periodic risk assessment addressing the individual circumstances of the Company.

6. The Company shall review these policies and procedures no less than annually and update them as appropriate to ensure their continued effectiveness.

Proper Oversight and Independence

7. The Company will assign responsibility to one or more senior corporate executives of the Company for the implementation and oversight of the Company's compliance code, policies, and procedures. Such corporate official(s) shall have the authority to report directly to independent

monitoring bodies, including internal audit, or the Company's sole member, and shall have an adequate level of autonomy from management as well as sufficient resources and authority to maintain such autonomy.

Training and Guidance

8. The Company will implement mechanisms designed to ensure that its compliance code, policies, and procedures are effectively communicated to all directors, officers, employees, and, where necessary and appropriate, agents and business partners. These mechanisms shall include: (a) periodic training for all directors and officers, all employees in positions of leadership or trust, positions that require such training (e.g., internal audit, sales, legal, compliance, finance), and, where necessary and appropriate, agents and business partners; and (b) corresponding certifications by all such directors, officers, employees, agents, and business partners, certifying compliance with the training requirements.

9. The Company will maintain, or where necessary establish, an effective system for providing guidance and advice to directors, officers, employees, and, where necessary and appropriate, agents and business partners, on complying with the Company's compliance code, policies, and procedures.

Internal Reporting and Investigation

10. The Company will maintain, or where necessary establish, an effective system for internal and, where possible, confidential reporting by, and protection of, directors, officers, employees, and, where appropriate, agents and business partners concerning violations of federal law or the Company's compliance code, policies, and procedures.

11. The Company will maintain, or where necessary establish, an effective and reliable process with sufficient resources for responding to, investigating, and documenting allegations of violations of federal law or the Company's compliance code, policies, and procedures.

Enforcement and Discipline

12. The Company will implement mechanisms designed to effectively enforce its compliance code, policies, and procedures, including appropriately incentivizing compliance and disciplining violations.

13. The Company will institute appropriate disciplinary procedures to address, among other things, violations of federal law and the Company's compliance code, policies, and procedures by the Company's directors, officers, and employees. Such procedures should be applied consistently and fairly, regardless of the position held by, or perceived importance of, the director, officer, or employee. The Company shall implement procedures to ensure that where misconduct is discovered, reasonable steps are taken to remedy the harm resulting from such misconduct, and to ensure that appropriate steps are taken to prevent further similar misconduct, including assessing the internal controls, compliance code, policies, and procedures and making modifications necessary to ensure the overall compliance program is effective.

Mergers and Acquisitions

16. The Company will develop and implement policies and procedures for mergers and acquisitions requiring that the Company conduct appropriate risk-based due diligence on potential new business entities.

17. The Company will ensure that the Company's compliance code, policies, and procedures regarding federal law apply as quickly as is practicable to newly acquired businesses or entities merged with the Company and will promptly train the directors, officers, employees,

agents, and business partners consistent with Paragraph 8 above on the Company's compliance code, policies, and procedures.

Monitoring and Testing

18. The Company will conduct periodic reviews and testing of its compliance code, policies, and procedures designed to evaluate and improve their effectiveness in preventing and detecting violations of federal law and the Company's code, policies, and procedures, taking into account relevant developments in the field and evolving international and industry standards.

ATTACHMENT D

REPORTING REQUIREMENTS

Hydro Extrusion USA, LLC, f/k/a Sapa Extrusions, Inc. (the "Company") agrees that it will report to the United States Department of Justice, Criminal Division, Fraud Section and the United States Attorney's Office for the Eastern District of Virginia (together "the United States") periodically, at no less than twelve-month intervals during a three-year term, regarding remediation and implementation of the compliance program and internal controls, policies, and procedures described in Attachment C. During this three-year period, the Company shall: (1) conduct an initial review and submit an initial report, and (2) conduct and prepare at least two (2) follow-up reviews and reports, as described below:

a. By no later than one year from the date this Agreement is executed, the Company shall submit to the United States a written report setting forth a complete description of its remediation efforts to date, its proposals reasonably designed to improve the Company's internal controls, policies, and procedures for ensuring compliance with federal law, and the proposed scope of the subsequent reviews. The report shall be transmitted to "Deputy Chief - SFF Unit, Fraud Section, Criminal Division, U.S. Department of Justice, 1400 New York Avenue, NW, Bond Building, Third Floor, Washington, D.C. 20530" and to "Chief – Financial Crimes and Public Corruption Unit, United States Attorney's Office for the Eastern District of Virginia, 2100 Jamieson Avenue, Alexandria, VA 22314." The Company may extend the time period for issuance of the report with prior written approval of the United States.

b. The Company shall undertake at least two follow-up reviews and reports, incorporating the United States' views on the Company's prior reviews and reports, to further

monitor and assess whether the Company's policies and procedures are reasonably designed to detect and prevent violations of federal law.

c. The first follow-up review and report shall be completed by no later than one year after the initial report is submitted to the United States. The second follow-up review and report shall be completed and delivered to the United States no later than thirty days before the end of the Term.

d. The reports will likely include proprietary, financial, confidential, and competitive business information. Moreover, public disclosure of the reports could discourage cooperation, impede pending or potential government investigations and thus undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except as otherwise agreed to by the parties in writing, or except to the extent that the United States determines in its sole discretion that disclosure would be in furtherance of the United States' discharge of its duties and responsibilities or is otherwise required by law.

e. The Company may extend the time period for submission of any of the follow-up reports with prior written approval of the United States.

ATTACHMENT E

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	No. 1:19cr123
HYDRO EXTRUSION PORTLAND, INC.,	)	
f/k/a Sapa Profiles, Inc.,	)	
Defendant.	)	

PLEA AGREEMENT

The United States of America, by and through the Department of Justice, Criminal Division, Fraud Section and the United States Attorney's Office for the Eastern District of Virginia (together, the "United States"), and the Defendant, Hydro Extrusion Portland, Inc., formerly known as Sapa Profiles, Inc. (the "Defendant"), by and through its undersigned attorneys, and through its authorized representative, pursuant to authority granted by the Defendant's Board of Directors, hereby submit and enter into this plea agreement (the "Agreement"), pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. The terms and conditions of this Agreement are as follows:

The Defendant's Agreement

1. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Defendant agrees to waive its right to grand jury indictment and its right to challenge venue in the District Court for the Eastern District of Virginia, and the Defendant agrees to plead guilty to a single-count criminal Information charging the Defendant with mail fraud, in violation of Title 18, United States Code, Section 1341. The Defendant further agrees to persist in that plea through sentencing and, as set forth below, to cooperate fully with the United States in its investigation into the conduct described in this Agreement and other conduct under investigation by the United States.

2. The Defendant understands that, to be guilty of this offense, the following elements of the offense must be satisfied:

a. the Defendant knowingly devised or knowingly participated in a scheme or artifice to defraud, or to obtain money or property by means of material false or fraudulent pretenses, representations, or promises;

b. the defendant did so with the intent to defraud;

c. the scheme or artifice to defraud was, or the pretenses, representations, or promises were material, that is, it or they would reasonably influence a person to part with money or property; and

d. in advancing, furthering, or carrying out this scheme or artifice to defraud or to obtain money or property by means of material false or fraudulent pretenses, representations, or promises, the defendant used the mails, a private interstate carrier, or a commercial interstate carrier, or caused the mails, a private interstate carrier, or a commercial interstate carrier to be used;

e. each element of the offense listed above was committed by one or more of the Defendant's employees or agents;

f. the employee or agent intended, at least in part, to benefit the Defendant; and

g. the employee or agent was acting within the course and scope of the agent's or employee's employment.

3. The Defendant understands and agrees that this Agreement is between the United States and the Defendant and does not bind any other division or section of the Department of Justice or any other federal, state, or local prosecuting, administrative, or regulatory authority.

