

1 JACKLIN CHOU LEM (CSBN 255293)
ALEXANDRA J. SHEPARD (CSBN 205143)
2 HOWARD J. PARKER (WSBN 07233)
3 ANDREW J. NICHOLSON-MEADE (CSBN 284070)
PARADI JAVANDEL (CSBN 295841)
4 U.S. Department of Justice
Antitrust Division
5 450 Golden Gate Avenue
6 Box 36046, Room 10-0101
San Francisco, CA 94102
7 Telephone: (415) 934-5300
jacklin.lem@usdoj.gov
8

9 Attorneys for the United States

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA) No. CR-16-0180-JD
15)
16 v.)
17) VIOLATION: 15 U.S.C. § 1
HITACHI CHEMICAL CO., LTD.,) Price Fixing
18)
19 Defendant.) **PLEA AGREEMENT**
20)
21)

22 The United States of America and Hitachi Chemical Co., Ltd. (“defendant”), a
23 corporation organized and existing under the laws of Japan, hereby enter into the following Plea
24 Agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure (“Fed. R.
25 Crim. P.”):

26 **RIGHTS OF DEFENDANT**

- 27 1. The defendant understands its rights:
28 (a) to be represented by an attorney;

1 (b) to be charged by Indictment;

2 (c) as a corporation organized and existing under the laws of Japan, to decline
3 to accept service of the Summons in this case, and to contest the jurisdiction of the
4 United States to prosecute this case against it in the United States District Court for the
5 Northern District of California;

6 (d) to plead not guilty to any criminal charge brought against it;

7 (e) to have a trial by jury, at which it would be presumed not guilty of the
8 charge and the United States would have to prove every essential element of the charged
9 offense beyond a reasonable doubt for it to be found guilty;

10 (f) to confront and cross-examine witnesses against it and to subpoena
11 witnesses in its defense at trial;

12 (g) to appeal its conviction if it is found guilty; and

13 (h) to appeal the imposition of sentence against it.

14 **AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS**

15 2. The defendant knowingly and voluntarily waives the rights set out in Paragraph
16 1(b)-(g) above. The defendant also knowingly and voluntarily waives the right to file any
17 appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal
18 under 18 U.S.C. § 3742, that challenges the sentence imposed by the Court if that sentence is
19 consistent with or below the recommended sentence in Paragraph 9 of this Plea Agreement,
20 regardless of how the sentence is determined by the Court. This agreement does not affect the
21 rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b)-(c). Nothing in this
22 paragraph, however, will act as a bar to the defendant perfecting any legal remedies it may
23 otherwise have on appeal or collateral attack respecting claims of ineffective assistance of
24 counsel or prosecutorial misconduct. The defendant agrees that there is currently no known
25 evidence of ineffective assistance of counsel or prosecutorial misconduct. Pursuant to Fed. R.
26 Crim. P. 7(b), the defendant will waive indictment and plead guilty to a one-count Information to
27 be filed in the United States District Court for the Northern District of California. The
28 Information will charge the defendant with participating, from at least as early as August 2002

1 until at least as late as March 2010, in a conspiracy to suppress and eliminate competition by
2 fixing prices and rigging bids of certain electrolytic capacitors in the United States and
3 elsewhere, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

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

7 **FACTUAL BASIS FOR OFFENSE CHARGED**

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

10 (a) For purposes of this Plea Agreement, the “relevant period” is the period
11 beginning at least as early as August 2002 until at least as late as March 2010. During
12 the relevant period, the defendant was a corporation organized and existing under the
13 laws of Japan. The defendant had its principal place of business in Tokyo, Japan. During
14 the relevant period, the defendant manufactured aluminum and tantalum electrolytic
15 capacitors and was engaged in the sale of aluminum and tantalum electrolytic capacitors
16 in the United States and elsewhere through certain current and former subsidiaries,
17 including entities known during the relevant time period as Hitachi AIC, Inc. (a
18 corporation organized and existing under the laws of Japan, with its principal place of
19 business in Tochigi Prefecture, Japan) and Hitachi Chemical Electronics Co. Ltd. (a
20 corporation organized and existing under the laws of Japan, with its principal place of
21 business in Ibaraki Prefecture, Japan). The terms “current subsidiaries” and “former
22 subsidiaries” are further defined in Paragraph 13 of this Plea Agreement. At a certain
23 point after the relevant period, defendant assumed responsibility for the sale of
24 electrolytic capacitors from subsidiary Hitachi AIC, Inc. Electrolytic capacitors are a
25 major sub-category of capacitors, fundamental components of electrical circuits used
26 primarily to store and regulate electrical current. Aluminum and tantalum capacitors are
27 types of electrolytic capacitors.

