

FILED ENTERED  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

AUG 10 2023

AT GREENBELT  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

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DEPUTY

UNITED STATES OF AMERICA

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v.

Criminal No. PJM-23-0262

CORPORACIÓN FINANCIERA  
COLOMBIANA S.A.

Defendant.

**DEFERRED PROSECUTION AGREEMENT**

Defendant Corporación Financiera Colombiana S.A. (“Corficolombiana” or the “Company”), pursuant to authority granted by the Company’s Board of Directors reflected in Attachment B, the United States Department of Justice, Criminal Division, Fraud Section (the “Fraud Section”), and the United States Attorney’s Office for the District of Maryland (the “Office”) (collectively, the “Fraud Section and the Office”) enter into this Deferred Prosecution Agreement (the “Agreement”). The terms and conditions of this Agreement are as follows:

**Criminal Information and Acceptance of Responsibility**

1. The Company acknowledges and agrees that the Fraud Section and the Office will file the attached one-count criminal information in the United States District Court for the District of Maryland (the “Information”) charging the Company with one count of conspiracy to commit an offense 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-1. In so doing, the Company: (a) knowingly waives any right it may have 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); (b) knowingly waives any objection with respect to venue for any charges by the United States arising out of the conduct described in the Statement of Facts attached hereto as Attachment A (“Statement of Facts”) and consents to the filing of the Information, as provided under the terms of this Agreement, in the United States District Court for the District of Maryland; and (c) agrees that the charges in the Information and any charges arising from the conduct described in the Statement of Facts are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement. The Fraud Section and the Office agree to defer prosecution of the Company pursuant to the terms and conditions described below.

2. The Company admits, accepts, and acknowledges that it is responsible under United States law for the acts of its officers, directors, employees, and agents as charged in the Information, and as set forth in the attached Statement of Facts, and that the allegations described in the Information and the facts described in the attached Statement of Facts are true and accurate. The Company agrees that, effective as of the date the Company signs this Agreement, in any prosecution that is deferred by this Agreement, it will not dispute the Statement of Facts set forth in this Agreement, and, in any such prosecution, the Statement of Facts shall be admissible as: (a) substantive evidence offered by the government in its case-in-chief and rebuttal case; (b) impeachment evidence offered by the government on cross-examination; and (c) evidence at any sentencing hearing or other hearing. In addition, in connection therewith, the Company agrees not to assert any claim under the United States Constitution, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, Section

1B1.1(a) of the United States Sentencing Guidelines, or any other federal rule that the Statement of Facts should be suppressed or is otherwise inadmissible as evidence in any form.

**Term of the Agreement**

3. This Agreement is effective for a period beginning on the date on which the Agreement is fully executed, or the Information is filed with the Court, whichever comes later, and ending three years from that date (the “Term”). The Company agrees, however, that, in the event the Fraud Section and the Office determine, in their sole discretion, that the Company has knowingly violated any provision of this Agreement or has failed to completely perform or fulfill each of the Company’s obligations under this Agreement, an extension or extensions of the Term may be imposed by the Fraud Section and the Office, in their sole discretion, for up to a total additional time period of one year, without prejudice to the Fraud Section’s and the Office’s right to proceed as provided in Paragraphs 17 to 21 below. Any extension of the Agreement extends all terms of this Agreement, including the terms of the reporting requirement in Attachment D, for an equivalent period. Conversely, in the event the Fraud Section and the Office find, in their sole discretion, that there exists a change in circumstances sufficient to eliminate the need for the reporting requirement in Attachment D, and that the other provisions of this Agreement have been satisfied, the Agreement may be terminated early.

**Relevant Considerations**

4. The Fraud Section and the Office enter into this Agreement based on the individual facts and circumstances presented by this case and by the Company, including:

- a. the nature and seriousness of the offense conduct, as described in the Statement of Facts, including the involvement of a high-level Corficolombiana executive in a

scheme to pay over \$23 million in bribes to Colombian government officials in exchange for a substantial public infrastructure project:

b. the Company did not receive voluntary disclosure credit pursuant to the Criminal Division's Corporate Enforcement and Voluntary Self-Disclosure Policy, or pursuant to U.S. Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 8C2.5(g)(1), because it did not voluntarily and timely disclose to the Fraud Section and the Office the conduct described in the Statement of Facts attached hereto as Attachment A;

c. the Company received credit for its cooperation with the Fraud Section's and the Office's investigation pursuant to U.S.S.G. § 8C2.5(g)(2) because it cooperated with their investigation and demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct; the Company also received credit for its cooperation pursuant to Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy, by, among other things, (i) timely providing facts obtained through the Company's extensive and robust internal investigation; (ii) making numerous detailed factual presentations that distilled certain key factual information uncovered through the Company's internal investigation to the Fraud Section and the Office, which assisted the Fraud Section and the Office in preserving and obtaining evidence as part of its own independent investigation; (iii) producing documents to the Fraud Section and the Office from Colombia that the Fraud Section and the Office may not otherwise have had access to in ways that did not implicate foreign data privacy laws and providing translations for those documents; (iv) providing sworn testimony from the Colombian criminal and administrative proceedings of relevant witnesses whom the Fraud Section and the Office were not able to independently interview; (v) proactively identifying information previously unknown to the Fraud Section and the Office; and (vi) collecting and producing voluminous

relevant documents and translations to the Fraud Section and the Office, including documents located outside the United States;

d. the Company provided to the Fraud Section and the Office all relevant facts known to it, including information about the individuals involved in the conduct described in the attached Statement of Facts and conduct disclosed to the Fraud Section and the Office prior to the Agreement;

e. the Company engaged in remedial measures, including: (i) conducting a root cause analysis of conduct identified during internal investigations and promptly taking action to enhance corporate governance and controls at joint venture entities and improve oversight of non-controlled joint ventures and investments; (ii) overhauling its compliance program, including strengthening its corporate governance and risk management structures, enhancing the independence and stature of its compliance function, and hiring additional experienced compliance personnel; (iii) enhancing the Company's third-party intermediary risk management process, including through the implementation of risk-based due diligence, screening, and ongoing monitoring and oversight procedures; (iv) implementing a robust process for reporting and investigating allegations of misconduct; (v) establishing a disciplinary process overseen by a cross-functional ethics committee; (vi) conducting testing of its anticorruption compliance program to ensure compliance enhancements and remediation have been fully implemented and are working in practice; and (vii) engaging in periodic review and updating of its anticorruption compliance program through regular risk assessments, culture reviews, and compliance audits.

f. the Company has enhanced and has committed to continuing to enhance its compliance program and internal controls, including ensuring that its compliance program

satisfies the minimum elements set forth in Attachment C to this Agreement (Corporate Compliance Program);

g. the Company has two prior administrative resolutions—namely a resolution with Colombia’s Superintendency of Industry and Commerce (“SIC”) related to the same conduct described in the attached Statement of Facts and an unrelated administrative resolution with Colombia’s Superintendency of Finance—but no prior criminal history;

h. the Company’s agreement to resolve concurrently an investigation by the U.S. Securities and Exchange Commission (“SEC”) relating to the conduct described in the attached Statement of Facts through a cease-and-desist proceeding, and agreeing to pay \$40,269,289 million in disgorgement and prejudgment interest;

i. the Company’s agreement to drop its appeal of the resolution of Colombia’s SIC to impose approximately \$25,900,000 as a penalty for violations of Colombian anti-trust law related to the same conduct described in the attached Statement of Facts (the “Colombian Resolution”), which the Fraud Section and the Office are crediting pursuant to JM I-12.100, in connection with the penalty in this Agreement;

j. the Company has agreed to continue to cooperate with the Fraud Section and the Office in any ongoing investigation as described in Paragraph 5 below; and

k. accordingly, after considering (a) through (j) above, the Fraud Section and the Office have determined that the appropriate resolution in this case is a deferred prosecution agreement and a penalty of \$40,600,000, which reflects a discount of 30 percent off of the bottom of the otherwise-applicable U.S. Sentencing Guidelines fine range, and forfeiture of \$28,630,000, which will be credited against disgorgement of ill-gotten profits that the Company pays to the SEC in a concurrent resolution.

