

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Honorable Mark Falk
	:	
v.	:	Mag. No. 15-3624 (MF)
	:	
LOUIS BERGER INTERNATIONAL, INC.	:	<u>ORDER FOR CONTINUANCE</u>

This matter having come before the Court on the application of Paul J. Fishman, United States Attorney (by Scott B. McBride, Assistant United States Attorney), and of Andrew Weissmann, Chief, Fraud Section, Criminal Division (by John W. Borchert, Trial Attorney), with the consent of Michael B. Himmel, Esq., attorney for defendant LOUIS BERGER INTERNATIONAL, INC. ("LBI"), for an order granting a continuance of the proceedings in the above-captioned matter for a period of 36 months pursuant to a Deferred Prosecution Agreement executed between the United States Attorney's Office for the District of New Jersey; the U.S. Department of Justice, Criminal Division, Fraud Section; and LBI, and attached hereto as Exhibit A, and no continuances having previously been granted by the Court, and LBI being aware that it has the right to have the matter submitted to a grand jury within 30 days of the date of service of summons pursuant to Title 18 of the United States Code, Section 3161(b), and LBI having consented to the continuance and having waived the aforementioned

right for a period of 36 months, and for good and sufficient cause shown,

IT IS THE FINDING OF THIS COURT that this action should be continued for the following reasons:

1. The United States and LBI have entered into, and desire additional time to allow the implementation of, the Deferred Prosecution Agreement for the purpose of allowing LBI to demonstrate its good conduct, successful completion of which would render grand jury proceedings and any subsequent trial of this matter unnecessary;

2. The grant of a continuance will likely conserve judicial resources; and

3. Pursuant to Title 18 of the United States Code, Section 3161(h)(2) and (h)(7), the ends of justice served by granting the continuance outweigh the best interests of the public and LBI in a speedy trial.

IT IS, therefore, on this 7th day of July, 2015,

ORDERED that the motion is granted and that this action be, and hereby is, continued for the period from July 7th, 2015, through and including July 7, 2018; and

IT IS FURTHER ORDERED that the period from July 7, 2015, through and including July 7, 2018, shall be excludable in computing time under the Speedy Trial Act of 1974.



HONORABLE MARK FALK
UNITED STATES MAGISTRATE JUDGE

Form and entry
consented to:



Scott B. McBride
Assistant U.S. Attorney



John W. Borchert
Trial Attorney



Michael B. Himmel, Esq.
Counsel for Louis Berger International, Inc.

Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CASE NO. _____

UNITED STATES OF AMERICA

v.

LOUIS BERGER INTERNATIONAL, INC.

Defendant.

_____ /

DEFERRED PROSECUTION AGREEMENT

Defendant Louis Berger International, Inc. ("LBI"), by its undersigned representatives, pursuant to authority granted by LBI's Board of Directors and the United States Department of Justice, Criminal Division, Fraud Section and the United States Attorney's Office for the District of New Jersey (the "Offices"), enter into this deferred prosecution agreement (the "Agreement"). Berger Group Holdings, Inc. ("BGH") on behalf of its wholly owned subsidiary LBI, pursuant to authority granted by BGH's Board of Directors, agrees to certain terms and obligations of this Agreement as described below and to ensure compliance by BGH and its subsidiaries and affiliates of certain terms and obligations as described below. The terms and conditions of this Agreement are as follows:

Criminal Complaint and Acceptance of Responsibility

1. LBI acknowledges and agrees that the Offices will file the attached criminal Complaint in the United States District Court for the District of New Jersey charging LBI with one count of conspiracy to commit offenses against the United States in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, Title 15, United States Code,

Section 78dd-2. In so doing, LBI: (a) knowingly waives its right to indictment on this charge, as well as all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); and (b) knowingly waives for purposes of this Agreement and any charges by the United States arising out of the conduct described in the attached Statement of Facts any objection with respect to venue and consents to the filing of the Complaint, as provided under the terms of this Agreement, in the United States District Court for the District of New Jersey.

2. LBI admits, accepts, and acknowledges that it is responsible under United States law for the acts of its officers, directors, employees, agents and predecessors in interest as charged in the Complaint, and as set forth in the Statement of Facts attached hereto as Attachment A and incorporated by reference into this Agreement, and that the allegations described in the Complaint and the facts described in Attachment A are true and accurate. Should the Offices pursue the prosecution that is deferred by this Agreement, LBI and BGH stipulate to the admissibility of the Statement of Facts in any proceeding, including any trial, guilty plea, or sentencing proceeding, and will not contradict anything in the Statement of Facts at any such proceeding.

Term of the Agreement

3. This Agreement is effective for a period beginning on the date on which the Complaint is filed and ending three (3) years from that date (the "Term"). LBI agrees, however, that, in the event the Offices determine, in their sole discretion, that LBI, BGH, or any of their subsidiaries or affiliates have knowingly violated any provision of this Agreement, subject to Paragraph 21 below, an extension or extensions of the term of the Agreement may be imposed by the Offices, in their sole discretion, for up to a total additional time period of one

year, without prejudice to the Offices' right to proceed as provided in Paragraphs 21-24 below. Any extension of the Agreement extends all terms of this Agreement, including the terms of the monitorship in Attachment D, for an equivalent period. Conversely, in the event the Offices find, in their sole discretion, that there exists a change in circumstances sufficient to eliminate the need for the monitorship in Attachment D, or that the other provisions of this Agreement have been satisfied, the monitorship or the Term of the Agreement may be terminated early.

Relevant Considerations

4. The Offices enter into this Agreement based on the individual facts and circumstances presented by this case and by LBI and BGH. Among the factors considered were the following: (a) after the government had made LBI and BGH aware of a False Claims Act investigation, BGH conducted an internal investigation, discovered potential FCPA violations, and voluntarily self-reported to the Offices the misconduct described in the Complaint and Statement of Facts; (b) BGH's cooperation, including conducting an extensive internal investigation, voluntarily making U.S. and foreign employees available for interviews, collecting, analyzing, and organizing voluminous evidence and information for the Offices, and providing updates to the Offices as to the conduct and results of the internal investigation; (c) BGH has engaged in extensive remediation, including terminating the employment of officers and employees responsible for the corrupt payments, enhancing its due diligence protocol for third-party agents and consultants, and instituting heightened review of proposals and other transactional documents for all Company contracts; (d) BGH's improvements to date to its compliance program and internal controls, as well as its commitment to continue to enhance its compliance program and internal controls, including ensuring that its compliance program satisfies the minimum elements set forth in Attachment C to this Agreement; (e) the nature and

scope of the offense conduct; and (f) LBI's and BGH's (on its behalf and through its subsidiaries and affiliates) agreement to continue to cooperate with the Offices in any ongoing investigation of the conduct of LBI, BGH, their subsidiaries and affiliates and their officers, directors, employees, and agents relating to possible violations under investigation by the Offices as provided in Paragraph 5 below.

