UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-60294-CR-COHN

UNITED STATES OF AMERICA

v.

EMBRAER S.A.,

Defendant.

_____/

DEFERRED PROSECUTION AGREEMENT

Defendant Embraer S.A. (the "Company"), pursuant to authority granted by the Company's Board of Directors, and the United States Department of Justice, Criminal Division, Fraud Section (the "Section"), enter into this deferred prosecution agreement (the "Agreement").

Criminal Information and Acceptance of Responsibility

1. The Company acknowledges and agrees that the Section will file the attached two-count criminal Information in the United States District Court for the Southern District of Florida charging the Company with (i) one count of conspiracy to commit offenses against the United States in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery and books and records provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, Title 15, United States Code, Sections 78dd-1, 78m(b)(2)(A), 78m(b)(5), and 78ff(a); and (ii) one count of violating the internal controls provisions of the FCPA, Title 15, United States Code, Sections 78m(b)(2)(B), 78m(b)(5), and 78ff(a). In so doing, the Company: (a) knowingly waives its right to indictment on these charges, 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 attached Statement of Facts and consents to the filing of the Information, as provided under the terms of this Agreement, in the United States District Court for the Southern District of Florida. The Section 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 Section 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 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 the later of the date on which the Information is filed or the date on which the independent compliance monitor (the "Monitor") is retained by the Company, as described in Paragraphs 11-13 below (the "Term"). The Company agrees, however, that, in the event the Section determines, in its sole discretion, that the Company has knowingly violated any provision of this Agreement, an extension or extensions of the Term may be imposed by the Section, in its sole discretion, for up to a total additional time period of one

year, without prejudice to the Section's right to proceed as provided in Paragraphs 16–20 below. Any extension of the Agreement extends all terms of this Agreement, including the terms of the monitorship in Attachment D, for an equivalent period. Conversely, in the event the Section finds, in its sole discretion, that there exists a change in circumstances sufficient to eliminate the need for the monitorship 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 Section enters into this Agreement based on the individual facts and circumstances presented by this case, including:

(a) the Company did not voluntarily disclose the FCPA violations to the Section; the investigation of the matter commenced when the Securities and Exchange Commission ("SEC") served the Company with a subpoena;

(b) the Company fully cooperated with the Section's investigation and provided all non-privileged relevant facts known to the Company, including information about individuals involved in the misconduct, which assisted in the prosecutions of individuals by foreign authorities for the misconduct described in the attached Statement of Facts;

(c) the Company had an inadequate compliance program at the time of the criminal conduct;

(d) the Company now has designed and is implementing a more adequate compliance program and system of internal accounting controls, has committed to ensuring

that these will be implemented in a manner that satisfies the elements set forth in Attachment C to this Agreement, and has agreed to engage the Monitor pursuant to the terms described herein;

(e) the Company has engaged in partial remediation: it has disciplined a number of Company employees and executives engaged in the misconduct described in the attached Statement of Facts, but did not discipline a senior executive who was (at the very least) aware of bribery discussions in emails in 2004 and had oversight responsibility for the employees engaged in those discussions;

(f) the nature and seriousness of the offense, including its pervasiveness throughout each of the Company's three separate sales divisions and the involvement of high-level executives in each set of criminal conduct recounted in the attached Statement of Facts;

(g) the Company has no prior criminal history;

(h) the Company has agreed to continue to cooperate with the Section as set forth in this Agreement in any investigation of the Company and its officers, directors, employees, agents, business partners, and consultants relating to violations of the FCPA;

(i) the Company has agreed to disgorge the profits from the misconduct described in the attached Statement of Facts to the SEC and to Brazilian authorities;

(j) accordingly, after considering (a) through (i) above, the Company will enter into the Agreement, pay a criminal penalty of 20% below the low end of United States Sentencing Guidelines range, and the Monitor will be imposed pursuant to the terms outlined herein.

Future Cooperation and Disclosure Requirements

5. The Company shall cooperate fully with the Section in any and all matters relating to the conduct described in this Agreement and the attached Statement of Facts, and any individual or entity referred to therein, as well as other conduct related to corrupt payments, false books, records, and accounts, or the failure to implement adequate internal accounting controls, subject to applicable law and regulations, 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 Section, the Company shall also cooperate fully with other domestic or foreign law enforcement and regulatory authorities and agencies, as well as the Multilateral Development Banks ("MDBs"), 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 possible corrupt payments. 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 not protected by a valid claim of attorney-client privilege or work product doctrine 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 Section may inquire. This obligation of truthful disclosure includes, but is not limited to, the obligation of the Company to provide to the Section, upon request, any document, record or other tangible evidence about which the Section may inquire of the Company.

b. Upon request of the Section, the Company shall designate knowledgeable employees, agents or attorneys to provide to the Section 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 Section, 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 Section pursuant to this Agreement, the Company consents to any and all disclosures, subject to applicable law and regulations, to other governmental authorities, including United States authorities and those of a foreign government, as well as the MDBs, of such materials as the Section, in its sole discretion, shall deem appropriate.

6. In addition to the obligations in Paragraph 5, during the Term, should the Company learn of credible evidence or allegations of corrupt payments, false books, records, and accounts, or the failure to implement adequate internal accounting controls, the Company shall promptly report such evidence or allegations to the Section.

Payment of Monetary Penalty

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

a. The 2015 USSG are applicable to this matter.

b. Offense Level. Based upon USSG §2C1.1, the total offense level is 42, calculated as follows:

(a)(2)	Base Offense Level	12
(b)(1)	Multiple Bribes	+2
(b)(3)	High Level Official	+4
(b)(2)	Value of benefit received more than $65,000,000	+24
TOTAL		42

c. Base Fine. Based upon USSG § 8C2.4(a)(2), the base fine is $83,816,476 (as the pecuniary gain exceeds the fine indicated in the Offense Level Fine Table, namely $72,500,000)

d. Culpability Score. Based upon USSG § 8C2.5, the culpability score is 8, calculated as follows:

(a)	Base Culpability Score	5
(b)(3)	the organization had 5,000 or more employees and an individual within high-level personnel of the organization participated in, condoned, or was willfully ignorant of the offense	+5
(g)(1)	The organization fully cooperated in the investigation, and clearly demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct	- 2
TOTAL		8

Calculation of Fine Range:

Base Fine	$83,816,476
Multipliers	1.60(min)/3.20(max)
Fine Range	$134,106,363 / $268,212,723

The Company agrees to pay a monetary penalty in the amount of $107,285,090 to the United States Treasury no later than five business days after the filing of the Information. The Company and the Section agree that this penalty is appropriate given the facts and circumstances of this case, as set forth above. The $107,285,090 penalty is final and shall not be refunded. Furthermore, nothing in this Agreement shall be deemed an agreement by the Section that $107,285,090 is the maximum penalty that may be imposed in any future prosecution, and the Section is not precluded from arguing in any future prosecution that the Court should impose a higher fine, although the Section agrees that under those circumstances, it will recommend to the Court that any amount paid under this Agreement should be offset against any fine the Court imposes as part of a future judgment. The Company acknowledges that no tax deduction may be sought in connection with the payment of any part of this $107,285,090 penalty. The Company shall not seek or accept directly or indirectly reimbursement or indemnification from any source with regard to the penalty or disgorgement amounts that the Company pays pursuant to this Agreement or any other agreement entered into with an enforcement authority or regulator concerning the facts set forth in the attached Statement of Facts.

Conditional Release from Liability

8. Subject to Paragraph 16–20, the Section agrees, except as provided in this Agreement, that it will not bring any criminal or civil 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 or for the conduct that the Company disclosed to the Section prior to the signing of this Agreement. The Section, 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 throughout its operations, including those of its affiliates, agents, and joint ventures, and those of its contractors and subcontractors whose responsibilities include interacting with foreign officials or other activities carrying a high risk of corruption, designed to prevent and detect violations of the FCPA and other applicable anti-corruption laws.

