

**Model Annotated Corporate Plea Agreement
Last Updated 12/20/2013**

UNITED STATES DISTRICT COURT

[XXXXXXX] DISTRICT OF [XXXXXXXXXX]

UNITED STATES OF AMERICA)	Criminal No. [XXXX]
)	
)	Filed:
v.)	
)	Violation:
[GLOBAL PRODUCTS, INC.],)	
)	
Defendant.)	
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PLEA AGREEMENT¹

The United States of America and [Global Products, Inc.] (“defendant”), a corporation organized and existing under the laws of [STATE **OR if foreign**--COUNTRY], hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B **OR C**)² of the Federal Rules of Criminal Procedure (“Fed. R. Crim. P.”):

¹ *This document contains the typical terms used in plea agreements entered into with the Antitrust Division of the Department of Justice for a Sherman Act offense. The local practice of the U.S. Attorney’s Office in the district where a plea agreement is filed will be adhered to wherever necessary. Brackets denote either optional language or case-specific factual information. The models will be updated periodically by the Division to comply with changing laws, statutes or policies. The most recent versions of the Division’s model plea agreements are available at <http://www.justice.gov/atr/public/criminal/index.html>.*

This Model provides only internal Department of Justice guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. No limitations are hereby placed on otherwise lawful investigative and litigative prerogatives of the Department of Justice.

² *See Speech by Gary R. Spratling Before ABA Criminal Justice Section Thirteenth Annual National Institute on White Collar Crime, Negotiating The Waters Of International Cartel Prosecutions -- Antitrust Division Policies Relating To Plea Agreements In International Cases § VI.A., p. 17-18 (Mar. 4, 1999) (hereinafter “Negotiating The Waters”) for a discussion of the Division’s policy on the use of C agreements with foreign defendants in international cartel cases. Division speeches are available at <http://www.justice.gov/atr/public/speeches/speech-criminal.html> and <http://www.justice.gov/atr/public/speeches/index.html>.*

RIGHTS OF DEFENDANT

1. The defendant understands its rights:
 - (a) to be represented by an attorney;
 - (b) to be charged by Indictment;
 - [(c) as a corporation organized and existing under the laws of [COUNTRY], to decline to accept service of the Summons in this case, and to contest the jurisdiction of the United States to prosecute this case against it in the United States District Court for the [XXXX] District of [XXXX];]
 - (d) to plead not guilty to any criminal charge brought against it;
 - (e) to have a trial by jury, at which it would be presumed not guilty of the charge and the United States would have to prove every essential element of the charged offense beyond a reasonable doubt for it to be found guilty;
 - (f) to confront and cross-examine witnesses against it and to subpoena witnesses in its defense at trial;
 - (g) to appeal its conviction if it is found guilty; and
 - (h) to appeal the imposition of sentence against it.

AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS

2. The defendant knowingly and voluntarily waives the rights set out in Paragraph 1(b)-(g) above. The defendant also knowingly and voluntarily waives the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742, that challenges the sentence imposed by the Court if that sentence is

consistent with or below the recommended sentence³ in Paragraph 9 of this Plea Agreement, regardless of how the sentence is determined by the Court. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b)*[for C agreements only, also insert “-(c)”*]. Nothing in this paragraph, however, will act as a bar to the defendant perfecting any legal remedies it may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct. *[May also include following stipulation--*The defendant agrees that there is currently no known evidence of ineffective assistance of counsel or prosecutorial misconduct.] Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty to a [one]-count Information [in the form attached] to be filed in the United States District Court for the [XXXXXX] District of [XXXXXX]. The Information will charge the defendant with participating in a conspiracy to suppress and eliminate competition by [DESCRIPTION OF CHARGE AS SET OUT IN THE CHARGING PARAGRAPH OF THE INFORMATION] sold in [the United States and elsewhere] [CHARGE PERIOD] in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

3. The defendant will plead guilty to the criminal charge described in Paragraph 2 above pursuant to the terms of this Plea Agreement and will make a factual admission of guilt to the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph 4 below.

³ *If the Plea Agreement contains a substantial assistance departure recommendation for the fine with no specific recommendation as to the amount of the departure, whether there is a waiver of appeal with respect to the fine may depend on the specific situation and local practice.*

FACTUAL BASIS FOR OFFENSE CHARGED⁴

4. Had this case gone to trial, the United States would have presented evidence sufficient to prove the following facts:⁵

(a) For purposes of this Plea Agreement, the “relevant period” is that period [CHARGE PERIOD FROM INFORMATION]. During the relevant period, the defendant was a corporation organized and existing under the laws of [STATE *OR if foreign*--COUNTRY]. The defendant had its principal place of business in [CITY, STATE *OR if foreign*--CITY, COUNTRY]. During the relevant period, the defendant was a [producer] of [PRODUCT][,] [and] was engaged in the sale of [PRODUCT] in [the United States and elsewhere][, and employed [X] or more individuals]. [SHORT PRODUCT DESCRIPTION.] [During the relevant period, the defendant’s sales of [PRODUCT] affecting U.S. customers totaled at least \$[AFFECTED SALES VOLUME THAT WILL BE USED TO CALCULATE ADVISORY GUIDELINES RANGE].]

