

minimum mandatory no
5K1.1 no
35(b) no
Forfeiture no
Other (Waiver of Indictment) yes
Other (Rule 11(c)(1)(C) Plea) yes

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA

v.

OFER (SHIPS HOLDING) LTD

CR 408-103

2008 JUN 27 PM 1:17
m. Amitts

SUMMARY OF PLEA AGREEMENT

[NOTE: This summary of the plea agreement is for the convenience of the Court and constitutes a part of the plea agreement, which follows in full hereafter.]

DEFENSE COUNSEL:

THOMAS M. RUSSO, ESQ.
DAVID F. SIPPLE, ESQ.
William J. Pallas, ESQ.

ASSISTANT U.S. ATTORNEY:

JEFFREY J. BUERSTATTE

STATUTES CHARGED:

Count One
18 U.S.C. § 1001
Making False Statement

Count Two
33 U.S.C § 1908(a)
Failure to Maintain Oil Record Book

CHARGES PLEADING TO:

Count One

18 U.S.C. § 1001
Making False Statement

Count Two
33 U.S.C § 1908(a)
Failure to Maintain Oil Record Book

PENALTIES:

Count One
18 U.S.C. § 1001
Making False Statement

- Fine of not more than \$500,000.
- Not more than five (5) years probation.
- Special Assessment of \$100.

Count Two
33 U.S.C § 1908(a)
Failure to Maintain Oil Record Book

- Fine of not more than \$500,000.
- Not more than five (5) years probation.
- Special Assessment of \$100.

ELEMENTS OF THE OFFENSES:

Count One
18 U.S.C. § 1001
Making False Statement

- First:** That the defendant, through the acts of its agents/crew on board a vessel under defendant's management, made or used a document, as charged;
- Second:** That the document was false;
- Third:** That the falsity related to a material matter;
- Fourth:** That the defendant, through the acts of its agents/crew on board a vessel under defendant's management, acted willfully and with knowledge of the falsity; and
- Fifth:** That the false document was made or used in relation to a matter within the jurisdiction of a department or agency of the United States, as charged.

Count Two

33 U.S.C § 1908(a)

Failure to Maintain Oil Record Book

First: That the defendant, through the acts of its agents/crew on board a vessel under defendant's management, had a duty to maintain an Oil Record Book on the defendant's vessel, as charged;

Second: That the defendant, through the acts of its agents/crew had a duty to record in the Oil Record Book any discharges of oily waste from the vessel;

Third: That the defendant, through the acts of its agents/crew, knowingly failed to report discharges from its vessel.

SUMMARY OF GOVERNMENT'S PROMISES:

The government agrees:

1. To not to prosecute defendant for any offenses giving rise to the Information discussed herein.
2. With the defendant that, pursuant to Rule 11(c)(1)(C), Fed. Rules Crim. Proc., the appropriate fine amount in this case is \$780,000 (giving credit to defendant based on maintenance and upkeep of certain crewmembers of the *M/V Marseille Star* at the government's request from May 23 through June 6, 2008); and that the period of probation is three years.
3. That restitution is not warranted under U.S.S.G. § 8B1.1.

SUMMARY OF DEFENDANT'S PROMISES:

The defendant agrees:

1. To plead guilty to Counts One and Two of the Information.
2. To waive indictment as to the offenses charged in the Information.
3. To enter into a compliance program as further described herein for the purpose of ensuring continuing compliance with maritime environmental laws and regulations.
4. With the government that, pursuant to Rule 11(c)(1)(C), Fed. Rules Crim. Proc., the appropriate fine amount in this case is \$780,000 (with credit

given to defendant based on maintenance and upkeep of certain crewmembers of the *M/V Marseille Star* at the government's request from May 23 through June 6, 2008); and that the period of probation is three years.

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James D. Durham and Jeffrey J. Buerstatte, Assistant United States Attorneys; and Thomas M. Russo, Esq., and David F. Sipple, Esq., attorneys for the defendant, pursuant to the provisions of Rule 11(c), Federal Rules of Criminal Procedure, as amended, have, with the authorization of the undersigned defendant, heretofore entered into discussions with a view towards reaching a pretrial conclusion of the charges pending in the Information referenced herein; and a Plea Agreement has been reached by said parties in the following respects:

GOVERNMENT'S OBLIGATIONS

1. Upon entering a plea of guilty by the defendant to the offenses charged in Counts One and Two of the Information, the attorneys for the government will do the following:

a. The government will not prosecute defendant for any acts giving rise or related to the Information referenced herein, or any additional criminal offenses, based on facts or circumstances known to the government as of the date of this Agreement.

b. The government agrees with the defendant agree, pursuant to Rule 11(c)(1)(C), Federal Rules of Criminal Procedure, that the appropriate fine in this case is \$780,000 (with credit given to defendant based on maintenance and upkeep of

certain crewmembers of the *M/V Marseille Star* at the government's request from May 23 through June 6, 2008); and that the period of probation is three years.

c. The government agrees that restitution is not warranted under the Federal Sentencing Guidelines, § 8B1.1.

2. The government reserves the right to inform the Court and the U. S. Probation Office of all facts pertinent to the sentencing process, including all relevant information concerning the defendant and its background, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. The government will inform the defendant and defense counsel of all information provided to the probation office at the time it is provided to that office.

DEFENDANT'S OBLIGATIONS

The defendant agrees:

- a. To plead guilty to Counts One and Two of the Information.
- b. To waive indictment as to the offenses charged in the Information.
- c. To enter into an environmental compliance program as further described herein for the purpose of ensuring continuing compliance with maritime environmental laws and regulations; said environmental compliance program to run concurrently with the period of probation.
- d. With the government that, pursuant to Rule 11(c)(1)(C), Federal Rules of Criminal Procedure, the appropriate fine amount in this case is \$780,000 (with credit given to defendant based on maintenance and upkeep of certain crewmembers

of the *M/V Marseille Star* at the government's request from May 23 through June 6, 2008); which defendant agrees to pay in full at the time of sentencing; and to be placed on probation for a period of three years.

3. If the defendant has failed or should fail in any way to fulfill completely its obligations under this agreement then the government will be released from its commitment to honor all of its obligations to defendant. Thus, if the defendant should fail to fulfill its obligation under this agreement, the government will be free to prosecute the defendant for all violations of federal criminal law which it has committed; and to recommend a maximum sentence. The parties agree to submit to the court, to be decided by a preponderance of the evidence standard, the question of whether defendant has breached this Agreement.

REPRESENTATIONS OF THE DEFENDANT MADE TO THE COURT

4. The defendant, before entering a plea of guilty to Counts One and Two of the Information provided for herein by said Plea Agreement, advises the Court that:

a. The discussions between the attorney for the government and the attorneys for the defendant towards reaching an agreed plea in this case have taken place with the defendant's authorization and consent.

b. The defendant understands the nature of the charges to which the plea to Counts One and Two of the Information is offered, that is, that the defendant, through the acts of its agents/crew on board the vessel *M/V Marseille Star*, did commit

offenses against the United States, that is to say, violations of Title 18, United States Code, Section 1001, and Title 33, United States Code, Section 1908(a).

Factual Basis

c. The defendant further understands that the nature of the charges to which the plea is offered involves proof as to Counts One and Two of the Information, as follows:

COUNT ONE

On or about October 18, 2007, within the internal waters of the United States and in the Southern District of Georgia, defendant OFER (SHIPS HOLDING) LTD, acting through its crew on board the vessel *M/V Marseille Star*, who were acting within the scope of their agency and employment, and for the benefit of defendant OFER (SHIPS HOLDING) LTD, aided and abetted by one another, did knowingly and willfully make and use, and cause the making and use of materially false writings and documents, in a matter within the jurisdiction of the U.S. Coast Guard and Department of Homeland Security, to wit: Oil Record Book entries for the *M/V Marseille Star* during the period between October 5 and 18, 2007, which entries contained false information about quantities of oil contaminated waste remaining on board, and omitted records of overboard discharges of oil-contaminated waste, when the defendant, through its agents/crew on board the vessel *M/V Marseille Star*, well knew the true quantities of oil-contaminated waste remaining on board and that oil-contaminated waste had been discharged directly overboard through a bypass pipe; done in violation of Title 18, United States Code, Section 1001(a)(3). Defendant's shore-side management did not

know of or direct the aforesaid conduct, but is vicariously criminally responsible for the conduct of the crewmembers on the *M/V Marseille Star* who were acting within the scope of their agency and employment, and for the benefit of the defendant.