Nevertheless, the United States will bring this Agreement and the nature and quality of the conduct, cooperation and remediation of the Defendant, its direct or indirect affiliates, subsidiaries, and joint ventures, to the attention of other prosecuting authorities or other agencies, as well as debarment authorities, if requested by the Defendant.

4. The Defendant agrees that this Agreement will be executed by an authorized corporate representative. The Defendant further agrees that a resolution duly adopted by the Defendant's Board of Directors in the form attached to this Agreement as Exhibit 1, authorizes the Defendant to enter into this Agreement and take all necessary steps to effectuate this Agreement, and that the signatures on this Agreement by the Defendant and its counsel are authorized by the Defendant's Board of Directors, on behalf of the Defendant.

5. The Defendant agrees that it has the full legal right, power, and authority to enter into and perform all of its obligations under this Agreement.

6. The United States enters into this Agreement based on the individual facts and circumstances presented by this case and the Defendant's parent company, Hydro Extrusion USA, LLC, successor in interest to Sapa Extrusions, Inc. ("Sapa Extrusions"), including:

a. the Defendant and Sapa Extrusions have agreed to resolve their criminal liability related to the United States' criminal and civil investigations into a lengthy fraud scheme involving the fraudulent certification of mechanical properties for extrusions manufactured at the Defendant's Portland, Oregon, aluminum manufacturing facilities for use in a variety of applications, including by the National Aeronautics and Space Administration ("NASA") and the U.S. Department of Defense's Missile Defense Agency ("MDA");

b. the criminal resolution has two components: (1) the Defendant has agreed to plead guilty to a single-count criminal Information charging the Defendant with mail fraud, in

violation of Title 18, United States Code, Section 1341, pursuant to the terms of this Agreement; and (2) Sapa Extrusions is entering into a deferred prosecution agreement (the "Sapa Extrusions DPA") simultaneously to the Defendant entering its guilty plea. The Sapa Extrusions DPA is incorporated by reference into this Agreement (Exhibit 3);

c. the Defendant is currently in negotiations with the U.S. Department of Justice's Civil Division, Commercial Litigation Branch, Fraud Section (the "Civil Division") to resolve its civil liability for related civil claims, including under the federal False Claims Act. Consistent with JM 1-12.100 (Coordination of Corporate Resolution Penalties in Parallel and/or Joint Investigations and Proceedings Arising from the Same Misconduct), the United States will recommend to the Civil Division that they credit any restitution amounts that the Defendant pays to the government victims under the terms of this Agreement towards the civil settlement amount in any related civil settlement agreement;

d. the Defendant has been suspended from doing business with the U.S. government;

e. the Defendant and Sapa Extrusions did not receive voluntary disclosure credit because they did not voluntarily and timely disclose to the United States the conduct described in the Statement of Facts attached hereto as Exhibit 2 ("Statement of Facts");

f. the Defendant and Sapa Extrusions received full credit for their cooperation with the United States' investigation and the Civil Division's parallel civil investigation. The Defendant and Sapa Extrusions' cooperation included: conducting an independent internal investigation and making regular factual presentations to the United States; facilitating witness interviews of current and former employees; collecting, analyzing, and organizing voluminous

evidence and information for the United States; providing counsel for certain witnesses; and responding to the United States' requests for evidence and information.

g. by the conclusion of the investigation, the Defendant and Sapa Extrusions provided to the United States all relevant facts known to them, including information about the individuals involved in the misconduct described in the attached Statement of Facts and conduct disclosed to the United States prior to the Agreement;

h. the Defendant and Sapa Extrusions have engaged in extensive remedial measures to address the misconduct, including: (1) terminating two employees who participated in the misconduct, severing the employment of one employee for failure to properly investigate and report a complaint related to the misconduct, and disciplining one employee for failing to stop the misconduct; (2) implementing state-of-the-art equipment to automate the tensile testing process; (3) conducting audits at all U.S. tensile testing labs and developing an ongoing audit plan; (4) increasing resources devoted to compliance, including creating and hiring two new leadership positions, namely a Vice President of Quality and Continuous Improvement and a Director of Compliance; (5) expanding Sapa Extrusions' compliance program by strengthening written policies and procedures, including a Code of Conduct, an Employee Handbook, and a Quality Manual for the production of extrusions, and enhancing the compliance hotline; (6) increasing and improving the quality and compliance training for all employees; and (7) revamping internal quality controls and quality audit processes. The Defendant also disclosed the misconduct to customers and made extensive efforts to address customers' questions and concerns;

i. although Sapa Extrusions had an inadequate compliance program during the period of the conduct described in the Statement of Facts, Sapa Extrusions has been enhancing and has committed to continuing to enhance its compliance program and internal controls, including

ensuring that its compliance program satisfies the minimum elements set forth in Attachment C to the Sapa Extrusions DPA;

j. based on the Defendant's and Sapa Extrusions' remediation, the state of Sapa Extrusions' compliance program, and Sapa Extrusions' agreement to report to the United States as set forth in Attachment D to the Sapa Extrusions DPA (Corporate Compliance Reporting), the United States determined that an independent compliance monitor was unnecessary;

k. the nature and seriousness of the offense conduct, including that the Defendant's employees engaged in efforts over a lengthy period to falsify test results and issue false certifications for mechanical properties for extrusions manufactured at the Defendant's Portland, Oregon, aluminum manufacturing facilities for use in a variety of applications, including by NASA and the MDA;

l. the Defendant and Sapa Extrusions have no prior criminal history;

m. the Defendant and Sapa Extrusions have agreed to continue to cooperate with the United States as described in Paragraph 9 below and in the Sapa Extrusions DPA; and

n. accordingly, after considering (a) through (m), above, the United States believes that the appropriate resolution of this case is a guilty plea by the Defendant, restitution in the amount of $34,108,001.11, forfeiture of $1,837,099, and a DPA with Sapa Extrusions requiring that Sapa Extrusions to further enhance its compliance program and undertake certain reporting obligations related to its compliance program.

7. The Defendant agrees to abide by all terms and obligations of this Agreement as described herein, including, but not limited to, the following:

a. to plead guilty as set forth in this Agreement;

b. to abide by all sentencing stipulations contained in this Agreement;

c. to appear, through its duly appointed representatives, as ordered for all court appearances, and obey any other ongoing court order in this matter, consistent with all applicable U.S. and foreign laws, procedures, and regulations;

d. to commit no further crimes;

e. to be truthful at all times with the Court;

f. to pay the applicable special assessments; and

g. to work with its parent company in fulfilling the obligations of the Sapa Extrusions DPA.

8. Except as may otherwise be agreed by the parties in connection with a particular transaction, the Defendant agrees that in the event that, during the term of the Sapa Extrusions DPA (the "Term"), the Defendant undertakes any change in corporate form, including if it sells, merges, or transfers business operations that are material to the Defendant's consolidated operations, or to the operations of any subsidiaries or affiliates involved in the conduct described in the Statement of Facts, as they exist as of the date of this Agreement, whether such sale is structured as a sale, asset sale, merger, transfer, or other change in corporate form, it shall include in any contract for sale, merger, transfer, or other change in corporate form a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement. The purchaser or successor in interest must also agree in writing that the United States' ability to determine a breach under this Agreement is applicable in full force to that entity. The Defendant agrees that the failure to include these provisions in the transaction will make any such transaction null and void. The Defendant shall provide notice to the United States at least 30 days prior to undertaking any such sale, merger, transfer, or other change in corporate form. The United States

shall notify the Defendant prior to such transaction (or series of transactions) if it determines that the transaction(s) will have the effect of circumventing or frustrating the enforcement purposes of this Agreement. If at any time during the Term the Defendant engages in a transaction(s) that has the effect of circumventing or frustrating the enforcement purposes of this Agreement, the United States may deem it a breach of this Agreement pursuant to Paragraphs 22-25. Nothing herein shall restrict the Defendant from indemnifying (or otherwise holding harmless) the purchaser or successor in interest for penalties or other costs arising from any conduct that may have occurred prior to the date of the transaction, so long as such indemnification does not have the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined by the United States.