(b) During the relevant period, the defendant, through its [RELEVANT ACTORS, e.g. officers and employees], [including high-level personnel of the defendant,] participated in a conspiracy among major [PRODUCT] [producers], the

⁴ *Division plea agreements generally include a factual basis section; however, it may be omitted if its inclusion is inconsistent with local practice. Under Apprendi v. New Jersey, 530 U.S. 466 (2000), facts that increase a penalty for a crime above the statutory maximum must be proved to a jury beyond a reasonable doubt or admitted by the defendant. Apprendi applies to fines as well as prison sentences. See Southern Union v. United States, 132 S. Ct. 2344 (2012). Thus, if 18 U.S.C. § 3571(d) is used to obtain a fine greater the Sherman Act maximum fine, the Plea Agreement should address gain or loss as is done in Paragraph 9(f). In non-Title 15 cases, support for a sentence above the statutory maximum normally will be addressed by a loss stipulation in the Plea Agreement. Under United States v. Booker, 543 U.S. 220 (2005), the government is not required to allege facts supporting Guidelines enhancements in an indictment or plea agreement nor prove them beyond a reasonable doubt. Guidelines stipulations are included in this factual basis section as optional language. For a discussion of the implications of Booker on charging and plea agreement practice, see Memorandum to All Federal Prosecutors, Eric H. Holder, Jr., Department Policy on Charging and Sentencing (May 19, 2010), <http://www.justice.gov/oip/holder-memo-charging-sentencing.pdf>; Speech by Scott D. Hammond Before the ABA Section of Antitrust Law Spring Meeting, Antitrust Sentencing in the Post-Booker Era: Risks Remain High for Non-Cooperating Defendants (Mar. 30, 2005), <http://www.justice.gov/atr/public/speeches/208354.pdf>.*

⁵ *The amount of detail contained in subparagraphs 4(a) & (b) will normally track the detail in the Information.*

primary purpose of which was to [DESCRIPTION OF THE CHARGE] sold in [the United States and elsewhere]. In furtherance of the conspiracy, the defendant, through its [RELEVANT ACTORS], engaged in discussions and attended meetings with representatives of other major [PRODUCT] [producers]. During these discussions and meetings, agreements were reached to [DESCRIPTION OF THE CHARGE] to be sold in [the United States and elsewhere]. ***[In a bid-rigging case where defendant submitted comp bid(s), may insert the following if larger than the volume of commerce done by the defendant in the goods or services that were affected by the violation–***The largest contract on which the defendant submitted a complementary bid in connection with the conspiracy was in the amount of \$[XXX].]

(c) ***[Describe relevant interstate and foreign commerce. A common description of interstate commerce follows --***

During the relevant period, [PRODUCT] sold by one or more of the conspirator firms, and equipment and supplies necessary to the production and distribution of [PRODUCT], as well as payments for [PRODUCT], traveled in interstate commerce.] The business activities of the defendant and its co-conspirators in connection with the [production and sale] of [PRODUCT] that were the subject of this conspiracy were within the flow of, and substantially affected, interstate trade and commerce.

(d) Acts in furtherance of this conspiracy were carried out within the [XXXXXX] District of [XXXXXX], [XXXXXX] Division. ***[Describe relevant venue. Common descriptions are as follows --*** [The conspiratorial meetings and discussions described above took place in [the United States and elsewhere], and at least one of these meetings [which was attended by a representative of the defendant] occurred in this District.] ***OR*** [[PRODUCT] that was the subject of this conspiracy was sold by one or more of the conspirators to customers in this District.]]

[If the defendant is receiving a sentencing enhancement, or a separate charge, for an obstruction related offense, insert a description of the conduct –

(e) In an attempt to conceal this conspiracy, ***[insert description of the obstructive conduct].***

ELEMENTS OF THE OFFENSE

5. *[Insert the following elements for any case involving any interstate commerce --*

The elements of the charged offense are that:

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

POSSIBLE MAXIMUM SENTENCE

6. The defendant understands that the statutory maximum penalty which may be imposed against it upon conviction for a violation of Section One of the Sherman Antitrust Act is a fine in an amount equal to the greatest of:

- (a) \$100 million (15 U.S.C. § 1);
- (b) twice the gross pecuniary gain the conspirators derived from the crime (18 U.S.C. § 3571(c) and (d)); or
- (c) twice the gross pecuniary loss caused to the victims of the crime by the conspirators (18 U.S.C. § 3571(c) and (d)).

7. In addition, the defendant understands that:

- (a) pursuant to 18 U.S.C. § 3561(c)(1), the Court may impose a term of probation of at least one year, but not more than five years;
- (b) pursuant to [§8B1.1 of the United States Sentencing Guidelines (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) or 18 U.S.C. § 3563(b)(2) or 3663(a)(3), the Court may] **OR** [if a Title 18 mandatory restitution case--18 U.S.C. § 3663A(c)(1)(A)(ii), the Court is required to] order it to pay restitution to the victims of the offense;⁶ and

⁶ In corporate antitrust cases, restitution may be ordered under 18 U.S.C. § 3563(b)(2) as a condition of probation or under 18 U.S.C. § 3663(a)(3) to the extent agreed to by the parties in a

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

SENTENCING GUIDELINES⁷

8. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider, in determining and imposing sentence, the Guidelines Manual in effect on the date of sentencing unless that Manual provides for greater punishment than the Manual in effect on the last date that the offense of conviction was committed, in which case the Court must consider the Guidelines Manual in effect on the last date that the offense of conviction was committed.⁸ [*Insert if there is currently no ex post facto*

plea agreement. If restitution is sought under one of these sections, the restitution amount should be included in the recommended sentence contained in Paragraph 9. In most criminal antitrust cases, restitution is not sought or ordered because civil causes of action will be filed to recover damages. In Title 18 cases, however, if the mandatory restitution requirements of 18 U.S.C. § 3663A(c)(1)(A)(ii) are met and the exceptions in 18 U.S.C. § 3663A(c)(3)(A)-(B) do not apply, “is required to order” should be used instead of “may order” in Paragraph 7(b). Again, in such cases, the restitution amount should be included in the recommended sentence contained in Paragraph 9. In Division cases, section 3663A most frequently applies to mail or wire fraud cases. See 18 U.S.C. § 3663A(c)(1)(A)(ii) (“an offense against property under this title . . . including any offense committed by fraud or deceit”).