1 (b) During the relevant period, the defendant, through officers and employees
2 of certain current and former subsidiaries, including high-level personnel of those current
3 and former subsidiaries, participated in a conspiracy among manufacturers of electrolytic
4 capacitors, the primary purpose of which was to fix prices and rig bids of certain
5 electrolytic capacitors sold in the United States and elsewhere. In furtherance of the
6 conspiracy, the defendant, through officers and employees of certain current and former
7 subsidiaries, at times engaged in discussions and attended meetings with representatives
8 of other manufacturers of electrolytic capacitors. During certain of these discussions and
9 meetings, the conspirators agreed to fix the price and/or rig bids of certain electrolytic
10 capacitors to be sold in the United States and elsewhere.

11 (c) During the relevant period, the defendant and its coconspirators
12 manufactured certain electrolytic capacitors outside the United States and sold them in
13 the United States or for delivery to the United States. During the relevant period, one or
14 more of the conspirator firms sold certain foreign-manufactured electrolytic capacitors
15 outside the United States for incorporation into products that were sold in or for delivery
16 to the United States. During the relevant period, certain electrolytic capacitors sold by
17 one or more of the conspirator firms traveled in interstate commerce.

18 (d) Acts in furtherance of this conspiracy were carried out within the Northern
19 District of California. Certain electrolytic capacitors that were the subject of this
20 conspiracy were sold by one or more of the conspirators to customers in this District.

21 **ELEMENTS OF THE OFFENSE**

22 5. The elements of the charged offense are that:

23 (a) the conspiracy described in the Information existed at or about the time
24 alleged;

25 (b) the defendant knowingly became a member of the conspiracy; and

26 (c) the conspiracy described in the Information either (1) substantially
27 affected interstate and U.S. import trade or commerce in electrolytic capacitors or
28 occurred within the flow of interstate or U.S. import trade or commerce in electrolytic

1 capacitors, or (2) had a direct, substantial, and reasonably foreseeable effect on interstate
2 or U.S. import trade or commerce in certain electrolytic capacitor-containing products
3 and that effect, in part, gives rise to the charge in the Information.

4 **POSSIBLE MAXIMUM SENTENCE**

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

8 (a) \$100 million (15 U.S.C. § 1);

9 (b) twice the gross pecuniary gain the conspirators derived from the crime (18
10 U.S.C. § 3571(c) and (d)); or

11 (c) twice the gross pecuniary loss caused to the victims of the crime by the
12 conspirators (18 U.S.C. § 3571(c) and (d)).

13 7. In addition, the defendant understands that:

14 (a) pursuant to §8D1.2(a)(1) of the United States Sentencing Guidelines
15 (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) or 18 U.S.C. § 3561(c)(1), the
16 Court may impose a term of probation of at least one year, but not more than five years;
17 and if the defendant violates any condition of probation, the Court may, pursuant to 18
18 U.S.C. § 3565, (i) continue the defendant on probation, with or without extending the
19 term or modifying or enlarging the conditions or (ii) revoke the sentence of probation and
20 resentence the defendant;

21 (b) pursuant to U.S.S.G. §8B1.1 or 18 U.S.C. § 3563(b)(2) or 3663(a)(3), the
22 Court may order it to pay restitution to the victims of the offense; and

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

25 **SENTENCING GUIDELINES**

26 8. The defendant understands that the Sentencing Guidelines are advisory, not
27 mandatory, but that the Court must consider, in determining and imposing sentence, the
28 Guidelines Manual in effect on the date of sentencing unless that Manual provides for greater

1 punishment than the Manual in effect on the last date that the offense of conviction was
2 committed, in which case the Court must consider the Guidelines Manual in effect on the last
3 date that the offense of conviction was committed. The parties agree there is no *ex post facto*
4 issue under the November 1, 2015 Guidelines Manual. The Court must also consider the other
5 factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence. The defendant
6 understands that the Guidelines determinations will be made by the Court by a preponderance-
7 of-the-evidence standard. The defendant understands that although the Court is not ultimately
8 bound to impose a sentence within the applicable Guidelines range, its sentence must be
9 reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. §
10 3553(a).