Future Cooperation and Disclosure Requirements

5. LBI shall cooperate fully with the Offices in any and all matters relating to the conduct described in this Agreement and Attachment A and any other conduct related to possible corrupt payments under investigation by the Offices, subject to applicable law and regulations, until the date upon which all investigations and prosecutions arising out of such conduct are concluded, whether or not those investigations and prosecutions are concluded within the term specified in Paragraph 3. At the request of the Offices, LBI shall also cooperate fully with other domestic or foreign law enforcement and regulatory authorities and agencies, as well as the Multilateral Development Banks ("MDBs"), in any investigation of LBI, BGH, or their subsidiaries or affiliates, or any of their present or former officers, directors, employees, and agents, or any other party, in any and all matters relating to the conduct described in this Agreement and Attachment A and other conduct related to possible corrupt payments under investigation by the Offices. LBI agrees that its cooperation pursuant to this Paragraph shall include, but not be limited to, the following:

a. LBI shall truthfully disclose all factual information not protected by a valid claim of attorney-client privilege or work product doctrine with respect to the activities of LBI, BGH or their subsidiaries or affiliates, and those of their present and former directors, officers, employees, and agents, including any evidence or allegations and internal or

external investigations, about which they have any knowledge or about which the Offices may inquire. This obligation of truthful disclosure includes, but is not limited to, the obligation of LBI to provide to the Offices, upon request, any document, record or other tangible evidence about which the Offices may inquire of LBI.

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

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

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

6. In addition to the obligations in Paragraph 5, during the Term of the Agreement, should LBI learn of credible evidence or allegations of possible corrupt payments by

LBI, BGH, or their subsidiaries or affiliates, LBI shall promptly report such evidence or allegations to the Offices.

Payment of Monetary Penalty

7. The Offices and LBI agree that application of the United States Sentencing Guidelines (“USSG” or “Sentencing Guidelines”) to determine the applicable fine range yields the following analysis:

- a. The 2014 USSG are applicable to this matter.
- b. Offense Level. Based upon USSG § 2C1.1, the total offense level is 34, calculated as follows:

(a)(2) Base Offense Level	12
(b)(1) Multiple Bribes	+ 2
(b)(2) Value of benefit received more than \$7,000,000	+ 20
TOTAL	<u>34</u>

- c. Base Fine. Based upon USSG § 8C2.4(a)(1), the base fine is \$28,500,000.
- d. Culpability Score. Based upon USSG § 8C2.5, the culpability score is 3, calculated as follows:

(a) Base Culpability Score	5
(b)(3) the organization had 200 or more employees and an individual within substantial authority personnel participated in, condoned, or was willfully ignorant of the offense	

+3

(g)(1) the organization prior to an imminent threat of disclosure or government investigation relating to the underlying conduct and within a reasonably prompt time after becoming aware of the offense, reported the offense to appropriate governmental authorities, fully cooperated in the investigation, and clearly demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct

-5

TOTAL

3

Calculation of Fine Range:

Base Fine	\$28,500,000
Multipliers	.6 (min)/1.2 (max)
Fine Range	\$17,100,000 / \$34,200,000

LBI agrees to pay a monetary penalty in the amount of \$17,100,000 to the United States Treasury in accordance with the following schedule: \$7,100,000 shall be paid within ten (10) days of the date of this Agreement, and the remaining penalty shall be paid within twelve (12) months of the date of this Agreement. LBI and the Offices agree that this fine is appropriate given the facts and circumstances of this case, including the cooperation in this matter and the nature and scope of the offense conduct. The \$17,100,000 penalty is final and shall not be refunded. Furthermore, nothing in this Agreement shall be deemed an agreement by the Offices that \$17,100,000 is the maximum penalty that may be imposed in any future prosecution, and the Offices are not precluded from arguing in any future prosecution that the Court should impose a higher fine, although the Offices agree that under those circumstances, it will recommend to the Court that any amount paid under this Agreement should be offset against any fine the Court

imposes as part of a future judgment. LBI acknowledges that no tax deduction may be sought in connection with the payment of any part of this \$17,100,000 penalty.

Conditional Release from Liability

8. Subject to Paragraphs 21-24, the Offices agree, except as provided herein, that they will not bring any criminal or civil case against LBI, BGH, or any of their subsidiaries or affiliates, relating to any of the conduct described in the Statement of Facts, attached hereto as Attachment A, or the criminal Complaint filed pursuant to this Agreement or disclosed to the Offices prior to the signing of this Agreement. The Offices, however, may use any information related to the conduct described in the attached Statement of Facts against LBI, BGH, or any of their subsidiaries or affiliates: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement; (c) in a prosecution or other proceeding relating to any crime of violence; or (d) in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the United States Code.

a. This Agreement does not provide any protection against prosecution for any future conduct by LBI, BGH, or any of their subsidiaries or affiliates.

b. In addition, this Agreement does not provide any protection against prosecution of any present or former officer, director, employee, shareholder, agent, sales representative, contractor, or subcontractor of LBI, BGH, or any of their subsidiaries or affiliates for any violations committed by them.

Corporate Compliance Program

9. BGH represents that it has implemented and will continue to implement a compliance and ethics program designed to prevent and detect violations of the FCPA and other applicable anti-corruption laws throughout their operations, including those of their affiliates,

agents, and joint ventures, and those of their contractors and subcontractors whose responsibilities include interacting with foreign officials or other activities carrying a high risk of corruption.

10. In order to address any deficiencies in its internal accounting controls, policies, and procedures, BGH represents that it has undertaken, and will continue to undertake in the future, in a manner consistent with all of its obligations under this Agreement, a review of the existing internal accounting controls, policies, and procedures of BGH and its subsidiaries and affiliates regarding compliance with the FCPA and other applicable anti-corruption laws. If necessary and appropriate, BGH will adopt new or modify existing internal controls, policies, and procedures in order to ensure that BGH and its subsidiaries and affiliates maintain: (a) a system of internal accounting controls designed to ensure the making and keeping of fair and accurate books, records, and accounts; and (b) rigorous anti-corruption compliance code, standards, and procedures designed to detect and deter violations of the FCPA and other applicable anti-corruption laws. The internal accounting controls system and compliance code, standards, and procedures will include, but not be limited to, the minimum elements set forth in Attachment C, which is incorporated by reference into this Agreement.

Independent Compliance Monitor

11. Promptly after the Offices' selection pursuant to Paragraph 12 below, BGH agrees to retain an independent compliance monitor (the "Monitor") for the term specified in Paragraph 13. The Monitor's duties and authority, and the obligations of BGH with respect to the Monitor and the Offices, are set forth in Attachment D, which is incorporated by reference into this Agreement. Within thirty (30) calendar days after the execution of this Agreement, and after consultation with the Offices, BGH will propose to the Offices a pool of three (3) qualified

candidates to serve as the Monitor. If the Offices determine, in their sole discretion, that any of the candidates are not, in fact, qualified to serve as the Monitor, or if the Offices, in their sole discretion, are not satisfied with the candidates proposed, the Offices reserve the right to seek additional nominations from BGH. The Monitor candidates or their team members shall have, at a minimum, the following qualifications:

- a. demonstrated expertise with respect to the FCPA and other applicable anti-corruption laws, including experience counseling on FCPA issues;**
- b. experience designing and/or reviewing corporate compliance policies, procedures, and internal controls, including FCPA and anti-corruption policies, procedures and internal controls;**
- c. the ability to access and deploy resources as necessary to discharge the Monitor's duties as described in the Agreement; and**
- d. sufficient independence from BGH to ensure effective and impartial performance of the Monitor's duties as described in the Agreement.**

12. The Offices retain the right, in their sole discretion, to choose the Monitor from among the candidates proposed by BGH, though BGH may express their preference(s) among the candidates. In the event the Offices reject all proposed Monitors, BGH shall propose an additional three candidates within thirty (30) calendar days after receiving notice of the rejection. This process shall continue until a Monitor acceptable to both parties is chosen. The Offices and BGH will use their best efforts to complete the selection process within sixty (60) calendar days of the filing of the Agreement and the accompanying Complaint. If the Monitor resigns or is otherwise unable to fulfill his or her obligations as set out herein and in Attachment

D, BGH shall within thirty (30) calendar days recommend a pool of three qualified Monitor candidates from which the Offices will choose a replacement.