1. Based on the Company's remediation and the state of its compliance program, and the Company's agreement to report to the Fraud Section and the Office as set forth in Attachment D to this Agreement (Corporate Compliance Reporting), the Fraud Section and the Office determined that an independent compliance monitor was unnecessary.

**Ongoing Cooperation and Disclosure Requirements**

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

burden of establishing the validity of any such assertion. The Company agrees that its cooperation pursuant to this Paragraph shall include, but not be limited to, the following:

a. The Company represents that it has timely and truthfully disclosed all factual information with respect to its activities, those of its subsidiaries, and affiliates, and those of its present and former directors, officers, employees, agents, and consultants relating to the conduct described in this Agreement and the attached Statement of Facts, as well as any other conduct under investigation by the Fraud Section and the Office at any time about which the Company has any knowledge. The Company further agrees that it shall promptly and truthfully disclose all factual information with respect to its activities, those of its parent company and affiliates, and those of its present and former directors, officers, employees, agents, and consultants about which the Company shall gain any knowledge or about which the Fraud Section may inquire. This obligation of truthful disclosure includes, but is not limited to, the obligation of the Company to provide to the Fraud Section and the Office, upon request, any document, record or other tangible evidence about which the Fraud Section and the Office may inquire of the Company, including evidence that is responsive to any requests made prior to the execution of this Agreement.

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

c. The Company shall use its best efforts to make available for interviews or testimony, as requested by the Fraud Section and the Office, present or former officers, directors,

employees, agents and consultants of the Company. This obligation includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with domestic or foreign law enforcement and regulatory authorities. Cooperation under this Paragraph shall include identification of witnesses who, to the knowledge of the Company, may have material information regarding the matters under investigation.

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

6. In addition to the obligations in Paragraph 5, during the Term, should the Company learn of any evidence or allegation of conduct that may constitute a violation of the FCPA anti-bribery or accounting provisions had the conduct occurred within the jurisdiction of the United States, the Company shall promptly report such evidence or allegation to the Fraud Section and the Office.

#### **Payment of Monetary Penalty**

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

- a. The November 1, 2021 U.S.S.G. are applicable to this matter.
- b. Offense Level. Based upon U.S.S.G. § 2C1.1, the total offense level is 40, calculated as follows:

§ 2C1.1(a)(2) Base Offense Level	12
§ 2C1.1(b)(1) More than One Bribe	+2
§ 2C1.1(b)(3) High-Level Official	+4
§§ 2C1.1(b)(2), 2B1.1(b)(1)(L) Value of Benefit Received (more than \$25,000,000)	<u>+22</u>
<b>TOTAL</b>	<b>40</b>

c. Base Fine.<sup>1</sup> Based upon U.S.S.G. § 8C2.4(a)(1), the base fine is \$72,500,000.

Culpability Score. Based upon U.S.S.G. § 8C2.5, the culpability score is 4, calculated as follows

(a) Base Culpability Score	5
(b)(5) The organization had 10 or more employees and an individual within substantial authority personnel participated in, condoned, or was willfully ignorant of the offense	+1
(g)(2) Cooperation, Acceptance	-2
<b>TOTAL</b>	<b>4</b>

Calculation of Fine Range:

Base Fine	\$72,500,000
Multipliers	0.8 (min) / 1.6 (max)
Fine Range	\$58,000,000 / \$116,000,000

8. The Fraud Section and the Office and the Company agree, based on the application of the Sentencing Guidelines, that the appropriate criminal penalty is \$40,600,000.

<sup>1</sup> Because the offense was committed prior to November 1, 2015, the offense level fine table that was set forth in the version of §8C2.4(d) that was in effect on November 1, 2014 was used for the Base Fine calculation. See U.S.S.G. § 8C2.4(e)(1) (Aug. 2021).

This reflects a 30 percent discount off the bottom of the applicable Sentencing Guidelines fine range. The Company and the Fraud Section and the Office agree that the Company will pay the United States Treasury \$20,300,000, equal to one-half of the Total Criminal Penalty, within ten business days of the execution of this Agreement. The Fraud Section and the Office agree to credit toward the amount paid by the Company and its subsidiary, Estudios y Proyectos del Sol S.A.S. ("Episol"), to authorities in Colombia related to the Colombian Resolution, up to a maximum of \$20,300,000, so long as the Company and Episol drop their appeals seeking to annul and redress the Colombian Resolution within three months of the execution of this Agreement. Should the Company and Episol fail to drop their appeals seeking to annul and redress the Colombian Resolution within three months of the execution of this Agreement, the Company will be required to pay the remaining amount of \$20,300,000 to the United States Treasury on or before three months from the date of the Agreement. The Company and the Fraud Section and the Office agree that this penalty is appropriate given the facts and circumstances of this case, including the Relevant Considerations described in Paragraph 4 of this Agreement. The Total Criminal Penalty is final and shall not be refunded. Furthermore, nothing in this Agreement shall be deemed an agreement by the Fraud Section and the Office that the Total Criminal Penalty is the maximum penalty that may be imposed in any future prosecution, and the Fraud Section and the Office are not precluded from arguing in any future prosecution that the Court should impose a higher fine, although the Fraud Section and the Office agree that under those circumstances, they will recommend to the Court that any amount paid under this Agreement should be offset against any fine the Court imposes as part of a future judgment. The Company acknowledges that no tax deduction may be sought in connection with the payment of any part of the Total Criminal Penalty. The Company shall not seek or accept

directly or indirectly reimbursement or indemnification from any source with regard to the penalty or disgorgement amounts that the Company pays pursuant to this Agreement or any other agreement entered into with an enforcement authority or regulator concerning the facts set forth in the attached Statement of Facts.

### **Forfeiture**

9. As a result of the Company's conduct, including the conduct set forth in the attached Statement of Facts, the parties agree the Fraud Section and the Office could institute a civil and/or criminal forfeiture action against certain funds held by the Company and that such funds would be forfeitable to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and 982(a)(2) and Title 28, United States Code, Section 2461(c). The Company hereby admits that the facts set forth in the Statement of Facts establish that at least \$28,630,000, representing the proceeds traceable to the commission of the offense, is forfeitable to the United States (the "Forfeiture Amount"). The Company releases any and all claims it may have to the Forfeiture Amount, agrees that the forfeiture of such funds may be accomplished either administratively or judicially at the Fraud Section's and the Office's election, and waives the requirements of any applicable laws, rules or regulations governing the forfeiture of assets, including notice of the forfeiture. If the Fraud Section and the Office seek to forfeit the Forfeiture Amount judicially or administratively, the Company consents to entry of an order of forfeiture or declaration of forfeiture directed to such funds and waives any defense it may have under Title 18, United States Code, Sections 981-984, including but not limited to notice, statute of limitations, and venue. The Company agrees to sign any additional documents necessary to complete forfeiture of the Forfeiture Amount. The Company also agrees that it shall not file any petitions for remission, restoration, or any other assertion of ownership or request for return.

relating to the Forfeiture Amount, or any other action or motion seeking to collaterally attach the seizure, restraint, forfeiture, or conveyance of the Forfeiture Amount, nor shall it assist any others in filing any such claims, petitions, actions, or motions.