COUNT TWO

On or about October 18, 2007, within the internal waters of the United States and while in port in the Southern District of Georgia, defendant OFER (SHIPS HOLDING) LTD, acting through its crew on board the vessel *M/V Marseille Star*, who were acting within the scope of their agency and employment and for the benefit of defendant OFER (SHIPS HOLDING) LTD, and aided and abetted by one another, did knowingly fail to maintain an Oil Record Book for the *M/V Marseille Star* in which all disposals of oil residue and discharges overboard and disposals otherwise of oily mixtures, slops from bilges and bilge water that accumulated in the engine room aboard the *M/V Marseille Star* were fully recorded, to wit: the defendant, through the acts of the crew on board the vessel, failed to fully maintain an accurate Oil Record Book for the *M/V Marseille Star* on or about October 18, 2007, during a U.S. Coast Guard inspection to determine the compliance of the *M/V Marseille Star* with United States law, and while the ship was in port and within the internal waters of the Southern District of Georgia, by failing to disclose exceptional discharges of oil-contaminated waste during the period between October 5 and October 18, 2007, made through a bypass pipe and without the use of the vessel's oil water separator and oil content meter, and containing false information about quantities of oil-contaminated waste on board the vessel; done in

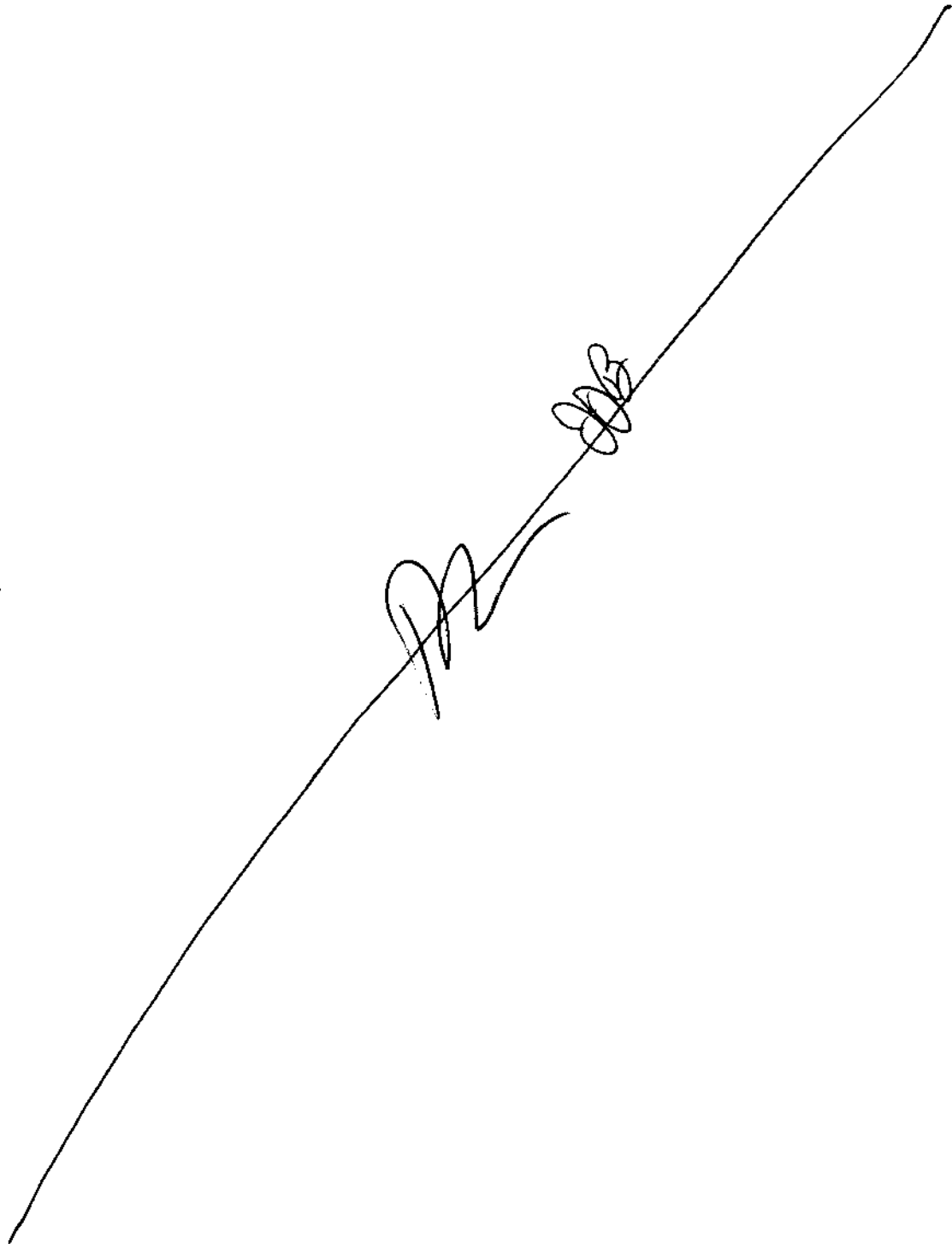
violation of Title 33, United States Code, Section 1908(a), and Title 33, Code of Federal Regulations, Section 151.25. Defendant's shore-side management did not know of or direct the aforesaid conduct, but is vicariously criminally responsible for the conduct of the crewmembers on the *M/V Marseille Star* who were acting within the scope of their agency and employment, and for the benefit of the defendant.

d. The defendant understands that defendant has a right to be represented by an attorney at every stage of the proceedings against defendant herein and is represented by the defendant's undersigned attorneys.

e. The defendant understands that defendant has the right to plead not guilty and has the right to be tried by a jury and, at a trial thereof, has the right to the assistance of counsel, the right to confront and cross-examine witnesses against defendant, and the right to call witnesses in defendant's own behalf, and that if the defendant enters a plea of guilty herein, there will not be a further trial of any kind and that by the entry of such a plea, the defendant waives the right to a trial by jury or to a trial before the Court.

f. The defendant further understands and advises the Court that the Plea Agreement as set forth herein and the plea to be entered by the defendant as a result thereof is voluntary on the defendant's part and is not the result of any force or threats. The defendant further advises the Court that the Plea Agreement set forth herein is the result of prior discussions between the attorneys for the government and the attorneys for the defendant, all conducted with the defendant's authorization, knowledge and consent.

g. The defendant further advises the Court that the defendant's understanding of this Plea Agreement is as set forth in this document.

A long, thin, slightly curved line drawn diagonally across the page. Over this line, there are two handwritten signatures or scribbles. The first one is a stylized, cursive signature, and the second one is a more complex, scribbled mark.

h. The defendant further advises the Court that it is understood that the Court is not a party to this agreement, *but that after the Court accepts the plea agreement, the agreement between the government and the defendant as to a fine amount of \$780,000 (with credit given to defendant based on maintenance and upkeep of certain crewmembers of the M/V Marseille Star at the government's request from May 23 through June 6, 2008) does bind the Court pursuant to the provisions of Rule 11(c)(1)(C), Federal Rules of Criminal Procedure. If the Court declines to accept the plea agreement, the defendant is allowed to withdraw its guilty plea. The defendant also understands that in accordance with United States v. Booker, the district court, while not bound to apply the federal sentencing guidelines, must consult those guidelines and take them into account to formulate a reasonable sentence.*

i. The defendant further advises the Court that the defendant understands and has been advised that evidence of a plea of guilty, later withdrawn or an offer to plead guilty to the crimes charged in Counts One and Two of the Information herein, or of statements made in connection with and relevant to said plea or offer to plead, shall not be admissible in any civil or criminal proceedings against the defendant. However, the defendant does understand that evidence of a statement made in connection with and relevant to a plea of guilty, later withdrawn, or an offer to plead guilty to the crimes charged in Counts One and Two of the Information herein, is admissible in a criminal proceeding for perjury or false statement when the statement was made by an agent for the defendant under oath, on the court record, and in the presence of counsel.