10. In order to address any deficiencies in its internal accounting 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 accounting controls, policies, and procedures regarding compliance with the FCPA and other applicable anti-corruption laws. 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 it maintains: (a) an effective system of internal accounting controls designed to ensure the making and keeping of fair and accurate books, records, and accounts; and (b) a rigorous anti-corruption compliance program that incorporates relevant internal accounting controls, as well as policies and procedures designed to effectively detect and deter violations of the FCPA and other applicable

anti-corruption laws. The compliance program, including the internal accounting controls system will include, but not be limited to, the minimum elements set forth in Attachment C.

Independent Compliance Monitor

11. Promptly after the Section's selection pursuant to Paragraph 12 below, the Company agrees to retain a Monitor for the term specified in Paragraph 13. The Monitor's duties and authority, and the obligations of the Company with respect to the Monitor and the Section, are set forth in Attachment D, which is incorporated by reference into this Agreement. Upon the execution of this Agreement, and after consultation with the Section, the Company will propose to the Section a pool of three qualified candidates to serve as the Monitor. If the Section determines, in its sole discretion, that any of the candidates are not, in fact, qualified to serve as the Monitor, or if the Section, in its sole discretion, is not satisfied with the candidates proposed, the Section reserves the right to seek additional nominations from the Company.

The parties will endeavor to complete the monitor selection process within sixty days of the execution of this Agreement. The Monitor candidates or their team members shall have, at a minimum, the following qualifications:

a. demonstrated expertise with respect to the FCPA and other applicable anti-corruption laws, including experience counseling on FCPA issues;

b. experience designing and/or reviewing corporate compliance policies, procedures and internal controls, including FCPA and anti-corruption policies, procedures and internal controls;

c. the ability to access and deploy resources as necessary to discharge the Monitor's duties as described in the Agreement; and

d. sufficient independence from the Company to ensure effective and impartial performance of the Monitor's duties as described in the Agreement.

12. The Section retains the right, in its sole discretion, to choose the Monitor from among the candidates proposed by the Company, though the Company may express its preference(s) among the candidates. In the event the Section rejects all proposed Monitors, the Company shall propose an additional three candidates within twenty business days after receiving notice of the rejection. This process shall continue until a Monitor acceptable to both parties is chosen. The Section and the Company will use their best efforts to complete the selection process within sixty calendar days of the execution of this Agreement. If the Monitor resigns or is otherwise unable to fulfill his or her obligations as set out herein and in Attachment D, the Company shall within forty-five (45) business days recommend a pool of three qualified Monitor candidates from which the Section will choose a replacement.

13. The Monitor's term shall be three years from the date on which the Monitor is retained by the Company, subject to extension or early termination as described in Paragraph 3. The Monitor's powers, duties, and responsibilities, as well as additional circumstances that may support an extension of the Monitor's term, are set forth in Attachment D. The Company agrees that it will not employ or be affiliated with the Monitor or the Monitor's firm for a period of not less than two years from the date on which the Monitor's term expires. Nor will the Company discuss with the Monitor or the Monitor's firm the possibility of further employment or affiliation during the Monitor's term.

Deferred Prosecution

14. In consideration of the undertakings agreed to by the Company herein, the Section 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.

15. The Section further agrees that if the Company fully complies with all of its obligations under this Agreement, the Section 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 of the Agreement's expiration, the Section 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

16. 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; (e) commits any acts that, had they occurred within the jurisdictional reach of the FCPA, would be a violation of the FCPA; or (f) otherwise fails specifically to perform or to fulfill completely each of the Company's obligations under the Agreement, regardless of whether the Section 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 Section has knowledge, including, but not limited to, the charges in the Information described in Paragraph

1, which may be pursued by the Section in the U.S. District Court for the Southern District of Florida 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 Section's 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 Section 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 related to corrupt payments, false books, records, and accounts, or the failure to implement adequate internal accounting controls, including violation of the anti-bribery or internal controls provisions of the FCPA or violation of the Travel Act, Title 18, United States Code, Section 1952, 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 Section 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.

17. In the event the Section determines that the Company has breached this Agreement, the Section agrees to provide the Company with written notice 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 Section in writing to explain the nature and circumstances of the breach, as well as the actions the Company has taken to address and remediate the situation, which the Section shall consider in determining whether to pursue prosecution of the Company.

18. In the event that the Section determines that the Company has breached this Agreement: (a) all statements made by or on behalf of the Company to the Section 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 Section 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 Section.

19. The Company acknowledges that the Section 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.

20. Thirty days after the expiration of the period of deferred prosecution specified in this Agreement, the Company, by the Chief Executive Officer of the Company and the Chief Financial Officer of the Company, will certify to the Section 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 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

21. 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 Company shall obtain approval from the Section at least thirty days prior to undertaking any such sale, merger, transfer, or other change in corporate form, including dissolution, in order to give the Section an opportunity to determine if such change in corporate form would impact the terms or obligations of the Agreement.

Public Statements by Company

22. 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 in Paragraph 2 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 16–19 of this Agreement. The decision whether any public statement by any such person contradicting a fact contained in the 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 Section. If the Section 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 Section 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.

23. The Company 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 Company shall first consult with the Section 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 Section and the Company; and (b) whether the Section has any objection to the release.

24. The Section 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 Section 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

25. This Agreement is binding on the Company and the Section 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 Section 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.

Notice

26. Any notice to the Section under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to FCPA Chief, Fraud Section, Criminal Division, U.S. Department of Justice, 1400 New York Avenue, Washington, D.C. 20005. 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 John P. Rowley III, 815 Connecticut Ave. N.W.,

Washington, D.C. 20006. Notice shall be effective upon actual receipt by the Section or the Company.

Complete Agreement

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

AGREED:

FOR EMBRAER S.A.:

Date: 10/3/2016 By: _____
Paulo Cesar de Souza e Silva, CEO
Embraer S.A.

Date: 10/3/2016 By: _____
Fabiana Leschziner, General Counsel
Embraer S.A.

Date: 10/3/2016 By: _____
John P. Rowley III
Joan E. Meyer
Richard N. Dean
Baker & McKenzie LLP

Date: 10/3/2016 By: _____
Esther M. Flesch
Erica Sarubbi
Trench Rossi e Watanabe

FOR THE DEPARTMENT OF JUSTICE:

Andrew Weissmann
Chief, Fraud Section
Criminal Division
United States Department of Justice

Date: 10/21/16 BY: _____
Jason Linder, Senior Trial Attorney
John-Alex Romano, Trial Attorney

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for Embraer S.A. (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 Board of Directors of the Company. I have advised and caused outside counsel for the Company to advise the Board of Directors 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 Chief Executive Officer for the Company and that I have been duly authorized by the Company to execute this Agreement on behalf of the Company.

Date: OCT 3, 2016

EMBRAER S.A.

By: _____

Paulo Cesar de Souza e Silva
Chief Executive Officer

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for Embraer S.A. (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 Board of Directors of the Company. I have advised and caused outside counsel for the Company to advise the Board of Directors 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 General Counsel for the Company and that I have been duly authorized by the Company to execute this Agreement on behalf of the Company.

Date: 10/3/16

EMBRAER S.A.

By: _____
Fabiana Leschziner
General Counsel

CERTIFICATE OF COUNSEL

I am counsel for Embraer S.A. (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 Board of Directors. 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 Board of Directors and both the Chief Executive Officer and General Counsel 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 Board of Directors, is an informed and voluntary one.

Date: 10/3/2016

By: John P. Rowley III
Baker & McKenzie LLP
Counsel for Embraer S.A.