11 SENTENCING AGREEMENT

12 9. Pursuant to Fed. R. Crim. P. 11(c)(1)(C) and subject to the full, truthful, and
13 continuing cooperation of the defendant and its current subsidiaries, as defined in Paragraph 13
14 of this Plea Agreement, the United States and the defendant agree that the appropriate disposition
15 of this case is, and agree to recommend jointly that the Court impose, a sentence requiring the
16 defendant to pay to the United States a criminal fine of \$3.8 million, payable in full before the
17 fifteenth (15th) day after the date of judgment, no order of restitution, and a three-year term of
18 probation (“the recommended sentence”). The parties agree that there exists no aggravating or
19 mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the
20 U.S. Sentencing Commission in formulating the Sentencing Guidelines justifying a departure
21 pursuant to U.S.S.G. §5K2.0. The parties agree not to seek at the sentencing hearing any
22 sentence outside of the Guidelines range nor any Guidelines adjustment for any reason that is not
23 set forth in this Plea Agreement. The parties further agree that the recommended sentence set
24 forth in this Plea Agreement is reasonable.

25 (a) The defendant understands that the Court will order it to pay a \$400
26 special assessment, pursuant to 18 U.S.C. § 3013(a)(2)(B), in addition to any fine
27 imposed.
28

1 (b) In light of the availability of civil cases filed against the defendant,
2 including *In Re: Capacitors Antitrust Litigation* (14-CV-03264-JD), filed in the United
3 States District Court, Northern District of California, which potentially provide for a
4 recovery of a multiple of actual damages, the recommended sentence does not include a
5 restitution order for the offense charged in the Information.

6 (c) The parties agree to recommend a three-year term of probation, which
7 includes the following conditions: (1) the development of a corporate compliance
8 program consistent with U.S.S.G. §8B2.1, including antitrust compliance standards and
9 procedures to be followed by all officers, directors, and employees of the defendant and
10 its current subsidiaries who have any responsibility for the sale or marketing of
11 electrolytic capacitors; (2) the implementation of the corporate compliance program,
12 including (i) training on a periodic basis concerning the requirements of the antitrust laws
13 and the above standards and procedures; and (ii) periodic communications by high-level
14 personnel of the defendant and its current subsidiaries reinforcing the defendant's
15 commitment to the corporate compliance program and adherence to the antitrust laws,
16 and (3) the submission of annual written reports by the defendant to the Antitrust
17 Division of the U.S. Department of Justice and the United States Probation Office on the
18 defendant's progress in implementing the corporate compliance program. In addition,
19 pursuant to U.S.S.G. §8D1.3(a), defendant will not commit another federal, state, or local
20 crime during the term of probation. The parties agree that the term and conditions of
21 probation imposed by the Court will not void this Plea Agreement.

22 (d) The United States and the defendant jointly submit that this Plea
23 Agreement, together with the record that will be created by the United States and the
24 defendant at the plea and sentencing hearings, and the further disclosure described in
25 Paragraph 11, will provide sufficient information concerning the defendant, the crime
26 charged in this case, and the defendant's role in the crime to enable the meaningful
27 exercise of sentencing authority by the Court under 18 U.S.C. § 3553. The United States
28 and the defendant agree to request jointly that the Court accept the defendant's guilty plea

1 and impose sentence on an expedited schedule as early as the date of arraignment, based
2 upon the record provided by the defendant and the United States, under the provisions of
3 Fed. R. Crim. P. 32(c)(1)(A)(ii), U.S.S.G. §6A1.1, and Rule 32-1(b) of the Criminal
4 Local Rules. The Court's denial of the request to impose sentence on an expedited
5 schedule will not void this Plea Agreement.