10. The Fraud Section and the Office agree that anticipated payments by the Company in connection with concurrent resolutions with the SEC shall be credited against the Forfeiture Amount in the amount of \$28,630,000 (the "Forfeiture Credit Amount"). Because the Forfeiture Amount is equal to the Forfeiture Credit Amount, the Company shall not be required to pay a money judgment of forfeiture, provided that it pays the Forfeiture Credit Amount to the SEC in connection with the Company's resolution with the SEC. Should any amount of the Forfeiture Credit Amount not be paid to the SEC in connection with the Company's resolution with the SEC, the Company agrees that it shall make a payment of any remaining unpaid portion of the Forfeiture Credit Amount by wire transfer pursuant to instructions provided by the Fraud Section and the Office no later than 10 days after one year from the date of the Agreement.

11. Any portion of the Forfeiture Amount that is paid is final and shall not be refunded should the Fraud Section and the Office later determine that the Company has breached this Agreement and commence a prosecution against the Company. In the event of a breach of this Agreement and subsequent prosecution, the Fraud Section and the Office are not limited to the Forfeiture Amount. The Fraud Section and the Office agree that in the event of a subsequent breach and prosecution, they will recommend to the Court that the amounts paid pursuant to this Agreement be offset against whatever forfeiture the Court shall impose as part of its judgment. The Company understands that such a recommendation will not be binding on the Court.

**Conditional Release from Liability**

12. Subject to Paragraphs 17 to 21, the Fraud Section and the Office agree, except as provided in this Agreement, that they will not bring any criminal or civil case against the Company or any of its direct or indirect affiliates, subsidiaries or joint ventures relating to any of the conduct described in the attached Statement of Facts or the criminal Information filed pursuant to this Agreement. The Fraud Section and the Office, however, may use any information related to the conduct described in the attached Statement of Facts against the Company, or any of its 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 the Company or any of its affiliates or subsidiaries.

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

**Corporate Compliance Program**

13. The Company 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 its operations, including those of its affiliates, subsidiaries, agents, and joint ventures, and those of its contractors and subcontractors whose responsibilities include interacting with foreign officials or other activities carrying a high risk of corruption, including, but not limited to, the minimum elements set forth in Attachment C.

14. In order to address any deficiencies in its internal accounting controls, policies, and procedures, the Company represents that it has undertaken, and will continue to undertake in the future, in a manner consistent with all of its obligations under this Agreement, a review of its existing internal accounting controls, policies, and procedures regarding compliance with the FCPA and other applicable anti-corruption laws. Where necessary and appropriate, the Company agrees to adopt a new compliance program, or to modify its existing one, including internal controls, compliance policies, and procedures in order to ensure that it maintains: (a) an effective system of internal accounting controls designed to ensure the making and keeping of fair and accurate books, records, and accounts; and (b) a rigorous anti-corruption compliance program that incorporates relevant internal accounting controls, as well as policies and procedures designed to effectively detect and deter violations of the FCPA and other applicable anti-corruption laws. The compliance program, including the internal accounting controls system will include, but not be limited to, the minimum elements set forth in Attachment C.

#### **Corporate Compliance Reporting**

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

16. Thirty days prior to the expiration of the Term, the Company, by the Chief Executive Officer and Chief Compliance Officer, will certify to the Fraud Section and the Office, in the form of executing the document attached as Attachment F to this Agreement, that the Company has met its compliance obligations pursuant to this Agreement. Each certification will be deemed a material statement and representation by the Defendant to the executive branch of

the United States for purposes of Title 18, United States Code, Sections 1001 and 1519, and it will be deemed to have been made in the judicial district in which this Agreement is filed.

**Deferred Prosecution**

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

18. The Fraud Section and the Office further agree that if the Company fully complies with all of its obligations under this Agreement, the Fraud Section and the Office will not continue the criminal prosecution against the Company described in Paragraph 1 and, at the conclusion of the Term, this Agreement shall expire. Within six months after the Agreement's expiration, the Fraud Section and the Office shall seek dismissal with prejudice of the criminal Information filed against the Company described in Paragraph 1, and agree not to file charges in the future against the Company based on the conduct described in this Agreement and the attached Statement of Facts. If, however, the Fraud Section and the Office determine during this six-month period that the Company breached the Agreement during the Term, as described in Paragraph 17, the Fraud Section's and the Office's ability to extend the Term, as described in Paragraph 3, or to pursue other remedies, including those described in Paragraphs 17 to 21, remains in full effect.

**Breach of the Agreement**

19. If, during the Term, the Company (a) commits any felony under U.S. federal law; (b) provides in connection with this Agreement deliberately false, incomplete, or misleading information, including in connection with its disclosure of information about individual culpability; (c) fails to cooperate as set forth in Paragraphs 5 and 6 of this Agreement; (d) fails to implement a compliance program as set forth in Paragraphs 13 and 14 of this Agreement and Attachment C; (e) commits any acts that, had they occurred within the jurisdictional reach of the FCPA, would be a violation of the FCPA; or (f) otherwise fails to completely perform or fulfill each of the Company's obligations under the Agreement, regardless of whether the Fraud Section and the Office become aware of such a breach after the Term is complete, the Company and its subsidiaries and affiliates, shall thereafter be subject to prosecution for any federal criminal violation of which the Fraud Section and the Office have knowledge, including, but not limited to, the charges in the Information described in Paragraph 1, which may be pursued by the Fraud Section and the Office in the U.S. District Court for the District of Maryland or any other appropriate venue. Determination of whether the Company has breached the Agreement and whether to pursue prosecution of the Company, shall be in the Fraud Section's and the Office's sole discretion. Any such prosecution may be premised on information provided by the Company, its subsidiaries or affiliates, or the personnel of any of the foregoing. Any such prosecution relating to the conduct described in the Statement of Facts or relating to conduct known to the Fraud Section and the Office prior to the date on which this Agreement was signed that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the Company or its 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, the Company agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement shall be tolled for the Term plus one year. In addition, the Company agrees that the statute of limitations as to any violation of federal law that occurs during the Term will be tolled from the date upon which the violation occurs until the earlier of the date upon which the Fraud Section and the Office are made aware of the violation or the duration of the Term plus five years, and that this period shall be excluded from any calculation of time for purposes of the application of the statute of limitations.

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

21. In the event that the Fraud Section and the Office determine that the Company has breached this Agreement: (a) all statements made by or on behalf of the Company or its subsidiaries or affiliates to the Fraud Section and the Office or to the Court, including the attached Statement of Facts, and any testimony given by the Company or its 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 Fraud Section and

the Office against the Company or its subsidiaries or affiliates; and (b) the Company or its 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 the Company or its 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, the Company or its subsidiaries or affiliates, will be imputed to the Company or its subsidiaries or affiliates for the purpose of determining whether the Company or its subsidiaries or affiliates have violated any provision of this Agreement shall be in the sole discretion of the Fraud Section and the Office.

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

23. On the date that the period of deferred prosecution specified in this Agreement expires, the Company, by the Chief Executive Officer of the Company and the Chief Financial Officer of the Company, will certify to the Fraud Section and the Office, in the form of executing the document attached as Attachment E to this Agreement, that the Company has met its disclosure obligations pursuant to Paragraph 6 of this Agreement. Each certification will be deemed a material statement and representation by the Company to the executive branch of the

United States for purposes of 18 U.S.C. §§ 1001 and 1519, and it will be deemed to have been made in the judicial district in which this Agreement is filed.