⁷ Guidelines calculations may be included in the Plea Agreement.

⁸ U.S.S.G. §1B1.11 provides that the sentencing court should apply the Guidelines Manual in effect at sentencing unless that version of the Manual would violate the Ex Post Facto Clause of the Constitution by resulting in greater punishment than the Manual in effect on the date the offense of conviction was committed. U.S.S.G. §1B1.11(a)-(b)(1). If there is an ex post facto issue, the sentencing court should apply the Manual in effect on the last date the offense of conviction was committed. U.S.S.G. §1B1.1(b)(1) and comment. (n.2) (“[T]he last date of the offense of conviction is the controlling date for ex post facto purposes[,]” regardless of whether relevant conduct under U.S.S.G. §1B1.3 occurred at a later date.). In *Peugh v. United States*, 133 S.Ct. 2072 (2013), the Supreme Court held that the Ex Post Facto Clause is violated when a defendant is sentenced under the version of the Sentencing Guidelines in effect at the time of sentencing rather than the version in effect at the time of the offense, and the newer Guidelines provide for a higher sentencing range. (“[A] district court should begin all sentencing proceedings by correctly calculating the applicable Guidelines range.’ . . . Failure to [do so] constitutes procedural error” *Id.* at 2080 (citation omitted).) *Peugh* does recognize, however, that the sentencing court may “give careful consideration to the current version of the Guidelines as representing the most recent views of the [Sentencing Commission].” *Id.* at 2087. Thus, the “newer Guidelines . . . will have the status of one of many reasons a district court might give for deviating from the older Guidelines.” *Id.* Accordingly, where there is an ex post

issue--The parties agree there is no *ex post facto* issue under the [Month Day, 20XX] Guidelines Manual.] *OR [If there is an ex post facto issue, insert the following stipulation and/or stipulations on specific Guidelines calculations*--The parties agree that the [Month Day, 20XX] Guidelines Manual provides for greater punishment than the [Month Day, 20XX] Guidelines Manual, the version in effect on the last date the offense of conviction was committed.] The Court must also consider the other factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a). [Pursuant to U.S.S.G. §1B1.8, the United States agrees that self-incriminating information that the defendant provides to the United States pursuant to this Plea Agreement will not be used to increase the volume of affected commerce attributable to the defendant or in determining the defendant's applicable Guidelines range, except to the extent provided in U.S.S.G. §1B1.8(b).]⁹

SENTENCING AGREEMENT

9. Pursuant to Fed. R. Crim. P. 11(c)(1)(B *OR* C) and subject to the full, truthful, and continuing cooperation of the defendant [and its [related entities]], as defined in Paragraph 13 of this Plea Agreement, [*if a B agreement*--the United States agrees that it will recommend, as the appropriate disposition of this case, that the Court impose] *OR [if a C agreement*--the United States and the defendant agree that the appropriate disposition of this case is, and agree to recommend jointly that the Court impose,] a sentence [within the applicable Guidelines range]¹⁰

facto issue, after using the Guidelines in effect at the time of the offense to determine the Guidelines range, the sentencing court could consult the higher range under the current Guidelines and choose to vary upward and sentence within the higher range.

⁹ A U.S.S.G. §1B1.8 provision is optional, but it is commonly included in Division plea agreements.

¹⁰ This optional language is not applicable in cases involving substantial assistance downward departures or an inability to pay a Guidelines fine.

requiring the defendant to pay to the United States a criminal fine of \$[XX] million [*insert if using the twice the gain or loss maximum to arrive at a recommended fine greater than the Sherman Act \$100 million maximum or the statutory maximum for another charged offense--*, pursuant to 18 U.S.C. § 3571(d),] [payable in full before the fifteenth (15th) day after the date of judgment] **OR** [payable in installments as set forth below [with interest accruing under 18 U.S.C. § 3612(f)(1)-(2)] **OR** [without interest pursuant to 18 U.S.C. § 3612(f)(3)(A) **OR** § 3612(h)]]¹¹ [and no order of restitution] **OR** [and restitution of \$XXX pursuant to 18 U.S.C. § 3563(b)(2)/3663(a)(3)/ **OR** 3663A(c)(1)(A)(ii)]¹² [payable in full before the fifteenth (15th) day after the date of judgment] **OR** [payable in installments as set forth below [with interest accruing under 18 U.S.C. § 3612(f)(1)-(2)] **OR** [without interest pursuant to 18 U.S.C. § 3612(f)(3)(A) **OR** § 3612(h)]] (“the recommended sentence”). [**If Plea Agreement is an agreed-upon B agreement---**The defendant agrees that it will not present evidence or arguments to the Court in opposition to the sentencing recommendation made to the Court by the United States.] The parties agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree,

¹¹ *The time for payment of the fine should be specified using one of these options. Note that for an installment schedule to be imposed, there must be a finding that installment payments are “in the interest of justice” under 18 U.S.C. § 3572(d)(1); for example, if the organization is financially unable to make immediate payment or if such payment would be unduly burdensome. See U.S.S.G. §8C3.2(b). If the defendant requests, and the staff agrees, that the fine be paid in installments, payable over a period not exceeding five years, the Plea Agreement should also include a paragraph such as Paragraph 9(a) setting forth the recommended installment schedule. If any fine greater than \$2,500 is not paid in full before the 15th day after the date of judgment, the payment of interest is required pursuant to 18 U.S.C. § 3612(f)(1) unless the defendant does not have the ability to pay interest, in which case the Division may recommend that some or all of the interest be waived pursuant to either 18 U.S.C. § 3612(f)(3) or § 3612(h). If staff has concerns about the defendant's ability to pay or the preservation of defendant's assets, a guarantee provision may be warranted in the Plea Agreement.*