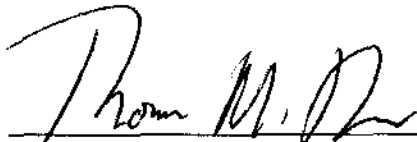
j. The defendant understands that the U. S. Probation Office will prepare a presentence investigation report for the Court. The U. S. Probation Office will consider defendant's conduct relevant to the acts committed by the defendant, including the offenses to which defendant is pleading. The offense level and criminal history category determined by the U. S. Probation Office and the Court may differ from that projected by defendant's counsel or attorneys for the government. In the event the Court determines defendant's offense level or criminal history category to be higher than defendant anticipated, defendant will nonetheless have no absolute right to withdraw defendant's plea.


5. In addition to the foregoing provisions to which defendant agrees, defendant's agent agrees that there is a factual basis for its plea and that defendant's attorneys have acted competently and in the defendant's best interests during their representation of defendant. The defendant understands that in entering a plea of guilty, the Court may ask questions about the offenses to which the plea is entered. The defendant understands that the defendant's agent will be under oath and on the record in answering those questions, and that the defendant's answers may later be used against the defendant in a criminal prosecution for perjury or false statements if those answers are not truthful.

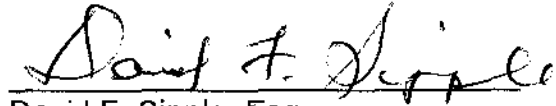
6. The undersigned attorneys for the government and for the defendant represent to the Court that the foregoing Plea Agreement is the agreement of the parties that has been reached pursuant to the Plea Agreement procedure provided for in Rule 11, Federal Rules of Criminal Procedure, as amended. The attorneys for the defendant further advise the Court that the defendant has been advised of the nature of


the charges to which the foregoing described plea is to be offered, and that the defendant has been advised of the defendant's right to plead not guilty and to be tried by a jury on all issues herein; of the maximum possible penalty provided by law; that by the entering of a plea of guilty as aforesaid, the defendant waives the right to be tried by a jury or by the Court, waives the right to confront and cross-examine witnesses against defendant; and that if the defendant pleads guilty, there will not be a further trial of any kind.

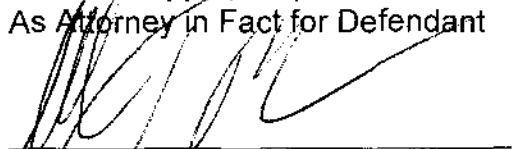
This 2nd day of June, 2008.


Thomas M. Russo, Esq.
As Attorney in Fact for Defendant

EDMUND A. BOOTH
UNITED STATES ATTORNEY

James D. Durham
Assistant United States Attorney


David F. Sipple, Esq.
As Attorney in Fact for Defendant


Jeffrey V. Buerstatte
Assistant United States Attorney


William J. Pallas, Esq.
As Attorney in Fact for Defendant

U.S. v. OFER (SHIPS HOLDING) LTD
CR 408-103

ORDER

The aforesaid Plea Agreement, having been considered by the Court in conjunction with the interrogation by the Court of the defendant and the defendant's attorney at a hearing on the defendant's motion to change his plea and the Court finding that the plea of guilty is made freely, voluntarily and knowingly, it is thereupon,

ORDERED that the plea of guilty by defendant be, and it is, hereby accepted and the foregoing Plea Agreement be, and it is, hereby ratified and confirmed.

This 27th day of June, 2008.



WILLIAM T. MOORE, JR.
JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA



Environmental Compliance Plan

PURSUANT TO PLEA AGREEMENT
 United States v. Ofer (Ships Holding) Ltd.
 Case No. CR 408-103

The following standards and requirements for an ENVIRONMENTAL COMPLIANCE PROGRAM (ECP) have been prepared pursuant to the Plea Agreement between Ofer (Ships Holding) Ltd. (hereinafter "Ofer") and the United States (hereinafter "Government") filed in the United States District Court for the Southern District of Georgia. Compliance with all of the standards and requirements of the ECP is an essential term of the Plea Agreement. The vessels currently covered under this ECP are known as:

<u>Name of Vessel</u>	<u>IMO number</u>
Aegean Sea	8008292
Cap Blanco	8220345
Cap Domingo	8213794
Blue Diamond	9330654
India Lotus	7912379
Lorraine	9311763
Zim California	9231793
Zim Mediterranean	9231779

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The ECP includes various provisions to ensure the above vessels (hereinafter "The Vessels" or "The Vessel"), which call or may call at ports or places in the United States, comply with all maritime environmental requirements established under applicable international, flag state, and port state law, including, but not limited to, the International Convention for the Safety of Life at Sea (SOLAS), the International Safety Management (ISM) Code, the International Convention for Prevention of Pollution from Ships (MARPOL), and all applicable Federal and state statutes and regulations including, but not limited to, the Ports and Waterways Safety Act (PWSA), the Act to Prevent Pollution from Ships (APPS), the Clean Water Act (CWA) and the Oil Pollution Act (OPA), and with the requirements of this agreement itself.

A. APPLICABILITY AND PURPOSE

(1) This ECP shall cover and apply to all of Ofer operations involved in the operation of The Vessels, which are operated, managed and manned by Ofer, on the date of sentencing or anytime during the period of probation. It shall also include all persons employed by Ofer, as direct employees or independent /contractors, whether employed on The Vessels or shore side, on the date of sentencing or at any time during the period of probation. The provisions of this ECP shall expire upon the termination of Ofer's period of probation.

(2) The ECP is not intended to replace the ISM Code, or any other applicable international legal requirement or United States statute and regulation. The purpose of this ECP is to augment the requirements of existing law by increasing and improving inspections, reviews, and audits of The Vessels, which call or may call at ports or places in the United States, shore side facilities, and operations involving The Vessels; increase

training of all of Ofer personnel involved with The Vessels; develop and implement management and engineering controls to better manage, detect and prevent environmental violations; and require periodic reports to the United States Probation Office (USPO) for the Southern District of Georgia, the United States Attorney's Office for the Southern District of Georgia, the Environmental Crimes Section of the United States Department of Justice, the Environmental Protection Agency, and the United States Coast Guard (collectively hereinafter "the United States") to ensure that Ofer is following the requirements of this ECP and all The Vessels comply with all maritime environmental requirements established under applicable international, flag state, and port state law and all applicable Federal and state statutes and regulations and that an effective environmental management system is in place to prevent recurrence of violations.

(3) This ECP shall be incorporated into the Plea Agreement by reference and compliance with the terms of the ECP will be a special condition of probation. Failure to comply with any part of this ECP, including but not limited to, refusal to pay valid charges for the Court Appointed Monitor, the Independent ECP Consultant, or Third Party Auditor, and failure to provide these or other personnel, auditors or inspectors needed to achieve the objectives of this agreement, or failure to provide complete unrestricted access to The Vessels, facilities, personnel or documents, may be a basis on which the Government may move to revoke or modify Defendant's probation.

(4) In the course of implementing this ECP, should inadequacies in the size and capabilities of The Vessels crews be proven as a contributing factor to their inability to manage waste streams, Ofer agrees to supplement crew sizes as needed, consistent with The Vessels' lifesaving arrangements. Additional shore side resources may also be required.

(5) Ofer shall take appropriate action, up to and including dismissal, against any employee who obstructs, hinders or presents false information or makes false statements during any inspection, monitoring, or auditing, or inspection function required by this ECP or to any U.S. authority performing an inspection or Port State Control activity.

B. CORPORATE COMPLIANCE MANAGER

(1) Within sixty-days of entry of the Plea Agreement, Ofer shall designate a senior corporate officer as Corporate Compliance Manager (hereinafter "CCM") who shall report directly to the President and/or Managing Director of Ofer. Ofer shall provide the name of the CCM to the United States. The CCM position will be filled by an individual with significant maritime operational background, who possesses auditing experience and is thoroughly familiar with the requirements of this ECP, and is knowledgeable about domestic and international maritime environmental laws and regulations. The CCM should be the same individual as Ofer's "designated person" under the ISM Code, unless reasons are provided to the United States justifying why the "designated person" should not also be the CCM.