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

24. Except as may otherwise be agreed by the parties in connection with a particular transaction, the Company agrees that in the event that, during the Term, it undertakes any change in corporate form, including if it sells, merges, or transfers business operations, that is material either to the Company's consolidated operations, or to the operations of any subsidiaries or affiliates involved in the conduct described in the attached Statement of Facts, as they exist as of the date of this Agreement, whether such sale is structured as a sale, asset sale, merger, transfer, or other change in corporate form, it shall include in any contract for sale, merger, transfer, or other change in corporate form a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement. The purchaser or successor in interest must also agree in writing that the Fraud Section's and the Office's ability to determine a breach under this Agreement is applicable in full force to that entity. The Company agrees that the failure to include these provisions in the transaction will make any such transaction null and void. The Company shall provide notice to the Fraud Section and the Office at least thirty (30) days prior to undertaking any such sale, merger, transfer, or other change in corporate form. If the Fraud Section and the Office notifies the Company prior to such transaction (or series of transactions) that they have determined that the transaction or transactions have the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined in the sole discretion of the Fraud Section and the Office, the Defendant agrees that such transaction or transactions will not be consummated. If at any time during the Term the Company engages in a transaction(s) that has the effect of circumventing or frustrating the enforcement purposes of this

Agreement, the Fraud Section and the Office may deem it a breach of this Agreement pursuant to Paragraphs 19 to 23 of this Agreement. Nothing herein shall restrict the Company from indemnifying (or otherwise holding harmless) the purchaser or successor in interest for penalties or other costs arising from any conduct that may have occurred prior to the date of the transaction, so long as such indemnification does not have the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined by the Fraud Section and the Office.

**Public Statements by Company**

25. The Company expressly agrees that it shall not, through present or future attorneys, officers, directors, employees, agents, or any other person authorized to speak for the Company make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by the Company set forth above or the facts described in the attached Statement of Facts. Any such contradictory statement shall, subject to cure rights of the Company described below, constitute a breach of this Agreement, and the Company thereafter shall be subject to prosecution as set forth in Paragraphs 19 to 23 of this Agreement. The decision whether any public statement by any such person contradicting a fact contained in the attached Statement of Facts will be imputed to the Company for the purpose of determining whether they have breached this Agreement shall be at the sole discretion of the Fraud Section and the Office. If the Fraud Section and the Office determine that a public statement by any such person contradicts in whole or in part a statement contained in the attached Statement of Facts, the Fraud Section and the Office shall so notify the Company, and the Company may avoid a breach of this Agreement by publicly repudiating such statement(s) within five business days after notification. The Company shall be permitted to raise defenses and to assert affirmative claims

in other proceedings relating to the matters set forth in the attached Statement of Facts provided that such defenses and claims do not contradict, in whole or in part, a statement contained in the attached Statement of Facts. This Paragraph does not apply to any statement made by any present or former officer, director, employee, or agent of the Company in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on behalf of the Company.

26. The Company agrees that if it, or any of its direct or indirect subsidiaries or affiliates issues a press release or holds any press conference in connection with this Agreement, the Company shall first consult with the Fraud Section and the Office 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 Fraud Section and the Office and the Company; and (b) whether the Fraud Section and the Office have any objection to the release.

27. The Fraud Section and the Office 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 the Company's cooperation and remediation. By agreeing to provide this information to such authorities, the Fraud Section and the Office are not agreeing to advocate on behalf of the Company, but rather are agreeing to provide facts to be evaluated independently by such authorities.

**Limitations on Binding Effect of Agreement**

28. This Agreement is binding on the Company and the Fraud Section and the Office, 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 Fraud Section and the Office will bring the cooperation of the Company and its compliance with its other obligations under this Agreement to the attention of such agencies and authorities if requested to do so by the Company. If the court refuses to grant exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(2), all the provisions of this Agreement shall be deemed null and void, and the Term shall be deemed to have not begun, except that the statute of limitations for any prosecution relating to the conduct described in the Statement of Facts shall be tolled from the date on which this Agreement is signed until the date the Court refuses to grant the exclusion of time plus six months, and except for the provisions contained within Paragraph 2 of this Agreement.

**Notice**

29. Any notice to the Fraud Section and the Office under this Agreement shall be given by electronic mail and/or personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, with copies by electronic mail, addressed to Chief, FCPA Unit, Fraud Section, Criminal Division, U.S. Department of Justice, 1400 New York Avenue NW, Washington, DC 20005, and David I. Salem, Assistant United States Attorney, United States Attorney's Office for the District of Maryland, Southern Division, 6406 Ivy Lane, Suite 800, Greenbelt, MD 20770. Any notice to the Company under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to Juan Daniel Frias Díaz, Corporate Vice President of Governance, Risk, and Compliance of Corficolombiana, Carrera 13 # 26-45, piso 8, Bogotá, Colombia, with copy to Tatiana Martins of Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017, or by electronic mail to those individuals or to other counsel or individuals identified to the Fraud

Section and the Office by the Company. Notice shall be effective upon actual receipt by the Fraud Section and the Office or the Company.

**Complete Agreement**

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

**AGREED:**

**FOR CORFICOLOMBIANA**

Date: 08/09/2023

By:   
\_\_\_\_\_  
Juan Daniel Frias Diaz  
Corporate Vice President of  
Governance, Risk, and Compliance  
Corficolombiana

Date: 08/09/2023

By:   
\_\_\_\_\_  
Angela Burgess  
Tatiana Martins  
Denis McInerney  
Davis Polk & Wardwell  
Counsel to Corficolombiana

**FOR THE DEPARTMENT OF JUSTICE:**

GLENN S. LEON  
Chief, Fraud Section  
Criminal Division  
United States Department of Justice

Date: 8/9/2023

By:



Michael Culhane Harper  
Trial Attorney

EREK L. BARRON  
United States Attorney  
District of Maryland

Date: 8/9/2023

By:



Digitally signed by DAVID SALEM  
Date: 2023.08.09 16:29:30 -0400'

David I. Salem  
Assistant United States Attorney

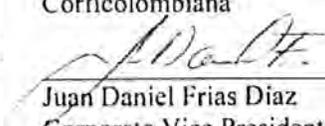
**COMPANY OFFICER'S CERTIFICATE FOR  
CORFICOLOMBIANA**

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

The terms of this Agreement have carefully been reviewed by the Board of Directors of the Company, including with outside counsel for the Company. Outside counsel has advised the Board of Directors fully of the rights of the Company, of possible defenses, of the provisions of the Sentencing Guidelines, and of the consequences of entering into the Agreement.

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

Date: 08/10/2023

Corficolombiana  
By:   
\_\_\_\_\_  
Juan Daniel Frias Diaz  
Corporate Vice President of  
Governance, Risk, and Compliance  
Corficolombiana

**CERTIFICATE OF COUNSEL FOR  
CORFICOLOMBIANA**

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

Date: 08/09/2023

By:



Angela Burgess  
Tatiana Martins  
Denis McInerney  
Davis Polk & Wardwell  
Counsel to Corficolombiana

**ATTACHMENT A**

**STATEMENT OF FACTS**

The following Statement of Facts is incorporated by reference as part of the Deferred Prosecution Agreement (the “Agreement”) between the United States Department of Justice, Criminal Division, Fraud Section (the “Fraud Section”), the United States Attorney’s Office for the District of Maryland (the “Office”) (collectively, the “United States”), and the defendant Corporación Financiera Colombiana S.A. (“Corficolombiana” or the “Company”). Certain of the facts herein are based on information obtained from third parties by the United States through its investigation and described to Corficolombiana. Corficolombiana hereby agrees and stipulates that the following information is true and accurate. Corficolombiana admits, accepts, and acknowledges that it is responsible for the acts of its officers, directors, employees, and agents as set forth below. Should the United States pursue the prosecution that is deferred by this Agreement, Corficolombiana agrees that it will neither contest the admissibility of, nor contradict, this Statement of Facts in any such proceeding. The following facts took place during the relevant time frame and establish beyond a reasonable doubt the charges set forth in the criminal Information attached to this Agreement:

**The Defendant Corficolombiana and Relevant Entities and Individuals**

1. During the relevant time period, the defendant Corficolombiana was a Colombian financial services institution based in Bogotá, Colombia that was majority owned and controlled by Grupo Aval Acciones y Valores S.A. (“Grupo Aval”), a Colombian holding company also headquartered in Bogotá, Colombia. Since in or about March 2011, Grupo Aval had a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 (Title 15, United States Code, Section 78l) and was required to file periodic reports with

the U.S. Securities and Exchange Commission. Accordingly, during the relevant time period, Grupo Aval was an “issuer” as that term is used in the Foreign Corrupt Practices Act (“FCPA”), Title 15, United States Code, Section 78dd-1.