ATTACHMENT A

STATEMENT OF FACTS

The following Statement of Facts is incorporated by reference as part of the Deferred Prosecution Agreement (the "Agreement") between the United States Department of Justice, Criminal Division, Fraud Section (the "Section") and Embraer S.A. ("EMBRAER"). EMBRAER hereby agrees and stipulates that the following information is true and accurate. EMBRAER admits, accepts, and acknowledges that it is responsible for the acts of its officers, directors, employees, and agents. Should the Section pursue the prosecution that is deferred by this Agreement, EMBRAER agrees that it will neither contest the admissibility of, nor contradict, this Statement of Facts in any such proceeding. The following facts took place during the relevant time frame and establish beyond a reasonable doubt the charges set forth in the criminal Information attached to this Agreement:

Relevant Entities and Individuals

1. EMBRAER was an aircraft manufacturing company incorporated and headquartered in Brazil. EMBRAER manufactured commercial, executive, and defense aircraft and sold them to governmental and private customers throughout the world. EMBRAER maintained its North American regional office in Fort Lauderdale, Florida. Shares of EMBRAER's stock traded on the New York Stock Exchange ("NYSE") as American depositary receipts ("ADRs"), and EMBRAER was required to file periodic reports with the Securities and Exchange Commission ("SEC") under Section 15(d) of the Securities Exchange Act, 15 U.S.C. § 78o(d). Accordingly, EMBRAER was an issuer within the meaning of the Foreign Corrupt Practices Act ("FCPA"), Title 15, United States Code, Sections 78dd-1 and 78m.

2. Embraer Representations LLC ("Embraer RL") was a subsidiary wholly owned by EMBRAER, and incorporated in Delaware. Embraer RL's financial statements were consolidated into EMBRAER's financial statements. Embraer RL held and maintained a bank account in New York from which EMBRAER made improper payments during the relevant time.

3. "Embraer Executive A," an individual whose identity is known to the United States and EMBRAER, was an executive in EMBRAER's Defense and Government Markets Division.

4. "Embraer Executive B," an individual whose identity is known to the United States and EMBRAER, was an executive in EMBRAER's Executive Jets Division.

5. "Embraer Executive C," an individual whose identity is known to the United States and EMBRAER, was an executive in EMBRAER's Commercial Jets Division.

6. "Embraer Executive D," an individual whose identity is known to the United States and EMBRAER, was an executive in EMBRAER's Commercial Jets Division.

7. "Dominican Official," an individual whose identity is known to the United States and EMBRAER, was an official in a high-level decision-making position in the government of the Dominican Republic. Dominican Official had influence over decisions made by the Fuerza Aérea de República Dominicana ("FAD"), which was the Dominican Republic's Air Force and which was a "department" and "agency" of a foreign government, as those terms are defined in the FCPA, Title 15, United States Code, Section 78dd-1(f)(1). Beginning at least by May 2007, EMBRAER referred to Dominican Official as the "General Manager" or "Managing Director of the Project." Dominican Official was a "foreign official" as that term is used in the FCPA, Title 15, United States Code, Section 78dd-1(f)(1) ("foreign official").

8. "Saudi Arabia Official," an individual whose identity is known to the United States and EMBRAER, was an official in a high-level decision-making position in a state-owned and controlled company in Saudi Arabia that performed a government function. Saudi Arabia Official had influence over decisions made by the instrumentality ("Saudi Arabia Instrumentality"), which was an "instrumentality" of a foreign government, as that term is defined in the FCPA, Title 15, United States Code, Section 78dd-1(f)(1) ("instrumentality"). Saudi Arabia Official was a foreign official.

9. "Mozambique Official," an individual whose identity is known to the United States and EMBRAER, was an official in a high-level decision-making position in the government of Mozambique. Mozambique Official had influence over decisions made by Linhas Aéreas de Moçambique, S. A. ("LAM"), the state-owned commercial airline in Mozambique that performed a government function, and which was an instrumentality. Mozambique Official was a foreign official.

10. "Agent A," an individual whose identity is known to the United States and EMBRAER, purportedly provided legitimate agency services to EMBRAER in connection with the sale of aircraft to the government of Jordan. In reality, Agent A was retained for the purpose of funneling bribes to Dominican Official to obtain or retain business in the Dominican Republic.

11. "Agent B," a company, the identity of which is known to the United States and EMBRAER, purportedly provided legitimate agency services to EMBRAER in connection with the sale of aircraft to Saudi Arabia Instrumentality. In reality, Agent B was retained for the purposes of funneling bribes to Saudi Arabia Official to obtain or retain business in connection with the sale.

12. "Agent C," an individual whose identity is known to the United States and EMBRAER, purportedly provided legitimate agency services to EMBRAER in connection with the sale of aircraft to the government of Mozambique. In reality, Agent C was retained for the purposes of funneling bribes to Mozambican officials, including Mozambique Official, to obtain or retain business in Mozambique.

13. "Agent D," an individual whose identity is known to the United States and EMBRAER, purportedly provided legitimate agency services to EMBRAER pursuant to two separate agency agreements in connection with the sale of aircraft to the government of India.

The Unlawful Schemes

The Dominican Republic

14. From in or around August 2008 through at least in or around October 2010, EMBRAER, through its employees and agents, agreed to pay and did pay Dominican Official approximately $3.52 million to obtain a defense contract valued at approximately $96.4 million.

15. Beginning in or around June 2007, EMBRAER began efforts to sell the Super Tucano aircraft, a turbine-driven military aircraft typically used for missions to fight drug trafficking, counter insurgence missions, and training, to the FAD. There was no public bid or tender for this sale. Rather, EMBRAER developed and negotiated the sale directly with representatives of the FAD, and Dominican Official was EMBRAER's primary point of contact at the FAD.

16. By mid-2008, many of the terms of the sale had been negotiated but the Dominican Republic Senate ("Dominican Senate") had not yet approved the deal's financing or the purchase agreement, which were necessary steps for the completion of the sale. EMBRAER

employees and Dominican Official began discussing how they could influence the Dominican Senate to provide the necessary approvals.

17. On or about August 25, 2008, an EMBRAER executive informed Embraer Executive A by email that Dominican Official would be talking to a Dominican Senator about compensation for the Senator but that Dominican Official wanted to talk to Embraer Executive A before having that conversation. Embraer Executive A informed the other EMBRAER executive that Embraer Executive A and Dominican Official had already spoken.

18. On or about September 1, 2008, Embraer Executive A agreed to pay Dominican Official 3.7% of the value of the contract (which ultimately came to approximately $3.52 million) if the sale was completed. That same day, Embraer Executive A emailed another EMBRAER executive that the Dominican Senate's meeting to approve financing of the transaction would soon take place and that "they want to have the agent agreement doc signed before the meeting."

19. In or around early September 2008, Dominican Official and Embraer Executive A agreed that the payment referred to in Paragraph 18 would be paid to three separate Dominican shell entities: one would receive $2.5 million, a second would receive $920,000, and a third would receive $100,000.

20. In or around August 2008, Dominican Official promoted the Super Tucano contract before the Dominican Senate Finance Committee and presented the terms of the deal to the Dominican Senate. The following month, on or about September 16, 2008, the Dominican Senate approved the financing for the deal.

21. On or about December 24, 2008, the Dominican Senate approved the sale and financing contracts for the eight Super Tucano airplanes, agreeing to purchase the aircraft for

approximately $96.4 million. Shortly before it did so, the Secretary of the FAD issued a letter to EMBRAER authorizing Dominican Official to sign, on behalf of the Dominican Republic, invoices and certificates called for by the sales contract.

22. On or about January 9, 2009, EMBRAER publicly announced its sale of eight Super Tucano aircraft to the Dominican Republic.

23. Beginning at least when EMBRAER publicly announced the sale, Dominican Official repeatedly contacted EMBRAER requesting the payments that had been promised. For example, on or about March 16, 2009, Dominican Official emailed an EMBRAER employee demanding that EMBRAER begin making the agreed-upon payments, noting that "interested and compromised parties" were exerting pressure.

