

## ATTACHMENT A

### STATEMENT OF FACTS

1. 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 "Fraud Section") and Sociedad Química y Minera de Chile ("SQM"). SQM hereby agrees and stipulates that the following information is true and accurate. SQM admits, accepts, and acknowledges that it is responsible for the acts of its officers, directors, employees, and agents as set forth below. Should the Fraud Section pursue the prosecution that is deferred by the Agreement, SQM agrees that it will neither contest the admissibility of, nor contradict, this Statement of Facts in any such proceeding. The following facts establish beyond a reasonable doubt the charges set forth in the criminal Information attached to the Agreement:

#### **Relevant Entities and Individuals**

2. SQM is a chemicals and mining company headquartered in the Republic of Chile ("Chile"). The Company has sales offices in Asia, Europe, North America, and South America. Shares of SQM's stock trade on the New York Stock Exchange as American Depositary Receipts, and SQM is required to file periodic reports with the Securities and Exchange Commission ("SEC") pursuant to Section 15(d) of the Securities Exchange Act of 1934, Title 15, United States Code, Section 78o(d). SQM is therefore an "issuer" within the meaning of the Foreign Corrupt Practices Act ("FCPA"), Title 15, United States Code, Section 78m(b).

3. "SQM Executive," a Chilean citizen whose identity is known to the United States and SQM, was an officer and high-level executive of SQM from approximately 1990 until he

was terminated by the company in or around March 2015. SQM Executive was one of the officers at SQM responsible for implementing SQM's internal accounting controls.

4. "Chilean Officials 1 through 5" are individuals whose identities are known to the United States and SQM. Each was a Chilean current or former political candidate, office-holder, or political party official and a "foreign official" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-1(f)(1).

#### **Overview of the Scheme**

5. From in or around 2008 to 2015, SQM's corporate budgets included discretionary funding for the office of the Chief Executive Officer ("CEO"). In 2008, the CEO's discretionary fund was approximately US \$3.3 million; in 2014 it was approximately US \$5.7 million.

6. Funds budgeted for the CEO's discretionary fund were designated within SQM's accounting system as being intended for payment of, among other things, the CEO's travel, certain of SQM's publicity efforts, and consulting and advisory services deemed necessary by the CEO.

7. Despite providing for a discretionary fund, SQM knowingly and willfully failed to maintain internal accounting controls that were adequate to ensure that the CEO's discretionary funds were used for their intended purposes, were used in accordance with the law, and were properly recorded in SQM's books and records. In fact, SQM Executive sought and received assistance from SQM employees to disguise some of the payments by directing them to create fictitious invoices and contracts for services that were not rendered, pay invoices for which there was no evidence of services being performed to justify the payments, and falsely record some of the payments in SQM's books and ledgers.

8. As a result, during the relevant period, SQM Executive used the CEO's discretionary fund to direct payments totaling approximately US \$14.75 million in SQM funds to Chilean politicians, political candidates, and individuals connected to them (collectively, "politically exposed persons" or "PEPs"), many of which violated Chilean tax law and/or campaign finance limits, and caused payments of those funds to be falsely recorded in the SQM's books and records.

#### **Improper Payments from the CEO's Discretionary Fund**

9. Between in or around 2008 and 2015, at SQM Executive's direction, SQM paid approximately US \$14.75 million to PEPs and related parties without effective internal accounting controls, such as appropriate due diligence, documentation, or oversight.

10. One way in which SQM made payments to PEPs was by routing payments to foundations supported by politicians. For example, between in or around 2008 and 2013, SQM transferred approximately US \$160,000 from the CEO's discretionary fund to foundations supported by Chilean Official 1. For example, on or about December 22, 2010, Chilean Official 1 wrote to SQM Executive's assistant with a message for SQM Executive seeking money from SQM: "Sorry to insist, but we are desperate, since we only reached 20% of our goal. Do you have any capacitation surplus to transfer us by any chance? I'll wait to hear from you. Thank you so much."<sup>1</sup> SQM Executive's assistant forwarded the message to SQM Executive, and in January 2011, Chilean Official 1's foundation received a payment of approximately US \$18,000 from the CEO's discretionary fund.

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<sup>1</sup> The emails referenced in this Statement of Facts were written in Spanish and thus the language from the emails quoted herein are translations.

11. At SQM Executive's direction, SQM also paid approximately US \$630,000 from the CEO's discretionary fund during the relevant period to foundations controlled by Chilean Official 2, who at times during the relevant period had influence over the Chilean government's plans for mining in Chile, an issue of central importance to SQM's business. For example, on or about January 14, 2014, Chilean Official 2 wrote to SQM Executive's assistant, requesting that she "move forward with the agreement of the support that SQM will provide . . . according to my discussion with [SQM Executive]. This requires obtaining a certificate of donation with social purposes, so you will have to coordinate with the lawyer." In addition, Chilean Official 2 asked SQM Executive to support his daughter's foundation. In or around January 2014, at SQM Executive's direction, SQM paid approximately US \$16,000 to a foundation supported by Chilean Official 2.