(2) The CCM shall be responsible for coordinating with the Independent ECP Consultant (hereinafter "IC" and more fully described below), and developing and implementing all of the procedures and systems required herein, establishing and implementing training programs for the officers and crew of The Vessels, ensuring reviews, audits and

surveys are carried out as required and ensuring all documents are properly maintained and reports are made on a timely basis to the IC, the Court Appointed Monitor (hereinafter "CAM" and more fully described below) and the United States. All reports required under this ECP shall be reviewed by the CCM and signed under the penalty of perjury.

(3) The CCM shall be authorized to access all records and personnel regarding The Vessels for the purpose of assuring compliance with the ECP. The CCM shall be authorized to implement all requirements of the ECP on The Vessels. The CCM shall ensure that audits and surveys are carried out as required, that all documents are properly maintained and that reports are made on a timely basis to the United States, the IC, the CAM, and Ofer's Board of Directors or equivalent governing structure. CCM responsibilities shall include:

(a) Development and Maintenance of Effective Training Programs - The CCM will be responsible for developing training programs to educate and train crewmembers onboard The Vessels with regard to their environmental commitment, the requirements of the ECP, the policies and procedures for complying with the ECP, and the possible consequences to Ofer and to individuals for failure to comply with environmental laws.

(b) Auditing and Compliance Assessment – The CCM will work closely with the IC to ensure that the reviews and audits required by the ECP are properly conducted and that the required reports are prepared and submitted in a timely manner.

(c) ECP/EMS Reviews – The CCM shall conduct an annual review of the Environmental Compliance Program and Environmental Management System and prepare a report to Ofer's Board of Directors or equivalent governing structure, with recommendations for improvement as appropriate.

(d) Reporting of Non-Compliance by Employees and Crew Members (Open Reporting System) – The CCM shall establish an Open Reporting System by which Ofer's shipboard and shore side personnel may report (anonymously if so desired) issues of non-compliance with this ECP, the EMS, and any other procedure, policy, or regulation associated with environmental compliance. The system shall also assure that Ofer agrees not to retaliate against any person making such a report of non-compliance and that failure to notify the CCM of any known violations of any applicable environmental requirements and failure to cooperate fully with the IC, and the United States in carrying out their auditing and oversight functions required by applicable law and this ECP, will be grounds for dismissal. The CCM shall ensure crewmembers are provided with information about the Open Reporting System upon joining The Vessels and ensure Ofer's employees, both aboard The Vessels and shore side, are informed of the availability of this reporting system by posting notices in office spaces ashore and aboard The Vessels in lounge spaces of officers and crewmembers, the engine control room, and common areas of The Vessels.

The CCM shall be informed of each report received under this Open Reporting System. The CCM shall ensure that a copy of each such report containing an allegation of environmental noncompliance is provided to the CAM. The CCM

shall review, investigate, and document reports of non-compliance by employees in a timely fashion and shall initiate, monitor, and document all actions taken as a result of the reporting. The CCM shall maintain these records and make them available for review. A report summarizing the reports received under the Open Reporting System shall be sent to the fleet on a quarterly basis to demonstrate that the system is working. The CCM shall develop and communicate Ofer's policy that Ofer will not tolerate retaliation against those who report non-compliance and will develop and communicate a policy that MARPOL compliance is a condition of employment, that failure to comply is a dismissible offence, and which encourages crews to report directly or anonymously regarding any MARPOL violation onboard The Vessels without fear of any retaliation from the company's side.

(e) Personnel Evaluations - The CCM shall establish that enforcement of an employee compliance with the ECP, EMS, ISM Code, MARPOL, and all applicable State and Federal safety and environmental statutes and regulations is an important positive factor and failure to comply with such policies, regulations and laws will be a negative factor in all appropriate personnel evaluations.

(f) Documentation - The CCM shall ensure that all documentation required by this ECP is maintained and available for inspection by the United States Coast Guard and auditors acting in accordance with this ECP.

C. BOARD OF DIRECTORS

The Board of Directors or equivalent company governing structure shall review reports from the CCM and any applicable report from the IC concerning the implementation of this ECP, including environmental compliance, EMS implementation, and manager, officer, and crew training. The results of the Board's review shall be documented to ensure the continuing suitability, adequacy, and effectiveness of the ECP. The results of the review shall be used to update the company objectives, targets and environmental policy.

D. MASTER and CHIEF ENGINEER

(1) The Master of each of The Vessels, with the assistance of the CCM, shall ensure prompt reports are made to the United States Coast Guard of any violation of MARPOL or U.S environmental law or regulation by any of The Vessels that call upon any port or place in the United States.

(2) The Master of each of The Vessels, shall maintain on board all records required by international conventions and treaties including SOLAS, the ISM Code, MARPOL, and applicable State and Federal statutes and regulations and any additional documents required under this ECP, such as logbooks and crew training records, and will make these records available to the United States Coast Guard and auditors acting in accordance with this ECP.

(3) The Chief Engineer on board each of The Vessels shall report to the CCM and cooperate to resolve environmental concerns, such as inoperative or ineffective pollution

prevention equipment and document all efforts to do so in a log that is available for review and audit at all times.

(4) The Master and Chief Engineer will ensure handover notes include an environmental component related to the status of pollution prevention and waste handling equipment on board.

E. INDEPENDENT ECP CONSULTANT (IC) AND INITIAL ENVIRONMENTAL REVIEW

(1) No later than thirty (30) days following the District Court's final imposition of sentence Ofer shall nominate an IC who meets the qualifications below to conduct an Initial Environmental Review (IER), and a Report of Findings for Ofer operations as defined below. The United States will notify Ofer in writing of its approval or disapproval as expeditiously as possible. The United States' approval shall not be unreasonably withheld. If written notification from the United States is not received within thirty-days, the nominated IC shall be deemed acceptable to the United States.

(2) Qualified candidates for the IC position must have expertise and competence in the regulatory programs under U.S. and international environmental laws, and have expertise and competence in waste stream evaluation monitoring and control technologies, with a primary emphasis on engine room and machinery space operations. The IC shall also have sufficient expertise and competence to assess whether Ofer has an adequate Environmental Management System in place to assess regulatory and ECP compliance, correct non-compliance, and prevent future non-compliance. Ofer and the United States acknowledge that the functions of the IC may, by mutual agreement, be fulfilled by one or more individuals.

(3) The IC must not directly own any stock in Ofer any of its subsidiaries, affiliated business entities (owned wholly or partially by Ofer) or any agents of Ofer, and must have no other direct financial stake in the outcome of duties conducted pursuant to this Plea Agreement. The IC must be capable of exercising the same independent judgment and discipline that a certified public accounting firm would be expected to exercise in auditing a publicly held corporation. If Ofer has any other contractual relationship with the IC, both Ofer and the IC shall disclose to the United States such past or existing contractual relationships.

(4) If the United States determines that the proposed IC does not reasonably meet the qualifications set forth in the previous paragraphs, or that past or existing relationships with the IC would affect the IC's ability to exercise independent judgment and discipline required to conduct the IER and audits required by this ECP, the prospective IC shall be disapproved and another IC shall be proposed by Ofer within thirty (30) days of receiving the United States' disapproval.

(5) The IC shall conduct an Initial Environmental Review of Ofer's shore side and shipboard operations. The IER may be considered as a discovery action in that its purpose is to review current procedures and all areas of operation that may impact various elements of pollution prevention and environmental protection. It will exceed a typical Safety Management System (SMS) audit in scope and will be used to determine if additional practices, procedures and equipment conditions are required. The results of

(g) It shall assess the adequacy of the proper maintenance of the following records. Where appropriate, a comparative analysis of such records shall be carried out (e.g. Oil Record Book and Sounding Log):

- (i) Oil Record Book
- (ii) Tank Sounding Log
- (iii) Work Records and Work Lists
- (iv) Maintenance Records
- (v) Vendor Service Records
- (vi) Bilge Waste and Sludge Shore Side Disposal Receipts
- (vii) Deck Log
- (viii) Garbage Record Book
- (ix) Oil to Sea Equipment Interface Logs
- (x) Garbage Shore Side Disposal Receipts
- (xi) Training Records
- (xii) Vetting and Inspection Record
- (xiii) ISM Audit Documents
- (ix) Ballast Water Management Plan, Records, & Reports

(h) It shall assess the adequacy of the policy, procedures, and current practices used to store and dispose of hazardous wastes, such as solvents, expired batteries fluorescent tubes, expired medicines, expired pyrotechnics, etc.