13. The Monitor's term shall be three (3) years from the date on which the Monitor is retained by BGH, subject to extension or early termination as described in Paragraph 3. The Monitor's powers, duties, and responsibilities, as well as additional circumstances that may support an extension of the Monitor's term, are set forth in Attachment D. BGH agrees that it will not employ or be affiliated with the Monitor for a period of not less than one (1) year from the date on which the Monitor's term expires. Nor will BGH discuss with the Monitor the possibility of further employment or affiliation during the Monitor's term.

BGH's Agreement

14. In exchange for the Offices' agreement in Paragraphs 8 and 19-20, BGH, on behalf of itself and its subsidiaries and affiliates, agrees that Paragraphs 3, 5, 6, and 21-29 of this Agreement will apply equally to BGH in addition to LBI, and that BGH will be bound by the terms and obligations contained in these Paragraphs.

15. In addition, BGH agrees to guarantee, secure, and ensure delivery by LBI of all payments due from LBI under the Agreement. BGH acknowledges that no tax deductions may be sought in connection with the payment of the fine. BGH hereby stipulates and agrees not to institute or participate in any proceeding to interfere with, alter, or bar enforcement of any fine imposed on LBI pursuant to this Agreement.

16. BGH and all of its subsidiaries waive all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without

limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

17. BGH waives all defenses based on the statute of limitations, venue, speedy trial under the United States Constitution and the Speedy Trial Act, and any and all constitutional and non-jurisdictional defenses with respect to any prosecution of BGH or its subsidiaries or affiliates that is not time-barred on the date that this Agreement is signed related to or arising from the conduct charged in the Complaint to be filed against the Company, in the event that BGH or any of its subsidiaries or affiliates breaches this Agreement or fails to fulfill its commitments under this Agreement for any reason, provided such prosecution is brought within one year of such breach or failure plus the remaining time period of the statute of limitations as of the date that this Agreement is signed.

18. In connection with this Agreement, BGH will provide to the Offices a certified resolution of the Board of Directors of BGH, attached as Attachment C hereto, that provides that BGH agrees to the undertakings described herein.

Deferred Prosecution

19. In consideration of: (a) the past and future cooperation of LBI, BGH, and their subsidiaries and affiliates described in Paragraphs 4 and 5 above; (b) LBI's payment of a criminal penalty of \$17,100,000; (c) BGH's and LBI's implementation and maintenance of remedial measures as described in Paragraphs 9 and 10 above; and (d) BGH's retention of an Independent Compliance Monitor as described in Paragraphs 11-13 above, the Offices agree that any prosecution of LBI for the conduct set forth in the attached Statement of Facts, and for the conduct that BGH and LBI disclosed to the Offices prior to the signing of this Agreement, be and hereby is deferred for the Term of this Agreement. To the extent there is conduct disclosed by

BGH or LBI that the parties have specifically discussed and agreed is not covered by this Agreement, such conduct will not be exempt from further prosecution and is not within the scope of or relevant to this Agreement.

20. The Offices further agree that if LBI and BGH fully comply with all of their obligations under this Agreement, the Offices will not continue the criminal prosecution against LBI described in Paragraph 1 and, at the conclusion of the Term, this Agreement shall expire. Within six (6) months of the Agreement's expiration, the Offices shall seek dismissal with prejudice of the criminal Complaint filed against LBI described in Paragraph 1, and agree not to file charges in the future against LBI, BGH or any of their subsidiaries or affiliates based on the conduct described in this Agreement and Attachment A or disclosed to the Offices prior to the signing of this Agreement.

Breach of the Agreement

21. If, during the Term of this Agreement, LBI (a) commits any felony under U.S. federal law; (b) provides in connection with this Agreement deliberately false, incomplete, or misleading information; (c) fails to cooperate as set forth in Paragraphs 5 and 6 of this Agreement; (d) fails to implement a compliance program as set forth in Paragraphs 9 and 10 of this Agreement and Attachment C; (e) fails to retain an Independent Compliance Monitor as set forth in Paragraphs 11-13 of this Agreement and Attachment D; (f) commits any acts that, had they occurred within the jurisdictional reach of the FCPA, would be a violation of the FCPA; or (g) otherwise fails specifically to perform or to fulfill completely each of LBI's obligations under the Agreement, regardless of whether the Office becomes aware of such a breach after the Term of the Agreement is complete, LBI, BGH, and their subsidiaries and affiliates shall thereafter be subject to prosecution for any federal criminal violation of which the Offices have knowledge,

including, but not limited to, the charges in the Complaint described in Paragraph 1, which may be pursued by the Offices in the U.S. District Court for the District of New Jersey or any other appropriate venue. Determination of whether LBI has breached the Agreement and whether to pursue prosecution of LBI, BGH or their subsidiaries or affiliates shall be in the Offices' sole discretion. Any such prosecution may be premised on information provided by LBI, BGH or their subsidiaries or affiliates. Any such prosecution relating to the conduct described in the attached Statement of Facts or relating to conduct known to the Offices prior to the date on which this Agreement was signed that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against LBI, BGH, or their subsidiaries or affiliates, notwithstanding the expiration of the statute of limitations, between the signing of this Agreement and the expiration of the Term plus one year. Thus, by signing this Agreement, LBI agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement shall be tolled for the Term plus one year.

22. In the event the Offices determine that LBI has breached this Agreement, the Offices agree to provide LBI with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, LBI shall have the opportunity to respond to the Offices in writing to explain the nature and circumstances of such breach, as well as the actions LBI has taken to address and remediate the situation, which explanation the Offices shall consider in determining whether to pursue prosecution of LBI, BGH, or its subsidiaries or affiliates.

23. In the event that the Offices determine that LBI has breached this Agreement: (a) all statements made by or on behalf of LBI, BGH, or their subsidiaries or

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

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

25. No later than 90 days prior to the expiration of the period of deferred prosecution specified in this Agreement, LBI, by the Chief Executive Officer of LBI and the Chief Financial Officer of LBI, will certify to the Department that LBI has met its disclosure

obligations pursuant to Paragraph 6 of this Agreement. Such certification will be deemed a material statement and representation by LBI to the executive branch of the United States for purposes of 18 U.S.C. § 1001, and it will be deemed to have been made in the judicial district in which this Agreement is filed.

Sale or Merger of Company

26. Except as may otherwise be agreed by the parties hereto in connection with a particular transaction, LBI agrees that in the event it sells, merges, or transfers all or substantially all of its business operations as they exist as of the date of this Agreement, whether such sale is structured as a sale, asset sale, merger, or transfer, it shall include in any contract for sale, merger, or transfer a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement.

Public Statements by Company

27. LBI expressly agrees that it shall not, through present or future attorneys, officers, directors, employees, agents or any other person authorized to speak for LBI make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by LBI set forth above or the facts described in the attached Statement of Facts. Any such contradictory statement shall, subject to cure rights of LBI described below, constitute a breach of this Agreement, and LBI, BGH, and their subsidiaries and affiliates thereafter shall be subject to prosecution as set forth in Paragraphs 21-24 of this Agreement. The decision whether any public statement by any such person contradicting a fact contained in the Statement of Facts will be imputed to LBI for the purpose of determining whether it has breached this Agreement shall be at the sole discretion of the Offices. If the Offices determine that a public statement by any such person contradicts in whole or in part a statement contained in the Statement of Facts, the Offices

shall so notify LBI, and LBI may avoid a breach of this Agreement by publicly repudiating such statement(s) within five (5) business days after notification. LBI shall be permitted to raise defenses and to assert affirmative claims in other proceedings relating to the matters set forth in the Statement of Facts provided that such defenses and claims do not contradict, in whole or in part, a statement contained in the Statement of Facts. This Paragraph does not apply to any statement made by any present or former officer, director, employee, or agent of LBI in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on behalf of LBI.