24. Based on these repeated requests, on or about April 24, 2009, Embraer RL wired $100,000 to one of the shell companies referenced in Paragraph 19 from Embraer RL's bank account in New York to a bank account in the Dominican Republic.

25. Following the $100,000 payment referenced in Paragraph 24, Dominican Official persisted with efforts to collect the promised payments, and an executive in EMBRAER's legal department provided senior EMBRAER managers with guidance on how to make those payments in a manner that would conceal their true purpose.

26. For example, on or about September 30, 2009, an EMBRAER employee sent an email to an EMBRAER executive detailing how an executive in EMBRAER's legal department had advised using a third-party agent, "Agent A," who had previously provided agency services to EMBRAER, to remit the remaining two payments to Dominican Official instead of directly paying the shell companies that Dominican Official had identified.

27. On or about October 16, 2009, an EMBRAER executive emailed the same executive in EMBRAER's legal department asking for additional guidance on how to proceed, adding that EMBRAER feared pressure at any moment from "four stars," which was a reference to Dominican government officials.

28. On or about November 5, 2009, Embraer Executive A emailed Agent A to say that Dominican Official would be Agent A's point of contact in the Dominican Republic, that Dominican Official was an "FAD colonel but the classmate of 4 star generals," that Dominican Official had provided a "safe" phone number to use, and that Dominican Official had been designated as the intermediary between EMBRAER and the groups "involved on the other side."

29. On or about November 16, 2009, Dominican Official emailed Embraer Executive A to confirm that Dominican Official had spoken with Agent A, and expressed satisfaction over Agent A's cooperation, but warned that at least one of the outstanding payments needed to be made by the end of the month.

30. On or about March 12, 2010, Embraer RL and Agent A's company entered into a purported agency agreement, pursuant to which Embraer RL would pay Agent A's company an 8% commission on any successful sales of aircraft to the Jordanian Air Force. The agreement called for Embraer RL to make advance payments to Agent A's company of $2.5 million and $920,000, which, when totaled, equaled the $3,420,000 that EMBRAER had promised to Dominican Official.

31. On or about April 6, 2010, Agent A's company submitted to Embraer RL two invoices for "sales promotion services" in the amounts of $2.5 million and $920,000. An internal EMBRAER memorandum indicated that the payments were related to the commission owed for the Super Tucano aircrafts sold to the government of the Dominican Republic, not

potential sales to the Jordanian Air Force. Indeed, EMBRAER never sold any aircraft to the Jordanian Air Force, Agent A rendered no services in connection with any attempted sale to the Jordanian Air Force, and Agent A rendered no legitimate services to EMBRAER related to the sale of Super Tucanos to the FAD.

32. On or about May 24 and June 25, 2010, Embraer RL wired $2.5 million and $920,000, respectively, from its New York bank account to Agent A's company's bank account in Uruguay.

33. On or about October 21, 2010, Dominican Official sent an email to Agent A from an email account in the United States that contained wiring instructions for a Panamanian bank account. Agent A transferred more than $3 million to Dominican Official, including more than €1 million to the Panamanian bank account identified in the October 21, 2010, email.

34. The payments to Agent A's company were falsely booked as sales commissions in Embraer RL's internal accounting records and as selling expenses in EMBRAER's consolidated 2010 financial statement. The April 24, 2009, payment of $100,000 to one of the Dominican shell companies was likewise falsely booked as a selling expense in EMBRAER's consolidated 2010 statement.

Saudi Arabia

35. From in or around November 2009 through February 2011, EMBRAER agreed to pay and did pay Saudi Arabia Official more than $1.5 million to obtain a contract for the sale of three business jets, valued at approximately $93 million, to Saudi Arabia Instrumentality.

36. In or around 2007, EMBRAER learned that Saudi Arabia Instrumentality was interested in purchasing executive jets. By 2009, Saudi Arabia Instrumentality had narrowed its interest to purchasing aircraft from EMBRAER and one other manufacturer.

37. In or around early December 2009, Embraer Executive B met with Saudi Arabia Official in London. Saudi Arabia Official offered to help EMBRAER win the aircraft contract and to change the terms of the deal from the sale of used jets to new jets, which would be a more lucrative transaction for EMBRAER, if EMBRAER compensated Saudi Arabia Official. Embraer Executive B knew that Saudi Arabia Official was a high-level official at Saudi Arabia Instrumentality and believed that Saudi Arabia Official could deliver on the promise.

38. Saudi Arabia Official and Embraer Executive B negotiated the amount of Saudi Arabia Official's payment. Saudi Arabia Official rejected an initial offer of $200,000 per aircraft. Embraer Executive B sent an email to Embraer Executive B's supervisor and another EMBRAER executive on or about December 10, 2009, indicating that Saudi Arabia Official had justified the request for a higher payment on the grounds that "[h]e has budget for used only and will have to lobby for more funds to take new [aircraft] over used." Embraer Executive B added, "[t]here is more to come to replace the entire fleet they have with 170,s [sic] [Saudi Arabia Official] sees this as long term." Embraer Executive B's supervisor approved offering a per-aircraft payment of $550,000.

39. On or about December 28, 2009, Embraer Executive B and Saudi Arabia Official agreed on a per-aircraft payment of $550,000, for a total amount of $1.65 million. Two days later, on or about December 30, 2009, Embraer Executive B told another EMBRAER executive that Saudi Arabia Instrumentality had opted to purchase three new jets.

40. Embraer Executive B devised a plan to conceal the payments to Saudi Arabia Official by funneling them through Agent B, which had no experience in the aircraft industry or in Saudi Arabia.

41. On or about January 5, 2010, Embraer Executive B sent an email about the transaction with Saudi Arabia Instrumentality to a number of EMBRAER employees summarizing "where we are based on our latest talks today[] with [] senior mngt [for Saudi Arabia Instrumentality] and the party driving this deal through who[m] we are working with on an [agency] basis." Embraer Executive B reported in the email about a meeting between "the head of [Saudi Arabia Instrumentality's] Aviation Dept (who is helping us with this deal)," and the committee that allocated funds for the purchase, and stated that "our contact on the transaction (head of the dept) has advised that we must hold our price during the negotiation on the basis we have put forward our best offer for the basic aircraft and therefore[] cannot negotiate further on this." Embraer Executive B explained that it "ha[d] been made extremely clear and agreed with our contact[] that should any additional funds be required to cover any other concession that exceeds our $120k limit, this would be from the [agency commission] amount in reserve."

42. On or about February 26, 2010, pursuant to Embraer Executive B's request, EMBRAER executives, including one in EMBRAER's legal department, approved the agency arrangement with Agent B, pursuant to which Agent B would purportedly serve as EMBRAER's sales agent for the deal with Saudi Arabia Instrumentality.

43. On or about March 5, 2010, Embraer RL executed an agency contract with Agent B signed by EMBRAER executives, pursuant to which Agent B was to "promote sales of . . . aircraft manufactured by Embraer . . . solely and specifically to" a subsidiary of Saudi Arabia Instrumentality.

44. Less than two weeks later, on or about March 15, 2010, EMBRAER and a U.S.-based subsidiary of Saudi Arabia Instrumentality entered into an aircraft purchase agreement,

pursuant to which the subsidiary agreed to purchase three new aircraft for approximately $93 million. The aircraft were delivered in or around November and December of 2010.

45. In or around December 2010, Agent B submitted three invoices, each in the amount of $550,000, for its purported commission, even though Agent B had not rendered any services to EMBRAER in connection with the sale. Executives at EMBRAER approved paying the invoices. The payments were made through two wire transfers from Embraer RL's bank account in New York to Agent B's bank account in South Africa: $550,000 on or about December 22, 2010, and $1.1 million on or about February 18, 2011. Embraer RL booked the payments as "sales commissions" and the payments were consolidated into the parent's financial statements.

