

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA )  
)  
v. )  
)  
DIANA WILHELMSSEN )  
MANAGEMENT LIMITED )  
)  
Defendant. )  
)  
)  
)

Criminal No. 2:21cr6 (EDVA)  
Criminal No. 2:21cr20 (EDLA)

PLEA AGREEMENT

Raj Parekh, Acting U.S. Attorney for the Eastern District of Virginia, Joseph L. Kosky, Assistant U.S. Attorney, Peter G. Strasser, U.S. Attorney for the Eastern District of Louisiana, Julia K. Evans, Assistant U.S. Attorney, Jean E. Williams, Deputy Assistant Attorney General, Environment and Natural Resources Division, and Kenneth E. Nelson, Senior Trial Attorney, Environmental Crimes Section (collectively, the “Government” or the “United States”), along with the Defendant, DIANA WILHELMSSEN MANAGEMENT LIMITED (“DWM”), represented by attorney Gregory F. Linsin, Blank Rome LLP, have entered into a plea agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

**1. Offenses and Maximum Penalties:**

The Defendant agrees to waive indictment and plead guilty to a one-count Criminal Information filed in the Eastern District of Louisiana, 2:21cr , and a one-count Criminal Information filed in the Eastern District of Virginia, 2:21cr . The Criminal Information in the Eastern District of Louisiana will be, or has been, transferred to the Eastern District of Virginia pursuant to Fed. R. Crim. P. 20. Each Criminal Information charges the Defendant with the knowing failure to accurately maintain an Oil Record Book on the Motor Vessel (“M/V”) Protefs

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in a port of the United States, in violation of the Act to Prevent Pollution from Ships, 33 U.S.C. § 1908(a) (“APPS”) and 18 U.S.C. § 2.

The maximum penalties for each count of conviction are: (a) at least one but no more than five years of probation; (b) a maximum fine of \$500,000 per count, or an amount not greater than twice the gross gain or loss resulting from the offense; and (c) a \$400 special assessment per count. *See* 33 U.S.C. § 1908(a); 18 U.S.C. §§ 3013, 3561, 3571(c) and (d).

DWM agrees to continue to abide by its obligations pursuant to the Agreement on Security that was executed on July 9, 2020, in addition to any related supplemental agreements regarding the transportation and provision of the crewmembers.

DWM agrees to take no position, and not cause others to take a position, on any monetary awards the Government may recommend to the Court pursuant to APPS for individuals who provided information that resulted in the convictions for the crimes set forth in the two Criminal Informations.

## **2. Sentencing Guidelines**

The Government and DWM agree that the 2018 United States Sentencing Commission Guidelines Manual (“U.S.S.G.”) will be used in this case.

The Government and DWM further agree that the provisions of Chapter 8 of the U.S.S.G., which pertain to fines imposed on organizational defendants such as DWM do not apply to environmental offenses, including APPS violations. *See* 18 U.S.C. §§ 3553 and 3572 and U.S.S.G. §§ 8C2.1, Background, and 8C2.10.

The Government and DWM further agree that the remaining provisions of Chapter 8 of the U.S.S.G. apply to DWM.

## **3. The Sentence**

Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Government and the Defendant agree that the following sentence is the appropriate disposition of the case and request that the following sentence be incorporated into the Judgment.

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(a) Imposition of a \$2,000,000.00 fine, authorized under the Alternative Fines Act, 18 U.S.C. § 3571(d), all of which shall be paid to the Clerk, United States District Court, at the time of sentencing.

(b) Placement of DWM on probation for four years on the terms and conditions contained in paragraph 4 below;

(c) The Government and DWM (collectively, the “parties”) agree that restitution and forfeiture are inapplicable.

(d) Payment of a mandatory special assessment of \$800.00 at the time of sentencing.

The parties understand that, if the Court accepts the plea agreement, the above sentence will be incorporated into the Court’s Judgment. If the plea agreement is not accepted by the Court, this entire plea agreement shall be null and void at the option of either party.

#### **4. Conditions of Probation**

As part of its conditions of probation, DWM agrees that the implementation of the Environmental Compliance Plan (“ECP”) that is attached hereto as Attachment 1 is a special condition of probation. DWM agrees to fully fund the implementation of the ECP, including the costs of the Court Appointed Monitor and Third Party Auditor that are described within the ECP.

#### **5. Corporate Authorization**

The Defendant will provide to the Court and to the Government written evidence in the form of a notarized resolution of the Board of Directors with both notary and corporate seals, certifying that the Defendant is authorized to plead guilty to the charges set forth in the Informations, and to enter into and comply with all provisions of this plea agreement. The resolution shall further certify that the persons representing the Defendant are authorized to take these actions and that all corporate formalities, including but not limited to, approval by the Defendant’s directors, required for such authorization, have been observed.

#### **6. Organizational Changes**

The Defendant shall not, through a change of name, business reorganization, sale or purchase of assets, divestiture of assets, or any similar action, seek to avoid the obligations and

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conditions set forth in this plea agreement. This plea agreement, together with all of the obligations and terms hereof, shall inure to the benefit of and bind partners, assignees, successors-in-interest, or transferees of the Defendant. Any sale, transfer, or other re-organization of the business as referenced in this paragraph shall be subject to approval of the Court.