28. LBI agrees that if it issues a press release or holds any press conference in connection with this Agreement, LBI shall first consult with the Offices to determine (a) whether the text of the release or proposed statements at the press conference are true and accurate with respect to matters between the Offices and LBI; and (b) whether the Offices have any objection to the release.

29. The Offices agree, if requested to do so, to bring to the attention of law enforcement and regulatory authorities the facts and circumstances relating to the nature of the conduct underlying this Agreement, including the nature and quality of LBI's, BGH's, and their subsidiaries' and affiliates' cooperation and remediation. By agreeing to provide this information to such authorities, the Offices are not agreeing to advocate on behalf of LBI, BGH, or their subsidiaries or affiliates, but rather are agreeing to provide facts to be evaluated independently by such authorities.

Limitations on Binding Effect of Agreement

30. This Agreement is binding on LBI and the Offices but specifically does not bind any other component of the Department of Justice, other federal agencies, or any state,

local, or foreign law enforcement or regulatory agencies, or any other authorities, although the Offices will bring the cooperation of LBI, BGH, and their compliance with their other obligations under this Agreement to the attention of such agencies and authorities if requested to do so by LBI.

Notice

31. Any notice to the Offices under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to Deputy Chief – FCPA Unit, Fraud Section, Criminal Division, U.S. Department of Justice, 1400 New York Ave, NW, Washington, D.C. 20005, and to Criminal Chief, U.S. Attorney's Office, District of New Jersey, 970 Broad Street, 7th Floor, Newark, NJ 07102. Any notice to LBI or BGH under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to Michael B. Himmel, Esq., Lowenstein Sandler LLP, 65 Livingston Avenue, Roseland, New Jersey 07068, and to Brian Whisler, Esq., Baker & McKenzie LLP, 815 Connecticut Ave., NW, Washington, D.C. 20006. Notice shall be effective upon actual receipt by the Offices or LBI.


Complete Agreement

32. This Agreement sets forth all the terms of the agreement between LBI, BGH, and the Offices. No amendments, modifications, or additions to this Agreement shall be valid unless they are in writing and signed by the Offices, the attorneys for LBI and BGH, and a duly authorized representative of LBI and BGH.

AGREED:

FOR LOUIS BERGER INTERNATIONAL:

Date: _____

By: 
Nicholas J. Masucci
Louis Berger International

Date: _____

By: 
Michael B. Himmel
Lowenstein Sandler LLP

Date: _____

By: _____
Brian Whisler
Baker & McKenzie LLP

FOR BERGER GROUP HOLDINGS

Date: _____

By: 
Nicholas J. Masucci
Berger Group Holdings

Date: _____


By: 
Michael B. Himmel
Lowenstein Sandler LLP

Date: _____

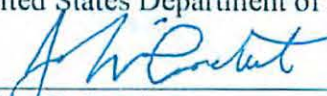
By: _____
Brian Whisler
Baker & McKenzie LLP

FOR THE DEPARTMENT OF JUSTICE:

PAUL J. FISHMAN
United States Attorney
District of New Jersey


Thomas J. Eicher
Scott B. McBride
Assistant United States Attorneys

ANDREW WEISSMANN
Chief, Fraud Section
Criminal Division
United States Department of Justice


John W. Borchert
Trial Attorney

AGREED:

FOR LOUIS BERGER INTERNATIONAL:


Date: _____

By: _____
Nicholas J. Masucci
Louis Berger International

Date: _____

By: _____
Michael B. Himmel
Lowenstein Sandler LLP

Date: _____

By: 
Brian Whisler
Baker & McKenzie LLP

FOR BERGER GROUP HOLDINGS


Date: _____

By: _____
Nicholas J. Masucci
Berger Group Holdings

Date: _____


By: _____
Michael B. Himmel
Lowenstein Sandler LLP

Date: _____


By: 
Brian Whisler
Baker & McKenzie LLP

FOR THE DEPARTMENT OF JUSTICE:

PAUL J. FISHMAN
United States Attorney
District of New Jersey


Thomas J. Eicher
Scott B. McBride
Assistant United States Attorneys

ANDREW WEISSMANN
Chief, Fraud Section
Criminal Division
United States Department of Justice


John W. Borchert
Trial Attorney

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for LOUIS BERGER INTERNATIONAL ("LBI"). I understand the terms of this Agreement and voluntarily agree, on behalf of LBI, to each of its terms. Before signing this Agreement, I consulted outside counsel for LBI. Counsel fully advised me of the rights of LBI, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

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

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

Date: _____

LOUIS BERGER INTERNATIONAL

By: _____
Nicholas J. Masucci
Chief Executive Officer

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for LOUIS BERGER INTERNATIONAL ("LBI"). I understand the terms of this Agreement and voluntarily agree, on behalf of LBI, to each of its terms. Before signing this Agreement, I consulted outside counsel for LBI. Counsel fully advised me of the rights of LBI, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

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Date: _____

LOUIS BERGER INTERNATIONAL

By: 

Nicholas J. Masucci
Chief Executive Officer

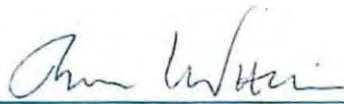
CERTIFICATE OF COUNSEL

I am counsel for LOUIS BERGER INTERNATIONAL ("LBI") in the matter covered by this Agreement. In connection with such representation, I have examined relevant Company documents and have discussed the terms of this Agreement with LBI Board of Directors. Based on our review of the foregoing materials and discussions, I am of the opinion that the representative of LBI has been duly authorized to enter into this Agreement on behalf of LBI and that this Agreement has been duly and validly authorized, executed, and delivered on behalf of LBI and is a valid and binding obligation of LBI. Further, I have carefully reviewed the terms of this Agreement with the Board of Directors and the General Counsel of LBI. I have fully advised them of the rights of LBI, of possible defenses, of the Sentencing Guidelines' provisions and of the consequences of entering into this Agreement. To my knowledge, the decision of LBI to enter into this Agreement, based on the authorization of the Board of Directors, is an informed and voluntary one.


Date: _____

Baker & McKenzie LLP

Lowenstein Sandler LLP

By: 

Brian Whisler
Counsel for Louis Berger International

By: 

Michael B. Himmel
Counsel for Louis Berger International

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for BERGER GROUP HOLDINGS, INC. ("BGH"). I understand the terms of this Agreement and voluntarily agree, on behalf of BGH, to each of its terms. Before signing this Agreement, I consulted outside counsel for BGH. Counsel fully advised me of the rights of BGH, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

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

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

Date: _____

BERGER GROUP HOLDINGS, INC.

By: _____
Nicholas J. Masucci
President and Chief Executive Officer

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for BERGER GROUP HOLDINGS, INC. ("BGH"). I understand the terms of this Agreement and voluntarily agree, on behalf of BGH, to each of its terms. Before signing this Agreement, I consulted outside counsel for BGH. Counsel fully advised me of the rights of BGH, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

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

Date: _____

BERGER GROUP HOLDINGS, INC.