46. Agent B subsequently transferred more than $1.4 million of the $1.65 million it received from Embraer RL to bank accounts held by Saudi Arabia Official's longtime acquaintance, who in turn kept a portion of the monies and transferred the remainder to Saudi Arabia Official.

Mozambique

47. From in or around May 2008 through at least September 2008, EMBRAER negotiated the sale of two commercial aircraft to LAM.

48. EMBRAER submitted a formal proposal to LAM on or about May 21, 2008, for the sale of two commercial aircraft for approximately $32 million each, with an option for LAM to buy two more aircraft at the same price. The proposal followed nearly three years of work by Embraer Executive D to convince LAM to purchase from EMBRAER rather than competitors.

49. In mid-August 2008, during negotiations between EMBRAER and LAM, Agent C, who had not previously worked or had any contact with EMBRAER, contacted Embraer

Executive D and said that Agent C would be serving as a consultant on the deal referenced in Paragraph 48.

50. Rather than reject Agent C's solicitation, on or about August 11, 2008, Embraer Executive D sent an email to two EMBRAER executives and proposed that they "create some margins for the commissions" for Agent C in the pricing of the two optional aircraft LAM could buy after purchasing the first two.

51. On or about August 13, 2008, Embraer Executive C sent an email to several EMBRAER executives recounting a conversation with Agent C, in which Agent C told Embraer Executive C that, even though EMBRAER had not been prepared to have a consultant, "we'd like to have a 'gesture' when delivering the first plane." Embraer Executive C proposed in the email that "we have to show some gesture and maybe the value mentioned by [another EMBRAER executive] (50K to 80K) would fit the actual need . . . ." Embraer Executive C had advised Agent C how to set up a company to which EMBRAER could make purported consultancy payments, telling Agent C that in order to receive a payment from EMBRAER, Agent C "needs to have a company, names, address and not be established in a tax-heaven [sic] country . . . ."

52. In response, an EMBRAER executive who had received the email referenced in Paragraph 51, agreed that they could offer to pay Agent C $50,000 for each of the first two planes sold, and go up to $80,000 per plane if necessary, while also agreeing to a payment of somewhere between 2 and 2.5% of the purchase price of the two optional planes, should LAM purchase them.

53. On or about August 18, 2008, Embraer Executive C conveyed the $50,000 offer to Agent C. Embraer Executive C reported afterward in an email to other EMBRAER executives

that it appeared that Agent C was "expecting [a] much higher fee," and, indeed, after hearing the amount, Agent C intimated that LAM may award the contract to a competitor instead.

54. On or about August 25, 2008, Mozambique Official called Embraer Executive D. In an email the same day to other EMBRAER executives, Embraer Executive D recounted the conversation, noting that Mozambique Official had "highlighted that [Mozambique Official] had received very nasty comments from some individuals, in relation to Embraer's commission proposal to [Agent C]." Mozambique Official further "indicated that some individuals felt that Embraer's proposal was an insult, and in a sense, it would have been less insulting to give nothing, even if this was not an acceptable solution." Embraer Executive D asked Mozambique Official "what would [Agent C] expect from Embraer." Mozambique Official responded that, "in the current circumstances, [Mozambique Official] thought about one million USD." After some pushback from Embraer Executive D, Mozambique Official "finally suggested that we might get away with 800,000 USD (2 x400,000)." When Embraer Executive D told Mozambique Official that EMBRAER "had no budget for such consultancy fee," Mozambique Official suggested taking it from the profit margin on the two optional aircraft and also "asked if [EMBRAER] could increase the aircraft price . . . ."

55. On or about September 15, 2008, EMBRAER and LAM executed the purchase agreement for the sale of two E190 aircraft at approximately $32,690,000 each with a $312,000 down payment for a third aircraft. Mozambique Official was one of three LAM executives that signed the purchase agreement on behalf of LAM.

56. On or about April 22, 2009, seven months after the execution of the purchase agreement but before delivery of the first aircraft, Embraer RL entered into an agency agreement with a company Agent C had recently formed in the Democratic Republic of São Tomé and

Principe. Two EMBRAER executives signed the agency agreement on EMBRAER's behalf. The agency agreement authorized Agent C's company to promote sales of the E190 "solely and specifically" to LAM, even though the sale of such aircraft had already been completed seven months prior to the execution of the agreement, Agent C's company did not exist at the time the purchase agreement was signed, and Agent C's company did not perform any legitimate work in connection with the purchase agreement. The agreement with Agent C's company falsely stated that the sales promotion efforts identified therein had begun in or around March 2008.

57. Pursuant to the agency agreement described in Paragraph 56, Embraer RL agreed to pay Agent C's company $400,000 per aircraft (the exact amount Mozambique Official had previously said EMBRAER could "get away" with paying). However, neither Agent C nor Agent C's company ever provided any legitimate services to EMBRAER.

58. EMBRAER delivered the two aircraft to LAM on or about July 30, 2009, and September 2, 2009. Following the delivery of each aircraft, Agent C's company submitted two invoices to EMBRAER for $400,000 each, one dated August 15, 2009, and one dated September 24, 2009. An EMBRAER executive signed and approved both invoices for payment. On or about August 31, 2009, Embraer RL wired $400,000, from its U.S.-based bank account to an account at a bank in São Tomé and Príncipe, for further credit to the an account at a bank in Portugal, which was held by Agent C's company. On or about October 2, 2009, Embraer RL wired an additional $400,000 from its U.S.-based bank account to Agent C's company's Portugal-based bank account. Embraer RL recorded these payments as "Sales Commission" and they were consolidated into EMBRAER's books under "Net Operating (expenses) income" as a "Selling" expense, specifically, "Sales Commission."

India

59. On or about July 3, 2008, EMBRAER executed a contract to provide three highly specialized military aircraft to the Indian Air Force for approximately $208 million. In connection with the deal, EMBRAER retained the services of Agent D pursuant to a 2005 agency agreement. It later paid $5.76 million to Agent D pursuant to a false agency agreement signed in or around 2008.

60. In or around January 2005, EMBRAER executed an agency agreement with a shell company domiciled in the United Kingdom and affiliated with Agent D (although Agent D's name never appeared in the agreement). Under the agency agreement, EMBRAER agreed to pay the shell company a commission of 9% of the value of any defense contracts EMBRAER obtained in India because EMBRAER believed Agent D could help ensure that any contract would be awarded on a single-source, rather than competitive, basis. EMBRAER personnel thought the agreement with Agent D was illegal under Indian law and thus took steps to conceal its existence, including secreting the sole fully-executed version of the agreement in a safe deposit box in London that could be opened only when both an EMBRAER employee and Agent D or an associate of Agent D were present.

61. Less than a month after executing the agency agreement with the shell company, on or about February 8, 2005, EMBRAER announced that it had signed a memorandum of understanding ("MOU") with India's Defence Research and Development Organisation to support the development of a new early warning radar system for the Indian Air Force, which EMBRAER believed could ultimately result in EMBRAER securing a contract for the sale of three Embraer 145 aircraft.

62. On or about July 3, 2008, nearly three years after signing the MOU, the Indian Air Force agreed to purchase three aircraft from EMBRAER for approximately $208 million (the "India contract"). The next day, on or about July 4, 2008, Agent D contacted EMBRAER employees and demanded payment of the commission pursuant to the contract referenced in Paragraph 60.

63. Agent D continued making demands for payment and, in or around February and March 2009, an EMBRAER executive met with lawyers representing Agent D to discuss Agent D's payment demands. Following these discussions, EMBRAER executives agreed to pay $5.76 million to Agent D to settle the claim.

64. To conceal the payment referenced in Paragraph 63, EMBRAER created a false agency agreement. On or about November 21, 2009, more than a year after EMBRAER was awarded the India contract, EMBRAER, through its wholly owned subsidiary, ECC Investment Switzerland AG ("ECC"), executed an agency agreement with a shell company domiciled in Singapore and affiliated with Agent D for its purported services as an agent in a sale EMBRAER had made to an unrelated customer in another country that had purchased an EMBRAER aircraft more than a year earlier, in or around July 2008. The Singaporean shell company never performed any services related to that sale or to the sale to the Indian Air Force.