**7. Factual Basis for the Plea**

The Defendant will plead guilty because the Defendant is in fact guilty of the charged offenses. The Defendant admits the facts set forth in the Statement of Facts filed with this plea agreement and agrees that those facts establish guilt of the offenses charged beyond a reasonable doubt.

**8. Assistance and Advice of Counsel**

The Defendant is satisfied that its attorney has rendered effective assistance. The Defendant understands that by entering into this plea agreement, Defendant surrenders certain rights as provided in this plea agreement. The Defendant understands that the rights of criminal corporate defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel; and
- d. the right at trial to confront and cross-examine adverse witnesses, to testify and present evidence, and to compel the attendance of witnesses.

**9. Role of the Court and the Probation Office**

The parties agree that this plea agreement was negotiated and agreed upon pursuant to Fed. R. Crim. P. 11(c)(1)(C). If the Court does not accept the plea agreement, the Court will provide the Defendant the opportunity to withdraw its guilty plea.

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**10. Waiver of Appeal**

The Defendant also understands that 18 U.S.C. § 3742(a) affords a defendant the right to appeal the sentence imposed. Nonetheless, the Defendant knowingly waives the right to appeal the conviction and sentence imposed, unless the sentence is in violation of the law.

**11. Immunity from Further Prosecution by the Government**

In return for Defendant's fulfillment of its obligations under this plea agreement, the U.S. Attorney's Office for the Eastern District of Virginia, the U.S. Attorney's Office for the Eastern District of Louisiana, and the Environmental Crimes Section of the U.S. Department of Justice will not further criminally prosecute the Defendant, Wilhelmsen Ship Management Holding Limited, Wilhelmsen Ship Management Holding AS, Diana Ship Management Inc., Cypres Enterprises Corp., Diana Shipping Services S.A., Diana Shipping Inc., or any corporate affiliates or subsidiaries of those companies for any criminal conduct or other associated violations of federal criminal law known to the Government as of the date of sentencing, including conduct set forth in the Criminal Informations and the Statement of Facts.

**12. Breach of the Plea Agreement and Remedies**

This plea agreement is effective when signed by the Defendant, the Defendant's attorneys, and an attorney for the Government. The Defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the Government (in consultation with the Defendant's attorney). If the Defendant withdraws from this plea agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this plea agreement, then:

- a. The Government will be released from its obligations under this plea agreement.

The Defendant, however, may not withdraw the guilty plea entered pursuant to this plea agreement;

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b. The Defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this plea agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the Defendant agrees to waive any statute-of-limitations defense for a period of six months following the date upon which the withdrawal of the guilty plea becomes final or following the determination by the Court that the Defendant has breached the plea agreement; and

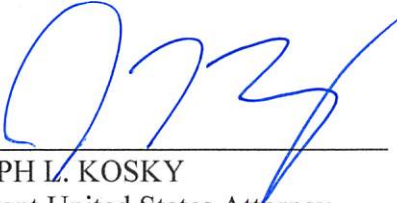
c. Any prosecution, including the prosecution that is the subject of this plea agreement, may be premised upon any information provided, or statements made, by the Defendant, and all such information, statements, and leads derived therefrom may be used against the Defendant. The Defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the Defendant and any other statements made pursuant to this or any other agreement with the Government, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.


Any alleged breach of this plea agreement by either party shall be determined by the Court in an appropriate proceeding at which the Defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence.

### **13. Nature of the Agreement and Modifications**

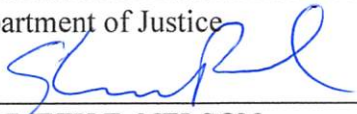
This written agreement constitutes the complete plea agreement between the Government and the Defendant. The Defendant and its counsel acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the Defendant to plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

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By:   
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Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to Title 18, United States Code, Section 3553 and the provisions of the Sentencing Guidelines Manual that may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and voluntarily agree to it.

DIANA WILHELMSSEN MANAGEMENT LIMITED




Date: 3<sup>rd</sup> February 2021

By:  
Demosthenes Halcoussis – General Manager



Defense Counsel Signature: I am counsel for the Defendant in this case. We have fully explained to the Defendant the Defendant's rights with respect to the pending information. Further, we have reviewed Title 18, United States Code, Section 3553 and the Sentencing Guidelines Manual, and we have fully explained to the Defendant the provisions that may apply in this case. We have carefully reviewed every part of this plea agreement with the Defendant. To our knowledge, the Defendant's decision to enter into this plea agreement is an informed and voluntary one.

Date: 2/18/21

  
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Gregory F. Linsin, Blank Rome LLP  
Attorney for  
DIANA WILHELMSSEN MANAGEMENT LIMITED

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Defense Counsel Signature: We are counsel for the Defendant in this case. We have fully explained to the Defendant the Defendant's rights with respect to the pending information. Further, we have reviewed Title 18, United States Code, Section 3553 and the Sentencing Guidelines Manual, and we have fully explained to the Defendant the provisions that may apply in this case. We have carefully reviewed every part of this plea agreement with the Defendant. To our knowledge, the Defendant's decision to enter into this plea agreement is an informed and voluntary one.

Date: 5/24/21

Kierstan L. Carlson (VA Bar # 81939)

Kierstan L. Carlson, Blank Rome LLP

Attorney for

DIANA WILHELMSSEN MANAGEMENT LIMITED

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