By: Nicholas J. Masucci
Nicholas J. Masucci
President and Chief Executive Officer

CERTIFICATE OF COUNSEL

I am counsel for BERGER GROUP HOLDINGS, INC. ("BGH"), in the matter covered by this Agreement. In connection with such representation, I have examined relevant Company documents and have discussed the terms of this Agreement with BGH Board of Directors. Based on our review of the foregoing materials and discussions, I am of the opinion that the representative of BGH has been duly authorized to enter into this Agreement on behalf of BGH and that this Agreement has been duly and validly authorized, executed, and delivered on behalf of BGH and is a valid and binding obligation of BGH. Further, I have carefully reviewed the terms of this Agreement with the Board of Directors and the General Counsel of BGH. I have fully advised them of the rights of BGH, of possible defenses, of the Sentencing Guidelines' provisions and of the consequences of entering into this Agreement. To my knowledge, the decision of BGH to enter into this Agreement, based on the authorization of the Board of Directors, is an informed and voluntary one.

Date: _____

Baker & McKenzie LLP

Lowenstein Sandler LLP

By: 

Brian Whisler
Counsel for Berger Group Holdings, Inc.

By: 

Michael B. Himmel
Counsel for Berger Group Holdings, Inc.

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 United States Attorney's Office, District of New Jersey (the "Offices"), Louis Berger International, Inc., and Berger Group Holdings, Inc. Louis Berger International, Inc., and Berger Group Holdings, Inc., hereby agree and stipulate that the following information is true and accurate. Louis Berger International, Inc., admits, accepts, and acknowledges that it is responsible for the acts of its officers, directors, employees, agents and predecessors in interest as set forth below. Should the Offices pursue the prosecution that is deferred by this Agreement, Louis Berger International, Inc., 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 Complaint attached to this Agreement:

Relevant Entities and Individuals

2. The defendant, Louis Berger International, Inc. ("LBI"), was a company incorporated under the laws of Delaware and, thus, a "domestic concern" as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1)(B). LBI was a wholly-owned subsidiary of Berger Group Holdings, Inc. ("BGH"), and as part of a corporate restructuring assumed responsibility for all international operations and liabilities of BGH previously conducted by other BGH subsidiaries or affiliates (hereinafter collectively referred to as "the Company"). The Company was a privately-held consulting firm that provided engineering, architecture, program and construction management services.

3. Richard Hirsch was a high-level executive at the Company, located in the Philippines who at times oversaw the Company's overseas operations in, *inter alia*, Indonesia and Vietnam.

4. James McClung was a high-level executive at the Company, located in India, who at times oversaw the Company's overseas operations in Vietnam and India.

5. "Employee 1" and "Employee 2" were citizens and nationals of Indonesia employed by the Company in Jakarta, Indonesia.

6. "Employee 3" was a citizen and national of the United States employed by the Company in Vietnam in various roles, including business development.

7. "The Foundation" was a non-government organization which the Company engaged as its local sponsor, and which served as a key source for local labor and operational support in Vietnam.

Overview of the Bribery Scheme

8. From in or about 1998 until in or about 2010, the Company, through its employees and agents, engaged in a scheme to pay bribes to various foreign officials in Indonesia, Vietnam, India and Kuwait to secure contracts with government agencies and instrumentalities in those countries on behalf of the Company and its subsidiaries and affiliates. The Company, through its employees and agents, together with others, discussed making the bribe payments to the foreign officials and the ways in which they intended to conceal the corrupt payments. For example, the Company, through its employees and agents, together with others, used terms like "commitment fee," "counterpart per diem," "marketing fee" and "field operation expenses" as code words to conceal the true nature of the bribe payments and utilized

cash disbursement forms and invoices which did not truthfully describe the services provided or the purpose of the payment.

9. In order to effectuate the payments, the Company, through its employees and agents, utilized various methods. In many instances, employees and agents of the Company submitted inflated and fictitious invoices to generate cash that was then used later for the payment of bribes through intermediaries. The Company, through its employees and agents, would then wire certain funds from the bank accounts of the Company in New Jersey to bank accounts in various other countries for the purpose of making payments to foreign officials. In Vietnam, the Company, through its employees and agents, used the Foundation – which was in part a local labor pool – as a conduit for the payment of bribes to foreign government officials in Vietnam to conceal the bribe payments.

10. In total, the Company, through its employees and agents, together with others, made payments directly and indirectly to foreign officials, including in Indonesia, Vietnam, India and Kuwait, totaling approximately \$3,934,431.

Details of the Bribery Scheme

Corrupt Conduct in Indonesia

11. The Company began operations in Indonesia in 1967, and closed its office in Jakarta in June 2011. The Company, through its employees and agents, paid “commitment fees” and “counterpart per diems” in connection with their contracts with the Indonesian government. These purported fees were actually bribes paid to foreign officials that were paid from the Company’s New Jersey-based bank account by wire transfers to the Company’s account in Indonesia or to the accounts of sub-contractors who had provided no legitimate services to the Company. The Company, through its employees, relied on agents and

intermediaries to handle the payment of bribes directly to foreign officials. Employee 1 and Employee 2 made bribe payments either directly or through companies owned by them.

12. Beginning in approximately 2005, the Company sought contracts with the Indonesian government as a subcontractor by interposing a one-man consulting company as the prime contractor in order to avoid directly paying bribes to foreign officials even though the Company was well aware that the prime contractor was paying bribes.

13. Then in approximately 2008, when the law firm handling the Company's internal review directed scrutiny at Employee 1, Richard Hirsch and others attempted to discourage Employee 1 from speaking with the Company's review team. And in 2009 and 2010, Richard Hirsch and others attempted to hide Employee 1 from investigators by stopping all payments to Employee 1.

14. In or about August 2003, an agent of the Company sent an e-mail to Richard Hirsch regarding projects in Indonesia, stating,

Commitment fee is the misnomer for bribe money. The fee ranges from 3.5 percent to 20 percent. It is based on foreign and local currency remuneration. It is estimated that the balance on commitment fee payable for existing projects stands at about \$210,000. A percentage of the commitment fee is initially paid after the mobilization advance is received, and the balance is spread out during the life of the contract.

15. On or about May 18, 2004, an agent of the Company sent an e-mail to Richard Hirsch stating, "[Employee 2] called me about the 'counterpart' per diem for our subcontractors. Apparently, [Employee 1] has not received them in her account."

16. On or about May 18, 2004, Richard Hirsch responded to the e-mail from an agent of the Company referenced in Paragraph 14 above, stating, "That's surprising. I'll check with [the Company's home office in New Jersey] today and advise."

17. On or about November 15, 2006, an agent of the Company sent an e-mail to Richard Hirsch stating, "If the commitment fee issue can't be avoided, what if we went in as a

sub and got a few choice slots and let the selected lead firm deal with any fees? Perhaps even [a consulting] firm upstairs of me [which was operated by a former Company employee] might be appropriate” to use as a prime contractor so that the Company would not directly be responsible for the bribe payment.

18. On or about November 15, 2006, Richard Hirsch responded to the e-mail from an agent of the Company referenced in Paragraph 16 above, stating, “[e]xcellent idea to sub to another firm as the lead which would be responsible for client relations. I am not willing to pay any commitment fees, however we could agree to a ‘management fee’ taken from our invoices by the lead firm. Go ahead and speak with [a consultant with whom we have worked] if you can and see if he’s interested. I’m not sure what we could bring to the table that he could not bring himself, but that’s a separate question, I guess.”

19. On or about November 15, 2006, an agent of the Company responded to the e-mail from Richard Hirsch referenced in Paragraph 17 above, stating, “[the consultant] seemed happy for the news and open to the association.”

20. On or about September 15, 2008, in anticipation of an interview by the Company’s lawyers of Employee 1 in connection with the bribery scheme, an agent of the Company sent an e-mail to Employee 1 with a draft letter purporting to be from Employee 1 to Richard Hirsch for the purpose of passing on to the Company’s lawyers, stating, “I do not wish that the [Company] lawyers call me regarding their on-going internal reviews due to the long time that I have not worked with [the Company] and my current age, health and memory problems.”