2. During the relevant time period, Corficolombiana was an agent of an issuer, Grupo Aval, as that term is used in the FCPA, Title 15, United States Code, Section 78dd-1.

3. During the relevant time period, Estudios y Proyectos del Sol SAS (“Episol”) was a wholly-owned and controlled subsidiary of Corficolombiana. Episol was the principal entity that carried out the relevant infrastructure projects described herein on behalf of Corficolombiana.

4. During the relevant time period, Odebrecht S.A. was a Brazilian holding company that, through various operating entities, conducted business in multiple industries, including engineering, construction, infrastructure, energy, chemicals, utilities, and real estate. Odebrecht had its headquarters in Salvador, state of Bahia, Brazil, and operated in 27 other countries, including Colombia and the United States.

5. During the relevant time period Concesionaria Ruta del Sol S.A.S. (“CRDS”) was a joint venture comprised of three companies: Odebrecht, as the majority participant, and Corficolombiana, through Episol, together with a third company, as the minority participants. CRDS bid for and won large infrastructure projects with the Colombian government.

6. Construction Consortium Ruta del Sol (“Consol”) was a consortium comprised of three companies: Odebrecht as the majority participant and Corficolombiana, through Episol, together with a third company, as the minority participants. Consol was the

construction company that executed the large infrastructure projects awarded by the Colombian government to CRDS.

7. “Corficolombiana Executive,” an individual whose identity is known to the United States and Corficolombiana, was a Colombian citizen who served as a high-level executive of Corficolombiana from in or about 2008 until in or about 2016. During that time, Corficolombiana Executive served as the key point person for Odebrecht executives with respect to Corficolombiana’s and Episol’s involvement with CRDS and Consol.

8. “Odebrecht Executive 1,” an individual whose identity is known to the United States and Corficolombiana, was a Brazilian citizen who served as an executive of Odebrecht in Colombia from in or about 2009 until in or about 2012. During that time, Odebrecht Executive 1 served as the key point person for Odebrecht’s involvement with CRDS and Consol.

9. “Odebrecht Executive 2,” an individual whose identity is known to the United States and Corficolombiana, was a Brazilian citizen who served as an executive of Odebrecht in Colombia from in or about 2012 until in or about 2016. During that time, Odebrecht Executive 2 served as the key point person for Odebrecht’s involvement with CRDS and Consol.

10. “Colombian Official 1,” an individual whose identity is known to the United States and Corficolombiana, was a high-ranking government official in the legislative branch of the Colombian government between in or about 2010 and in or about 2017. Colombian Official 1 was a “foreign official” as that term is defined in the FCPA, Title 15, United States Code, Section 78dd-1(f)(1)(A).

11. “Colombian Official 2,” the identity of which is known to the United

States and Corficolombiana, was an executive at Colombia's state-owned infrastructure agency Agencia Nacional de Infraestructura ("ANI"), between in or about 2011 and in or about 2017. Colombian Official 2 was a "foreign official" as that term is defined in the FCPA, Title 15, United States Code, Section 78dd-1(f)(1)(A).

12. "Colombian Official 3," an individual whose identity is known to the United States and Corficolombiana, was a high-ranking official in the executive branch of the Colombian government between in or about 2010 and in or about 2018. Colombian Official 3 was a "foreign official" as that term is defined in the FCPA, Title 15, United States Code, Section 78dd-1(f)(1)(A).

13. "Intermediary 1," an individual whose identity is known to the United States and Corficolombiana, was a Colombian lobbyist.

14. "Intermediary 2," an individual whose identity is known to the United States and Corficolombiana, was a Colombian lobbyist.

15. "U.S. Financial Institution," is a multinational investment bank and financial services holding company headquartered in the United States.

#### **The Bribery Scheme**

16. Between in or about 2012 and in or about 2015, Corficolombiana and Episol, through Corficolombiana Executive, together with others, including Odebrecht, Odebrecht Executives 1 and 2, and Intermediaries 1 and 2, knowingly and willfully conspired and agreed with others to corruptly offer and pay more than \$23 million in bribes to, and for the benefit of, Colombian government officials, including Colombian Official 1, Colombian Official 2, and Colombian Official 3, to secure improper advantages in order to obtain and retain business for Corficolombiana, specifically, to win a contract from ANI for Consol and

CRDS to construct and operate a highway toll road in Colombia known as the “Ocaña-Gamarra Extension.”

A. Background

17. In or about 2009, Corficolombiana, through Episol, agreed with Odebrecht to form CRDS and Consol in order to bid for large public contracts with the Colombian government.

18. In or about 2009, CRDS bid for and won a major highway project from the Colombian government to construct approximately 528 kilometers of highway in northern Colombia (“Ruta del Sol Sector II”). Ruta del Sol Sector II was part of a larger highway project in Colombia, which was called Ruta del Sol. In or about 2011, Consol began construction on Ruta del Sol Sector II.

19. In or about 2012, Corficolombiana Executive met with Odebrecht Executive 1 and Odebrecht Executive 2 in Colombia. The purpose of the meeting was to introduce Odebrecht Executive 2 to Corficolombiana Executive. In this meeting, it was agreed that Corficolombiana Executive would serve as the point person for any discussions and agreements pertaining to bribe payments that would need to be made to Colombian government officials.

B. Manner and Means of the Bribe Scheme

20. In furtherance of the scheme to pay bribes in connection with the awarding a highway project related to the Ruta del Sol project, known as the Ocaña-Gamarra Extension, Corficolombiana and Episol, through Corficolombiana Executive, Odebrecht, and their co-conspirators made bribe payments through fictitious contracts entered into by CRDS and Consol with companies associated with Intermediary 1 and Intermediary 2.

21. In or about March 2014, as a result of the bribe payments, ANI awarded CRDS the right to construct the Ocaña-Gamarra Extension.

22. Corficolombiana ultimately earned approximately \$28.63 million in profits from the corruptly obtained business. In carrying out the scheme, Corficolombiana Executive caused Corficolombiana and Episol, through CRDS and Consol, to utilize the means and instrumentalities of interstate commerce, including wires.

C. Agreement with Intermediary 1 to Pay Bribes to Win the Ocaña-Gamarra Extension

23. In or about 2012, Odebrecht Executive 1 introduced Odebrecht Executive 2 to Intermediary 1. At this meeting, Intermediary 1 informed Odebrecht Executive 2 that Intermediary 1 could help CRDS win projects in Colombia. In subsequent meetings with Intermediary 1, Odebrecht Executive 2 learned that Intermediary 1 would help CRDS win projects by making bribe payments to Colombian government officials.

24. In or about 2012, the government of Colombia contacted CRDS and requested a proposal for the Ocaña-Gamarra Extension, a project to construct and operate a highway toll road that intersected with the Ruta del Sol Sector II portion of the larger Ruta del Sol project. The value of the Ocaña-Gamarra Extension contract was approximately \$350 million.

25. In or about early 2013, Odebrecht Executive 2 met several times with Intermediary 1, whom Odebrecht Executive 2 understood had close relationships with Colombian government officials who had authority over the decision to award the Ocaña-Gamarra Extension. At the meetings, Intermediary 1 and Odebrecht Executive 2 agreed that CRDS would pay a bribe equal to approximately five percent of the total value of the Ocaña-Gamarra Extension in order to ensure that CRDS won the contract.