¹² *See footnote 6 above. It is rare to have restitution included as part of a plea agreement in an antitrust case, as civil suits are normally filed by victims to recover damages. See optional Paragraph 9(c) in this model Plea Agreement. However, if restitution is desired in a particular case against a corporation, the agreed-upon restitution should be included as part of “the recommended sentence” in Paragraph 9. In an antitrust case against a corporation, 18 U.S.C. §§ 3563(b)(2) (restitution as a discretionary condition of probation) and 3663(a)(3) (restitution to extent agreed to by parties in a plea agreement) provide statutory bases for ordering restitution. In mail or wire fraud cases, 18 U.S.C. § 3663A(c)(1)(A)(ii) provides the statutory basis for an order of restitution (restitution for “an offense against property under this title . . . , including any offense committed by fraud or deceit”).*

not adequately taken into consideration by the U.S. Sentencing Commission in formulating the Sentencing Guidelines justifying a departure pursuant to U.S.S.G. §5K2.0.¹³ The parties agree not to seek at the sentencing hearing any sentence outside of the Guidelines range nor any Guidelines adjustment for any reason that is not set forth in this Plea Agreement. The parties further agree that the recommended sentence set forth in this Plea Agreement is reasonable.

[(a)¹⁴ The United States and the defendant agree to recommend, in the interest of justice pursuant to 18 U.S.C. § 3572(d)(1) [and U.S.S.G. §8C3.2(b)], that the fine be paid in the following installments: within thirty (30) days of imposition of sentence -- \$[XX] million [(plus any accrued interest)]; at the one-year anniversary of imposition of sentence (“anniversary”) -- \$[XX] million [(plus any accrued interest)]; at the two-year anniversary -- \$[XX] million [(plus any accrued interest)]; at the three-year anniversary -- \$[XX] million [(plus any accrued interest)]; at the four-year anniversary -- \$[XX] million [(plus any accrued interest)]; and at the five-year anniversary -- \$[XX] million [(plus any accrued interest)]; provided, however, that the defendant will have the option at any time before the five-year anniversary of prepaying the remaining balance [(plus any accrued interest)] then owing on the fine.]

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

[Insert subparagraph (c) if no restitution is sought in a Title 15 case –

(c) In light of the [availability of civil causes of action] **OR** [civil cases filed against the defendant, including [CASE NAME, CASE NUMBER], in the United States

¹³ *This language refers to the inapplicability of U.S.S.G. §5K2.0 “out of the heartland” departures, while the next sentence allows for a substantial assistance or inability to pay departure or a Guidelines adjustment that is set forth in the Plea Agreement.*

¹⁴ *Insert subparagraph (a) if the fine recommendation includes installment payments. See footnote 11. The length of the installment schedule, payment intervals, and installment amounts will depend on the facts of the case, but the Division’s policy is, and the Guidelines recommend, that the length of the schedule not exceed five years. See U.S.S.G. §8C3.2, comment (n.1). If restitution is recommended and the recommendation includes installment payments, a new subparagraph (b) comparable to subparagraph (a) will be inserted listing the installment schedule for restitution and any restitution interest payments.*

District Court, [X] District of [X]], which potentially provide for a recovery of a multiple of actual damages, the recommended sentence does not include a restitution order for the offense charged in the Information.]

[(d)¹⁵ Both parties will recommend that no term of probation be imposed, but the defendant understands that the Court's denial of this request will not void this Plea Agreement.]

[(e)¹⁶ The United States and the defendant jointly submit that this Plea Agreement, together with the record that will be created by the United States and the defendant at the plea and sentencing hearings, and the further disclosure described in Paragraph 11, will provide sufficient information concerning the defendant, the crime charged in this case, and the defendant's role in the crime to enable the meaningful exercise of sentencing authority by the Court under 18 U.S.C. § 3553. The United States and defendant agree to request jointly that the Court accept the defendant's guilty plea and impose sentence on an expedited schedule as early as the date of arraignment, based upon the record provided by the defendant and the United States, under the provisions of Fed. R. Crim. P. 32(c)(1)(A)(ii), U.S.S.G. §6A1.1, and [Rule XXX] of the Criminal Local Rules. The Court's denial of the request to impose sentence on an expedited schedule will not void this Plea Agreement.]

[(f)¹⁷ The United States contends that had this case gone to trial, the United

¹⁵ *This optional subparagraph may be included unless probation is called for by local practice or under U.S.S.G. §8D1.1 or 18 U.S.C. §§ 3553(a) and 3562(a) (e.g. to ensure payment of restitution, to ensure payment of fine if not paid in full upfront, to protect against future crime by defendant, due to prior similar criminal offense within last 5 years by defendant or high-level personnel, etc.). Local practice in some districts requires probation whenever the fine is paid in installments.*

¹⁶ *Paragraph 9(e) applies only when the parties want to expedite sentencing. In jurisdictions where the practice is permissible, the Division generally will agree to a request for expedited sentencing made by a foreign-based corporation which is pleading guilty pursuant to a C agreement.*

¹⁷ *This subparagraph will be inserted if a fine greater than the Sherman Act maximum is sought pursuant to 18 U.S.C. § 3571(d). In non-Title 15 cases, support for a sentence above the statutory maximum normally will be addressed by a loss stipulation in the Plea Agreement.*

States would have presented evidence to prove that the gain derived from or the loss resulting from the charged offense is sufficient to justify a fine of [RECOMMENDED FINE], pursuant to 18 U.S.C. § 3571(d). For purposes of this plea and sentencing only, the defendant waives its rights to contest this calculation.]