65. The same day that the agency agreement was executed, the Singaporean shell company delivered three invoices to ECC, each for $1.92 million. EMBRAER, through ECC, remitted three payments to the shell company shortly thereafter. EMBRAER's books and records did not reflect that this transaction was related to its arrangement with Agent D.

Profits

66. From the unlawful conduct described above, Embraer's total profits were $83,816,476.

EMBRAER's Internal Accounting Controls

67. During the relevant period, EMBRAER knowingly and willfully failed to devise and maintain an adequate system of internal accounting controls. In particular, and as relevant here, EMBRAER had no internal accounting controls that, among other things, (a) required adequate due diligence for the retention of third-party consultants and agent; (b) required a fully executed contract with a third-party before payment could be made to it; (c) required documentation or other proof that services had been rendered by a third-party before payment could be made to it; or (d) implemented oversight of the payment process to ensure that payments were made pursuant to appropriate controls, including those described above.

68. For example, in connection with the Dominican Republic bribery scheme, EMBRAER made payments to one of the shell companies identified by Dominican Official, even though a foreign official had told EMBRAER to which company to make agency payments, and EMBRAER had conducted no diligence on the shell company, did not have a signed contract with the shell company, and knew that the shell company had not performed any legitimate services in exchange for the payment.

69. Also in connection with the Dominican Republic bribery scheme, EMBRAER made payments to Agent A for services purportedly rendered in connection with an aircraft sale to the Jordanian Air Force, even though EMBRAER never sold any aircraft to the Jordanian Air Force, and EMBRAER knew that Agent A had rendered no services in connection with any attempted sale to the Jordanian Air Force, and even though an internal EMBRAER memorandum

indicated that the payments were related to the commission owed for the Super Tucano aircrafts sold to the government of the Dominican Republic, not potential sales to the Jordanian Air Force

70. Further, in connection with the Saudi Arabia bribery scheme, EMBRAER made payments to Agent B, even though it had conducted minimal due diligence on Agent B, did so almost exclusively on the basis of information Embraer Executive B personally provided to its contracts and legal departments, and did not require any proof of services from Agent B before making payment.

71. Similarly, in connection with the Mozambique scheme, the only due diligence that EMBRAER conducted on Agent C's company was limited to collecting the company's registration documents, corporate by-laws, and board minutes directly from Agent C, and EMBRAER did not require any proof of services from Agent C before making payment.

72. Numerous high-level EMBRAER executives knew that the various agency agreements referenced above falsely represented that payments were being made for legitimate agency services, and that the true purpose of the payments made to the agents was to funnel bribes to foreign officials. Many of the high-level executives who knew about the false nature of the agreements and the improper purpose of the payments had the authority and responsibility to ensure that EMBRAER devised and maintained an adequate system of internal accounting controls, knew that EMBRAER's then-existing internal accounting controls failed to prevent EMBRAER from entering into false agency agreements and making improper payments, and knowingly and willfully failed to implement adequate internal accounting controls to address the known weaknesses, in part to permit EMBRAER to enter into false agency agreements and funnel bribes to foreign officials.

ATTACHMENT B

CERTIFICATE OF CORPORATE RESOLUTIONS

WHEREAS, Embraer S.A. (the "Company") has been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section (the "Section") regarding issues arising in relation to certain improper payments to foreign officials to facilitate the award of contracts and assist in obtaining business for the Company; and

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

WHEREAS, the Company's General Counsel, Fabiana Leschziner, 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 Section;

Therefore, the Board of Directors has RESOLVED that:

1. The Company (a) acknowledges the filing of the two-count Information charging the Company with (i) one count of conspiracy to commit offenses against the United States in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery and books and records provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, 15 U.S.C. §§ 78dd-1, 78m(b)(2)(A), 78m(b)(5), and 78ff(a); and (ii) one count of violation of the internal controls provisions of the FCPA, 15 U.S.C. §§ 78m(b)(2)(B), 78m(b)(5), and 78ff(a); (b) waives indictment on such charges and enters into a deferred prosecution agreement with the Section; and (c) agrees to accept a monetary penalty against Company totaling $107,285,090, and to pay such penalty to the United States Treasury with respect to the conduct described in the Information;

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 Southern District of Florida; 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 Section 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. Paulo Cesar de Souza e Silva, Chief Executive Officer of Company, and Fabiana Leschziner, General Counsel of Company, are hereby authorized, empowered and directed, on behalf of the Company, to execute the Deferred Prosecution Agreement substantially in such form as reviewed by this Board of Directors at this meeting with such changes as the Paulo Cesar de Souza e Silva, Chief Executive Officer of Company, and Fabiana Leschziner, General Counsel of Company, may approve;

4. Paulo Cesar de Souza e Silva, Chief Executive Officer of Company, and Fabiana Leschziner, General Counsel of Company, are 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 Paulo Cesar de Souza e Silva, Chief Executive Officer of Company, and Fabiana Leschziner, General Counsel of Company, 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: 10/3/2016

By: _____
Corporate Secretary
Embraer S.A.

ATTACHMENT C

CORPORATE COMPLIANCE PROGRAM

In order to address any deficiencies in its internal controls, compliance code, policies, and procedures regarding compliance with the Foreign Corrupt Practices Act ("FCPA"), 15 U.S.C. §§ 78dd-1, *et seq.*, and other applicable anti-corruption laws, Embraer S.A. (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 adopt new or to modify existing internal controls, compliance code, policies, and procedures in order to ensure that it maintains: (a) a system of internal accounting controls designed to ensure that the Company makes and keeps fair and accurate books, records, and accounts; and (b) a rigorous anti-corruption compliance program that includes policies and procedures designed to detect and deter violations of the FCPA and other applicable anti-corruption laws. 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 the anti-corruption laws and its compliance code.

Policies and Procedures

2. The Company will develop and promulgate a clearly articulated and visible corporate policy against violations of the FCPA and other applicable foreign law counterparts (collectively, the "anti-corruption laws,"), 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 the anti-corruption laws 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 the anti-corruption laws by personnel at all levels of the Company. These anti-corruption policies and procedures shall apply to all directors, officers, and employees and, where necessary and appropriate, outside parties acting on behalf of the Company in a foreign jurisdiction, including but not limited to, agents and intermediaries, consultants, representatives, distributors, teaming partners, contractors and suppliers, consortia, and joint venture partners (collectively, "agents and business partners"). The Company shall notify all employees that compliance with the policies and procedures is the duty of individuals at all levels of the company. Such policies and procedures shall address:

a. gifts;

b. hospitality, entertainment, and expenses;

c. customer travel;

d. political contributions;

e. charitable donations and sponsorships;

f. facilitation payments; and

g. solicitation and extortion.

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:

a. transactions are executed in accordance with management's general or specific authorization;

b. 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;

c. access to assets is permitted only in accordance with management's general or specific authorization; and

d. the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

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, in particular the foreign bribery risks facing the Company, including, but not limited to, its geographical organization, interactions with various types and levels of government officials, industrial sectors of operation, involvement in joint venture arrangements, importance of licenses and permits in the Company's operations, degree of governmental oversight and inspection, and volume and importance of goods and personnel clearing through customs and immigration.

6. The Company shall review its anti-corruption compliance policies and procedures no less than annually and update them as appropriate to ensure their continued effectiveness, taking into account relevant developments in the field and evolving international and industry standards.

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 anti-corruption compliance code, policies, and procedures. Such corporate official(s) shall have the authority to report directly to independent monitoring bodies, including internal audit, the Company's Board of Directors, or any appropriate committee of the Board of Directors, 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 anti-corruption 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), or positions that otherwise pose a corruption risk to the Company, 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 anti-corruption compliance code, policies, and procedures, including when they need advice on an urgent basis or in any foreign jurisdiction in which the Company operates.