21. On or about September 16, 2008, Employee 1 sent an e-mail to one of the Company’s outside lawyers, adopting the language of the letter referenced in Paragraph 19 above.

22. On or about February 9, 2009, Richard Hirsch sent an e-mail from his personal e-mail account to an agent of the Company stating,

[P]lease don't send any other emails about evaluation committees and commitment expectations. I know you're trying to say this properly but really there is no way to do so and if our emails are audited or intercepted these words are real red flags which forensic auditors will definitely understand. Fortunately your message and my reply was on Mozcom and not on the [the Company] server so this is not a problem in this case, but please don't ever forget this.

23. On or about April 6, 2010, Richard Hirsch sent an e-mail to Employee 1 stating,

As it turns out the lawyers and US govt are still asking questions about our old books and invoices in Indonesia. So we do not to create [sic] the impression you are working for us now, and thus subject to inquiry by the lawyers, I have been advised to stop all payments to you, however small an amount, for your expenses. I hope you will understand this and not be upset. At some point these questions will end and we can get back to a normal relationship. In the meantime, thanks for your patience.

24. On or about April 7, 2010, an agent of the Company sent an e-mail to Richard Hirsch stating, "To keep [Employee 1] happy and cover some of her expenses, is there any way to increase my current \$40 / day per diem rate and give the per diem rate increase to her? Just an idea."

25. On or about April 7, 2010, Richard Hirsch responded to the e-mail from the Company's agent referenced in Paragraph 23 above, stating, "No, not possible. We have to cut her off right now. We'll move through this but it's for her own good."

Corrupt Conduct in Vietnam

26. The Company began its operations in Vietnam during the early 1990s and secured numerous public contracts across the country. In order to obtain and maintain these contracts, the Company through its employees and agents paid bribes to Vietnamese officials through the Foundation, a non-governmental organization that the Company funded. Sometimes the bribe money was disguised as "donations" to the Foundation paid from the Company's bank accounts in New Jersey to a bank account jointly held by the Company and the Foundation in

Vietnam. On other occasions the bribe money was masked by invoices from the Foundation that were paid from the Company's New Jersey account to the joint account. The bribe money was then withdrawn from the joint account as cash and paid directly to foreign officials by Richard Hirsch, Employee 3, and others.

27. Beginning in approximately 2005, when James McClung assumed responsibility for the Company's Vietnam operations, the Company through its employees and agents generated bribe money by paying vendors for services that had never actually been rendered; those vendors would then serve as conduits for the payment of bribe money to foreign officials. At that time, Richard Hirsch informed James McClung that McClung would need to find a new way to generate bribe money for foreign officials because the Foundation would soon cease operations.

28. On or about August 1, 2003, a draft invoice to the Company was created on the computer used by Richard Hirsch's assistant, which purported to invoice the Company for an amount due of \$18,000.

29. On or about August 1, 2003, an identical invoice to the one described in Paragraph 27 above, in the same amount of \$18,000, but on the letterhead of the Foundation, was submitted and approved by Richard Hirsch for the purpose of passing on bribe money to government officials in Vietnam.

30. On or about March 10, 2005, an agent of the Company sent a memorandum to another agent of the Company stating, "my personal observation is that the members of the Evaluation Committee is [sic] giving [the Company] a hard time at this point in time, to force [the Company] to a 'commitment fee', which was customary in our old Vietnam projects, like [a prior project] for instance."

31. On or about February 9, 2007, an employee of the Company sent an e-mail stating, "I need a detailed info on which proposals work is being done for as well as

descriptions of other staff involved [sic] in this. 25K is a handsom [sic] amount of money and more information is required.”

32. On or about February 10, 2007, an employee of the Company responded to the e-mail referenced in Paragraph 30 above, stating, “I am ok to tell you what is to be paid for. But I am thinking whether it should be written throw [sic] e-mail or not. So I think better [a Company employee] will tell you today.”

33. On or about February 10, 2007, an employee of the Company responded to the e-mail referenced in Paragraph 31 above, stating, “No problem with detailed description — but probably not via e-mail message. I’ll contact [James McClung] via telephone or sms. Could you please check with [James McClung], say Sunday evening, and process the fund request.”

34. On or about February 3, 2008 an employee of the Company sent an e-mail to a regional accountant and others stating, “I’ll be requesting personal advance from Bangkok office (THB equivalent to about US\$13,000). [James McClung] has approved this request.”

35. On or about May 6, 2008 an employee of the Company sent an e-mail to Employee 3 stating, “Need urgent help from you. Need a invoice from either [a third party vendor of the Company] or [another third party vendor of the Company] to liquidate my advance for you know what . . . Can you send me an signed invoice statement (as usual) with the following: . . . ‘In reference with above, we are herewith submitting invoice in the amount of US\$13,000 — logistics support and travel cost.’”

36. On or about August 26, 2008, a divisional accountant of the Company sent an e-mail to another accountant of the Company stating, “Here is the settlement of [the regional director’s] advance \$13,657.72. The amount paid was Thai Baht 425,705 (equivalent to US\$13,000). The main frame was using different exchange rate that’s why the advance per your book was \$13,657.52.”

37. On or about April 20, 2010, an agent of the Company sent an e-mail to James McClung describing a meeting with another agent of the Company regarding several projects, stating,

[The Company's agent] stated that he agreed to \$200,000 for [the previous director of the government customer], wants to pay \$15,000 to [a government official] in Hanoi, wants to pay \$10,000 to [another government official]....He explained that he had discussed these figures of \$200,000 for [government customer] only, with [James McClung] and [James McClung] had agreed to it. I told him that I will discuss with [James McClung] and will get back to him about the total costs.....The new [government agency] director and some other [agency] staff is [sic] already asking for money.

38. On or about July 2, 2010, an agent of the Company sent an e-mail to an accountant for Company "re: Funds for Danang" stating, "Just to let you know that \$30,124 has been credited in my account on July 1, 2010."

Corrupt Conduct in India

39. The Company has operated in India since 1998 and had offices in Guragon, Mumbai, Chennai, and Hyderabad. Along with several consortium partners, the Company won two water development projects in Goa and Guwhati. The Company paid bribes to win both of those contracts. The bribe money was disguised as payments to vendors for services that had never actually been rendered. The Company through its employees and agents and its consortium partners kept track of the bribe payments by a circulating a spreadsheet amongst themselves showing the proportionate share of each bribe that they had paid to the foreign officials overseeing their work on the Goa and Guwhati projects.

40. On or about December 30, 2009, a consortium partner sent an e-mail to agents of the Company, stating "I enclose the working for the shares between the firms for the Goa Project. Pls go through the same and we could discuss. Pls see the sheet 'Master.'"

41. On or about August 17, 2010, a consortium partner sent an e-mail to James McClung, stating, "As discussed I enclose the details as provided by [third party intermediary]. I have also added the details of amounts paid to [the Company] as of date by [the consortium partner] in the same sheet." The attachment included an entry, "Paid by [an employee of the Company] to Minister on behalf of agent."

42. On or about August 26, 2010, a consortium partner prepared a payment tracking schedule stating that the Company had paid \$976,630 in bribes in connection with the Goa Project to date.

Corrupt Conduct in Kuwait

43. In approximately 2005, the Company won a \$66 million road construction project with the Kuwait Ministry of Public Works. In order to secure that contract, the Company through its employees and agents and its joint venture partner made a series of corrupt payments up to 40,000Kuwaiti Dollars (approximately \$71,000) to an official with the Ministry of Public Works. Some of the payments were made upfront under the guise of "proposal" costs. Other payments were made through a purported contract for "business development" with another firm.