6 10. The United States and the defendant agree that the applicable Guidelines fine
7 range exceeds the fine contained in the recommended sentence set out in Paragraph 9 above.
8 Subject to the full, truthful, and continuing cooperation of the defendant and its current
9 subsidiaries, as defined in Paragraph 13 of this Plea Agreement, and prior to sentencing in this
10 case, the United States agrees that it will make a motion, pursuant to U.S.S.G. §8C4.1, for a
11 downward departure from the Guidelines fine range in this case and will request that the Court
12 impose the fine contained in the recommended sentence set out in Paragraph 9 of this Plea
13 Agreement because of the defendant's and its current subsidiaries' substantial assistance in the
14 government's investigation and prosecutions of violations of federal criminal law in the
15 electrolytic capacitors industry.

16 11. Subject to the full, truthful, and continuing cooperation of the defendant and its
17 current subsidiaries, as defined in Paragraph 13 of this Plea Agreement, and prior to sentencing
18 in this case, the United States will fully advise the Court and the Probation Office of the fact,
19 manner, and extent of the defendant's and its current subsidiaries' cooperation and their
20 commitment to prospective cooperation with the United States' investigation and prosecutions,
21 all material facts relating to the defendant's involvement in the charged offense, and all other
22 relevant conduct.

23 12. The United States and the defendant understand that the Court retains complete
24 discretion to accept or reject the recommended sentence provided for in Paragraph 9 of this Plea
25 Agreement.

26 (a) If the Court does not accept the recommended sentence, the United States
27 and the defendant agree that this Plea Agreement, except for Paragraph 12(b) below, will
28 be rendered void.

1 (b) If the Court does not accept the recommended sentence, the defendant will
2 be free to withdraw its guilty plea (Fed. R. Crim. P. 11(c)(5) and (d)). If the defendant
3 withdraws its plea of guilty, this Plea Agreement, the guilty plea, and any statement made
4 in the course of any proceedings under Fed. R. Crim. P. 11 regarding the guilty plea or
5 this Plea Agreement or made in the course of plea discussions with an attorney for the
6 government will not be admissible against the defendant in any criminal or civil
7 proceeding, except as otherwise provided in Fed. R. Evid. 410. In addition, the defendant
8 agrees that, if it withdraws its guilty plea pursuant to this subparagraph of this Plea
9 Agreement, the statute of limitations period for any offense referred to in Paragraph 15 of
10 this Plea Agreement will be tolled for the period between the date of signature of this
11 Plea Agreement and the date the defendant withdrew its guilty plea or for a period of
12 sixty (60) days after the date of signature of this Plea Agreement, whichever period is
13 greater. The “date of signature of this Plea Agreement,” as used in this Agreement,
14 means the date that the United States signs this Agreement.

15 DEFENDANT’S COOPERATION

16 13. The defendant and its current subsidiaries, as defined below, will cooperate fully
17 and truthfully with the United States in the prosecution of this case, the current federal
18 investigation of violations of federal antitrust and related criminal laws involving the
19 manufacture or sale of electrolytic capacitors, any federal investigation resulting therefrom, and
20 any litigation or other proceedings arising or resulting from any such investigation to which the
21 United States is a party (collectively “Federal Proceeding”). Federal Proceeding includes, but is
22 not limited to, an investigation, prosecution, litigation, or other proceeding regarding obstruction
23 of, the making of a false statement or declaration in, the commission of perjury or subornation of
24 perjury in, the commission of contempt in, or conspiracy to commit such offenses in, a Federal
25 Proceeding. The defendant’s current subsidiaries for purposes of this Plea Agreement are
26 entities in which the defendant had a greater than 50% direct or indirect ownership interest as of
27 the date of signature of this Plea Agreement. The defendant’s former subsidiaries for purposes
28 of this Plea Agreement are entities in which the defendant had a greater than 50% direct or

1 indirect ownership interest during the relevant period. The full, truthful, and continuing
2 cooperation of the defendant and its current subsidiaries will include, but not be limited to:

3 (a) producing to the United States all documents, information, and other
4 materials, wherever located, not protected under the attorney-client privilege or the work-
5 product doctrine (and with translations into English), in the possession, custody, or
6 control of the defendant or any of its current subsidiaries, that are requested by the United
7 States in connection with any Federal Proceeding; and