9. The Defendant shall cooperate fully with the United States in any and all matters relating to the conduct described in this Agreement and the attached Statement of Facts and other conduct under investigation by the United States at any time during the Term until the later of the date upon which all investigations and prosecutions arising out of such conduct are concluded, or the end of the Term. At the request of the United States, the Company shall also cooperate fully with other domestic or foreign law enforcement and regulatory authorities and agencies in any investigation of the Defendant, Sapa Extrusions, or its affiliates, or any of its present or former officers, directors, employees, agents, and consultants, or any other party, in any and all matters relating to the conduct described in this Agreement and the attached Statement of Facts and other conduct under investigation by the United States. The Defendant's cooperation pursuant to this Paragraph is subject to applicable law and regulations, as well as valid claims of attorney-client privilege or attorney work product doctrine; however, the Defendant must provide to the United States a log of any information or cooperation that is not provided based on an assertion of law,

regulation, or privilege, and the Defendant bears the burden of establishing the validity of any such an assertion.

The Defendant agrees that its cooperation pursuant to this paragraph shall include, but not be limited to, the following:

a. The Defendant shall truthfully disclose all factual information with respect to its activities, those of its parent company and affiliates, and those of its present and former directors, officers, employees, agents, and consultants, including any evidence or allegations and internal or external investigations, about which the Defendant has any knowledge or about which the United States may inquire. This obligation of truthful disclosure includes, but is not limited to, the obligation of the Defendant to provide to the United States, upon request, any document, record or other tangible evidence about which the United States may inquire of the Defendant.

b. Upon request of the United States, the Defendant shall designate knowledgeable employees, agents or attorneys to provide to the United States the information and materials described in Paragraph 9(a) above on behalf of the Defendant. It is further understood that the Defendant must at all times provide complete, truthful, and accurate information.

c. The Defendant shall use its best efforts to make available for interviews or testimony, as requested by the United States, present or former officers, directors, employees, agents and consultants of the Defendant. This obligation includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with domestic or foreign law enforcement and regulatory authorities. Cooperation under this Paragraph shall include identification of witnesses who, to the knowledge of the Defendant, may have material information regarding the matters under investigation.

d. With respect to any information, testimony, documents, records or other tangible evidence provided to the United States pursuant to this Agreement, the Defendant consents to any and all disclosures to other governmental authorities, including United States authorities and those of a foreign government of such materials as the United States, in its sole discretion, shall deem appropriate.

10. During the term of the cooperation obligations provided for in the Paragraph 9 of the Agreement, should the Defendant learn of any evidence or allegation of a violation of U.S. federal law, the Defendant shall promptly report such evidence or allegation to the United States. Thirty days prior to the end of the term of the cooperation obligations provided for in Paragraph 9 of the Agreement, the Defendant, by the President of the Defendant and the Vice President and Treasurer of the Defendant, will certify to the United States that the Defendant has met its disclosure obligations pursuant to this Paragraph. Each certification will be deemed a material statement and representation by the Defendant to the executive branch of the United States for purposes of 18 U.S.C. §§ 1001 and 1519, and it will be deemed to have been made in the judicial district in which this Agreement is filed.

11. The Defendant agrees that the restitution and forfeiture imposed by the Court will be due and payable in full at the time of the entry of judgment following such sentencing hearing, and the Defendant will not attempt to avoid or delay payment. The Defendant further agrees to pay the Clerk of the Court for the United States District Court for the Eastern District of Virginia the mandatory special assessment of $400 per count within ten business days from the date of sentencing.

The United States' Agreement

12. In exchange for the guilty plea of the Defendant and the complete fulfillment of all of its obligations under this Agreement, the United States agrees it will not file additional criminal charges against the Defendant or any of its direct or indirect affiliates, subsidiaries, or joint ventures relating to any of the conduct described in the Statement of Facts, except as specified in the Sapa Extrusions DPA. This Paragraph does not provide any protection against prosecution for any crimes made in the future by the Defendant or by any of its officers, directors, employees, agents or consultants, whether or not disclosed by the Defendant pursuant to the terms of this Agreement. This Agreement does not close or preclude the investigation or prosecution of any natural persons, including any officers, directors, employees, agents, or consultants of the Defendant or its direct or indirect affiliates, subsidiaries, or joint ventures, who may have been involved in any of the matters set forth in the Information, the Statement of Facts, or in any other matters. The Defendant agrees that nothing in this Agreement is intended to release the Defendant from any and all of the Defendant's excise and income tax liabilities and reporting obligations for any and all income not properly reported and/or legally or illegally obtained or derived.

Factual Basis

13. The Defendant is pleading guilty because it is guilty of the charges contained in the Information. The Defendant admits, agrees, and stipulates that the factual allegations set forth in the Information and the Statement of Facts are true and correct, that it is responsible for the acts of its officers, directors, employees, and agents described in the Information and the Statement of Facts, and that the Information and the Statement of Facts accurately reflect the Defendant's criminal conduct.

The Defendant's Waiver of Rights, Including the Right to Appeal

14. Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 limit the admissibility of statements made in the course of plea proceedings or plea discussions in both civil and criminal proceedings, if the guilty plea is later withdrawn. The Defendant expressly warrants that it has discussed these rules with its counsel and understands them. Solely to the extent set forth below, the Defendant voluntarily waives and gives up the rights enumerated in Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410. Specifically, the Defendant understands and agrees that any statements that it makes in the course of its guilty plea or in connection with the Agreement are admissible against it for any purpose in any U.S. federal criminal proceeding if, even though the United States has fulfilled all of its obligations under this Agreement and the Court has imposed the agreed-upon sentence, the Defendant nevertheless withdraws its guilty plea.

15. The Defendant is satisfied that the Defendant's attorneys have rendered effective assistance. The Defendant understands that by entering into this Agreement, the Defendant surrenders certain rights as provided in this Agreement. The Defendant understands that the rights of criminal defendants include the following:

a. the right to plead not guilty and to persist in that plea;

b. the right to a jury trial;

c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings;

d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses; and

e. pursuant to Title 18, United States Code, Section 3742, the right to appeal the sentence imposed.

Nonetheless, the Defendant knowingly waives the right to appeal or collaterally attack the conviction and any sentence within the statutory maximum described below (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742, or on any ground whatsoever except those specifically excluded in this Paragraph, in exchange for the concessions made by the United States in this Agreement. This Agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The Defendant also knowingly waives the right to bring any collateral challenge challenging either the conviction, or the sentence imposed in this case. The Defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a. The Defendant waives all defenses based on the statute of limitations and venue with respect to any prosecution related to the conduct described in the Statement of Facts or the Information, including any prosecution that is not time-barred on the date that this Agreement is signed in the event that: (a) the conviction is later vacated for any reason; (b) the Defendant violates this Agreement; or (c) the plea is later withdrawn, provided such prosecution is brought within one year of any such vacation of conviction, violation of agreement, or withdrawal of plea plus the remaining time period of the statute of limitations as of the date that this Agreement is signed. The United States is free to take any position on appeal or any other post-judgment matter. Nothing in the foregoing waiver of appellate and collateral review rights

shall preclude the Defendant from raising a claim of ineffective assistance of counsel in an appropriate forum.

Penalty

16. The statutory maximum sentence that the Court can impose for the count in the Criminal Information is as follows: a fine of $500,000 or twice the gross pecuniary gain derived by any person from the offense or twice the gross pecuniary loss to a person other than the defendant resulting from the offense, whichever is greatest; five years' probation, Title 18, United States Code, Section 3561(c)(1); a mandatory special assessment of $400 per count, Title 18, United States Code, Section 3013(a)(2)(B); and restitution under Title 18, United States Code, Section 3663A, as applicable;

Sentencing Recommendation

17. The parties agree that pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the Court must determine an advisory sentencing guideline range pursuant to the United States Sentencing Guidelines. The Court will then determine a reasonable sentence within the statutory range after considering the advisory sentencing guideline range and the factors listed in Title 18, United States Code, Section 3553(a). The parties' agreement herein to any guideline sentencing factors constitutes proof of those factors sufficient to satisfy the applicable burden of proof. The Defendant also understands that if the Court accepts this Agreement, the Court is bound by the sentencing provisions in Paragraph 19.