(i) It shall assess the policy, procedures, and current practices associated with the capability of the Master and Chief Engineer to communicate with shore side personnel, including the CCM and designated persons.

(j) It shall assess the frequency, adequacy and documentation of shipboard pollution prevention and environmental compliance meetings and training.

(k) It shall assess the adequacy of existing methods to report environmental concerns, along with the capability of the reporting individual to remain anonymous, and processes of handling such reports from shipboard and shore side personnel.

(l) It shall assess the policy, procedures, and current practices to ensure The Vessels vendors, technicians, and other non-crewmembers follow the company's requirements regarding pollution prevention and environmental compliance.

(m) It shall assess the policy, procedures, and current practices used to manage existing seal tracking and valve locking program, including the storage of seals and procedures to avoid the use of duplicate seals.

(n) It shall assess the policy, procedures, and current practices and equipment used to maintain refrigeration units, including availability and status of refrigerant recovery units, procedures for leak tests and recovery of refrigerants, and documentation of any leaks.

(o) It shall assess the policies, procedures, current practices, and equipment related to Oil Transfer Procedures, including waste oil and slops discharges, conditions of hoses, connections and transfer equipment.

(p) It shall assess the policy, procedures, current practices, and equipment used to respond to releases of oil or hazardous materials on deck or within machinery spaces of The Vessels, including a review of the Shipboard Oil Pollution Emergency Plan (SOPEP), OPA 90 Vessel Response Plan (VRP) and any state required pollution response plan.

(q) It shall assess the policy, procedures, and current practices associated with ballast water management.

(8) At the conclusion of the Initial Environmental Reviews, but in no event later than sixty-days following the last IER conducted, the IC shall prepare a Report of Findings. If the IC believes that additional time is needed to analyze available information, or to gather additional information to complete the Report of Findings, the IC may request that the United States grant such additional time, as required, which request shall not be unreasonably denied. If necessary, the United States may grant additional time in thirty-day increments for completion of the Report of Findings. The Report of Findings shall be provided to Ofer, the CAM, and the United States. Based on the Report of Findings, Ofer shall take the necessary steps in order to submit an Environmental Management System as described below.

F. ENVIRONMENTAL MANAGEMENT SYSTEM (EMS)

(1) Within six (6) months of receiving the Report of Findings on the IERs from the IC, Ofer shall submit their Environmental Management System to the Government, which shall describe and document the environmental procedures and contain any additional EMS implementation schedules as needed to ensure complete compliance in all operations. If Ofer believes additional time is needed to analyze available information or to gather additional information to prepare the EMS, Ofer may request that the United States grant it such additional time as needed to prepare and submit the EMS, which request shall not be unreasonably denied. If necessary, the United States may grant additional time in thirty-day increments for completion of the EMS.

(2) Ofer shall submit a proposed final EMS to the CAM and the United States immediately upon its completion. The CAM and the United States shall provide comments on the proposed EMS within thirty-days of receipt unless additional time for review is requested in writing. Ofer shall submit a revised EMS and/or a written response, as appropriate, within thirty-days of receipt of the comments. The EMS is subject to final approval from the United States, which approval shall not be unreasonably withheld. If no comments are received within the thirty-day periods mentioned in this section, the EMS shall be deemed approved by the United States.

(3) The CCM shall be responsible for preparing the EMS. To the extent possible, the EMS shall be based upon the ISO 14001/2004 standards and may consist of existing manuals and procedures such as ISO 14001 procedures, Quality, Safety and Environmental Procedures (QSE), and Fleet Standing Instructions. The EMS shall include the following core requirements:

(a) Environmental Policy:

The EMS should be based upon a documented and clearly communicated policy. This policy should set out the Ofer's commitment towards a cleaner marine environment. It should include: provision for compliance with environmental requirements; commitment to continuous improvement in environmental performance, including those areas required by this ECP; commitment to pollution prevention that emphasizes source reduction, to include funding and human resources necessary to effectively maintain and repair the systems, equipment and components found in machinery spaces of The Vessels; and commitment to continuous reduction of environmental risks.

The EMS will promote non-retaliatory practices and ensure employees are not punished or otherwise suffer negative consequences for reporting violations of environmental laws, regulations, or policies.

The EMS will describe potential consequences for departure from specified operating policies and procedures, including possible termination of employment, as well as criminal, civil, and administrative penalties as a result of noncompliance.

The EMS will make employee compliance with environmental policies of the ECP, and other marine environmental protection requirements a positive factor, and failure to comply a negative factor, in all evaluations undertaken for the performance of all its shore side and shipboard employees.

(b) Environmental Requirements and Voluntary Undertakings:

The EMS must provide a means to identify, explain and communicate all environmental requirements and voluntary undertakings to all employees, vendors, technicians, and other non-crewmembers, whose work could affect Ofer's ability to meet those requirements and undertakings. Environmental requirements include statutes, regulations, permits, and agreements such as this ECP. Voluntary undertakings include the adaptations of additional best practices or industry norms that Ofer may choose to adopt. The EMS must include procedures for ensuring that the organization meets these environmental requirements, voluntary undertakings and the additional requirements of this ECP.

The EMS shall require signed statements by The Vessels' officers attesting that they understand false entries in the Oil Record Book for Machinery Space operations is a violation of law.

The EMS must also specify procedures for anticipating changes to environmental requirements, including new requirements that may apply as a result of changes in operations and incorporating these changes into the ECP.

(c) Objectives and Targets:

The EMS shall establish specific objectives and targets through the identification of environmental aspects and their impacts for: (1) achieving and maintaining

compliance with all ECP and marine environmental protection requirements; (2) environmental performance demonstrating continuous improvement in regulated and non-regulated areas, and; (3) pollution prevention that emphasizes source reduction with respect to machinery space waste streams and effective management of cargo related wastes. The EMS shall establish appropriate time frames to meet these objectives and targets. These must be documented and updated as environmental requirements change or as modifications occur in activities and structures within organizations in a manner that affects environmental performance or as a result of recommendations made by the IC or CAM. The objectives and targets shall be reviewed and if necessary updated at least every twelve (12) months.

(d) Structure, Responsibility and Resources:

Ofer will ensure that it is equipped with sufficient personnel and other resources to meet its established targets. The EMS will describe in detail the procedures and steps for achieving those targets. The EMS will define the compliance roles and responsibilities of The Vessels' and shore side personnel involved with the operation maintenance and repair of The Vessels, and will indicate how they and other corporate personnel will be held accountable for achieving and maintaining compliance with this EMS, the requirements of the ECP, and other marine environmental protection requirements. Additionally, it will describe how environmental performance and compliance information will be communicated to all vendors, technicians, and other non-crewmembers on board The Vessels. The EMS will also establish procedures for receiving and addressing concerns raised by these personnel regarding environmental performance and compliance.

The EMS will include organization charts, as appropriate, that identify individuals, both shore side and aboard The Vessels, having environmental performance, risk reduction, and regulatory compliance responsibilities. The charts shall also specify responsibilities of Engineering Superintendents to report information related to environmental releases or inadequate performance of environmental pollution protection equipment, casualties causing internal spills, excessive waste development and leaking equipment with oil-to-sea interfaces.

(e) Operational Control:

The EMS will identify and provide for the planning and management of all Ofer's operations and activities with a view to achieving the EMS objectives and targets. For example, The Vessel deck department and engine room machinery space maintenance and repair will be an important aspect in achieving and maintaining compliance and enhancing environmental performance.

The EMS will identify a process for mitigating and correcting an environmental discharge caused by leaking stern tubes, thrusters or other onboard oil to sea interface equipment.

The EMS will identify all operations and activities where documented standard operating practices (SOPs) are needed to prevent potential violations or unplanned waste stream releases, with a primary emphasis on The Vessels'

engine room operations, systems, equipment and components and cargo residue management.

(f) Corrective and Preventive Action and Emergency Procedures:

Ofer will establish and maintain documented procedures for preventing, detecting, investigating, promptly initiating corrective action, and reporting (both internally and externally) any occurrence that may affect the organization's ability to achieve the EMS objectives and targets. Such measures must address incidents that may have an effect on compliance with environmental requirements as well as on environmental performance in regulated and non-regulated areas, including requirements of this ECP or other marine environmental protection requirements. Examples of such situations include incinerator or oily water separator malfunctions, overflows of fuel or slop tanks, overflow of tanks within machinery spaces, fuel oil, lube oil, saltwater line failures, operator errors and other accidental releases. The EMS must also establish documented procedures for mitigating any adverse impacts on the environment that may be associated with accidents or emergency situations. If the environmental violation or incident resulted from a weakness in the system, the EMS should be updated and refined to minimize the likelihood of such problems recurring in the future. The EMS should also, to the extent possible, provide for the testing and evaluation of emergency procedures.