[10.¹⁸ [The United States and the defendant agree that the applicable Guidelines fine range exceeds the fine contained in the recommended sentence set out in Paragraph 9 above. Subject to the full, truthful, and continuing cooperation of the defendant [and its [related entities]], as defined in Paragraph 13 of this Plea Agreement, and prior to sentencing in this case, the United States agrees that it will make a motion, pursuant to U.S.S.G. §8C4.1,¹⁹ for a downward departure from the Guidelines fine range in this case and will request that the Court impose the fine contained in the recommended sentence set out in Paragraph 9 of this Plea Agreement because of the defendant’s [and its [related entities’]] substantial assistance in the government’s investigation and prosecutions of violations of federal criminal law in the [PRODUCT] industry.] **OR**

[The United States and the defendant agree that the applicable Guidelines fine range exceeds the fine contained in the recommended sentence set out in Paragraph 9 above. The United States and the defendant further agree that the recommended fine is appropriate pursuant to [U.S.S.G. §8C3.3(a) [and 18 U.S.C. § 3572(b)]²⁰ due to the inability of the defendant to pay a fine greater than that recommended without impairing its ability to make restitution to

¹⁸ *If the recommended fine is below the applicable Guidelines range, insert one of the listed explanatory paragraphs, either an agreement to make a downward departure motion for substantial assistance or a recommendation for a reduced fine based on an inability to pay a Guidelines fine.*

¹⁹ *Note that an 8C4.1 departure motion is not appropriate based on the organization’s cooperation in the investigation or prosecution of its own employees. See U.S.S.G. §8C4.1(a) and comment. (n.1).*

²⁰ *The phrase “and 18 U.S.C. § 3572(b)” should be inserted if the defendant is obligated as a result of a conviction to make restitution to a victim other than the United States and a Guidelines fine would impair the defendant’s ability to pay restitution.*

victims] *OR* [U.S.S.G. §8C3.3(b) due to the inability of the defendant to pay a fine greater than that recommended without substantially jeopardizing its continued viability].]]²¹

11. Subject to the full, truthful, and continuing cooperation of the defendant [and its [related entities]], as defined in Paragraph 13 of this Plea Agreement, and prior to sentencing in this case, the United States will fully advise the Court and the Probation Office of the fact, manner, and extent of the defendant's [and its [related entities']] cooperation [and [its/their] commitment to prospective cooperation] with the United States' investigation and prosecutions, all material facts relating to the defendant's involvement in the charged offense, and all other relevant conduct.

12. The United States and the defendant understand that the Court retains complete discretion to accept or reject [the recommended sentence][*if no agreed-upon sentence but two different recommendations*—either party's sentencing recommendation] provided for in Paragraph 9 of this Plea Agreement. [*If a B agreement* --- The defendant understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose [the recommended sentence][*if no agreed-upon sentence but two different recommendations*—either party's sentencing recommendation] contained in this Agreement, it nevertheless has no right to withdraw its plea of guilty.]

[Insert (a) and (b) only for C agreements-- (a) If the Court does not accept the recommended sentence, the United States and the defendant agree that this Plea Agreement, except for Paragraph 12(b) below, will be rendered void.

(b) If the Court does not accept the recommended sentence, the defendant will be free to withdraw its guilty plea (Fed. R. Crim. P. 11(c)(5) and (d)). If the defendant withdraws its plea of guilty, this Plea Agreement, the guilty plea, and any statement made in the course of any proceedings under Fed. R. Crim. P. 11 regarding the guilty plea or this Plea Agreement or made in the course of plea discussions with an attorney for the government will not be admissible against the defendant in any criminal or civil proceeding, except as otherwise provided in Fed. R. Evid. 410. In addition, the defendant agrees that, if it withdraws its guilty plea pursuant to this subparagraph of this

²¹ *Normally only one of these inability to pay provisions would be used, and in most cases it will be the second provision.*

Plea Agreement, the statute of limitations period for any offense referred to in Paragraph 15 of this Plea Agreement will be tolled for the period between the date of signature of this Plea Agreement and the date the defendant withdrew its guilty plea or for a period of sixty (60) days after the date of signature of this Plea Agreement, whichever period is greater.]

DEFENDANT'S COOPERATION²²

13. The defendant [and its [LIST TYPES OF OTHER RELATED CORPORATE ENTITIES] [(collectively "related entities") --- ***only use shorthand of related entities if more than one type of related entity is listed***]]²³ will cooperate fully and truthfully with the United States in the prosecution of this case, the current federal investigation of violations of federal antitrust and related criminal laws involving the [manufacture or sale] of [PRODUCT][***if domestic conspiracy insert--*** in [GEOGRAPHIC AREA]], any federal investigation resulting therefrom, and any litigation or other proceedings arising or resulting from any such investigation to which the United States is a party (collectively "Federal Proceeding").²⁴ Federal

²² *The entities and individuals covered in the cooperation terms in Paragraphs 13 and 14 must be co-extensive with the nonprosecution terms of Paragraphs 15 and 16. For instance, if the named defendant and certain related entities (e.g., subsidiaries) are receiving nonprosecution protection under Paragraph 15, then the same entities must be required to provide ongoing cooperation under Paragraph 13 of the Plea Agreement. Likewise, the class of individuals (i.e., the directors, officers, and employees of the defendant and its related entities) receiving nonprosecution protection under Paragraph 16 must be required to provide ongoing cooperation under Paragraphs 13(b), 13(c), and 14.*

²³ *Often, the defendant requests that certain corporate entities related to the named corporate defendant, such as subsidiaries or parents, be covered by the Plea Agreement. Before adding subsidiaries (or any other related entity) to the Plea Agreement, staff must be satisfied that those entities can and will provide ongoing cooperation in its investigation. If the term subsidiaries is used, it must be defined, as is done below. Additionally, in some plea agreements, the subsidiaries are limited to those that "are engaged in the sale or production" of the product at issue. While past Division plea agreements have included "affiliates" in the definition of related entities, such a broad term can no longer be included in plea agreements. If the defendant seeks to include protections for certain affiliates, those affiliates should be specifically named in the Plea Agreement.*