18. The United States and the Defendant agree that a faithful application of the United States Sentencing Guidelines (U.S.S.G.) to determine the applicable fine range yields the following analysis:

a. The 2014 U.S.S.G are applicable to this matter.

b. Offense Level. Based upon U.S.S.G § 2B1.1, the total offense level is 29, calculated as follows:

(a)(1)	Base Offense Level	7
(b)(1)(K)	Losses greater than $7 million but less than $20 million	+20
(b)(2)(A)	Ten or more victims	+ 2
TOTAL		29

c. Base Fine. Based upon U.S.S.G. § 8C2.4(a)(3), the base fine is $15,503,686.87. Under U.S.S.G. § 8C2.4(a), the base fine is the greater of either the amount from the Offense Level Fine Table or the pecuniary loss from the offense. While the base fine for a Total Offense Level of 29 is $8,100,000, the pecuniary loss from the offense is $15,503,636.87.

d. Culpability Score. Based upon U.S.S.G. § 8C2.5, the culpability score is 6, calculated as follows:

(a)	Base Culpability Score	5
(b)(3)(A)	the organization had 200 or more employees and an individual within high-level personnel of the organization participated in, condoned, or was willfully ignorant of the offense	+3
(g)(2)	the organization fully cooperated in the investigation and clearly demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct.	-2
TOTAL		6

Calculation of Fine Range:

Base Fine	$15,503,686.87
Multipliers	1.2 (min)/2.4(max)
Fine Range	$18,604,364.24 – $37,208,728.49

19. Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the United States and the Defendant agree that the appropriate disposition of this case is as set forth below, taking into consideration all of the relevant considerations outlined in Paragraph 6 and in 18 U.S.C. §§ 3553(a) and 3572, and agree to jointly recommend that the Court, at a hearing to be scheduled at an agreed-upon time, impose the recommended sentence.

a. Restitution. The Defendant agrees to pay $34,108,001.11 in restitution, as set forth below in this subparagraph. In addition, the parties agree to submit a joint proposed restitution order to the Court. The Defendant agrees not to seek or accept, directly or indirectly, reimbursement or indemnification from any external source with regard to the restitution amounts that the Defendant pays pursuant to this Agreement and the Court's restitution order. The Defendant further acknowledges that no tax deduction may be sought in connection with the payment of any part of this $34,108,001.11 restitution.

i. Restitution Under 18 U.S.C. § 3663A. The Defendant agrees, pursuant to Title 18, United States Code, Section 3663A, to pay $15,503,636.87 to the victims of the Defendant's fraud scheme, that is, government and commercial victims who were defrauded in connection with their purchase of aluminum extrusions based on the Defendants' provision of materially false, fraudulent, and misleading certifications related to the material properties of those extrusions.

ii. Additional Restitution. The Defendant agrees, pursuant to Title 18, United States Code, Section 3663(a)(3), to pay $18,604,364.24 in additional restitution to NASA.

b. Forfeiture. The Defendant agrees, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, to forfeit any property, real or personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense. The parties agree that, pursuant to Federal Rule of Criminal Procedure 32.2, a money judgment in the amount of $1,837,099 shall be sufficient to satisfy the Defendant's forfeiture obligations under this Agreement. The Defendant therefore agrees to the entry of a forfeiture money judgment in the amount of $1,837,099 at the time the plea is entered in this case. The Defendant agrees not to seek or accept, directly or indirectly, reimbursement or indemnification from any external source with regard to the forfeiture amounts that the Defendant pays pursuant to this Agreement and the forfeiture money judgment. The Defendant further acknowledges that no tax deduction may be sought in connection with the payment of any part of this $1,837,099 money judgment.

c. Fine. The United States and the Defendant agree that a $18,604,364.24 fine at the low end of the calculated Guidelines range would be appropriate in this case, but agree that this fine amount should be offset by the $18,604,364.24 in additional restitution that the Defendant has agreed to pay to NASA. Thus, the parties agree to recommend that no fine be imposed.

d. Probation. The parties agree that a term of organizational probation for a period of three years should be imposed on Defendant pursuant to Title 18, United States Code, Sections 3551(c)(1) and 3561(c)(1). The parties agree, pursuant to U.S.S.G. § 8D1.4, that the term of probation shall include as conditions the obligations set forth in Paragraphs 7 and 9 above as well as the payment of restitution as set forth in Paragraph 19a and the payment of the forfeiture money judgment as set forth in Paragraph 19b.

e. Special Assessment. The Defendant shall pay to the Clerk of the Court for

the United States District Court for the Eastern District of Virginia within ten days of the time of sentencing the mandatory special assessment of $400 per count.

20. This Agreement is presented to the Court pursuant to Fed. R. Crim. P. 11(c)(1)(C). The Defendant understands that, if the Court rejects this Agreement, the Court must: (a) inform the parties that the Court rejects the Agreement; (b) advise the Defendant's counsel that the Court is not required to follow the Agreement and afford the Defendant the opportunity to withdraw its plea; and (c) advise the Defendant that if the plea is not withdrawn, the Court may dispose of the case less favorably toward the Defendant than this Agreement contemplated. The Defendant further understands that if the Court refuses to accept any provision of this Agreement, neither party shall be bound by the provisions of this Agreement.

21. In the event the Court directs the preparation of a Presentence Investigation Report, the United States will fully inform the preparer of the Presentence Investigation Report and the Court of the facts and law related to the Defendant's case. At the time of the plea hearing, the parties will suggest mutually agreeable and convenient dates for the sentencing hearing with adequate time for (a) any objections to the Presentence Report, and (b) consideration by the Court of the Presentence Report and the parties' sentencing submissions.

Breach of Agreement

22. If the Defendant (a) commits any felony under U.S. federal law; (b) provides in connection with this Agreement deliberately false, incomplete, or misleading information; (c) fails to cooperate as set forth in Paragraphs 9 and 10 of this Agreement; or (d) otherwise fails specifically to perform or to fulfill completely each of the Defendant's obligations under the Agreement, regardless of whether the United States becomes aware of such a breach after the Term of the Sapa Extrusions DPA, the Defendant shall thereafter be subject to prosecution for any

federal criminal violation of which the United States has knowledge, including, but not limited to, the charges in the Information described in Paragraph 1, which may be pursued by the United States in the U.S. District Court for the Eastern District of Virginia or any other appropriate venue. Determination of whether the Defendant has breached the Agreement and whether to pursue prosecution of the Defendant shall be in the United States' sole discretion. Any such prosecution may be premised on information provided by the Defendant. Any such prosecution relating to the conduct described in the attached Statement of Facts or relating to conduct known to the United States prior to the date on which this Agreement was signed that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the Defendant, notwithstanding the expiration of the statute of limitations, between the signing of this Agreement and the expiration of the Term of the Sapa Extrusions DPA plus one year. Thus, by signing this Agreement, the Defendant agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement shall be tolled for the Term of the Sapa Extrusions DPA plus one year. The Defendant gives up all defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such prosecution or action, except to the extent that such defenses existed as of the date of the signing of this Agreement. In addition, the Defendant agrees that the statute of limitations as to any violation of federal law that occurs during the term of the cooperation obligations provided for in Paragraph 9 of the Agreement will be tolled from the date upon which the violation occurs until the earlier of the date upon which the United States is made aware of the violation or the duration of the term plus five years, and that this period shall be excluded from any calculation of time for purposes of the application of the statute of limitations.