26. Following the meetings between Odebrecht Executive 2 and Intermediary 1, Odebrecht Executive 2 informed Corficolombiana Executive of Odebrecht Executive 2's agreement with Intermediary 1, and Corficolombiana Executive agreed with the plan to make bribe payments equaling five percent of the total value of the Ocaña-Gamarra Extension through Intermediary 1 in order to ensure that the Colombian government awarded the contract to CRDS.

27. Corficolombiana Executive insisted that the bribe payments not be made by Corficolombiana, but rather by Odebrecht, CRDS or Consol. Corficolombiana Executive ultimately agreed that Corficolombiana, through Episol, would pay its portion of the bribe payments by either reimbursing Odebrecht or paying its percentage directly through CRDS or Consol.

28. In order to execute the bribe scheme, Corficolombiana Executive and Odebrecht Executive 2 caused Consol and CRDS to enter into fictitious contracts with companies associated with Intermediary 1.

29. In total, Corficolombiana Executive and Odebrecht Executive 2 caused Consol and CRDS to make payments totaling approximately \$16.5 million through the companies associated with Intermediary 1. In turn, Intermediary 1 passed along a portion of those funds to Colombian Official 1 and Colombian Official 2 to ensure that CRDS won the bid for the Ocaña-Gamarra Extension. For example, on or about June 25, 2015, Corficolombiana Executive and Odebrecht Executive 2 caused CRDS to transfer approximately \$2.7 million dollars, through U.S. Financial Institution, to a company associated with Intermediary 1. A portion of these funds was passed along as a bribe to Colombian Official 1.

D. Agreement with Intermediary 2 to Pay Bribes to Win the Ocaña-Gamarra Extension

30. In or about 2012, Odebrecht Executive 1 introduced Odebrecht Executive 2 to Intermediary 2. At this meeting, Intermediary 2 informed Odebrecht Executive 2 that, in order to win construction business in Colombia, it would be necessary to make bribe payments through lobbyists.

31. In or about 2013, Odebrecht Executive 2 agreed with Intermediary 2 to make payments of approximately \$3.5 million to Intermediary 2 to ensure that the Colombian government awarded the Ocaña-Gamarra Extension contract to CRDS.

32. In order to effectuate the bribery scheme, in or about March 2014, Corficolombiana Executive, through Episol, and Odebrecht Executive 2 caused CRDS to enter into a fictitious contract with a company associated with Intermediary 2.

33. In total, Corficolombiana Executive, through Episol, and Odebrecht Executive 2 caused Odebrecht and CRDS to make payments totaling approximately \$3.5 million to a company associated with Intermediary 2 with the understanding that, in turn, Intermediary 2 would pay a portion of those funds as a bribe to Colombian Official 1 in order to ensure that the Colombian government awarded the Ocaña-Gamarra Extension contract to CRDS.

E. Agreement to Pay Bribes to Colombian Official 3

34. In or about May 2014, Corficolombiana Executive requested that Odebrecht Executive 2 attend a meeting with Colombian Official 3 on behalf of CRDS.

35. At the meeting, Odebrecht Executive 2 agreed with Colombian Official 3 to make bribe payments for the benefit of Colombian Official 3.

36. Odebrecht Executive 2 understood that the purpose of the payments to

benefit Colombian Official 3 was to ensure that CRDS retained the Ocaña-Gamarra Extension contract with the Colombian government.

37. In or about 2014 and 2015, Corficolombiana Executive, through Episol, and Odebrecht Executive 2 caused Consol and CRDS to make bribe payments of approximately \$3.4 million for the benefit of Colombian Official 3 through third party companies.

**ATTACHMENT B**

**CERTIFICATE OF CORPORATE RESOLUTIONS**  
**CORPORACIÓN FINANCIERA COLOMBIANA S.A.**

WHEREAS, Corporación Financiera Colombiana S.A. (the “Company”) has been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section (the “Fraud Section”) and the United States Attorney’s Office for the District of Maryland (the “Office”) regarding issues arising from a potential violation of Title 18, United States Code, Section 371, that is, the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 (“FCPA”), as amended, Title 15, United States Code, Section 78dd-1; and

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

WHEREAS, the Company’s General Counsel and Corporate Secretary, Marcela Acuña, together with outside counsel for the Company, have advised the Board of Directors of the Company of its rights, possible defenses, the Sentencing Guidelines’ provisions, and the consequences of entering into such agreement with the Fraud Section and the Office;

Therefore, the Board of Directors has RESOLVED that:

1. The Company (a) acknowledges the filing of the one-count Information charging the Company with violating Title 18, United States Code, Section 371, that is, the anti-bribery provisions of the FCPA, as amended, Title 15, United States Code, Section 78dd-1; (b) waives indictment on such charges and enters into a deferred prosecution agreement (the “Agreement”) with the Fraud Section and the Office; and (c) agrees to accept a monetary penalty against the Company totaling \$40,600,000 (which, after taking into account the crediting agreement with the Fraud Section and the Office, will be reduced by \$20,300,000 for a total payment of \$20,300,000)

and to pay such penalty to the United States Treasury with respect to the conduct described in the Information;

2. The Company accepts the terms and conditions of this Agreement, including, but not limited to, (a) a knowing waiver of its rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); and (b) a knowing waiver for purposes of this Agreement and any charges by the United States arising out of the conduct described in the attached Statement of Facts of any objection with respect to venue and consents to the filing of the Information, as provided under the terms of this Agreement, in the United States District Court for the District of Maryland; 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 Fraud Section and the Office 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 Corporate Vice President of Governance, Risk, and Compliance, Juan Daniel Frias Díaz, as a legal representative of the company, is hereby authorized, empowered and directed, on behalf of the Company, to execute the Deferred Prosecution Agreement substantially in such form as reviewed by this Board of Directors at this meeting with such changes as the Corporate Vice President of Governance, Risk, and Compliance, Juan Daniel Frias Díaz, may approve;

4. The Corporate Vice President of Governance, Risk, and Compliance, Juan Daniel Frias Díaz, as a legal representative of the company, 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 Corporate Vice President of Governance, Risk, and Compliance, Juan Daniel Frias Díaz, which actions would have been authorized by the foregoing resolutions except that such actions were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved, and adopted as actions on behalf of the Company.

Date: 08/10/2023

By:



Juan Daniel Frias Díaz  
Corporate Vice President of  
Governance, Risk, and Compliance  
Corficolombiana

## ATTACHMENT C

### CORPORATE COMPLIANCE PROGRAM

In order to address any deficiencies in its internal controls, compliance code, policies, and procedures regarding compliance with the Foreign Corrupt Practices Act (“FCPA”), 15 U.S.C. §§ 78dd-1, *et seq.*, and other applicable anti-corruption laws (collectively, the “anti-corruption laws”), Corporación Financiera Colombiana S.A. (the “Company”) agrees to continue to conduct, in a manner consistent with all of its obligations under this Agreement, appropriate reviews of its existing internal controls, policies, and procedures.

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

#### *Commitment to Compliance*

1. The Company will ensure that its directors and senior management provide strong, explicit, and visible support and commitment to compliance with its corporate policy against violations of the anti-corruption laws, its compliance policies, and its Code of Conduct, and demonstrate rigorous support for compliance principles via their actions and words.

2. The Company will ensure that mid-level management throughout its organization reinforce leadership's commitment to compliance policies and principles and encourage employees to abide by them. The Company will create and foster a culture of ethics and compliance with the law in their day-to-day operations at all levels of the Company.

*Periodic Risk Assessment and Review*

4. The Company will implement a risk management process to identify, analyze, and address the individual circumstances of the Company, and in particular the risk of violating the anti-corruption laws.