12. Another way in which SQM made payments to PEPs was by paying vendors associated with PEPs pursuant to fictitious contracts and invoices for services that were not rendered, or contracts and invoices for which there was no evidence of services being performed. SQM did not conduct due diligence on or obtain anti-corruption representations from its vendors, and it allowed approval of payments to vendors without independent verification that the payments were proper, that the prices charged by the vendors for the purported services were reasonable, or that the services reflected on the vendor invoices had actually been received by SQM.

13. The vendor invoices paid by SQM to vendors associated with PEPs indicated that SQM had received professional services in return for its payments, when in reality, SQM

received nothing from the vast majority of the vendors submitting the invoices, and some of the invoices were simply created to disguise payments to PEPs.

14. For example, in or around July 2009, at SQM Executive's direction, SQM paid approximately US \$11,034 on an invoice for purported "financial services" submitted by the sister-in-law of Chilean Official 3. However, Chilean Official 3's sister-in-law rendered no services to SQM and submitted the invoice solely in order to facilitate a disguised payment by SQM to a Chilean senatorial campaign.

15. Similarly, SQM paid numerous invoices submitted by vendors connected to Chilean Official 4, including approximately US \$63,000 between in or around December 2008 and in or around September 2012 for purported "communications advice" from Chilean Official 4's former advisor and chief of staff, and approximately US \$29,000 in or around July through October 2009 for purported "consulting services" by a relative of Chilean Official 4. SQM made these payments without receiving any evidence that the "communications advice" or "consulting services" were provided, and to date is unable to identify any evidence that they were provided.

#### **SQM's Falsification of Its Books and Records**

16. In connection with the improper payments described above, SQM falsely recorded some of these payments in its books and records in order to conceal the payment scheme.

17. For example, SQM falsely recorded the payments referenced in Paragraph 155 above as "communications advice" and "consulting services" despite knowing that the payments were not, in fact, for such services rendered.

18. In addition to concealing the nature of the payments from the CEO's discretionary fund, SQM employees, including SQM Executive and other SQM employees, knowingly and willfully disguised the destination of these payments. For example, in or around February 2011, at the direction of SQM Executive, two SQM employees created a fake service contract for a fictitious vendor for the sole purpose of funneling SQM funds to a foundation controlled by Chilean Official 5. Between approximately 2008 and approximately 2012, SQM paid from the CEO's discretionary fund 36 invoices submitted under the contract, for a total of approximately US \$577,000.

19. Similarly, in or around May and in or around June of 2013, an advisor to Chilean Official 1 invoiced SQM for approximately US \$4,400 for purported engineering and statistical services. SQM paid the invoice and booked the payment as having been made in return for such services, despite knowing that such services had not been received from the advisor.

20. From 2008 to 2013, at the end of each fiscal year, SQM's books and records, including those that SQM Executive and others intentionally falsified to justify payments to vendors connected to PEPs, were used for the purpose of preparing SQM's financial statements. In addition, during each of these years from 2008 to 2013, SQM Executive signed financial certifications as part of SQM's securities filings that he knew to be false.

#### **SQM's Continued Failure to Implement Adequate Internal Accounting Controls**

21. SQM personnel responsible for implementing and maintaining SQM's internal accounting controls, including SQM Executive and another high-level executive, became aware of control failures relating to payments from the CEO's discretionary fund to vendors associated with PEPs but nevertheless failed to take adequate steps to prevent further such payments. For

example, during a 2014 internal audit, SQM identified six vendors paid in 2012 and 2013 that had “high risk” connections to PEPs. Each of the identified payments was made from the CEO’s discretionary fund and was authorized by SQM Executive. The internal audit report recommended SQM terminate any active contracts with the six high risk vendors identified, to require a compliance addendum for any future contracts, and to maintain backup documentation for each contract transaction.

22. Despite these internal audit findings, which were summarized for the board of directors, no adequate changes were made to SQM’s internal accounting controls. As a result, SQM’s payments to PEPs continued after this internal audit report for an additional six months. For example, while payments to the son of a Chilean politician stopped in or around September 2014 as a result of the audit, they were replaced by payments to the politician’s aide beginning in or around October 2014.