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 the anti-corruption laws or the Company's anti-corruption 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 the anti-corruption laws or the Company's anti-corruption 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 the anti-corruption laws and the Company's anti-corruption 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 anti-corruption compliance program is effective.

Third-Party Relationships

14. The Company will institute appropriate risk-based due diligence and compliance requirements pertaining to the retention and oversight of all agents and business partners, including:

a. properly documented due diligence pertaining to the hiring and appropriate and regular oversight of agents and business partners;

b. informing agents and business partners of the Company's commitment to abiding by anti-corruption laws, and of the Company's anti-corruption compliance code, policies, and procedures; and

c. seeking a reciprocal commitment from agents and business partners.

15. Where necessary and appropriate, the Company will include standard provisions in agreements, contracts, and renewals thereof with all agents and business partners that are reasonably calculated to prevent violations of the anti-corruption laws, which may, depending upon the circumstances, include: (a) anti-corruption representations and undertakings relating to compliance with the anti-corruption laws; (b) rights to conduct audits of the books and records of the agent or business partner to ensure compliance with the foregoing; and (c) rights to terminate an agent or business partner as a result of any breach of the anti-corruption laws, the Company's

compliance code, policies, or procedures, or the representations and undertakings related to such matters.

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, including appropriate FCPA and anti-corruption due diligence by legal, accounting, and compliance personnel.

17. The Company will ensure that the Company's compliance code, policies, and procedures regarding the anti-corruption laws apply as quickly as is practicable to newly acquired businesses or entities merged with the Company and will promptly:

a. train the directors, officers, employees, agents, and business partners consistent with Paragraph 8 above on the anti-corruption laws and the Company's compliance code, policies, and procedures regarding anti-corruption laws; and

b. where warranted, conduct an FCPA-specific audit of all newly acquired or merged businesses as quickly as practicable.

Monitoring and Testing

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

ATTACHMENT D

INDEPENDENT COMPLIANCE MONITOR

The duties and authority of the Independent Compliance Monitor (the "Monitor"), and the obligations of Embraer S.A. (the "Company"), on behalf of itself and its subsidiaries and affiliates, with respect to the Monitor and the United States Department of Justice, Criminal Division, Fraud Section (the "Section"), are as described below:

1. The Company will retain the Monitor for a period of three (3) years (the "Term of the Monitorship"), unless the early termination provision of Paragraph 3 of the Deferred Prosecution Agreement (the "Agreement") is triggered.

Monitor's Mandate

2. The Monitor's primary responsibility is to assess and monitor the Company's compliance with the terms of the Agreement, including the Corporate Compliance Program in Attachment C, so as to specifically address and reduce the risk of any recurrence of the Company's misconduct. During the Term of the Monitorship, the Monitor will evaluate, in the manner set forth below, the effectiveness of the internal accounting controls, record-keeping, and financial reporting policies and procedures of the Company as they relate to the Company's current and ongoing compliance with the FCPA and other applicable anti-corruption laws (collectively, the "anti-corruption laws") and take such reasonable steps as, in his or her view, may be necessary to fulfill the foregoing mandate (the "Mandate"). This Mandate shall include an assessment of the Board of Directors' and senior management's commitment to, and effective implementation of, the corporate compliance program described in Attachment C of the Agreement.

Company's Obligations

3. The Company shall cooperate fully with the Monitor, and the Monitor shall have the authority to take such reasonable steps as, in his or her view, may be necessary to be fully informed about the Company's compliance program in accordance with the principles set forth herein and applicable law, including applicable data protection and labor laws and regulations. To that end, the Company shall: facilitate the Monitor's access to the Company's documents and resources; not limit such access, except as provided in Paragraphs 5-6; and provide guidance on applicable local law (such as relevant data protection and labor laws). The Company shall provide the Monitor with access to all information, documents, records, facilities, and employees, as reasonably requested by the Monitor, that fall within the scope of the Mandate of the Monitor under the Agreement. The Company shall use its best efforts to provide the Monitor with access to the Company's former employees and its third-party vendors, agents, and consultants.

4. Any disclosure by the Company to the Monitor concerning corrupt payments, false books and records, and internal accounting control failures shall not relieve the Company of any otherwise applicable obligation to truthfully disclose such matters to the Section, pursuant to the Agreement.

Withholding Access

5. The parties agree that no attorney-client relationship shall be formed between the Company and the Monitor. In the event that the Company seeks to withhold from the Monitor access to information, documents, records, facilities, or current or former employees of the Company that may be subject to a claim of attorney-client privilege or to the attorney work-product doctrine, or where the Company reasonably believes production would otherwise be

inconsistent with applicable law, the Company shall work cooperatively with the Monitor to resolve the matter to the satisfaction of the Monitor.

6. If the matter cannot be resolved, at the request of the Monitor, the Company shall promptly provide written notice to the Monitor and the Section. Such notice shall include a general description of the nature of the information, documents, records, facilities or current or former employees that are being withheld, as well as the legal basis for withholding access. The Section may then consider whether to make a further request for access to such information, documents, records, facilities, or employees.

Monitor's Coordination with the Company and Review Methodology

7. In carrying out the Mandate, to the extent appropriate under the circumstances, the Monitor should coordinate with Company personnel, including in-house counsel, compliance personnel, and internal auditors, on an ongoing basis. The Monitor may rely on the product of the Company's processes, such as the results of studies, reviews, sampling and testing methodologies, audits, and analyses conducted by or on behalf of the Company, as well as the Company's internal resources (e.g., legal, compliance, and internal audit), which can assist the Monitor in carrying out the Mandate through increased efficiency and Company-specific expertise, provided that the Monitor has confidence in the quality of those resources.

8. The Monitor's reviews should use a risk-based approach, and thus, the Monitor is not expected to conduct a comprehensive review of all business lines, all business activities, or all markets. In carrying out the Mandate, the Monitor should consider, for instance, risks presented by: (a) the countries and industries in which the Company operates; (b) current and future business opportunities and transactions; (c) current and potential business partners,

including third parties and joint ventures, and the business rationale for such relationships; (d) the Company's gifts, travel, and entertainment interactions with foreign officials; and (e) the Company's involvement with foreign officials, including the amount of foreign government regulation and oversight of the Company, such as licensing and permitting, and the Company's exposure to customs and immigration issues in conducting its business affairs.

9. In undertaking the reviews to carry out the Mandate, the Monitor shall formulate conclusions based on, among other things: (a) inspection of relevant documents, including the Company's current anti-corruption policies and procedures; (b) on-site observation of selected systems and procedures of the Company at sample sites, including internal accounting controls, record-keeping, and internal audit procedures; (c) meetings with, and interviews of, relevant current and, where appropriate, former directors, officers, employees, business partners, agents, and other persons at mutually convenient times and places; and (d) analyses, studies, and testing of the Company's compliance program.

Monitor's Written Work Plans

10. To carry out the Mandate, during the Term of the Monitorship, the Monitor shall conduct an initial review and prepare an initial report, followed by at least two follow-up reviews and reports as described in Paragraphs 16-19 below. With respect to the initial report, after consultation with the Company and the Section, the Monitor shall prepare the first written work plan within thirty (30) calendar days of being retained and the Company and the Department shall provide comments within thirty (30) calendar days after receipt of the written work plan. With respect to each follow-up report, after consultation with the Company and the Section, the Monitor shall prepare a written work plan at least sixty (60) calendar days prior to commencing a review, and the Company and the Section shall provide comments within thirty (30) calendar

days after receipt of the written work plan. Any disputes between the Company and the Monitor with respect to any written work plan shall be decided by the Section in its sole discretion.