23. In the event the United States determines that the Defendant has breached this Agreement, the United States agrees to provide the Defendant with written notice of such breach prior to instituting any prosecution resulting from such breach. Within 30 days of receipt of such notice, the Defendant shall have the opportunity to respond to the United States in writing to explain the nature and circumstances of such breach, as well as the actions the Defendant has taken to address and remediate the situation, which explanation the United States shall consider in determining whether to pursue prosecution of the Defendant.

24. In the event that the United States determines that the Defendant has breached this Agreement: (a) all statements made by or on behalf of the Defendant to the United States or to the Court, including the attached Statement of Facts, and any testimony given by the Defendant before a grand jury, a court, or any tribunal, or at any legislative hearings, whether prior or subsequent to this Agreement, and any leads derived from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the United States against the Defendant; and (b) the Defendant shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that any such statements or testimony made by or on behalf of the Defendant prior or subsequent to this Agreement, or any leads derived therefrom, should be suppressed or are otherwise inadmissible. The decision whether conduct or statements of any current director, officer or employee, or any person acting on behalf of, or at the direction of, the Defendant, will be imputed to the Defendant for the purpose of determining whether the Defendant has violated any provision of this Agreement shall be in the sole discretion of the United States.

25. The Defendant acknowledges that the United States has made no representations, assurances, or promises concerning what sentence may be imposed by the Court if the Defendant

breaches this Agreement and this matter proceeds to judgment. The Defendant further acknowledges that any such sentence is solely within the discretion of the Court and that nothing in this Agreement binds or restricts the Court in the exercise of such discretion.

Public Statements by the Defendant

26. The Defendant expressly agrees that it shall not, through present or future attorneys, officers, directors, employees, agents or any other person authorized to speak for the Defendant 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 and Exhibit 2. Any such contradictory statement shall, subject to cure rights of the Defendant described below, constitute a breach of this Agreement, and the Defendant thereafter shall be subject to prosecution as set forth in Paragraphs 22-25 of this Agreement. The decision whether any public statement by any such person contradicting a fact contained in the Information or the Statement of Facts will be imputed to the Defendant for the purpose of determining whether it has breached this Agreement shall 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 the Statement of Facts, the United States shall so notify the Defendant, and the Defendant may avoid a breach of this Agreement by publicly repudiating such statement(s) within five business days after notification. The Defendant shall be permitted to raise defenses and to assert affirmative claims in other proceedings relating to the matters set forth in the Information and the Statement of Facts provided that such defenses and claims do not contradict, in whole or in part, a statement contained in the Information or the Statement of Facts. This Paragraph does not apply to any statement made by any present or former officer, director, 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.

27. The Defendant agrees that if it or any of its direct or indirect subsidiaries or affiliates issues a press release or holds any press conference in connection with this Agreement, the Defendant shall first consult the United States to determine (a) whether the text of the release or proposed statements at the press conference are true and accurate with respect to matters between the United States and the Defendant; and (b) whether the United States has any objection to the release or statement.

Complete Agreement

28. This document states the full extent of the Agreement between the parties. There are no other promises or agreements, express or implied. Any modification of this Agreement shall be valid only if set forth in writing in a supplemental or revised plea agreement signed by all parties.

AGREED:

FOR HYDRO EXTRUSION PORTLAND, INC., F/K/A SAPA PROFILES, INC.

Date: 4-10-19 By: Charles J. Straface

Charles J. Straface
President
Hydro Extrusion Portland, Inc.

Date: _____ By: _____

Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP
Outside Counsel for Hydro Extrusion Portland, Inc.

FOR THE U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, FRAUD SECTION:

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

Date: 4/12/19 BY: FOR EMILY SCRUGGS

Emily Scruggs
Laura Connelly
Trial Attorneys

FOR THE UNITED STATES ATTORNEY'S OFFICE

G. Zachary Terwilliger
United States Attorney
Eastern District of Virginia

Date: 4/12/19 BY: _____

Ryan Faulconer
Assistant United States Attorney

AGREED:

FOR HYDRO EXTRUSION PORTLAND, INC., F/K/A SAPA PROFILES, INC.

Date: _____ By: _____
Charles J. Straface
President
Hydro Extrusion Portland, Inc.

Date: 4.10.19 By: _____
Kristin Graham Koehler
Craig Francis Dukin
Sidley Austin LLP
Outside Counsel for Hydro Extrusion Portland, Inc.

FOR THE U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, FRAUD SECTION:

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

Date: _____ BY: _____
Emily Scruggs
Laura Connelly
Trial Attorneys

FOR THE UNITED STATES ATTORNEY'S OFFICE

G. Zachary Terwilliger
United States Attorney
Eastern District of Virginia

Date: _____ BY: _____
Ryan Faulconer
Assistant United States Attorney

EXHIBIT 1

CERTIFICATE OF CORPORATE RESOLUTIONS

WHEREAS, Hydro Extrusion Portland, Inc., formerly known as Sapa Profiles, Inc. (the "Company") has been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section, and the United States Attorney's Office for the Eastern District of Virginia (together the "United States") regarding issues arising in relation to fraudulent certifications of mechanical properties for parts manufactured at the Company's Portland, Oregon aluminum manufacturing facilities for use in a variety of applications, including aeronautic uses such as rockets and military hardware; and

WHEREAS, in order to resolve such discussions, it is proposed that the Company enter into a certain agreement with the United States; and

WHEREAS, the Company's President, Charles J. Straface, together with outside counsel for the Company, have advised the Board of Directors of the Company of its rights, possible defenses, the Sentencing Guidelines' provisions, and the consequences of entering into such agreement with the United States;

Therefore, the Board of Directors has RESOLVED that:

1. The Company (a) acknowledges that the United States will file a one-count Information charging the Company with mail fraud, in violation of Title 18, United States Code, Section 1341; (b) agrees to waive its right to grand jury indictment on such charge and enters into a plea agreement (the "Agreement") with the United States; and (c) agrees to pay $34,108,001.11 in restitution and to forfeit $1,837,099 in connection with the Agreement;

2. The Company accepts the terms and conditions of the Agreement, including but not limited to the waiver of rights set forth in Paragraphs 14 and 15 of the Agreement;

3. The President of the Company, Charles J. Straface, is hereby authorized, empowered and directed, on behalf of the Company, to execute the Agreement substantially in such form as reviewed by the Board of Directors at this meeting with such changes as the President of the Company, Charles J. Straface, may approve;

4. The President of the Company, Charles J. Straface, is hereby authorized, empowered and directed to take any and all actions as may be necessary or appropriate and to approve the forms, terms or provisions of any agreement or other documents as may be necessary or appropriate, to carry out and effectuate the purpose and intent of the foregoing resolutions; and

5. All of the actions of the President of the Company, Charles J. Straface, which actions would have been authorized by the foregoing resolutions except that such actions were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved, and adopted as actions on behalf of the Company.

Date: 4-8-19

By: _____
Jacquelyne M. Belcastro
Corporate Secretary
Hydro Extrusion Portland, Inc.

EXHIBIT 2

STATEMENT OF FACTS

The following Statement of Facts is incorporated by reference as part of the Plea Agreement between the United States Department of Justice, Criminal Division, Fraud Section, and the United States Attorney's Office for the Eastern District of Virginia (together "the United States") and **Hydro Extrusion Portland, Inc.**, f/k/a Sapa Profiles, Inc. (collectively, "**SPI**"), and the parties hereby agree and stipulate that the following information is true and accurate. **SPI** admits, accepts, and acknowledges that it is responsible for the acts of its officers, directors, employees, and agents as set forth below. Had this matter proceeded to trial, **SPI** acknowledges that the United States would have proven beyond a reasonable doubt, by admissible evidence, the facts alleged below and set forth in the criminal Information:

I. Introduction

1. From at least in or around 1996 through in or about September 2015, in a continuing course of conduct within the Eastern District of Virginia and elsewhere, certain **SPI** employees engaged in a scheme (a) to conceal the inconsistent quality of aluminum extrusions produced by **SPI** for (and shipped to) its customers, including U.S. government prime contractors and subcontractors, and **SPI**'s other customers, by altering thousands of failing tensile test results on those extrusions; (b) to increase **SPI**'s and its parent entity's profits and productivity by preventing delays in production and the costly scrapping of metal associated with failing test results; and (c) to obtain bonuses for the employees involved, which were calculated in part based on a production metric.