²⁴ *The term "Federal Proceeding" identifies the federal investigations and litigation in which the corporate defendant, its related entities, and their directors, officers, and employees must cooperate in order to receive the Plea Agreement's protections. Paragraph 13 defines how the*

Proceeding includes, but is not limited to, an investigation, prosecution, litigation, or other proceeding regarding obstruction of, the making of a false statement or declaration in, the commission of perjury or subornation of perjury in, the commission of contempt in, or conspiracy to commit such offenses in, a Federal Proceeding. ***[If subsidiaries are included in the Plea Agreement cooperation and nonprosecution paragraphs, must insert the names of the covered subsidiaries at the beginning of first sentence of this paragraph and at all other Plea Agreement references to the covered subsidiaries, or if covered subsidiaries are too numerous to name in those references, must insert one of the following definitions of covered subsidiaries]***—[The defendant’s subsidiaries for purposes of this Plea Agreement are ***[insert names of the covered subsidiaries]***.] ***OR*** [The defendant’s subsidiaries for purposes of this Plea Agreement are entities that the defendant had a greater than 50% ownership interest in as of the date of signature of this Plea Agreement.] ***[Name other types of covered related entities, such as parents, at the beginning of the first sentence of this paragraph and at all other Plea Agreement references to those entities or if they are too numerous to name in those references, must define them here]***—The defendant’s [parents] for purposes of this Plea Agreement are ***[insert names of the companies]***.] The full, truthful, and continuing cooperation of the defendant [and its [related entities]] will include, but not be limited to:

- (a) producing to the United States all documents, information, and other materials, wherever located,²⁵ not protected under the attorney-client privilege or the work-product doctrine,²⁶ [(and with translations into English),] in the possession,

corporate defendant and its related entities must cooperate in any Federal Proceeding. Paragraph 14(a)-(f) defines how the directors, officers, and employees of the corporate defendant and its related entities must cooperate in any Federal Proceeding.

²⁵ *The defendant’s obligation to produce responsive documents in its possession, custody, or control, wherever located, applies to plea agreements in both domestic and international cases. See “Negotiating The Waters” at § II.B., p.4 for a discussion of the defendant’s obligation in international cases to produce documents wherever located.*

²⁶ *Prosecutors may not request that a defendant disclose privileged attorney-client communications or attorney work product, with the exception that prosecutors may ask for disclosure of communications allegedly supporting an advice of counsel defense. In addition, communications with counsel made in furtherance of a crime or fraud are outside the scope and protection of the attorney-client privilege. Of course, defendants are free to waive the protections of the attorney-client privilege or work-product doctrine and produce*

custody, or control of the defendant [or any of its [related entities]], that are requested by the United States in connection with any Federal Proceeding;

(b) securing the full, truthful, and continuing cooperation, as defined in Paragraph 14 of this Plea Agreement, of [NAMED INDIVIDUALS], including making such persons available [*insert if defendant has foreign-located witnesses--* in the United States and at other mutually agreed-upon locations], at the defendant's expense, for interviews and the provision of testimony in grand jury, trial, and other judicial proceedings in connection with any Federal Proceeding;]²⁷ and

(c) using its best efforts²⁸ to secure the full, truthful, and continuing cooperation, as defined in Paragraph 14 of this Plea Agreement, of the current [and former]²⁹ directors, officers, and employees of the defendant [or any of its [related entities]]], in addition to those specified in subparagraph (b) above,] as may be requested

communications and documents so protected if they voluntarily choose to do so, but prosecutors may not request that they do so. To receive credit for cooperation, defendants are required to produce relevant underlying factual information, as well as relevant underlying non-privileged evidence, such as business records and emails between non-attorney employees. See Principles of Federal Prosecution of Business Organizations, U.S.A.M. §§ 9-28.710 - 9.28.720, http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/28mcrm.htm#9-28.710.

²⁷ *This provision has been used infrequently, but if the value of the defendant's cooperation is based on the cooperation of certain key foreign-based executives, the Division may require that the company specifically promise to make these individuals available for interviews and testimony. If one of the designated individuals fails to cooperate, the United States can void the Plea Agreement with the defendant. Conditioning the Plea Agreement on the cooperation of certain key employees is appropriate where the company's cooperation is essentially meaningless without the Division having access to the specified individuals and the specified individuals are located outside the United States. See "Negotiating The Waters" at § II.E., p. 5-6.*

²⁸ *See "Negotiating The Waters" at § II.F., p. 6 for a discussion of what constitutes best efforts.*

²⁹ *If the nonprosecution terms of Paragraph 16 cover former executives, then the cooperation terms of Paragraphs 13(c) and 14 must also cover former employees. Before the nonprosecution protections of the Plea Agreement will be extended to former employees, however, company counsel must make a commitment that the company can assist in securing the cooperation of key former employees in the investigation, e.g., that the former employees will be made available for interviews. Of course, if a former employee is now employed at a competitor and is a target of the investigation, the employee will be excluded from Paragraphs 13(c), 14, and 16.*

by the United States, [but excluding [[*insert names of all carve outs who have been publicly charged*]] (who [has][have] [entered a separate plea agreement with the United States][been separately charged]) and] [the [*insert the remaining number of carve outs*]] [additional] individuals listed in Attachment A filed under seal,]]³⁰ including making these persons available [*insert if defendant has foreign-located witnesses--*in the United States and at other mutually agreed-upon locations], at the defendant's expense, for interviews and the provision of testimony in grand jury, trial, and other judicial proceedings in connection with any Federal Proceeding. Current directors, officers, and employees are defined for purposes of this Plea Agreement as individuals who are directors, officers, or employees of the defendant [or any of its [related entities]] as of the date of signature of this Plea Agreement.