44. On or about September 8, 2010, a local joint venture partner to the Company sent an email to a high-level executive at the Company as follows:

Yesterday the cheque of KD 10,000 was credited in [Kuwaiti government official's] co. Which is a part/installment of KD 40,000, the rest will be followed by intervals of KD 10,000 on weekly bases [sic]. All the above was conveyed & noted to [the Kuwaiti government official] & he agreed.

45. In an e-mail to a high-level executive at the Company dated December 1, 2010, an agent of the Company confirmed a meeting with a Kuwaiti government official for December 16, 2010.

46. On or about December 28, 2010, a local joint venture partner sent an email to a high-level executive at the Company that the use of an intermediary firm that could bill the joint venture for services rendered “was discussed in the meeting on the cash part [the Kuwaiti government official] seeked for [sic].”

ATTACHMENT B

CERTIFICATE OF CORPORATE RESOLUTIONS FOR LBI

WHEREAS, LOUIS BERGER INTERNATIONAL (“LBI”) has been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section and the United States Attorney’s Office, District of New Jersey (the “Offices”), regarding issues arising in relation to certain improper payments to foreign officials to assist in obtaining and retaining business for LBI; and

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

WHEREAS, LBI’s General Counsel, Tobias Trautner, together with outside counsel for LBI, have advised the Board of Directors of LBI of its rights, possible defenses, the Sentencing Guidelines’ provisions, and the consequences of entering into such agreement with the Office;

Therefore, the Board of Directors has RESOLVED that:

1. LBI (a) acknowledges the filing of the Complaint charging LBI with one count of violating Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 (“FCPA”), as amended, Title 15, United States Code, Section 78dd-2; (b) waives indictment on such charges and enters into a deferred prosecution agreement with the Office; and (c) agrees to accept a monetary penalty against LBI totaling \$17,100,000, and to pay such penalty to the United States Treasury with respect to the conduct described in the Complaint;
2. LBI accepts the terms and conditions of this Agreement, including, but not limited to, (a) a knowing waiver of its rights to a speedy trial pursuant to the Sixth Amendment

to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); and (b) a knowing waiver for purposes of this Agreement and any charges by the United States arising out of the conduct described in the attached Statement of Facts of any objection with respect to venue and consents to the filing of the Complaint, as provided under the terms of this Agreement, in the United States District Court for the District of New Jersey; and (c) a knowing waiver of any defenses based on the statute of limitations for any prosecution relating to the conduct described in the attached Statement of Facts or relating to conduct known to the Offices prior to the date on which this Agreement was signed that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement;

3. The President and Chief Executive Officer of LBI, Nicholas J. Masucci, is hereby authorized, empowered and directed, on behalf of LBI, 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 General Counsel of LBI, Tobias Trautner, may approve;

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

5. All of the actions of the President and Chief Executive Officer of LBI, Nicholas J. Masucci, 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 LBI.

Date: _____

By:  _____
Michael Reap
Corporate Secretary
LOUIS BERGER INTERNATIONAL

5. All of the actions of the President and Chief Executive Officer of LBI, Nicholas J. Masucci, 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 LBI.

Date: _____

By: _____
Michael Reap
Corporate Secretary
LOUIS BERGER INTERNATIONAL

CERTIFICATE OF CORPORATE RESOLUTIONS FOR BGH

WHEREAS, BERGER GROUP HOLDINGS, INC. ("BGH") has been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section and the United States Attorney's Office, District of New Jersey (the "Offices"), regarding issues arising in relation to certain improper payments to foreign officials to assist in obtaining and retaining business; and

WHEREAS, in order to resolve such discussions, it is proposed that BGH (on behalf of itself and its subsidiaries and affiliates) enter into a certain agreement with the Offices; and

WHEREAS, BGH's General Counsel, Michael Reap, together with outside counsel for BGH, have advised the Board of Directors of BGH of its rights, possible defenses, the Sentencing Guidelines' provisions, and the consequences of entering into such agreement with the Office;

Therefore, the Board of Directors has RESOLVED that:

1. BGH (a) acknowledges the filing of the Complaint against its subsidiary, LOUIS BERGER INTERNATIONAL ("LBI"), charging LBI with one count of violating Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, Title 15, United States Code, Section 78dd-2; (b) enters into a deferred prosecution agreement with the Office; and (c) agrees to accept a monetary penalty against LBI totaling \$17,100,000, and to pay such penalty to the United States Treasury with respect to the conduct described in the Complaint if LBI does not pay such monetary penalty within the time period specified in the Agreement;

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

3. **The President and Chief Executive Officer of BGH, Nicholas J. Masucci, is hereby authorized, empowered and directed, on behalf of BGH and its subsidiaries and affiliates, 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 General Counsel of BGH, Michael Reap, may approve;**

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

5. All of the actions of the President and Chief Executive Officer of BGH, Nicholas J. Masucci, 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 BGH and its subsidiaries and affiliates.

Date: _____

By: _____
Michael Reap
Corporate Secretary
BERGER GROUP HOLDINGS, INC.

5. All of the actions of the President and Chief Executive Officer of BGH, Nicholas J. Masucci, 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 BGH and its subsidiaries and affiliates.

Date: _____

By: _____


Michael Reap
Corporate Secretary
BERGER GROUP HOLDINGS, INC.

ATTACHMENT C

CORPORATE COMPLIANCE PROGRAM

In order to address any deficiencies in their 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, Berger Group Holdings, Inc. ("BGH"), on behalf of itself and its subsidiaries and affiliates, agree to continue to conduct, in a manner consistent with all of their obligations under this Agreement, appropriate reviews of its existing internal controls, policies, and procedures.

Where necessary and appropriate, BGH agrees to adopt new or to modify existing internal controls, compliance code, policies, and procedures in order to ensure that it maintains: (a) a system of internal accounting controls designed to ensure that BGH makes and keeps fair and accurate books, records, and accounts; and (b) a rigorous anti-corruption compliance program that includes policies and procedures designed to detect and deter violations of the FCPA and other applicable anti-corruption laws. At a minimum, this should include, but not be limited to, the following elements to the extent they are not already part of BGH's existing internal controls, compliance code, policies, and procedures:

High-Level Commitment

1. BGH will ensure that its directors and senior management provide strong, explicit, and visible support and commitment to their corporate policy against violations of the anti-corruption laws and their compliance code.

Policies and Procedures

2. BGH 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. **BGH will develop and promulgate compliance policies and procedures designed to reduce the prospect of violations of the anti-corruption laws and BGH’s compliance codes, and BGH 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 BGH. 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 BGH 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”). BGH shall notify all employees that compliance with the policies and procedures is the duty of individuals at all levels of BGH. 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. **BGH 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. BGH will develop these compliance policies and procedures on the basis of a periodic risk assessment addressing the individual circumstances of BGH, in particular the foreign bribery risks facing BGH, including, but not limited to, 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 BGH's operations, degree of governmental oversight and inspection, and volume and importance of goods and personnel clearing through customs and immigration.