II. Factual Background

A. SPI-Related Entities and Individuals

2. **SPI** is an Oregon corporation headquartered in Rosemont, Illinois, that manufactured aluminum extrusions in specific shapes for use in a variety of applications. In or about 2000, **SPI** acquired a variety of facilities from Anodizing, Inc., including the Technical Dynamics Aluminum ("TDA") plant and a main plant, both located in and around Portland, Oregon. The TDA plant specialized in smaller extrusions, including for contractors to the National Aeronautics and Space Administration ("NASA") and the U.S. Department of Defense's Missile Defense Agency ("MDA"). As of 2015, **SPI** had approximately 650 employees.

3. Hydro Extrusion USA, LLC, f/k/a Sapa Extrusions, Inc. (collectively, "**Sapa Extrusions**") is a Delaware limited liability company headquartered in Rosemont, Illinois, with several subsidiaries in the United States, including **SPI**. As a general matter, **SPI**'s profits and losses passed up to **Sapa Extrusions**, which provided legal, human resources, and certain quality control functions for **SPI**.

4. **Plant Manager A**, who began working at the TDA plant in or about 1968, was the TDA plant manager from in or about 1986 through in or about 2009. **Plant Manager A**'s responsibilities included overseeing production at the TDA plant, as well as reviewing and approving results of testing done on aluminum extruded at the TDA plant before extrusions were sent to customers.

5. **Dennis Balius** was the tensile lab supervisor at **SPI**'s main plant in Portland, Oregon, from in or about 2003 through in or about September 2015. At various points throughout his employment as the tensile lab supervisor, **Balius**'s responsibilities included overseeing the main tensile testing lab (the "lab"), reviewing test results, training the lab technicians, and

conducting floor audits. While employed by **SPI**, Balius supervised, among others, more than 20 lab technicians responsible for conducting tensile tests, and with respect to the conduct described in this statement of facts, **Balius** organized, led, supervised, and managed their conduct.

B. ***SPI****'s Manufacturing, Testing, and Certification of Aluminum Extrusions*

6. **SPI** produced its aluminum extrusions by pushing aluminum billets (*i.e.*, aluminum in a round, square, rectangular, or hexagonal bar shape) at different speeds and temperatures through dies to produce specific shapes needed by particular customers. Depending on the mechanical properties requirements needed, the extrusions were then quenched (*i.e.*, rapidly cooled either by misting water on them, blowing air on them, or both) and stretched to ensure straightness. In some instances, the extrusions were then put through a heat-treating process (*i.e.*, the metal is placed into a large oven at different temperatures and for different lengths of time) to ensure that the extrusions reached the required hardness.

7. **SPI** produced its aluminum extrusions in a variety of alloys (specific chemical combinations of different metals) and tempers (which designate how the metal is treated immediately after its creation). ASTM International ("ASTM") and SAE International Group ("SAE") set different mechanical properties specifications and testing processes for different combinations of aluminum tempers and alloys. These specifications and processes were designed to ensure that the aluminum met a certain threshold level of consistency and reliability. The mechanical properties specifications set by SAE are generally referred to as "AMS specifications."

8. Depending on the particular customer that ordered aluminum extrusions from **SPI**, **SPI** generally certified that its extrusions met a variety of ASTM or AMS specifications. Those included ASTM or AMS specifications for three mechanical properties: yield strength, ultimate tensile strength, and elongation. These three mechanical properties are measured through a process

called "tensile testing," in which a small sample of an aluminum extrusion is slowly stretched and then ripped apart by a machine, which measures the force applied to the sample at each stage of the test.

9. In the tensile testing process, yield strength ("yield") is the point at which the aluminum extrusion sample becomes permanently and irreversibly deformed. Ultimate tensile strength ("UTS") is a calculation of the maximum amount of stress the sample can sustain before it breaks. Elongation is the increase in the length of the aluminum extrusion sample before it breaks during tensile testing.

10. **SPI** generally conducted its tensile testing at the main plant where **Balius** worked. That testing included the testing of samples of extrusions produced at the TDA plant where **Plant Manager A** worked. The method by which **SPI** recorded and communicated the results of its tensile testing within the company changed over time and differed depending on the plant involved and the location at which the testing was performed.

11. Prior to the mid-2000s, the TDA plant typically sent a sample of an extrusion lot to **SPI**'s internal testing lab with a "Samples" form on which plant personnel handwrote, among other things, the sample identification number and customer name. After the lab completed the tensile testing on the sample, the lab technician handwrote in the remaining fields on the Samples form, which included the yield, UTS, and elongation test results. The lab then faxed the Samples form back to the TDA plant, where a TDA plant employee, generally **Plant Manager A**, would review the test results on the Samples form. **Plant Manager A** or another TDA plant employee were then supposed to determine whether the tensile test results met the applicable ASTM or AMS specifications and could be sent to the customer, or alternatively, whether re-testing or scrap of the aluminum was required in accordance with ASTM or AMS specifications. If aluminum was

scrapped, it would result in additional cost to **SPI**, and ultimately, reduced profits for **SPI**. A similar process was followed for samples that were sent to an external lab.

12. After **Plant Manager A** or another TDA plant employee reviewed the test results on the testing lab's Samples form or on the certification from an external lab, the results would be typed onto a test certificate, which was then signed by a TDA plant employee. The test certificate was included on the invoice that was shipped with the aluminum extrusion orders to **SPI**'s customers.

13. In the mid-2000s, **SPI** began to implement different means by which to communicate testing results between the main plant and locations such as the TDA plant using typewritten sample sheets. In or about 2006, **SPI** began using a computerized software known as Axapta full-time, which permitted **SPI** to produce test certifications to ASTM specifications directly from the software system without requiring the handwritten Samples sheets referenced above. From 2006 through the remainder of the timeframe discussed in this statement of facts, **SPI** used Axapta to track the results of tensile testing at the main plant and to produce test certifications that were shipped with extrusions to **SPI**'s customers.

*C. **SPI**'s Role as a Supplier to U.S. Government Contractors*

14. **SPI**'s customers included U.S. government contractors who ultimately provided **SPI**-manufactured aluminum extrusions to U.S. government agencies, including NASA and the MDA. Specifically, one of **SPI**'s customers was Contractor A, a U.S. government contractor headquartered in Dulles, Virginia, within the Eastern District of Virginia. In or about October 1998, NASA awarded prime contract # NAS10-99005 ("Contract 9005"), with a maximum face value of $400 million, to Contractor A. In addition, Contractor A served as a subcontractor to the MDA on prime contract # HQ0006-01-C-0001 ("Contract 0001"), which was awarded to

Contractor X in or about January 2001 with a face value of approximately $7.39 billion. Contractor A worked in part through and with Contractor B as a subcontractor on Contract 0001. The prime contracts and subcontracts associated with Contracts 9005 and 0001 required that the aluminum extrusions provided to NASA and the MDA be certified to meet certain AMS specifications. NASA and the MDA relied on the accuracy of **SPI**'s certifications.

15. Both Contract 9005 and Contract 0001 called for the use of an aluminum "frangible joint" in rockets provided to NASA and missiles provided to the MDA, respectively. The aluminum extrusions produced by **SPI** and provided through Contractor A to NASA were used on frangible joints for NASA rocket launches, and the aluminum extrusions produced by **SPI** and provided through Contractors A, B, and X to the MDA were used on frangible joints on MDA missiles.