8 (b) using its best efforts to secure the full, truthful, and continuing cooperation
9 of the current and former directors, officers, and employees of the defendant or any of its
10 current or former subsidiaries as may be requested by the United States, but excluding the
11 individuals listed in Paragraph 2 of Attachment A filed under seal. Such efforts will
12 include, but not be limited to, making these persons available in the United States and at
13 other mutually agreed-upon locations, at the defendant's expense, for interviews and the
14 provision of testimony in grand jury, trial, and other judicial proceedings in connection
15 with any Federal Proceeding. Current directors, officers, and employees are defined for
16 purposes of this Plea Agreement as individuals who are directors, officers, or employees
17 of the defendant or any of its current subsidiaries as of the date of signature of this Plea
18 Agreement.

19 14. The full, truthful, and continuing cooperation of the current directors, officers,
20 and employees of the defendant or any of its current subsidiaries, and the individuals listed in
21 Paragraph 1 of Attachment A filed under seal, will be subject to the procedures and protections
22 of this paragraph and will include, but not be limited to:

23 (a) producing in the United States and at other mutually agreed-upon
24 locations all documents, including claimed personal documents, and other materials,
25 wherever located, not protected under the attorney-client privilege or the work-product
26 doctrine (and with translations into English), that are requested by attorneys and agents of
27 the United States in connection with any Federal Proceeding;

1 (b) making himself or herself available for interviews in the United States and
2 at other mutually agreed-upon locations, not at the expense of the United States, upon the
3 request of attorneys and agents of the United States in connection with any Federal
4 Proceeding;

5 (c) responding fully and truthfully to all inquiries of the United States in
6 connection with any Federal Proceeding, without falsely implicating any person or
7 intentionally withholding any information, subject to the penalties of making a false
8 statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. §
9 1503, *et seq.*), or conspiracy to commit such offenses;

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

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

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

26 This Paragraph 14 does not apply to the individuals listed in Paragraph 2 of Attachment A filed
27 under seal, regardless of their employment status, or to any former director, officer, or employee
28

1 of the defendant or its current or former subsidiaries, except those listed in Paragraph 1 of
2 Attachment A filed under seal.

3 **GOVERNMENT'S AGREEMENT**

4 15. Subject to the full, truthful, and continuing cooperation of the defendant and its
5 current subsidiaries, as defined in Paragraph 13 of this Plea Agreement, and upon the Court's
6 acceptance of the guilty plea called for by this Plea Agreement and the imposition of the
7 recommended sentence, the United States agrees that it will not bring further criminal charges
8 against the defendant or any of its current subsidiaries for any act or offense committed before
9 the date of signature of this Plea Agreement that was undertaken in furtherance of an antitrust
10 conspiracy involving the manufacture or sale of electrolytic capacitors. The nonprosecution
11 terms of this paragraph do not apply to (a) any acts of subornation of perjury (18 U.S.C. § 1622),
12 making a false statement (18 U.S.C. § 1001), obstruction of justice (18 U.S.C. § 1503, *et seq.*),
13 contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses; (b) civil matters of
14 any kind; (c) any violation of the federal tax or securities laws or conspiracy to commit such
15 offenses; or (d) any crime of violence.

16 16. The United States agrees to the following:

17 (a) Upon the Court's acceptance of the guilty plea called for by this Plea
18 Agreement and the imposition of the recommended sentence and subject to the
19 exceptions noted in Paragraph 16(c), the United States agrees that it will not bring
20 criminal charges against any current director, officer, or employee of the defendant or its
21 current subsidiaries, or any individual listed in Paragraph 1 of Attachment A filed under
22 seal, for any act or offense committed before the date of signature of this Plea Agreement
23 and while that person was acting as a director, officer, or employee of the defendant or its
24 current or former subsidiaries that was undertaken in furtherance of an antitrust
25 conspiracy involving the manufacture or sale of electrolytic capacitors ("Relevant
26 Offense"), except that the protections granted in Paragraph 16 do not apply to the
27 individuals listed in Paragraph 2 of Attachment A filed under seal, regardless of their
28 employment status, or to any former director, officer, or employee of the defendant or its