5. On the basis of its periodic risk assessment, the Company shall take appropriate steps to design, implement, or modify each element of its compliance program to reduce the risk of violations of the anti-corruption laws, its compliance policies, and its Code of Conduct.

*Policies and Procedures*

6. The Company will develop and promulgate a clearly articulated and visible corporate policy against violations of the anti-corruption laws, which shall be memorialized in a written compliance policy or policies.

7. The Company will develop and promulgate compliance policies and procedures designed to reduce the prospect of violations of the anti-corruption laws and the Company's compliance policies and Code of Conduct, and the Company will take appropriate measures to encourage and support the observance of ethics and compliance policies and procedures against violation of the anti-corruption laws by personnel at all levels of the Company. These anti-corruption policies and procedures shall apply to all directors, officers, and employees and, where necessary and appropriate, outside parties acting on behalf of the Company in a foreign

jurisdiction, including but not limited to, agents and intermediaries, consultants, representatives, distributors, teaming partners, contractors and suppliers, consortia, and joint venture partners (collectively, "agents and business partners"). The Company shall notify all employees that compliance with the policies and procedures is the duty of individuals at all levels of the company. Such policies and procedures shall address:

- a. gifts;
- b. hospitality, entertainment, and expenses;
- c. customer travel;
- d. political contributions;
- e. charitable donations and sponsorships;
- f. facilitation payments; and
- g. solicitation and extortion.

8. The Company will ensure that it has a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts. This system should be designed to provide reasonable assurances that:

- a. transactions are executed in accordance with management's general or specific authorization;
- b. transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets;

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

d. in a manner consistent with international accounting standards, the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

9. The Company shall review its anti-corruption compliance policies and procedures as necessary to address changing and emerging risks and update them as appropriate to ensure their continued effectiveness, taking into account relevant developments in the field and evolving international and industry standards.

*Independent, Autonomous, and Empowered Oversight*

10. The Company will assign responsibility to one or more senior corporate executives of the Company for the implementation and oversight of the Company's anti-corruption compliance policies and procedures. Such corporate official(s) shall have the authority to report directly to independent monitoring bodies, including internal audit, the Company's Board of Directors, or any appropriate committee of the Company's Board of Directors, and shall have an adequate level of autonomy from management as well as sufficient resources, authority, and support from senior leadership to maintain such autonomy.

*Training and Guidance*

11. The Company will implement mechanisms designed to ensure that its Code of Conduct and anti-corruption compliance policies and procedures are effectively communicated to all directors, officers, employees, and, where necessary and appropriate, agents and business partners. These mechanisms shall include: (a) periodic training for all directors and officers, all

employees in positions of leadership or trust, positions that require such training (e.g., internal audit, sales, legal, compliance, finance), or positions that otherwise pose a corruption risk to the Company, and, where necessary and appropriate, agents and business partners; and (b) metrics for measuring knowledge retention and effectiveness of the training. The Company will conduct training in a manner tailored to the audience's size, sophistication, or subject matter expertise and, where appropriate, will discuss prior compliance incidents.

12. The Company will maintain, or where necessary establish, an effective system for providing guidance and advice to directors, officers, employees, and, where necessary and appropriate, agents and business partners, on complying with the Company's anti-corruption compliance policies and procedures, including when they need advice on an urgent basis or in any foreign jurisdiction in which the Company operates.

*Confidential Reporting Structure and Investigation of Misconduct*

13. The Company will maintain, or where necessary establish, an effective system for internal and, where possible, confidential reporting by, and protection of, directors, officers, employees, and, where appropriate, agents and business partners concerning violations of the anti-corruption laws or the Company's Code of Conduct or anti-corruption compliance policies and procedures.

14. The Company will maintain, or where necessary establish, an effective and reliable process with sufficient resources for responding to, investigating, and documenting allegations of violations of the anti-corruption laws or the Company's anti-corruption compliance policies and procedures.

*Compensation Structures and Consequence Management*

15. The Company will implement clear mechanisms to incentivize behavior amongst all directors, officers, employees, and, where necessary and appropriate, parties acting on behalf of the Company that comply with its corporate policy against violations of the anti-corruption laws, its compliance policies, and its Code of Conduct. These incentives shall include, but shall not be limited to, the implementation of criteria related to compliance in the Company's compensation and bonus system consistent with local labor laws.

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

*Third-Party Management*

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

- a. properly documented due diligence pertaining to the hiring and appropriate and regular oversight of agents and business partners;
- b. informing agents and business partners of the Company's commitment to abiding by anti-corruption laws, and of the Company's Code of Conduct and anti-corruption compliance policies and procedures; and
- c. seeking a reciprocal commitment from agents and business partners.

18. The Company will understand and record the business rationale for using a third party in a transaction, and will conduct adequate due diligence with respect to the risks posed by a third-party partner such as a third-party partner's reputations and relationships, if any, with foreign officials. The Company will ensure that contract terms with third parties specifically describe the services to be performed, that the third party is actually performing the described work, and that its compensation is commensurate with the work being provided in that industry and geographical region. The Company will engage in ongoing monitoring and risk management of third-party relationships through updated due diligence, training, audits, and/or annual compliance certifications by the third party.

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

Code of Conduct or compliance policies, or procedures, or the representations and undertakings related to such matters.

*Mergers and Acquisitions*

20. The Company will develop and implement policies and procedures for mergers and acquisitions requiring that the Company conduct appropriate risk-based due diligence on potential new business entities, including appropriate FCPA and anti-corruption due diligence by legal, accounting, and compliance personnel.

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

- a. train the directors, officers, employees, agents, and business partners consistent with Paragraph 6-7 above on the anti-corruption laws and the Company's compliance policies and procedures regarding anti-corruption laws;
- b. where warranted, conduct an FCPA-specific audit of all newly acquired or merged businesses as quickly as practicable;
- c. where warranted, establish a plan to integrate the acquired businesses or entities into the Company's enterprise resource planning systems as quickly as practicable.

*Monitoring and Testing*

22. The Company will conduct periodic reviews and testing of all elements of its compliance program to evaluate and improve their effectiveness in preventing and detecting violations of anti-corruption laws and the Company's Code of Conduct and anti-corruption

compliance policies and procedures, taking into account relevant developments in the field and evolving international and industry standards.

23. The Company will ensure that compliance and control personnel have sufficient direct or indirect access to relevant sources of data to allow for timely and effective monitoring and/or testing of transactions.

*Analysis and Remediation of Misconduct*

24. The Company will conduct a root cause analysis of prior misconduct, including to identify any systemic issues and/or any control failures. The Company will timely and appropriately remediate the root causes of prior misconduct. The Company will ensure that root causes, including systemic issues and controls failures, and relevant remediation are shared with management as appropriate.

**ATTACHMENT D**

**COMPLIANCE REPORTING REQUIREMENTS**

Corficolombiana (the “Company”) agrees that it will report to the United States Department of Justice, Criminal Division, Fraud Section (the “Fraud Section”) and the United States Attorney’s Office for the District of Maryland (the “Office”) periodically. During the Term, the Company shall review, test, and update its compliance program and internal controls, policies, and procedures described in Attachment C. The Company shall be required to: (i) conduct an initial (“first”) review and submit a first report and (ii) conduct and prepare at least two follow-up reviews and reports, as described below. Prior to conducting each review, the Company shall be required to prepare and submit a workplan for the review.

In conducting the reviews, the Company shall undertake the following activities, among others: (a) inspection of relevant documents, including the Company’s current policies, procedures, and training materials concerning compliance with the FCPA and other applicable anti-corruption laws; (b) inspection and testing of the Company’s systems procedures, and internal controls, including record-keeping and internal audit procedures at sample sites; (c) meetings with, and interviews of, relevant current and, where appropriate, former directors, officers, employees, business partners, agents, and other persons; and (d) analyses, studies, and comprehensive testing of the Company’s compliance program.