III. Criminal Conduct: SPI's Alteration of Tensile Test Results and False Certifications

16. As described in greater detail below, from at least as early as 1996 and lasting through in or about September 2015, certain **SPI** employees knowingly executed a scheme and artifice to defraud **SPI**'s customers, and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises, by falsifying thousands of tensile test results to conceal inconsistent production practices at **SPI**, increase **SPI**'s profits and productivity, and obtain bonuses that were tied to production metrics for employees involved in the scheme. From the beginning of the scheme through in or about 2006, **Plant Manager A** led a portion of the scheme through which he and other employees at the TDA plant made handwritten alterations to more than 2,000 tensile test results affecting more than 200 customers, including results that were falsely certified in or about May 2002 and ultimately shipped to Contractor A in the Eastern District of Virginia with extrusions intended for the U.S. government. In addition, from in or about

2002 through in or about September 2015, **Balius** led a second portion of the scheme through which he and other employees at the main plaint's testing lab made alterations in **SPI**'s computer systems to at least 4,000 tensile test results affecting more than 250 customers.

A. ***Plant Manager A*** *and the Handwritten Alterations at* ***SPI****'s TDA Plant*

17. Beginning at least as early as 1996, **Plant Manager A** and other employees at the TDA plant engaged in a practice of making handwritten alterations to failing test results on TDA Samples forms that were sent back from the main plant with failing test results. **Plant Manager A** and others would make these handwritten changes by, for example, changing a "1" to a "7" or the like, in order to change an actually failing test result to a falsely passing result by increasing the numbers above the required minimum results. **Plant Manager A**, who was colorblind, would at times make the handwritten alterations in a different color ink than the (usually black) color on the Samples form that came from the main plant's testing lab. **Plant Manager A** would also, on other occasions, white out failing numbers and write in passing ones.

18. After **Plant Manager A** and others made the handwritten alterations to the test result numbers, **Plant Manager A** or another individual would write "OK" next to the test result (rather than "Re-Test" or the like) to indicate that the test results passed the applicable minimum standards, even though they knew that the test results were actually failing. **Plant Manager A** or another individual would then provide the Samples sheets with the altered test results to an administrative assistant who would then type the altered results onto a certification form that would be signed by a TDA plant employee and sent to the customers. These falsified certification forms materially misled **SPI**'s customers by indicating that the aluminum was from a lot that had passed tensile testing and thus met the applicable specifications, when in reality the lot had not actually passed tensile testing.

19. For example, on or about January 20, 2000, Contractor A ordered 5 extrusions from **SPI** for use in frangible joints to be provided to the U.S. government. The TDA plant sent two samples to External Lab A for testing, and after both samples failed, the metal was scrapped. Thereafter, on or about February 15, 2000, new material was extruded. The Samples form came back from the **SPI** main plant testing lab with failing yield results. A "2" was changed to a "7" to make the yield results appear passing, and a TDA plant employee wrote "OK" next to the altered test result. Thereafter, a falsified certification was created and sent to Contractor A in the Eastern District of Virginia with the extruded aluminum. Contractor A received the falsified certification on or about February 18, 2000.

20. **Plant Manager A** and others also engaged in this handwritten alteration practice in relation to test results received from External Lab A. This included whiting out failing test results, altering the numbers (where possible) of failing results to make them appear to be passing, and changing the intended destination of a test result intended for one customer to another customer.

21. For example, in or about early April 2002, Contractors A and B, in two separate orders, ordered approximately 45 aluminum extrusions (5 to be shipped to Contractor A and 40 to Contractor B) from **SPI** for use in frangible joints to be provided to the U.S. government. On or about April 24, 2002, **Plant Manager A** reviewed a Samples form that showed failing test results for the product to be provided to Contractor A and wrote on the form that the product needed to be re-tested. On or about April 29, 2002, the TDA plant extruded new material and received back failing test results on the Samples form for both Contractor A's and Contractor B's orders on or about May 5, 2002. **Plant Manager A** again reviewed the form and wrote that the product needed to be re-tested. **SPI** then communicated to Contractor A that the "material failed the mechanical

property tests for the second time," that new material would be extruded, and that it would be tested again. On or about May 13, 2002, the TDA plant extruded new material and sent approximately four samples to External Lab A for testing—one for the Contractor A order and three for the Contractor B order.

22. On or about May 17, 2002, External Lab A sent back failing test results to the TDA plant for all four samples on three separate External Lab A certification forms. Rather than scrapping the metal yet again, the TDA plant altered the test results. Specifically, the elongation result on the first test result on one of the forms was altered from a failing "5" to a passing "8" (the yield and UTS results from that single test were passing). **Plant Manager A** wrote "O.K." on the form, the second (failing) test result on that form was whited out, and **Plant Manager A** handwrote in Contractor A's name next to Contractor B's—therefore causing false certifications to be created and sent to Contractors A and B. Those included a false certification form shipped by **SPI** to Contractor A's Dulles-based facility within the Eastern District of Virginia on or about May 20, 2002. Extrusions from this falsely certified but actually failing lot of material were ultimately provided to the MDA.

23. Towards the end of the handwritten alteration scheme, **Plant Manager A** instructed another TDA plant employee not to let **Balius**, who was conducting an audit of the TDA plant, look at a file cabinet in which **Plant Manager A** retained the Samples forms that showed the altered test results. **Plant Manager A**'s instruction piqued the TDA plant employee's curiosity, and that employee looked at the Samples forms, which showed the obvious alterations that had been made and the volume of them in the preceding years. The TDA plant employee brought the alterations to the attention of **Balius** and pointed **Balius**'s attention to the file cabinet. **Balius** reviewed the Samples forms and told the employee that **Balius** would talk to **Plant Manager A**

about the alterations. Approximately three to six months later, the same TDA plant employee also raised the alterations practice with the quality assurance manager at the **SPI** main plant. That quality assurance manager responded that because **SPI** was set to implement the Axapta software, **Plant Manager A** would soon not have the ability to engage in the handwritten alteration practice.

B. ***Balius*** *and the Computerized Alterations at* ***SPI****'s Main Plant*

24. Starting in or about 2002, **Balius** learned how to alter tensile test results in **SPI**'s testing lab. In or about 2003, **Balius** took over as the testing lab supervisor, and in or about 2006, **SPI** began using the Axapta software system. At some point after learning how to make alterations in the **SPI** computer systems, **Balius** told **Plant Manager A** that alterations were occurring in the main plant testing lab and that **Balius** was going to make some changes. **Plant Manager A** agreed with the changes.

25. From in or about 2002 through in or about September 2015, **Balius** led a practice of altering thousands of test results, primarily within the Axapta software. To further this practice, **Balius** created a set of written procedures explaining how to alter test results; although the procedures were originally intended to instruct lab technicians how to correct typographical errors, they were actually used to alter (and instruct new lab technicians how to alter) failing test results.

26. **Balius** communicated with lab technicians in a variety of ways to instruct them to alter test results. **Balius** did so verbally, through the exchange of handwritten notes, and via email. When communicating with lab technicians via email, **Balius** would often instruct technicians to "bump" or "move" test results that were actually failing up to numbers that would falsely appear to be passing. In other instances, when lab technicians asked **Balius** what to do regarding failing test results, **Balius** would go into the computer system himself and alter results.

27. In addition to altering test results, **Balius** also instructed lab technicians to violate other testing standards. For example, **Balius** instructed technicians to perform only a single re-test after a sample failed, even though ASTM specifications required two passed retests after a failed sample. **Balius** also instructed lab technicians to increase the speed of the testing machine, in violation of the ASTM specifications, to increase the speed with which they could perform tests, and to turn the speed down before customer visits or lab audits. **Balius** also cut and instructed lab technicians to cut samples for testing that did not adhere to ASTM specifications.

28. Among the hundreds of customers that received false certifications as a result of the conduct led by **Balius** was commercial Customer A, to which **SPI** sent by commercial carrier a shipment of aluminum that was falsely certified on or about March 20, 2014.