1 current or former subsidiaries, except those listed in Paragraph 1 of Attachment A filed
2 under seal;

3 (b) Should the United States determine that any current director, officer, or
4 employee of the defendant or its current subsidiaries, or any individual listed in
5 Paragraph 1 of Attachment A filed under seal, may have information relevant to any
6 Federal Proceeding, the United States may request that person's cooperation under the
7 terms of this Plea Agreement by written request delivered to counsel for the individual
8 (with a copy to the undersigned counsel for the defendant) or, if the individual is not
9 known by the United States to be represented, to the undersigned counsel for the
10 defendant;

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

17 (d) Except as provided in Paragraph 16(e), information provided by a person
18 described in Paragraph 16(b) to the United States under the terms of this Plea Agreement
19 pertaining to any Relevant Offense, or any information directly or indirectly derived from
20 that information, may not be used against that person in a criminal case, except in a
21 prosecution for perjury or subornation of perjury (18 U.S.C. §§ 1621-22), making a false
22 statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. §
23 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses;

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

1 (f) The nonprosecution terms of this Paragraph 16 do not apply to civil
2 matters of any kind; any violation of the federal tax or securities laws or conspiracy to
3 commit such offenses; any crime of violence; or perjury or subornation of perjury (18
4 U.S.C. §§ 1621-22), making a false statement or declaration (18 U.S.C. §§ 1001, 1623),
5 obstruction of justice (18 U.S.C. § 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or
6 conspiracy to commit such offenses; and

7 (g) Documents provided under Paragraphs 13(a) and 14(a) will be deemed
8 responsive to outstanding grand jury subpoenas issued to the defendant or any of its
9 current subsidiaries.

10 17. The United States agrees that when any person travels to the United States for
11 interviews, grand jury appearances, or court appearances pursuant to this Plea Agreement, or for
12 meetings with counsel in preparation therefor, the United States will take no action, based upon
13 any Relevant Offense, to subject such person to arrest, detention, or service of process, or to
14 prevent such person from departing the United States. This paragraph does not apply to an
15 individual's commission of perjury or subornation of perjury (18 U.S.C. §§ 1621-22), making a
16 false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. §
17 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses.

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

1 **REPRESENTATION BY COUNSEL**

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

6 **VOLUNTARY PLEA**

7 20. The defendant's decision to enter into this Plea Agreement and to tender a plea of
8 guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises,
9 or representations other than the representations contained in this Plea Agreement and
10 Attachment A. The United States has made no promises or representations to the defendant as to
11 whether the Court will accept or reject the recommendations contained within this Plea
12 Agreement.

13 **VIOLATION OF PLEA AGREEMENT**

14 21. The defendant agrees that, should the United States determine in good faith,
15 during the period that any Federal Proceeding is pending, that the defendant or any of its current
16 subsidiaries have failed to provide full, truthful, and continuing cooperation, as defined in
17 Paragraph 13 of this Plea Agreement, or have otherwise violated any provision of this Plea
18 Agreement, except for the conditions of probation, violations of which are subject to 18 U.S.C.
19 § 3565, the United States will notify counsel for the defendant in writing by personal or
20 overnight delivery, email, or facsimile transmission, and may also notify counsel by telephone,
21 of its intention to void any of its obligations under this Plea Agreement (except its obligations
22 under this paragraph), and the defendant and its current subsidiaries will be subject to
23 prosecution for any federal crime of which the United States has knowledge, including, but not
24 limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement.
25 The defendant may seek Court review of any determination made by the United States under this
26 paragraph to void any of its obligations under this Plea Agreement. The defendant agrees that, in
27 the event that the United States is released from its obligations under this Plea Agreement and
28 brings criminal charges against the defendant or its current subsidiaries for any offense referred

1 to in Paragraph 15 of this Plea Agreement, the statute of limitations period for such offense will
2 be tolled for the period between the date of signature of this Plea Agreement and six (6) months
3 after the date the United States gave notice of its intent to void its obligations under this Plea
4 Agreement.