The EMS will describe a confidential non-compliance reporting system that is adopted to ensure that employees may quickly and confidentially report discharges, spills, environmental incidents and other environmental performance data.

(g) Training, Awareness and Competence:

The EMS must establish procedures to ensure all personnel (including vendors, technicians, and other non-crewmembers) whose job responsibilities affect the ability to achieve the EMS objectives and targets, have been trained and are capable of carrying out these responsibilities. In particular, the training should highlight means to enhance the ability of such personnel to ensure compliance with environmental requirements and voluntary undertakings, the requirements of the ECP and other marine environmental protection requirements.

(h) Organizational Decision-making and Planning:

The EMS must describe how these elements will be integrated into the organization's overall decision-making and planning, in particular, decisions on capital improvements, training programs, and The Vessels' operations, maintenance and repair activities.

(i) Document Control:

The EMS must establish procedures to ensure maintenance of appropriate documentation relating to its objectives and targets and should also ensure that those records will be adequate for subsequent evaluation and improvement of

the operation of the EMS. Additionally, all records will be maintained and made available to the IC, auditors and port and flag state personnel.

The EMS will identify the types of records developed and maintained in support of the ECP such as reports, audit working papers, correspondence, communications, reports from the confidential system for non-compliance reporting, and identify personnel responsible for their maintenance, and procedures for responding to inquiries and requests for release of information. The EMS shall provide a system for conducting and documenting routine, objective self-inspections by Ofer's internal auditors, supervisors, and trained staff to check for malfunctions, deterioration, and inadequate maintenance of pollution prevention equipment, worker adherence to SOPs, unusual situations, and unauthorized releases.

(j) Continuous Evaluation and Improvement:

The EMS must include methods to perform periodic, documented and objective internal auditing of the organization's performance in achieving these objectives and targets, and on how well the EMS assists the organization in achieving those objectives and targets. This requirement is independent from the auditing requirements detailed elsewhere in this ECP. The goal of these internal audits and reviews will be to allow management to continuously monitor and assess The Vessels' systems, equipment and components, and the ability and proficiency at which The Vessels' crew members and personnel ashore comply to the policies and procedures established by this ECP.

(4) All elements of the EMS shall be fully implemented no later than nine (9) months following final approval by the United States. Upon receipt of final approval, Ofer shall immediately commence implementation of the EMS.

G. COURT APPOINTED MONITOR (CAM)

(1) As part of the ECP, Ofer agrees to pay for a Court Appointed Monitor that will be appointed by and report to the United States and the Court during the entire period of probation. The CAM can, at Ofer's option, serve concurrently in the additional capacity of Third Party Auditor (hereinafter "TPA" and more fully described below) under the terms of this Agreement. The CAM must have expertise and competence in the regulatory programs under United States and international marine safety and environmental laws. Within thirty-days of the entry of the imposition of sentence Ofer will nominate a prospective CAM to the United States and the Court for approval. In the event that the United States and the Court do not find the nominated individual satisfactory, or if they do not find the work of the CAM satisfactory during the course of his/her tenure, they may request Ofer to nominate additional candidates. Further, if an agreement cannot be reached regarding the selection, the decision shall be left up to the Court.

(2) The CAM shall be assigned the following tasks and responsibilities and provide written submissions to the United States and the Court as set forth below:

(a) Review the relationship between Ofer and the IC and evaluate the adequacy of measures taken to ensure that the IC acts with independence.

(b) Assess whether Ofer has adequate management systems in place to ensure regulatory compliance, correct non-compliance, and prevent future non-compliance.

(c) Evaluate Ofer's required effort and commitment in satisfying the requirements of this ECP and the EMS.

(d) Conduct a review of all reports regarding the audits conducted by the IC and submit an annual report to the United States and the Court, with a copy to the IC and Ofer, beginning six (6) months following the submission of the IC's Report of Findings and annually thereafter, regarding the status of the development and implementation of the EMS and compliance with the ECP. It is not intended, nor should the CAM attend the audits conducted by the IC. The CAM may visit and or ride any of The Vessels to gain a better understanding as to the degree the ECP and EMS have been implemented. The CAM's annual reports shall provide a summary of the findings regarding the adequacy of any audits required by this ECP and adequacy of recommendations for change, as found necessary. The annual report shall also include and address any other information that the CAM is aware of which pertains to Ofer's capabilities to meet the objectives of this ECP or any other marine environmental protection requirements.

(e) If the CAM receives information regarding a direct violation of any existing marine environmental protection requirement or requirement of this ECP, the CAM must immediately report the occurrence to the United States and the Court.

(f) Provide any additional reports to the United States, the Court, and Ofer as requested by the Court or as appropriate and to include inadequacies in the audit process, violations of the terms and conditions of the ECP and EMS and any other findings of significant problems or deficiencies.

(3) Ofer shall ensure that the CAM is provided all reports and notifications as established in this plan. At any time during the probationary period the CAM may inspect or investigate any aspect of the IC activities as they relate to the requirements of this plan or with respect to Ofer's operations, and shall be provided full access to all records, audit personnel, The Vessels and shore side facilities as is necessary to perform its duties.

H. COMPLIANCE AUDITS

(1) Beginning no later than four (4) months following full implementation of the EMS, the IC shall begin Compliance Audits of fifty (50) percent of The Vessels. These Compliance Audits shall be completed prior to the end of the probationary term. The IC will determine the identity of The Vessels to audit and the schedule. To the extent practicable, The Vessels will be audited while they are underway and operating, although they may also be reviewed while The Vessels are in port, if underway reviews are impractical due to schedule or length of voyage, as determined by the IC. The United States may petition the Court to require that additional shipboard compliance audits be performed and upon a showing of good cause, the Court may order such additional audits.

(2) Primary emphasis of the Compliance Audits will be on The Vessels adherence to the elements of the EMS and shall be similar in scope to The Vessels IERs. The Compliance Audits shall be conducted, as much as is practicable under the circumstances, in accordance with the principles set forth in ISO 9000 and ISO 14011, using ISO 14012 as supplemental guidance. The IC will have full access to The Vessels records and all members of the crew in carrying out such audits. Ofer shall advise the IC of any issues that come to their attention that adversely impacts Ofer's compliance with applicable environmental regulations and the EMS.

(3) The IC shall provide a report of each Compliance Audit to the CCM, the CAM, and the United States within thirty-days of completion of each audit. If the IC believes that additional time is needed to analyze available information or to gather additional information, the IC may request that the United States grant such additional time as needed to prepare and submit the Compliance Audit Report. If necessary, the United States may grant additional time in thirty-day increments for completion of the Compliance Audit Report.

(4) The Compliance Audit Report shall present the audit findings and shall, at a minimum, contain the following information:

- (a) Audit scope, including the time period covered by the audit;
- (b) The date(s) the audit was conducted;
- (c) Identification of the audit team members;
- (d) Identification of the company representatives and regulatory personnel observing the audit;
- (e) The distribution list for the Compliance Audit Report;
- (f) A summary of the audit process, including any obstacles encountered;
- (g) Detailed findings, including the basis for each finding and the area of concern identified;
- (h) Identification of any findings corrected or areas of concern addressed during the audit, and a description of the corrective measures and when they were implemented;
- (i) Certification by the IC that the Compliance Audit was conducted in accordance with this document and general auditing principles.

(5) Within sixty-days from completion of each Compliance Audit, Ofer shall develop and submit to the United States, the IC, and the CAM an Action Plan for expeditiously correcting any non-compliances or observations identified during the Compliance Audit. The Action Plan shall include the result of any root cause analysis, specific deliverables, responsibility assignments, and an implementation schedule. Ofer may request that the United States permit a brief extension of the time limit stated above on a case-by-case basis. Such permission shall not be unreasonably withheld.