ATTACHMENT B

**CERTIFICATE OF CORPORATE RESOLUTIONS**

WHEREAS, Sociedad Química y Minera de Chile (the "Company") has been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section (the "Fraud Section") regarding issues arising in relation to certain improper payments to entities associated with Chilean politicians, political candidates, and individuals connected to them, false accounting of those payments in the Company's books and records, and failure to implement adequate internal accounting controls over those payments; and

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

WHEREAS, the Company's Legal Vice President and General Counsel, Gonzalo Aguirre T., 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 Fraud 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 violating the books and records provisions of the FCPA, in violation of Title 15, United States Code, Sections 78m(b)(2)(A), (b)(4), (b)(5), and 78ff(a), and (ii) one count of violating the internal controls provision of the FCPA, in violation of Title 15, United States Code, Sections 78m(b)(2)(B), (b)(4), (b)(5), and 78ff(a); (b) waives indictment on such charges and enters into a deferred prosecution agreement with the Fraud Section; and (c)



agrees to accept a monetary penalty against Company totaling \$15,487,500, 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 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 District of Columbia; and (c) a knowing waiver of any defenses based on the statute of limitations for any prosecution relating to the conduct described in the Statement of Facts or relating to conduct known to the Fraud 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. The Legal Vice President and General Counsel of the Company, Gonzalo Aguirre T., is 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 Legal Vice President and General Counsel, Gonzalo Aguirre T., may approve;

4. The Legal Vice President and General Counsel of the Company, Gonzalo Aguirre T., is hereby authorized, empowered and directed to take any and all actions as may be necessary or appropriate and to approve the forms, terms or provisions of any agreement or other documents

as may be necessary or appropriate, to carry out and effectuate the purpose and intent of the foregoing resolutions; and

5. All of the actions of the Legal Vice President and General Counsel of the Company, Gonzalo Aguirre T., 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: December 28, 2016

By:

  
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Corporate Secretary  
Sociedad Química y Minera de Chile 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, Sociedad Química y Minera de Chile ("SQM" or 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 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. 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 Sociedad Química y Minera de Chile S.A. ("SQM" or 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 "Fraud Section"), are as described below:

1. The Company will retain the Monitor for a period of not less than two years (the "Term of the Monitorship"), unless the early termination provision of Paragraph 3 of the Deferred Prosecution Agreement (the "Agreement") is triggered. Subject to certain conditions specified below that would, in the sole discretion of the Fraud Section, allow for an extension of the Term of the Monitorship, the Monitor shall be retained until the criteria in Paragraphs 19-20 below are satisfied or the Agreement expires, whichever occurs first.

#### *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 Department, 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 Fraud 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 Fraud 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 one follow-up review and report as described in Paragraphs 16-18 below. With respect to the initial report, after consultation with the Company and the Fraud Section, the Monitor shall prepare the first written work plan within sixty calendar days of being retained, and the Company and the Fraud Section shall provide comments within thirty calendar days after receipt of the written work plan. With respect to each follow-up report, after consultation with the Company and the Fraud Section, the Monitor shall prepare a written work plan at least thirty calendar days prior to commencing a review, and the Company and the Fraud Section shall provide comments within twenty 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 Fraud 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 calendar days from the date of the engagement of the Monitor (unless otherwise agreed by the Company, the Monitor, and the Fraud Section). The Monitor shall issue a written report within one hundred fifty 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 Deputy Chief – FCPA Unit, Fraud Section, Criminal Division, U.S. Department of Justice, at 1400 New York Avenue N.W., Bond Building, Eleventh Floor, 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 Fraud Section.

13. Within one hundred fifty calendar days after receiving the Monitor's initial report, the Company shall adopt and implement all recommendations in the report, unless, within sixty



calendar days of receiving the report, the Company notifies in writing the Monitor and the Fraud 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 fifty calendar days of receiving the report but shall propose in writing to the Monitor and the Fraud 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 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 Fraud Section. The Fraud 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 fifty calendar days after receiving the report, the Monitor may extend the time period for implementation with prior written approval of the Fraud Section.

#### *Follow-Up Reviews*

16. A follow-up review shall commence no later than one hundred and eighty calendar days after the issuance of the initial report (unless otherwise agreed by the Company,

the Monitor and the Fraud Section). The Monitor shall issue a written follow-up report within one hundred twenty 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 Fraud Section.

17. Within one hundred twenty calendar days after receiving the Monitor's follow-up report, the Company shall adopt and implement all recommendations in the report, unless, within thirty calendar days after receiving the report, the Company notifies in writing the Monitor and the Fraud 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 one hundred twenty calendar days of receiving the report but shall propose in writing to the Monitor and the Fraud 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 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 Fraud Section. The Fraud 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 one hundred twenty calendar days after receiving the report, the Monitor may extend the time period for implementation with prior written approval of the Fraud Section.