5 22. The defendant understands and agrees that in any further prosecution of it or its
6 current subsidiaries resulting from the release of the United States from its obligations under this
7 Plea Agreement because of the defendant's or any of its current subsidiaries' violation of this
8 Plea Agreement, any documents, statements, information, testimony, or evidence provided by it,
9 its current or former subsidiaries, or their current or former directors, officers, or employees, to
10 attorneys or agents of the United States, federal grand juries, or courts, and any leads derived
11 therefrom, may be used against it or its current subsidiaries. In addition, the defendant
12 unconditionally waives its right to challenge the use of such evidence in any such further
13 prosecution, notwithstanding the protections of Fed. R. Evid. 410.

14 **ENTIRETY OF AGREEMENT**

15 23. This Plea Agreement and Attachment A constitute the entire agreement between
16 the United States and the defendant concerning the disposition of the criminal charge in this case.
17 This Plea Agreement cannot be modified except in writing, signed by the United States and the
18 defendant.

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

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

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

28 ///

1 Respectfully submitted,

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BY: *Tsuyoshi Takahashi*
TSUYOSHI TAKAHASHI
Manager, Legal Group
Corporate Business Strategy Headquarters
Hitachi Chemical Co., Ltd.

BY: *[Signature]*
JACKLIN CHOU LEM
ALEXANDRA J. SHEPARD
HOWARD J. PARKER
ANDREW J. NICHOLSON-MEADE
PARADI JAVANDEL

Dated: April 26, 2016

Trial Attorneys
U.S. Department of Justice
Antitrust Division

Dated: April 26, 2016

BY: *[Signature]*
MARK ROSMAN
Wilson Sonsini Goodrich & Rosati
Counsel for Hitachi Chemical Co., Ltd.

Dated: April 26, 2016

* 日立化成株式会社第676回取締役会議事録 *

2016年4月25日

日立化成株式会社第676回取締役会議事録

2016年4月25日(月) 東京都千代田区丸の内一丁目9番2号 グラントウキョウサウス
タワーにおいて第676回取締役会を開催した。

取 締 役 総 数	9 名
出 席 取 締 役	9 名

以上のとおり所定の定足数は充たされた。なお、本会議には、丸山執行役社長が陪席した。午後
3時40分開会。

取締役会長 田中 一行氏が議長席につき開会を宣した。

続いて議事に入り、

第1号議案 米国司法省との司法取引契約締結の件
を附議した。

宮内執行役から、今般、米国司法省から、別紙1に記載した内容の司法取引契約の提示を受け、
案件の早期解決のために、取締役会の承認を得たい旨説明し、出席取締役に対して審議を求めた
ところ、慎重審議の後、全員一致をもって下記の事項を承認した。

決 議 別紙1に記載された内容と実質的に同一の書式にて、米国司法省と当社との司
法取引契約を締結し、交付し、履行すること。

経営戦略本部 法務担当部長 高橋毅に会社を代表して、司法取引契約を締結し、
交付する権限を授権すること。

司法取引締結後に行われる、有罪答弁の際に、経営戦略本部 法務担当部長 高橋
毅に会社を代表して、司法取引契約セクション2に規定する全ての権利を放棄し、
当社を代表して、司法取引契約に基づいて有罪答弁を行う権限を授権すること。

上記の決議事項を実行するために、経営戦略本部 法務担当部長 高橋毅に必要と
され又は適切である全ての行為を行う権限を授権すること。

以上で決議事項を終了し、議長は午後3時50分開会を宣した。

以上議事経過の要領及びその結果を記載し、議長及び出席取締役が記名押印する。

2016年4月25日

日立化成株式会社

議長
取締役会長

田中 一



取締役

小豆畑

茂



取締役

大澤 佳

雄



取締役

大戸 武

元



取締役

ジョージ・オルコット



取締役

川村

隆



取締役

松田 千恵子



取締役

角田 和好



取締役
代表執行役
執行役副社長

野村 好弘



Minutes of the 676th Meeting of the Board of Directors
of
Hitachi Chemical Co., Ltd.

Minutes of the 676th Meeting of the Board of Directors of Hitachi Chemical Co., Ltd.