(6) The Action Plan shall be reviewed by the United States, the IC, and the CAM, who shall provide written comments within thirty-days of receipt. If no comments are received within thirty-days of submission, the Action Plan shall be deemed acceptable to the United States and Ofer shall implement the Action Plan in accordance with the schedules set forth therein. Within thirty-days after all items in the Action Plan have been completed, Ofer shall submit a written Action Plan Completion Certification to the United States, the IC, and the CAM.

I. Third Party Auditor (TPA)

Within eighteen months before the end of the probationary period, Ofer shall submit a proposed qualified candidate or candidates for the TPA. The Government and the Court will evaluate the candidate(s) and advise Ofer on whether the candidate is acceptable. If the proposed candidate is not acceptable, the Government will request Ofer to supply additional candidates. If Ofer exercises its option to use the CAM as the TPA, the Government will accept the TPA as qualified without further scrutiny. Further, if an agreement cannot be reached regarding the selection, the decision shall be left up to the Court.

The TPA must meet the qualifications below, conduct Final Audits aboard the designated number of The Vessels as detailed in Section J of the ECP, and produce a Report of Findings. The purpose of the Final Audits is to assess whether Ofer has achieved full implementation of the ECP and to evaluate for the Government, Ofer's capability to ensure and sustain complete compliance with the requirements of this ECP and other marine environmental protection requirements.

The TPA will be certified by the American National Standards Institute Registration Accreditation Board or will have comparable credentials and experience in performing EMS audits. Additionally, qualified candidates for the TPA position include individuals or firms that have staff capable of applying ISO 19011 environmental management auditing criteria and have: expertise and competence in the regulatory programs under United States and other marine environmental protection requirements; experience in performing environmental audits in industrial or maritime environments; and sufficient expertise and competence to assess whether Ofer has adequate policies, procedures and equipment in place to ensure ECP and regulatory compliance to correct non-compliance, and to prevent future non-compliance.

The TPA shall not receive or request approval of any form from any Ofer employee, regarding the clearance or evaluation of any document, report, or communication of any kind whether draft or final provided to the USPO, the CAM, designated signatory of the Government and designated representative of the Coast Guard. The TPA must not directly own any stock in Ofer and must have no other present, ongoing or pending contractual or business relationship with Ofer.

The TPA will be expected to fully appraise Ofer, the USPO, the CAM, the designated signatory of the Government and the designated representative of the Coast Guard of all circumstances regarding non-compliance with this ECP and other marine environmental protection requirements. The TPA recognizes that failure to be forthcoming, or any efforts to defraud, hinder or delay the reporting of information may be a violation of United States law and will be treated accordingly.

The TPA must have adequate staff to perform the work required of this ECP. The workload of the TPA with respect to work associated with other plea agreements will be assessed. Due to the in-depth nature of the audit criteria, persons with specialized knowledge and experience will be required to perform the audits. The knowledge, skills and abilities of the TPA and staff must align with the criteria of the audits. Experienced

personnel with extensive operational, maintenance and repair of shipboard and machinery space systems, equipment, and components is a prerequisite. The TPA must meet or exceed the requirements for independence and lack of conflicts described above for the IC.

The TPA agrees to provide the CAM full access to all records, personnel (including auditors) and any other information associated with its responsibilities in fulfilling the requirements of this ECP.

J. Final Audit

The TPA shall perform a review and analysis of Ofer's implementation of this ECP and the EMS. The scope of the Final Audit shall consist of an onboard and underway review of The Vessels that were not subject to a previous Compliance Audit pursuant to this ECP. To the maximum extent possible, the ships audited shall include an equal sampling of each type and/or class of ship that Ofer technically manages and an equal sampling of vessels managed by Ofer. The TPA must use the criteria set forth in section H and is also expected to update the audit requirements based upon the most up-to-date revisions of the EMS. The Third Party Audits may begin no earlier than 15 months prior to the end of the probationary period.

The Report of Findings produced by the TPA shall be submitted, in both electronic and hard copy form, at least two months before the end of the probationary period to Ofer, the USPO, the CAM, the designated signatory of the Government and the designated representative of the Coast Guard along with any working papers and correspondence related to the audit. The TPA is expected to evaluate whether or not Ofer is in full compliance with the requirements of this ECP, the EMS and other marine environmental protection requirements. The Report of Findings shall contain detailed recommendations to Ofer, the USPO, the CAM, designated signatory of the Government and designated representative of the Coast Guard, suggested improvements that should be made to the EMS, with the goal of adding value to and increasing the effectiveness of the EMS and where necessary bring Ofer into complete compliance with this ECP and other marine environmental protection requirements.

The Final Audit Reports shall present the audit findings in a narrative form and shall, at a minimum, contain the following information:

- Audit scope, including the time period covered by the audit.
- The date(s) the on-site or ship portion of the audit was conducted.
- Identification of the audit team members and their total number of hours on site or ship.
- Identification of the company representatives and regulatory personnel observing the audit.
- The distribution list for the Report of Findings.
- Summary of the audit process, including any obstacles encountered.

K. NON-COMPLIANCE

(1) This ECP does not in any way release Ofer from complying with any applicable international conventions and treaties, State or Federal statutes and/or regulations, the ISM Code, or other international maritime conventions or treaties and does not limit imposition of any sanctions, penalties, or any other actions, available under those international conventions and treaties, State or Federal statutes and regulations, the ISM Code, or other international maritime conventions or treaties.

(2) The ECP shall be part of the Plea Agreement and adherence to it will be a condition of probation. Failure to comply with any article of this ECP, including, but not limited to: refusal to pay valid charges for the IC, TPA or CAM and failure to provide the IC and the TPA access to The Vessels, facilities, personnel or documents shall be a violation of the Plea Agreement and shall be grounds for the revocation or modification of Ofer's probation. Should the United States seek to revoke or modify Ofer's probation based upon Ofer's refusal to pay valid charges for the IC, TPA or CAM and/or their failure to provide the IC and the TPA access to The Vessels, facilities, personnel, or documents, and/or as a result of any disagreement regarding any of the provisions of this ECP, Ofer shall have the right to contest the reasonableness of such revocation before the appropriate U.S. District Court.

L. TRAINING REQUIREMENTS

(1) The CCM will be responsible for developing training programs to educate and train crewmembers of The Vessels. The CCM may name a Corporate Training Officer to ensure the requirements of this section are met.

(2) Training shall occur annually for crewmembers of The Vessels and be performed by instructors "in-house". A basic training will be carried out within seven (7) days, and full training within one (1) month of joining The Vessels. The training shall consist of pertinent sections of this ECP, the EMS, and existing marine environmental protection requirements. The training shall include shipboard-related technical and practical information associated with pollution prevention and the operation, maintenance and repair of pollution prevention equipment and systems, and be appropriate for the work responsibilities and department in which an employee works. The training must include discussion of the consequences to Ofer and its employees for failure to comply with the requirements of this ECP, EMS, and existing marine environmental protection requirements.

(3) Where possible, a basic initial training program shall be provided to The Vessels' crewmembers currently onboard The Vessels in an effort to promptly mitigate pollution risk and ensure environmental protection.

(4) Additionally, the training shall include instruction regarding:

(a) Corporate environmental compliance structure, including the CCM and contact information.

(b) Comprehensive overview of this ECP, the EMS, and other marine environmental protection requirements.

- (c) The reporting system used to report non-compliance.
- (d) Sanctions and consequences for violations such as remedial training, suspension, termination, and civil and criminal liability.
- (e) Pollution prevention and minimization programs specifically relating to steward, deck, and engine department procedures and operations.
- (f) All requirements set forth in the Engineering section of this ECP.
- (g) Position specific training in the operation, maintenance and repair of oily water separators, incinerators, oil content discharge monitoring equipment, and other pollution prevention equipment.
- (h) Procedures for hazardous and non-hazardous solid waste segregation, storage, disposal, and reporting of releases.
- (I) All other shipboard environmental protection related procedures described in the required IER.

(5) Ofer shall maintain documentation onboard each of The Vessels, verifying that all officers and crewmembers working on The Vessels have received the required training. Such documentation shall be made available to the United States, the IC, the TPA and the CAM upon request.