29. In or about July 2014, a lab technician who had been instructed by **Balius** to alter test results reported the conduct to the main plant manager for **SPI**. Specifically, that lab technician wrote:

> I have been working in the QA [quality assurance] department for about 2 years. In the course of this time I have received instruction from quality management to fake tests, pass failing material and enter fake data to make it look legitimate. As the plant manager I don't know if you support this or are unaware but if I were in sales I couldn't look a customer in the eye and say that "certified" material is what they are getting, they get something, but a lot of the time it is not certified according to specifications I see here in the tensile lab.
>
> The fake tests get my employee number on the certification sheet and for my own peace of mind I would hope for some explanation or a change in policy. QA management has only told me not to speak of this with anyone and offered no other explanation for why we tell customers lies. This is a daily practice so you can imagine how many customers are affected. I am dreading when I am asked to bump up test results or fake a test for important customers like [Car Manufacturer T] for example. I am sure I will be fired if this email is seen by QA management so keep that in mind but do what you think is best with this information. I work days and would be willing

> to show you what I am talking about but that again would likely lead to me being fired.

In response to the email above, the main plant manager instructed the quality assurance manager (also referenced above at paragraph 23) to speak to the lab technician who wrote the email. The computerized alteration practice did not stop.

C. NASA-OIG Investigation and Discovery of Alteration Scheme

30. In or about April 2013, **SPI** received an Office of Inspector General ("OIG") subpoena from NASA-OIG, which was investigating the impact of **SPI** extrusions on NASA. **SPI** hired outside counsel, who conducted an internal investigation, interviewed witnesses, and produced responsive documents. Initially, **SPI** produced black-and-white scanned copies of the Samples forms, which did not clearly show the alterations made by **Plant Manager A** and those working with him. In 2014, NASA-OIG and the Civil Division of the U.S. Department of Justice requested the original Samples forms for certain test records. In the course of producing these documents, **SPI**'s outside counsel identified handwritten changes made by **Plant Manager A** in different-colored ink to many of these documents.

31. Thereafter, **SPI**'s outside counsel interviewed **Balius**, who did not disclose the computerized alteration scheme. Similarly, the main plant manager did not disclose any alteration scheme, nor did he disclose the July 2014 email from the lab technician referenced above, when interviewed by **SPI** outside counsel in 2014. Indeed, the computerized alteration scheme was not disclosed until the summer of 2015, when **SPI**'s quality department and counsel discovered that the **Balius**-led conduct persisted even in the midst of the internal investigation of the **Plant Manager A**-led conduct. By September 2015, **SPI** terminated the employment of **Balius** and others involved.

D. Losses, Illegal Gains, and Other Relevant Financial Impact

32. In total, from in or about 1996 through in or about 2006, **Plant Manager A** and others at the TDA plant falsified approximately 2,019 test results in certifications that were sent to more than 200 **SPI** customers, including Contractors A and B. **SPI** earned approximately $420,000 in profits from these orders, which totaled gross sales of approximately $2.1 million. During the scheme, **Plant Manager A** was paid approximately $170,130 in bonuses that were tied in part to a production metric.

33. In total, from in or about 2003 through in or about September 2015, **Balius** and other lab technicians at the **SPI** main plant testing lab altered at least 4,126 test results, resulting in false certifications being sent to approximately 251 **SPI** customers. **SPI** earned approximately $1,417,099 in profits from these orders, which totaled gross sales of approximately $6,828,434.26. Because of the different ways that **Balius** and other lab technicians falsified test results and violated ASTM standards, and the unavailability of data for the duration of the time period, these numbers understate the total amount of altered results (and falsified test results) that were part of the **Balius**-led conduct. During the scheme, **Balius** was paid approximately $51,412.50 in bonuses that were tied in part to a production metric.

34. As a result of the schemes outlined above, the MDA has determined that the total replacement cost related to aluminum extrusions received by the MDA and produced by **SPI** is approximately $15,332,811. In addition, NASA has estimated that as a result of its investigation into the impact of **SPI** extrusions on NASA operations, NASA has incurred approximately $9,003,303.22 in investigative and other costs. This includes costs associated with testing that showed that NASA received extrusions related to an order in or about March 2007 that was shipped by **SPI** to Contractor A in the Eastern District of Virginia and ultimately used on extrusions

provided to NASA. Although tensile test results of the extrusions received by NASA failed, the certification sent by **SPI** to Contractor A showed passing tensile test results. None of the parties have been able to recover the underlying computer data from the original 2007 tensile test results from this order to determine whether they were altered as a result of the **Balius**-led scheme.

35. As a result of the **Balius**-led computerized alteration conduct and the resulting notices by the U.S. government and **SPI** to potential **SPI** customers, **SPI** issued refunds and repaid other customer expenses totaling more than $2 million. In addition, as of the date of this statement of facts, the United States has identified approximately $170,925.87 in additional losses to commercial customers.

IV. Conclusion

36. **SPI**'s employees' actions in furtherance of the offense charged in this case, including but not limited to the acts described above, were done willfully, knowingly, and with the specific intent to violate the law, and not because of accident, mistake, or other innocent reason.

37. The foregoing statement of facts is a summary of the principal facts that constitute the legal elements of the offense of mail fraud. This summary does not describe all of the evidence that the United States would present at trial or all of the relevant conduct that would be used to determine **SPI**'s sentence or fine under the Sentencing Guidelines. **SPI** acknowledges that the foregoing statement of facts does not describe all of **SPI**'s conduct relating to the offense charged in this case.

Respectfully submitted,

G. Zachary Terwilliger
United States Attorney

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division, U.S. Department of Justice

By: _____

Ryan S. Faulconer
Assistant United States Attorney
Emily Scruggs
Laura Connelly
Trial Attorneys

After consulting with my attorneys and reviewing the above Statement of Facts, I stipulate that the above Statement of Facts is true and accurate. I further stipulate that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: 4-10-19

Charles J. Straface, President
Hydro Extrusion Portland, Inc.
f/k/a Sapa Profiles, Inc.

We are Hydro Extrusion Portland, Inc.'s attorneys. We have carefully reviewed the above Statement of Facts with the company. To our knowledge, its decision to stipulate to these facts is an informed and voluntary one.

Date: _____

Kristin Graham Koehler
Craig Francis Dukin
Attorneys for Hydro Extrusion Portland, Inc.

After consulting with my attorneys and reviewing the above Statement of Facts, I stipulate that the above Statement of Facts is true and accurate. I further stipulate that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: _____

_____
Charles J. Straface, President
Hydro Extrusion Portland, Inc.
f/k/a Sapa Profiles, Inc.

We are Hydro Extrusion Portland, Inc.'s attorneys. We have carefully reviewed the above Statement of Facts with the company. To our knowledge, its decision to stipulate to these facts is an informed and voluntary one.

Date: 4.10.19

Kristin Graham Koehler
Craig Francis Dukin
Attorneys for Hydro Extrusion Portland, Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	No. 1:19cr124
HYDRO EXTRUSION USA, LLC,	)	
f/k/a Sapa Extrusions, Inc.,	)	
Defendant.	)	

ORDER

Upon the motion of the United States of America and the defendant, Hydro Extrusion USA, LLC, formerly known as Sapa Extrusions, Inc. (collectively, "**Sapa Extrusions**"), by their respective attorneys, and finding in accordance with 18 U.S.C. § 3161 that the ends of justice in granting the extension of the speedy trial deadline outweigh the best interests of the public and the defendant in a speedy trial,

It is hereby, ORDERED that all further criminal proceedings in this matter, including trial, be continued until further motion of the parties; and

It is further ORDERED that this Court approves the exclusion from the computation of time in which a trial must be commenced under the Speedy Trial Act the period of delay between entry of this Order and any trial in this matter, should one occur, because the Court finds that the written agreement signed by the United States and defendant **Sapa Extrusions**, and its counsel, will allow the defendant to demonstrate its good conduct.

May ___, 2019
Alexandria, Virginia