*Certification of Compliance  
and Termination of the Monitorship*

19. At the conclusion of the ninety calendar day period following the issuance of the follow-up report, if the Monitor believes that the Company's compliance program is reasonably designed and implemented to detect and prevent violations of the anti-corruption laws and is functioning effectively, the Monitor shall certify the Company's compliance with its compliance obligations under the Agreement. The Monitor shall then submit to the Fraud Section a written report ("Certification Report") within sixty calendar days. The Certification Report shall set forth an overview of the Company's remediation efforts to date, including the implementation status of the Monitor's recommendations, and an assessment of the sustainability of the Company's remediation efforts. The Certification Report should also recommend the scope of the Company's future self-reporting. Also at the conclusion of the ninety calendar day period following the issuance of the follow-up report, the Company shall certify in writing to the Fraud Section, with a copy to the Monitor, that the Company has adopted and implemented all of the Monitor's recommendations in the initial and follow-up report(s), or the agreed-upon alternatives. The Monitor or the Company may extend the time period for issuance of the Certification Report or the Company's certification, respectively, with prior written approval of the Fraud Section.

20. At such time as the Fraud Section approves the Certification Report and the Company's certification, the monitorship shall be terminated, and the Company will be permitted to self-report to the Fraud Section on its enhanced compliance obligations for the remainder of the term of the Agreement. The Fraud Section, however, reserves the right to terminate the monitorship absent certification by the Monitor, upon a showing by the Company that termination is, nevertheless, in the interests of justice.

21. If permitted to self-report to the Fraud Section, the Company shall thereafter submit to the Fraud Section a written report no later than 30 days prior to the end of the Term setting forth a complete description of its remediation efforts to date, its proposals to improve the Company's internal accounting controls, policies, and procedures for ensuring compliance with the anti-corruption laws, and the proposed scope of the subsequent reviews. The report shall be transmitted to the Deputy Chief – FCPA Unit, Fraud Section, Criminal Division, U.S. Department of Justice, 1400 New York Avenue, N.W., Bond Building, Eleventh Floor, Washington, D.C. 20005. The Company may extend the time period for issuance of the self-report with prior written approval of the Fraud Section.

*Extension of the Term of the Monitorship*

22. If, however, at the conclusion of the ninety calendar-day period following the issuance of the Monitor's follow-up report, the Fraud Section concludes that the Company has not by that time successfully satisfied its compliance obligations under the Agreement, the Term of the Monitorship shall be extended for one year.

23. Under such circumstances, the Monitor shall commence the second follow-up review no later than sixty calendar days after the Fraud Section concludes that the Company has

not successfully satisfied its compliance obligations under the Agreement (unless otherwise agreed by the Company, the Monitor, and the Fraud Section). The Monitor shall issue a written follow-up report within one hundred twenty calendar days of commencing the second follow-up review in the same fashion as set forth in Paragraph 12 with respect to the initial review and in accordance with the procedures for follow-up reports set forth in Paragraphs 16-18. A determination to terminate the monitorship shall then be made in accordance with Paragraphs 19-20.

24. If, after completing the second follow-up review, the Fraud Section again concludes that the Company has not successfully satisfied its obligations under the Agreement with respect to the Monitor's Mandate, the Term of the Agreement and the Monitorship shall be extended pursuant to Paragraph 3 of the Agreement, and the Monitor shall commence a third follow-up review within sixty calendar days after the Fraud Section concludes that the Company has not successfully satisfied its compliance obligations under the Agreement (unless otherwise agreed by the Company, the Monitor, and the Fraud Section). The Monitor shall issue a written follow-up report within one hundred twenty calendar days of commencing the third follow-up review in the same fashion as set forth in Paragraph 12 with respect to the initial review and in accordance with the procedures for follow-up reports set forth in Paragraphs 16-18.

*Monitor's Discovery of Potential or Actual Misconduct*

25. (a) Except as set forth below in sub-paragraphs (b), (c) and (d), 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;

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

(b) In some instances, the Monitor should immediately report Potential Misconduct directly to the Fraud Section and not to the Company. The presence of any of the following factors militates in favor of reporting Potential Misconduct directly to the Fraud Section and not to the Company, namely, where the Potential Misconduct: (1) poses a risk to public health or safety or the environment; (2) involves senior management of the Company; (3) involves obstruction of justice; or (4) otherwise poses a substantial risk of harm.

(c) 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 Fraud Section. When the Monitor discovers Actual Misconduct, the Monitor shall disclose the Actual Misconduct solely to the Fraud Section, and, in such cases, disclosure of the Actual Misconduct to the General Counsel, Chief Compliance Officer, and/or the Directors' Committee of the Company should occur as the Fraud Section and the Monitor deem appropriate under the circumstances.

(d) 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 Fraud 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 Fraud Section and address the Company's failure to disclose the necessary information in his or her reports.

(e) 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*

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

27. At least annually, and more frequently if appropriate, representatives from the Company and the Fraud 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 Fraud Section, including with respect to the scope or costs of the monitorship.

#### *Contemplated Confidentiality of Monitor's Reports*

28. 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 Fraud Section determines in its sole discretion that disclosure would be in furtherance of the Fraud Section's discharge of its duties and responsibilities or is otherwise required by law.

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