14. The full, truthful, and continuing cooperation of each person described in [either] Paragraph 13(b) [or 13(c)] above will be subject to the procedures and protections of this paragraph, and will include, but not be limited to:

(a) producing [*insert if defendant is foreign or has relevant foreign affiliates--*in the United States and at other mutually agreed-upon locations] all documents, including claimed personal documents, and other materials, wherever located, not protected under the attorney-client privilege or the work-product doctrine,³¹ [(and with translations into English),] that are requested by attorneys and agents of the United States in connection with any Federal Proceeding;

³⁰ *The Division seeks to prosecute culpable individuals from all corporate conspirators, domestic and foreign, except the leniency applicant. Thus, the Division will exclude or "carve out" from both the cooperation requirements of Paragraphs 13(c) and 14 and the nonprosecution coverage of Paragraph 16 employees the Division has reason to believe were involved in criminal wrongdoing and who are potential targets of the investigation. The Division will revoke the nonprosecution protection of any employee who does not fully and truthfully cooperate with the investigation. See Press Release, Statement of Assistant Attorney General Bill Baer on Changes to Antitrust Division's Carve-Out Practice Regarding Corporate Plea Agreements (Apr. 12, 2013), http://www.justice.gov/atr/public/press_releases/2013/295747.htm.*

³¹ *See footnote 26.*

(b) making himself or herself available for interviews [*insert if defendant has foreign-located witnesses*—in the United States and at other mutually agreed-upon locations], not at the expense of the United States, upon the request of attorneys and agents of the United States in connection with any Federal Proceeding;

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

(d) otherwise voluntarily providing the United States with any material or information not requested in (a) - (c) of this paragraph and not protected under the attorney-client privilege or work-product doctrine³² that he or she may have that is related to any Federal Proceeding;

(e) when called upon to do so by the United States in connection with any Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings [*insert if defendant has foreign-located witnesses*—in the United States] fully, truthfully, and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making a false statement or declaration in grand jury or court proceedings (18 U.S.C. § 1623), contempt (18 U.S.C. §§ 401-402), and obstruction of justice (18 U.S.C. § 1503, *et seq.*); and

(f) agreeing that, if the agreement not to prosecute him or her in this Plea Agreement is rendered void under Paragraph 16(c), the statute of limitations period for any Relevant Offense, as defined in Paragraph 16(a), will be tolled as to him or her for the period between the date of signature of this Plea Agreement and six (6) months after the date that the United States gave notice of its intent to void its obligations to that person under this Plea Agreement.³³

³² See footnote 26.

³³ Cooperating individuals will have to sign a separate letter tolling the statute of limitations with respect to them before they can receive the nonprosecution protections of the corporate plea agreement.

GOVERNMENT'S AGREEMENT

15. Subject to the full, truthful, and continuing cooperation of the defendant [and its [related entities]], as defined in Paragraph 13 of this Plea Agreement, and upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of the recommended sentence, the United States agrees that it will not bring further criminal charges against the defendant [or any of its [related entities]]³⁴ for any act or offense committed before the date of signature of this Plea Agreement that [***If the defendant is receiving both antitrust and obstruction nonprosecution protection, separate the two nonprosecution coverages into subparagraphs (a) and (b)--(a)***] was undertaken in furtherance of an antitrust conspiracy involving the [manufacture or sale] of [PRODUCT] [***if domestic conspiracy insert--in*** [GEOGRAPHIC AREA]][***only insert the obstruction nonprosecution coverage that follows if defendant has a sentencing enhancement, or a separate charge, for an obstruction related offense--*** or (b) is specified in Paragraph 4(e)]. The nonprosecution terms of this paragraph do not apply to (a) any acts of subornation of perjury (18 U.S.C. § 1622), making a false statement (18 U.S.C. § 1001), obstruction of justice (18 U.S.C. § 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses [***insert if defendant has a sentencing enhancement, or a separate charge, for an obstruction related offense--***, except for the conduct specified in Paragraph 4(e) of this Plea Agreement]; (b) civil matters of any kind; (c) any violation of the federal tax or securities laws or conspiracy to commit such offenses; or (d) any crime of violence.

16. The United States agrees to the following:

(a) Upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of the recommended sentence and subject to the exceptions noted in Paragraph 16(c), the United States agrees that it will not bring criminal charges against any current [or former] director, officer, or employee of the defendant [or its [related entities]]³⁵ for any act or offense committed before the date of

³⁴ *The entities covered in this corporate nonprosecution paragraph must be required to provide cooperation under Paragraph 13 of the Plea Agreement.*

³⁵ *The categories of individuals covered in this individual nonprosecution paragraph must be required to cooperate under Paragraphs 13(c) and 14. Likewise, the entities that are referenced in this nonprosecution paragraph must be the same entities referenced in Paragraphs 13(c).*

signature of this Plea Agreement and while that person was acting as a director, officer, or employee of the defendant [or its [related entities]] that was undertaken in furtherance of an antitrust conspiracy involving the [manufacture or sale] of [PRODUCT]³⁶ [*if domestic conspiracy insert--in* [GEOGRAPHIC AREA]] (“Relevant Offense”)[, except that the protections granted in this paragraph do not apply to [[*insert names of all carve outs who have been publicly charged*] (who [has][have] [entered a separate plea agreement with the United States][been separately charged]) and] [the [*insert the remaining number of carve outs*] [additional] individuals listed in Attachment A filed under seal]];

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

(c) If any person requested to provide cooperation under Paragraph 16(b) fails to comply fully with his or her obligations under Paragraph 14, then the terms of this Plea Agreement as they pertain to that person and the agreement not to prosecute that person granted in this Plea Agreement will be rendered void, and the United States may prosecute such person criminally for any federal crime of which the United States has knowledge, including, but not limited to any Relevant Offense;

(d) Except as provided in Paragraph 16(e), information provided by a person described in Paragraph 16(b) to the United States under the terms of this Plea Agreement pertaining to any Relevant Offense, or any information directly or indirectly derived from that information, may not be used against that person in a criminal case, except in a prosecution for perjury or subornation of perjury (18 U.S.C. §§ 1621-22), making a false

Former employees are not automatically covered by the Plea Agreement, but are only covered when their cooperation is needed and obtainable.