6. BGH 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. **BGH will assign responsibility to one or more senior corporate executives of BGH for the implementation and oversight of BGH'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, BGH's Boards of Directors, or any appropriate committee of the Boards 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. **BGH will implement mechanisms designed to ensure that its anti-corruption compliance codes, 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 BGH, 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. **BGH 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 BGH's anti-corruption compliance codes, policies, and procedures, including when they need advice on an urgent basis or in any foreign jurisdiction in which BGH operates.**

Internal Reporting and Investigation

10. **BGH 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 BGH's anti-corruption compliance codes, policies, and procedures.**

11. **BGH 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 BGH's anti-corruption compliance code, policies, and procedures.**

Enforcement and Discipline

12. **BGH will implement mechanisms designed to effectively enforce its compliance codes, policies, and procedures, including appropriately incentivizing compliance and disciplining violations.**

13. **BGH will institute appropriate disciplinary procedures to address, among other things, violations of the anti-corruption laws and BGH's anti-corruption compliance code, policies, and procedures by BGH'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. BGH 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. **BGH 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 BGH's commitment to abiding by anti-corruption laws, and of BGH's anti-corruption compliance codes, policies, and procedures; and**
- c. **seeking a reciprocal commitment from agents and business partners.**

15. **Where necessary and appropriate, BGH 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, BGH's compliance code, policies, or procedures, or the representations and undertakings related to such matters.**

Mergers and Acquisitions

16. **BGH will develop and implement policies and procedures for mergers and acquisitions requiring that BGH 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. BGH will ensure that BGH's compliance codes, policies, and procedures regarding the anti-corruption laws apply as quickly as is practicable to newly acquired businesses or entities merged with BGH and will promptly:

a. train the directors, officers, employees, agents, and business partners consistent with Paragraph 8 above on the anti-corruption laws and BGH's compliance codes, 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. BGH will conduct periodic reviews and testing of its anti-corruption compliance codes, policies, and procedures designed to evaluate and improve their effectiveness in preventing and detecting violations of anti-corruption laws and BGH'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 Berger Group Holdings, Inc. (“BGH”), on behalf of itself and its subsidiaries and affiliates, with respect to the Monitor and the Department of Justice (the “Department”), are as described below:

1. BGH will retain the Monitor for a period of three (3) years (the “Term of the Monitorship”), unless the early termination provision of Paragraph 4 of the Deferred Prosecution Agreement (the “Agreement”) is triggered.

Monitor’s Mandate

2. The Monitor’s primary responsibility is to assess and monitor BGH’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 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 BGH as they relate to BGH’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 and BGH's Obligations

3. **BGH 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 BGH'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, BGH shall: facilitate the Monitor's access to BGH'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). BGH 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. BGH shall use its best efforts to provide the Monitor with access to BGH's former employees and its third-party vendors, agents, and consultants.**

4. **Any disclosure by BGH to the Monitor concerning corrupt payments, false books and records, and internal accounting control failures shall not relieve BGH 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 BGH and the Monitor. In the event that BGH seeks to withhold from the Monitor access to information, documents, records, facilities, or current or former employees of BGH that may be subject to a claim of attorney-client privilege or to the attorney work-product doctrine, or where BGH reasonably believes production would otherwise be inconsistent with applicable law,**

BGH 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, BGH shall promptly provide written notice to the Monitor and the Department. 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 Department may then consider whether to make a further request for access to such information, documents, records, facilities, or employees.

Monitor's Coordination with BGH and Review Methodology

7. In carrying out the Mandate, to the extent appropriate under the circumstances, the Monitor should coordinate with BGH personnel, including in-house counsel, compliance personnel, and internal auditors, on an ongoing basis. The Monitor may rely on the product of BGH's processes, such as the results of studies, reviews, sampling and testing methodologies, audits, and analyses conducted by or on behalf of BGH, as well as BGH'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 BGH 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) BGH's gifts,

travel, and entertainment interactions with foreign officials; and (c) BGH's involvement with foreign officials, including the amount of foreign government regulation and oversight of BGH, such as licensing and permitting, and BGH's exposure to customs and immigration issues in conducting their 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 BGH's current anti-corruption policies and procedures; (b) on-site observation of selected systems and procedures of BGH 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 BGH's compliance program.

Monitor's Written Work Plans

10. To carry out the Mandate, during the Term of the Monitorship, the Monitor shall conduct an initial review and prepare an initial report, followed by at least two follow-up reviews and reports as described in Paragraphs 16-19 below. With respect to the initial report, after consultation with BGH and the Department, the Monitor shall prepare the first written work plan within thirty (30) calendar days of being retained, and BGH and the Department shall provide comments within thirty (30) calendar days after receipt of the written work plan. With respect to each follow-up report, after consultation with BGH and the Department, the Monitor shall prepare a written work plan at least thirty (30) calendar days prior to commencing a review, and BGH and the Department shall provide comments within twenty (20) calendar days after receipt of the written work plan. Any disputes between BGH and the

Monitor with respect to any written work plan shall be decided by the Department 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 BGH. It is not intended that the Monitor will conduct his or her own inquiry into the historical events that gave rise to the Agreement.

Initial Review

12. The initial review shall commence no later than one hundred twenty (120) calendar days from the date of the engagement of the Monitor (unless otherwise agreed by BGH, the Monitor, and the Department). The Monitor shall issue a written report within one hundred twenty (120) calendar days of commencing the initial review, setting forth the Monitor's assessment and, if necessary, making recommendations reasonably designed to improve the effectiveness of BGH's program for ensuring compliance with the anti-corruption laws. The Monitor should consult with BGH concerning his or her findings and recommendations on an ongoing basis and should consider BGH'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 BGH prior to finalizing them. The Monitor's reports need not recite or describe comprehensively BGH'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 BGH 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 and Criminal Chief, U.S. Attorney’s Office, District of New Jersey, 970 Broad Street, 7th Floor, Newark, NJ 07102. After consultation with BGH, 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 Department.

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

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

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

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

Follow-Up Reviews

16. A follow-up review shall commence no later than one hundred and twenty (120) calendar days after the issuance of the initial report (unless otherwise agreed by BGH, the Monitor and the Department). The Monitor shall issue a written follow-up report within ninety (90) 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 BGH, 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 Department.

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

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

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

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

Monitor's Discovery of Misconduct

20. Should the Monitor, during the course of his or her engagement, discover that:

- corrupt or otherwise suspicious payments (or transfers of property or interests) may have been offered, promised,

made, or authorized by any entity or person within BGH or any entity or person working, directly or indirectly, for or on behalf of BGH; or

- false books and records may have been maintained by BGH either (a) after the date on which this Agreement was signed or (b) that have not been adequately dealt with by BGH (collectively “improper activities”),

the Monitor shall promptly report such improper activities to BGH’s General Counsel, Chief Compliance Officer(s), and/or Audit Committee for further action. If the Monitor believes that any improper activities may constitute a violation of law, the Monitor also shall report such improper activities to the Department. The Monitor should disclose improper activities in his or her discretion directly to the Department, and not to BGH, only if the Monitor believes that disclosure to BGH would be inappropriate under the circumstances, and in such case should disclose the improper activities to the General Counsel, Chief Compliance Officer, and/or the Audit Committee of BGH as promptly and completely as the Monitor deems appropriate under the circumstances. The Monitor shall address in his or her reports the appropriateness of BGH’s response to all improper activities, whether previously disclosed to the Department or not. Further, in the event that BGH, or any entity or person working directly or indirectly for or on behalf of BGH, withholds information necessary for the performance of the Monitor’s responsibilities, if the Monitor believes that such withholding is without just cause, the Monitor shall disclose that fact to the Department. BGH shall not take any action to retaliate against the Monitor for any such disclosures or for any other reason. The Monitor shall report material

criminal or regulatory violations by BGH or any other entity discovered in the course of performing his or her duties, in the same manner as described above.

Meetings During Pendency of Monitorship

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

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

Contemplated Confidentiality of Monitor's Reports

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