11. All written work plans shall identify with reasonable specificity the activities the Monitor plans to undertake in execution of the Mandate, including a written request for documents. The Monitor's work plan for the initial review shall include such steps as are reasonably necessary to conduct an effective initial review in accordance with the Mandate, including by developing an understanding, to the extent the Monitor deems appropriate, of the facts and circumstances surrounding any violations that may have occurred before the date of the Agreement. In developing such understanding the Monitor is to rely to the extent possible on available information and documents provided by the Company. It is not intended that the Monitor will conduct his or her own inquiry into the historical events that gave rise to the Agreement.

Initial Review

12. The initial review shall commence no later than one hundred twenty (120) calendar days from the date of the engagement of the Monitor (unless otherwise agreed by the Company, the Monitor, and the Section). The Monitor shall issue a written report within one hundred twenty (120) calendar days of commencing the initial review, setting forth the Monitor's assessment and, if necessary, making recommendations reasonably designed to improve the effectiveness of the Company's program for ensuring compliance with the anti-corruption laws. The Monitor should consult with the Company concerning his or her findings and recommendations on an ongoing basis and should consider the Company's comments and input to the extent the Monitor deems appropriate. The Monitor may also choose to share a draft of his or her reports with the Company prior to finalizing them. The Monitor's reports need not recite

or describe comprehensively the Company's history or compliance policies, procedures and practices, but rather may focus on those areas with respect to which the Monitor wishes to make recommendations, if any, for improvement or which the Monitor otherwise concludes merit particular attention. The Monitor shall provide the report to the Board of Directors of the Company and contemporaneously transmit copies to the FCPA Chief, Fraud Section, Criminal Division, U.S. Department of Justice, at 1400 New York Avenue N.W., Washington, D.C. 20005. After consultation with the Company, the Monitor may extend the time period for issuance of the initial report for a brief period of time with prior written approval of the Section.

13. Within ninety (90) calendar days after receiving the Monitor's initial report, the Company shall adopt and implement all recommendations in the report, unless, within sixty (60) calendar days of receiving the report, the Company notifies in writing the Monitor and the Section of any recommendations that the Company considers unduly burdensome, inconsistent with applicable law or regulation, impractical, excessively expensive, or otherwise inadvisable. With respect to any such recommendation, the Company need not adopt that recommendation within the one hundred and twenty (120) days of receiving the report but shall propose in writing to the Monitor and the Section an alternative policy, procedure or system designed to achieve the same objective or purpose. As to any recommendation on which the Company and the Monitor do not agree, such parties shall attempt in good faith to reach an agreement within forty-five (45) calendar days after the Company serves the written notice.

14. In the event the Company and the Monitor are unable to agree on an acceptable alternative proposal, the Company shall promptly consult with the Section. The Section may consider the Monitor's recommendation and the Company's reasons for not adopting the recommendation in determining whether the Company has fully complied with its obligations

under the Agreement. Pending such determination, the Company shall not be required to implement any contested recommendation(s).

15. With respect to any recommendation that the Monitor determines cannot reasonably be implemented within one hundred and twenty (120) calendar days after receiving the report, the Monitor may extend the time period for implementation with prior written approval of the Section.

Follow-Up Reviews

16. A follow-up review shall commence no later than one hundred-eighty (180) calendar days after the issuance of the initial report (unless otherwise agreed by the Company, the Monitor and the Section). The Monitor shall issue a written follow-up report within one hundred-twenty (120) calendar days of commencing the follow-up review, setting forth the Monitor's assessment and, if necessary, making recommendations in the same fashion as set forth in Paragraph 12 with respect to the initial review. After consultation with the Company, the Monitor may extend the time period for issuance of the follow-up report for a brief period of time with prior written approval of the Section.

17. Within ninety (90) calendar days after receiving the Monitor's follow-up report, the Company shall adopt and implement all recommendations in the report, unless, within thirty (30) calendar days after receiving the report, the Company notifies in writing the Monitor and the Section concerning any recommendations that the Company considers unduly burdensome, inconsistent with applicable law or regulation, impractical, excessively expensive, or otherwise inadvisable. With respect to any such recommendation, the Company need not adopt that recommendation within the ninety (90) calendar days of receiving the report but shall propose in writing to the Monitor and the Section an alternative policy, procedure, or system designed to

achieve the same objective or purpose. As to any recommendation on which the Company and the Monitor do not agree, such parties shall attempt in good faith to reach an agreement within thirty (30) calendar days after the Company serves the written notice.

18. In the event the Company and the Monitor are unable to agree on an acceptable alternative proposal, the Company shall promptly consult with the Section. The Section may consider the Monitor's recommendation and the Company's reasons for not adopting the recommendation in determining whether the Company has fully complied with its obligations under the Agreement. Pending such determination, the Company shall not be required to implement any contested recommendation(s). With respect to any recommendation that the Monitor determines cannot reasonably be implemented within ninety (90) calendar days after receiving the report, the Monitor may extend the time period for implementation with prior written approval of the Section.

19. The Monitor shall undertake a second follow-up review pursuant to the same procedures described in Paragraphs 16-18. Following the second follow-up review, the Monitor shall certify whether the Company's compliance program, including its policies and procedures, is reasonably designed and implemented to prevent and detect violations of the anti-corruption laws. The final follow-up review and report shall be completed and delivered to the Section no later than thirty (30) days before the end of the Term.

Monitor's Discovery of Potential or Actual Misconduct

20. (a) Except as set forth below in sub-paragraphs (b) and (c), should the Monitor discover during the course of his or her engagement that:

- improper payments or anything else of value may have been offered, promised, made, or authorized by any entity or person within the

Company or any entity or person working, directly or indirectly, for or on behalf of the Company; or

- the Company may have maintained false books, records or accounts; or

(collectively, "Potential Misconduct"), the Monitor shall immediately report the Potential Misconduct to the Company's General Counsel, Chief Compliance Officer, and/or Audit Committee for further action, unless the Potential Misconduct was already so disclosed. The Monitor also may report Potential Misconduct to the Section at any time, and shall report Potential Misconduct to the Section when it requests the information.

(b) If the Monitor believes that any Potential Misconduct actually occurred or may constitute a criminal or regulatory violation ("Actual Misconduct"), the Monitor shall immediately report the Actual Misconduct to the Section. When the Monitor discovers Actual Misconduct, the Monitor shall disclose the Actual Misconduct solely to the Section, and, in such cases, disclosure of the Actual Misconduct to the General Counsel, Chief Compliance Officer, and/or the Audit Committee of the Company should occur as the Section and the Monitor deem appropriate under the circumstances.

(c) The Monitor shall address in his or her reports the appropriateness of the Company's response to disclosed Potential Misconduct or Actual Misconduct, whether previously disclosed to the Section or not. Further, if the Company or any entity or person working directly or indirectly for or on behalf of the Company withholds information necessary for the performance of the Monitor's responsibilities and the Monitor believes that such withholding is without just cause, the Monitor shall also immediately disclose that fact to the Section and address the Company's failure to disclose the necessary information in his or her reports.

(d) The Company nor anyone acting on its behalf shall take any action to retaliate against the Monitor for any such disclosures or for any other reason.

Meetings During Pendency of Monitorship

21. The Monitor shall meet with the Section within thirty (30) calendar days after providing each report to the Section to discuss the report, to be followed by a meeting between the Section, the Monitor, and the Company.

22. At least annually, and more frequently if appropriate, representatives from the Company and the Section will meet together to discuss the monitorship and any suggestions, comments, or improvements the Company may wish to discuss with or propose to the Section, including with respect to the scope or costs of the monitorship.

Contemplated Confidentiality of Monitor's Reports

23. The reports will likely include proprietary, financial, confidential, and competitive business information. Moreover, public disclosure of the reports could discourage cooperation, or impede pending or potential government investigations and thus undermine the objectives of the monitorship. 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 Section determines in its sole discretion that disclosure would be in furtherance of the Section's discharge of its duties and responsibilities or is otherwise required by law.