³⁶ *Note that the Division does not provide nonprosecution protection for individuals relating to obstruction in a corporate plea agreement. See subparagraph 16(f) below.*

statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses;

(e) If any person who provides information to the United States under this Plea Agreement fails to comply fully with his or her obligations under Paragraph 14 of this Plea Agreement, the agreement in Paragraph 16(d) not to use that information or any information directly or indirectly derived from it against that person in a criminal case will be rendered void;

(f) The nonprosecution terms of this paragraph do not apply to civil matters of any kind; any violation of the federal tax or securities laws or conspiracy to commit such offenses; any crime of violence; or perjury or subornation of perjury (18 U.S.C. §§ 1621-22), making a false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses; and

(g) Documents provided under Paragraphs 13(a) and 14(a) will be deemed responsive to outstanding grand jury subpoenas issued to the defendant [or any of its [related entities]].³⁷

[17.³⁸ The United States agrees that when any person travels to the United States for interviews, grand jury appearances, or court appearances pursuant to this Plea Agreement, or for meetings with counsel in preparation therefor, the United States will take no action, based upon any Relevant Offense, to subject such person to arrest, detention, or service of process, or to prevent such person from departing the United States. This paragraph does not apply to an individual's commission of perjury or subornation of perjury (18 U.S.C. §§ 1621-22), making a false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses.]

³⁷ For a discussion of Division policy on this issue, see “*Negotiating The Waters*” at § II.C., p. 4-5.

³⁸ Insert Paragraph 17 if the defendant or its related entities have foreign-located officers, directors, or employees. See “*Negotiating The Waters*” at § II.G., p. 7 for a discussion of Division policy regarding this safe passage provision.

[18.³⁹ The defendant understands that it may be subject to suspension or debarment action by state or federal agencies other than the United States Department of Justice, Antitrust Division, based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in no way controls what action, if any, other agencies may take. However, the Antitrust Division agrees that, if requested, it will advise the appropriate officials of any governmental agency considering such action of the fact, manner, and extent of the cooperation of the defendant [and its [related entities]] as a matter for that agency to consider before determining what action, if any, to take. The defendant nevertheless affirms that it wants to plead guilty regardless of any suspension or debarment consequences of its plea.]

REPRESENTATION BY COUNSEL

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

VOLUNTARY PLEA

20. The defendant's decision to enter into this Plea Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement[*insert if Plea Agreement has an attached carve-out list--* and Attachment A]. The United States has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

³⁹ *Optional paragraph for cooperating defendants where suspension or debarment is a possibility.*

VIOLATION OF PLEA AGREEMENT

21. The defendant agrees that, should the United States determine in good faith, during the period that any Federal Proceeding is pending, that the defendant [or any of its [related entities]] [has/have] failed to provide full, truthful, and continuing cooperation, as defined in Paragraph 13 of this Plea Agreement, or [has/have] otherwise violated any provision of this Plea Agreement, the United States will notify counsel for the defendant in writing by personal or overnight delivery, email, or facsimile transmission and may also notify counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph),⁴⁰ and the defendant [and its [related entities]] will be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement. The defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against the defendant [or its [related entities]] for any offense referred to in Paragraph 15 of this Plea Agreement, the statute of limitations period for such offense will be tolled for the period between the date of signature of this Plea Agreement and six (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

22. The defendant understands and agrees that in any further prosecution of it [or its [related entities]] resulting from the release of the United States from its obligations under this Plea Agreement because of the defendant's [or its [related entities']] violation of this Plea Agreement, any documents, statements, information, testimony, or evidence provided by it[, its [related entities],] or [its/their] current [or former] directors, officers, or employees⁴¹ to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against it [or its [related entities]]. In addition, the defendant

⁴⁰ See *"Negotiating The Waters"* at § II.H., p. 7-8 for a discussion of Division policy regarding voiding the Plea Agreement.

⁴¹ This language should be consistent with the individuals covered in the nonprosecution and cooperation paragraphs.

unconditionally waives its right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

ENTIRETY OF AGREEMENT

23. This Plea Agreement [*insert if Plea Agreement has an attached carve-out list--* and Attachment A] [constitutes/constitute] the entire agreement between the United States and the defendant concerning the disposition of the criminal charge[s] in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.

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

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

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

DATED: _____

Respectfully submitted,

BY: _____
[CORPORATE REPRESENTATIVE]⁴²
[Title]
[Global Products, Inc.]

BY: _____
[STAFF]

Attorneys
U.S. Department of Justice
Antitrust Division
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
Tel.: [(XXX) XXX-XXXX]

BY: _____
[NAME OF CORPORATE COUNSEL]
Counsel for [Global Products, Inc.]

⁴² *Most courts will not accept a corporate plea agreement that is executed by counsel for the company. An authorized corporate officer, in addition to the company attorney, must normally sign the Plea Agreement, and the Resolution of the Board of Directors, which is attached to the Plea Agreement, must grant that officer the power to enter into the agreement on behalf of the company.*