***Written Work Plans, Reviews and Reports***

a. The Company shall conduct a first review and prepare a first report, followed by at least two follow-up reviews and reports.

b. Within sixty (60) calendar days of the date this Agreement is executed, the Company shall, after consultation with the Fraud Section and the Office, prepare and submit a

written work plan to address the Company's first review. The Fraud Section and the Office shall have thirty (30) calendar days after receipt of the written work plan to provide comments.

c. With respect to each follow-up review and report, after consultation with the Fraud Section and the Office, the Company shall prepare a written work plan within forty-five (45) calendar days of the submission of the prior report, and the Fraud Section and the Office shall provide comments within thirty (30) calendar days after receipt of the written work plan.

d. All written work plans shall identify with reasonable specificity the activities the Company plans to undertake to review and test each element of its compliance program, as described in Attachment C.

e. Any disputes between the Company and the Fraud Section and the Office with respect to any written work plan shall be decided by the Fraud Section and the Office in their sole discretion.

f. No later than one year from the date this Agreement is executed, the Company shall submit to the Fraud Section and the Office a written report setting forth: (1) a complete description of its remediation efforts to date; (2) a complete description of the testing conducted to evaluate the effectiveness of the compliance program and the results of that testing; and (3) its proposals to ensure that its compliance program is reasonably designed, implemented, and enforced so that the program is effective in deterring and detecting violations of the FCPA and other applicable anti-corruption laws. The report shall be transmitted to:

Deputy Chief – FCPA Unit  
Deputy Chief – CECP Unit  
Criminal Division, Fraud Section  
U.S. Department of Justice  
1400 New York Avenue, NW  
Bond Building, Eleventh Floor  
Washington, DC 20005

Chief, Fraud Section and the Office  
United States Attorney's Office  
for the District of Maryland  
6406 Ivy Lane, Suite 800  
Greenbelt, Md. 20770

The Company may extend the time period for issuance of the first report with prior written approval of the Fraud Section and the Office.

***Follow-up Reviews and Reports***

g. The Company shall undertake at least two follow-up reviews and reports, incorporating the views of the Fraud Section and the Office on the Company's prior reviews and reports, to further monitor and assess whether the Company's compliance program is reasonably designed, implemented, and enforced so that it is effective at deterring and detecting violations of the FCPA and other applicable anti-corruption laws.

h. The first follow-up ("second") review and report shall be completed by no later than one year after the first report is submitted to the Fraud Section and the Office.

i. The second follow-up ("third") report shall be completed and delivered to the Fraud Section and the Office no later than thirty (30) days before the end of the Term.

j. The Company may extend the time period for submission of any of the follow-up reports with prior written approval of the Fraud Section and the Office.

***Confidentiality of Submissions***

g. Submissions by the Company, including the work plans and reports will likely include proprietary, financial, confidential, and competitive business information. Moreover, public disclosure of the submissions could discourage cooperation, impede pending or potential government investigations and thus undermine the objectives of the reporting requirement. For these reasons, among others, the submissions 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 the Fraud Section and the Office determine in their sole discretion that disclosure would be in furtherance of the Fraud Section's and the Office's discharge of its duties and responsibilities or is otherwise required by law.

**ATTACHMENT E**

**CERTIFICATION**

To: United States Department of Justice  
Criminal Division, Fraud Section  
Attention: Chief of the Fraud Section

United States Department of Justice  
United States Attorney's Office  
for the District of Maryland  
Attention: United States Attorney  
for the District of Maryland

Re: Deferred Prosecution Agreement Disclosure Certification

The undersigned certify, pursuant to Paragraph 6 of the deferred prosecution agreement ("the Agreement") filed on \_\_\_ in the United States District Court for the District of Maryland, by and between the United States of America and Corficolombiana (the "Company"), that undersigned are aware of the Company's disclosure obligations under 6 of the Agreement, and that the Company has disclosed to the United States Department of Justice, Criminal Division, Fraud Section (the "Fraud Section") and the United States Attorney's Office for the District of Maryland (collectively, the "Offices") any and all evidence or allegations of conduct required pursuant to Paragraph 6 of the Agreement, which includes evidence or allegations of any violation of the FCPA anti-bribery provisions committed by the Company's employees or agents ("Disclosable Information"). This obligation to disclose information extends to any and all Disclosable Information that has been identified through the Company's compliance and controls program, whistleblower channel, internal audit reports, due diligence procedures, investigation process, or other processes. The undersigned further acknowledge and agree that the reporting requirements contained in Paragraph 6 and the representations contained in this certification

constitute a significant and important component of the Agreement and of the Offices' determination whether the Company has satisfied its obligations under the Agreement.

The undersigned hereby certify that they are the Chief Executive Officer and the Executive Vice President of the Company, respectively, and that each has been duly authorized by the Company to sign this Certification on behalf of the Company.

This Certification shall constitute a material statement and representation by the undersigned and by, on behalf of, and for the benefit of, the Company to the executive branch of the United States for purposes of 18 U.S.C. § 1001, and such material statement and representation shall be deemed to have been made in District of Maryland. This Certification shall also constitute a record, document, or tangible object in connection with a matter within the jurisdiction of a department and agency of the United States for purposes of 18 U.S.C. § 1519, and such record, document, or tangible object shall be deemed to have been made in District of Maryland.

Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Name (Signed): \_\_\_\_\_  
Chief Executive Officer  
Corficolombiana

Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Name (Signed): \_\_\_\_\_  
Executive Vice President  
Corficolombiana

**ATTACHMENT F**

**COMPLIANCE CERTIFICATION**

To: United States Department of Justice  
Criminal Division, Fraud Section  
Attention: Chief of the Fraud Section

United States Department of Justice  
United States Attorney's Office  
for the District of Maryland  
Attention: United States Attorney  
for the District of Maryland

Re: Deferred Prosecution Disclosure Certification

The undersigned certify, pursuant to Paragraph 17 of the Deferred Prosecution Agreement filed on \_\_\_\_, in the United States District Court for the District of Maryland, by and between the United States of America and Corficolombiana (the "Company") (the "Agreement"), that the undersigned are aware of the Company's compliance obligations under Paragraphs 13 and 14 of the Agreement, and that, based on a review of the Company's reports submitted to the Department of Justice, Criminal Division, Fraud Section and United States Attorney's Office for the District of Maryland pursuant to Paragraph 15 of the Agreement, the reports are true, accurate, and complete.

In addition, the undersigned certify that, based on the undersigned's review and understanding of the Company's anti-corruption compliance program, the Company has implemented an anti-corruption compliance program that meets the requirements set forth in Attachment C to the Agreement. The undersigned certifies that such compliance program is reasonably designed to detect and prevent violations of the anti-corruption laws throughout the Company's operations.

The undersigned hereby certify that they are respectively the Chief Executive Officer

(“CEO”) of the Company and the Chief Compliance Officer (“CCO”) of the Company and that each has been duly authorized by the Company to sign this Certification on behalf of the Company.

This Certification shall constitute a material statement and representation by the undersigned and by, on behalf of, and for the benefit of, the Company to the executive branch of the United States for purposes of 18 U.S.C. § 1001, and such material statement and representation shall be deemed to have been made in the District of Maryland. This Certification shall also constitute a record, document, or tangible object in connection with a matter within the jurisdiction of a department and agency of the United States for purposes of 18 U.S.C. § 1519, and such record, document, or tangible object shall be deemed to have been made in the District of Maryland.

Date: \_\_\_\_\_ Name (Printed): \_\_\_\_\_

Name (Signed): \_\_\_\_\_  
Chief Executive Officer  
Corficolombiana

Date: \_\_\_\_\_ Name (Printed): \_\_\_\_\_

Name (Signed): \_\_\_\_\_  
Chief Compliance Officer  
Corficolombiana