The 676th meeting of the Board of Directors of Hitachi Chemical Co., Ltd. (hereinafter the "HCJ" or "Company") was held on Monday April 25, 2016 at GranTokyo South Tower, 1-9-2, Marunouchi, Chiyoda-ku, Tokyo, Japan.

Total number of Directors: 9

Number of Directors present: 9

A quorum being present, Mr. Kazuyuki Tanaka, the chairman of the Board, acting as the Chairman of the meeting, declared the meeting open for business at 3:40 pm (Japan time). Mr. Maruyama, Representative Executive Officer, President and Chief Executive Officer also attended the meeting.

The proceedings of the meeting were as follows:

Item of Business:

Approval of Plea Agreement between Hitachi Chemical Co., Ltd. and the United States Department of Justice

Mr. Miyauchi, Executive Officer, explained that the United States Department of Justice had proposed the Plea Agreement between HCJ and the United States Department of Justice in substantially the form attached hereto as Exhibit 1, and recommended that approval of execution, delivery, and performance of the Plea Agreement is granted by the Board in order to resolve this matter promptly. Mr. Miyauchi, Executive Officer, also explained the following item and requested the directors present to act upon these matters; whereupon, after full discussion it was unanimously:

RESOLVED, that execution, delivery, and performance of Plea Agreement between HCJ and the United States Department of Justice, in substantially the form attached hereto as Exhibit 1, is hereby approved;

RESOLVED, that Mr. Tsuyoshi Takahashi, Manager, Legal Group, Corporate Business Strategy Headquarters hereby is authorized, empowered and directed, for and on behalf of the Company, to execute and deliver the Plea Agreement; and

RESOLVED, that Mr. Tsuyoshi Takahashi, Manager, Legal Group, Corporate Business Strategy Headquarters hereby is authorized to represent the Company at any hearing in order to waive any and all rights of the Company referred to under

section 2 of the Plea Agreement and to plead guilty at such hearing, for and on behalf of the Company, in accordance with the provisions of the Plea Agreement.

RESOLVED, that Mr. Tsuyoshi Takahashi, Manager, Legal Group, Corporate Business Strategy Headquarters hereby is, authorized to take individually any and all actions required or appropriate in order to carry out the intent and purpose of the preceding resolutions.

There being no further items of business to be considered, the Chairman declared the meeting closed at 3:50 pm (Japan time).

IN WITNESS WHEREOF, these minutes have been prepared, and the Chairman of the meeting, the directors present have affixed their signatures or seals hereunto.

April 25, 2016

Hitachi Chemical Co., Ltd.

Chairman of the meeting Chairman of the Board	Kazuyuki Tanaka
--	-----------------

Outside Director	Shigeru Azuhata
------------------	-----------------

Outside Director	Yoshio Osawa
------------------	--------------

Outside Director	Takemoto Oto
------------------	--------------

Outside Director	George Olcott
------------------	---------------

Outside Director	Takashi Kawamura
------------------	------------------

Outside Director	Chieko Matsuda
------------------	----------------

Director

Kazuyoshi Tsunoda

Director

Representative Executive Officer,
Executive Vice President and Executive Officer

Yoshihiro Nomura

CERTIFICATE

I, Tsuyoshi Takahashi, Manager, Legal Group, Corporate Business Strategy Headquarters of Hitachi Chemical Co., Ltd., a company organized and existing under the laws of Japan and having its head office at GranTokyo South Tower, 9-2, Marunouchi 1-chome, Chiyoda-ku, Tokyo 100-6606, Japan, do hereby certify, as the person responsible for keeping minutes of the Board of Directors meeting, that the attached resolutions adopted by the Board of Directors of Hitachi Chemical Co., Ltd. at the Meeting of the Board of Directors held on April 25, 2016, are true, correct and complete, and that said resolutions have not been amended, modified or repealed, and remain in full force and effect, as of the date hereof.

Signed in Tokyo, this 26th day of April, 2016 by

Tsuyoshi Takahashi

Hitachi Chemical Co., Ltd.

Tsuyoshi Takahashi

Manager, Legal Group, Corporate Business Strategy Headquarters

Attachment A to Plea Agreement

Entire Attachment Sought to be
Filed Under Seal