(6) The Chief Engineer onboard each of The Vessels shall prepare independent written verification that all engine room crewmembers have received the training required by this ECP. All engine room crewmembers shall sign and date a statement acknowledging completion of the training. This written verification, together with the signed acknowledgment, shall be completed semiannually and maintained with The Vessels' Master's EMS file.

M. ENGINEERING REQUIREMENTS

(1) Unless otherwise stated, all of the requirements set forth below, if not in contravention of any Class, Convention or other Flag State requirements, shall be implemented on The Vessels as soon as practicable, as determined by the CCM and not later than one year from the date of the signing of the Plea Agreement.

(2) Bilge Main Cross - Connections:

(a) Ofer shall immediately notify The Vessels regarding the prohibition against non-emergency use of cross connections from engine room bilge mains to the suction piping of larger pumps which may be referred to as the "fire and general service pump" or "fire, bilge and ballast pump". The message shall state that the usage of these crossovers is similar to bypassing the OWS equipment and strictly prohibited.

(b) The deck plates above or near the locations of these cross connections and the valves bodies and associated hand wheels shall be painted international

orange. A brightly colored sign with three inch letters shall be permanently fixed nearby - "Bilge System Piping Crossover - Emergency Use Only."

(c) If the valves are remotely operated from the engine control room, a warning notice shall be posted near the associated push buttons or switches.

(d) All other bilge suction valves not connected to the bilge main, including independent emergency suction to The Vessels' engine room bilges like those that may be connected to seawater circulating pumps, will be painted brightly and labeled similarly "Emergency Bilge Suction - Emergency Use Only."

(3) Seal Program and Logbook

(a) To prevent unauthorized usage, seals will be placed in the valves mentioned in item (2) of this section (i.e. Bilge Main Cross – Connections from engine room bilge mains to the suction piping of larger pumps which may be referred to as the fire and general service pump and other bilge suction valve not connected to bilge main including independent emergency suction).

(b) The seal numbers shall be tracked in the Chief Engineer's Seal Logbook and explanations shall be given any time a seal is broken, removed, or replaced. The Master of each of The Vessels shall retain the replacement seals in The Vessel's safe. The Master will keep an additional Seal Log documenting when seals are replaced and their respective numbers. The CCM will be responsible for ensuring that no duplication of seal numbers occur and will have a master-tracking document indicating which series were supplied to each of The Vessels. Each of the above-mentioned Seal Logbooks shall be bound with numbered pages.

(4) Blank Flanges

(a) To prevent unauthorized connections within the engine-room and machinery spaces of The Vessels, every blank flange associated with any piping leading overboard, on systems such as salt water service, main engine raw water cooling or other systems, shall be permanently secured, removed or fitted with seals through the flange bolts to prevent unauthorized connections and discharges. The seals used shall be numbered and records kept in the previously mentioned seal logbooks.

(b) The blank flange and valve securing the bilge and sludge shore piping connection shall also require numbered seals that will be recorded in the previously mentioned seal logbooks.

(5) Tank Sounding Logbook:

The CCM shall ensure the immediate usage of a Tank Sounding Logbook on all The Vessels. Engine room crewmembers shall be required to sound all waste, sludge, and bilge tanks associated with bilge water, oil wastes, or sludge during each watch for The Vessels having a manned engine room or twice daily (morning and evening) for those having an unmanned engine room. The Tank

Sounding Log shall be initialed by the crewmember that obtained the reading. The Tank Soundings Log shall be a bound logbook with number pages and shall be maintained in the engine control room and made available during all inspections and audits required by this ECP.

(6) Oil-to-Sea Interface Logbook:

Ofer agrees to immediately develop for each of The Vessels a logbook relating to equipment having oil-to-sea interfaces. Such systems may be oil lubricated stern tubes, bow or stern thrusters, stabilizers, hydraulically operated controllable pitch propellers, and similar equipment whereby the leakage of a sealing component may cause a loss of operating medium into the surrounding waters of The Vessels. Any replenishment of oil into the head tanks, operating systems reservoirs or other receivers associated with this equipment shall be logged regardless of quantity. Ingress of water into these systems must also be logged. When known, an explanation of the loss shall be provided, along with dates and time and signature. Routine stern tube lube oil loss must be logged and reported to the CCM.

(7) Manuals and Publications:

A copy of the manufacturer's manual for the equipment listed in this ECP, and fitted onboard, will be made readily available to the office and The Vessels personnel. Personnel having direct interaction with the equipment shall provide documentation they have read and understand the operating procedures.

N. CHANGES IN OWNERSHIP/MANAGEMENT

The parties recognize that during the term of probation, the number and identity of vessels operated, managed and/or manned by Ofer that call on ports or places in the United States may increase or decrease. Any vessel, which Ofer assumes the operation, management and/or manning of, and which calls on ports or places in the United States shall be subject to the terms and conditions of this ECP. Any Vessel removed from the operation, management and/or manning by Ofer, or which stops calling in the United States, may be excluded from the scope of the ECP. Ofer agrees that it will immediately (but in no event later than 21 days following a change) notify the United States of any change in name, flag of registry, recognized organization, ownership or class society of any vessel that calls or may call on ports or places of the United States. Ofer agrees that this ECP shall remain in effect during the period of probation for all of The Vessels, regardless of changes in The Vessels' flag of registry, recognized organizations, name, or class society, so long as The Vessels are managed, operated or manned by Ofer. Ofer shall notify the United States before any of The Vessels are released from the requirements of the ECP due to a change in ownership, management and/or manning, or if any of The Vessels cease calling on ports or places in the United States.

O. SELF-ENFORCEMENT

Ofer further agrees that it will undertake and implement the necessary procedures to ensure that this ECP is diligently complied with by the officers and crew of The Vessels on the date of sentencing or at any time during the period of probation.

P. DOCUMENT CONTROL, REVISIONS, MODIFICATIONS

The requirements of this ECP, including the dates and time periods mentioned herein, shall be strictly complied with. Should Ofer be unable to comply with any of the deadlines, Ofer shall immediately notify the United States in writing of the reason(s) for non-compliance, and propose a revised timetable. The United States shall then determine as to whether the revised timetable should be accepted.

All logbooks required by this ECP shall be bound with numbered pages and maintained onboard The Vessels for a period of three years previous to the date of the last entry.

A copy of the ECP shall be available on each of The Vessels.

Q. REPORTS

All reports, documents and correspondence required under this ECP to be sent to the United States shall be sent to the following offices:

LIST NAMES ADDRESSES AND EMAILS OF U.S. OFFICES

Ofer has read this ECP carefully and understands it thoroughly. Ofer enters into this ECP knowingly and voluntarily, and therefore agrees to abide by its terms. By its signatures below, the corporate representative agrees that he/she is duly authorized by the corporation's Board of Directors or equivalent governing structure pursuant to the same notarized legal document filed in United States v. Ofer (Ships Holding) Ltd., certifying that the companies are authorized to enter into and comply with all of the provisions of this Plea Agreement.

This the 16th day of May, 2008.

EDMUND A. BOOTH
UNITED STATES ATTORNEY



By: James D. Durham
Assistant United States Attorney

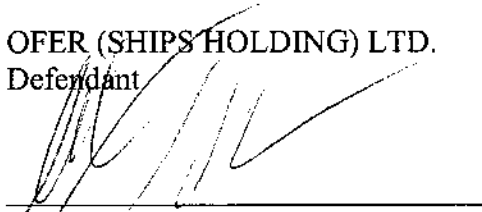


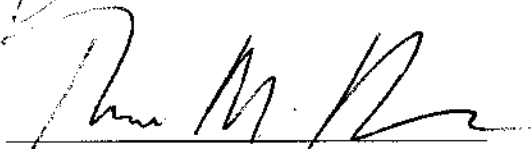
By: Jeffrey J. Buerstatte
Assistant United States Attorney

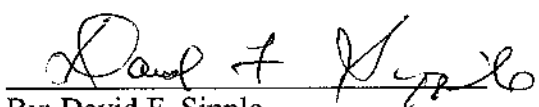
UNITED STATES COAST GUARD


By: LCDR ~~Paul Kim~~
ben

OFER (SHIPS HOLDING) LTD.
Defendant


By: William J. Pallas
Attorney for Defendant


By: Thomas M. Russo
Attorney for Defendant


By: David F. Sipple
Attorney for Defendant

APPROVED, this 27th day of JUNE, 2008.


United States District Judge