



**U.S. Department of Justice**  
United States Attorney  
Eastern District of Louisiana

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July 15, 2025

Honorable Susie Morgan  
United States District Judge  
Eastern District of Louisiana  
500 Poydras Street  
New Orleans, Louisiana 70130

Re: *United States v. Eagle Ship Management, LLC*  
Criminal Docket No. 25-138

Dear Judge Morgan:

In compliance with the holding of *Bryan v. United States*, 492 F.2d 775 (5th Cir. 1974) and with Rule 11 of the Federal Rules of Criminal Procedure, the U.S. Attorney's Office for the Eastern District of Louisiana and the Environmental Crimes Section of the U.S. Department of Justice ("Government") wish to acknowledge the following Agreement between the Government and Eagle Ship Management, LLC. ("Eagle Ship Management" or "Defendant") in the above-captioned criminal proceeding.

Defendant's undersigned counsel, having reviewed the terms of this Agreement, have been advised by an authorized corporate officer of Eagle Ship Management that it fully understands the terms of this Agreement, and that the undersigned corporate representative has been duly authorized to enter into this Agreement on its behalf.

Rule 11(c)(1)(C) Plea: The parties have proposed this Agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) with the understanding that the Court can either accept or reject the Agreement but may not modify its terms. If the District Court modifies any portion of this Agreement, then any party will have the right to withdraw from the Agreement. Defendant

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Eagle Ship Management \_\_\_\_\_  
Defense Counsel \_\_\_\_\_

understands and agrees that plea and sentencing will occur at different proceedings and that it will not seek to combine the plea and sentencing on the same date.

Criminal Charges: Defendant, having been advised through its counsel of the charges, agrees to enter a plea of guilty to Count 1 the Bill of Information filed in the Eastern District of Louisiana as set forth below:

Count 1: Knowing violation of the Act to Prevent Pollution from Ships by discharging oil-contaminated machinery space water without the use of an Oily Water Separator and Oil Content Monitor, and knowing failure to maintain an accurate Oil Record Book while in U.S. waters, in violation of the Act to Prevent Pollution from Ships, 33 U.S.C. § 1908(a); 33 C.F.R. Part 155 subpart B. 33 C.F.R. §§ 151.10(b)(4) and 151.25.

Defendant's Admission of Guilt: Defendant is pleading guilty because it is guilty and wishes to acknowledge its acceptance of responsibility for the criminal conduct described in the Bill of Information and Factual Basis that appears as Attachment A to this Agreement.

Maximum Fines and Penalties: Defendant further understands and agrees that as an organizational defendant the maximum penalty for the offense is \$500,000, or, if greater, a fine of the greater of twice the gross gain to the defendant or twice the gross loss to any person under 18 U.S.C. § 3571(c) and (d); a term of probation of five years, pursuant to 18 U.S.C. § 3561(c)(1); and a special assessment of \$400, pursuant to 18 U.S.C. § 3013(a)(2)(B). In pleading guilty, Defendant stipulates that the benefit of its criminal conduct was at least \$1,000,000. The special assessment must be paid on the date of sentencing. Failure to pay the special assessment may result in the Plea Agreement being void.

Restitution: Defendant further understand that, in addition to any other penalty, the Court may order the payment of restitution to any victim of the offenses pursuant to the provisions of 18 U.S.C. § 3663. The parties are not aware of any factual basis that would support a finding that restitution is warranted in this case.

Sentence: Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the Government and Eagle Ship Management agree and stipulate to the following plea and sentence applicable to this case:



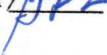
- (1) Counts: Defendant Eagle Ship Management agrees to plead guilty to Count 1 of the Criminal Bill of Information.



- (2) Factual Basis: Defendant Eagle Ship Management admits that it is guilty of the offense charged in Count 1 of the Bill of Information, by and through the acts and omissions of its agents and employees, acting within the scope of their agency and employment and with the intent to benefit Eagle Ship Management, at least in part; and further, that the Factual Basis is a true and accurate statement of its criminal conduct and provides a sufficient factual basis for the plea.
- (3) Scope: In exchange for the Defendant's guilty plea, and the promises set forth herein, the Government agrees that it will not criminally prosecute Eagle Ship Management and the following related entities: Eagle Bulk Shipping Inc. and its parent, in the Eastern District of Louisiana for any other related offenses that are known to the Government at the time of the signing of this Agreement. As part of this Agreement and solely because of the promises made by Defendant in this Agreement, the Environmental Crimes Section further agrees that it will not pursue additional criminal prosecution of the Defendant, Eagle Bulk Shipping Inc., or its parent, for the offenses charged in the Bill of Information or related offenses in any district that are known to the Government at the time of the signing of this Agreement. Defendant understands and agrees that neither this paragraph nor this Agreement limits the prosecuting authority of any other sections or divisions of the Department of Justice, including the U.S. Attorney of any other judicial district, or any other federal, state or local regulatory or prosecuting authorities. Furthermore, this Agreement does not provide or promise any waiver of any civil or administrative actions, sanctions, or penalties that may apply, including but not limited to: fines, penalties, claims for damages to natural resources, suspension, debarment, listing to restrict rights and opportunities of the Defendant to contract with or receive assistance, loans, and benefits from United States agencies, licensing, injunctive relief, or remedial action to comply with any applicable regulatory requirement. This Agreement has no effect on any proceedings against any defendant not expressly mentioned herein, including the actual or potential criminal liability of any individuals.
- (4) Payments: Defendant shall pay a total criminal fine of \$1,750,000 to be paid within twenty (20) days of sentencing.
- (5) Special Assessment: As set forth above, Defendant Eagle Ship Management must pay a special assessment fee of \$400 which is due in full on the day of sentencing.

- (6) Probation: Defendant Eagle Ship Management shall be placed on organizational probation, starting from the date of sentencing and lasting a term of four (4) years. In addition to whatever standard probation conditions might be imposed by the Court, Defendant Eagle Ship Management shall be subject to the following Special Conditions of Probation:
- a. Defendant shall commit no further violations of MARPOL 73/78, federal, state, or local law, and shall conduct all operations in accordance with the environmental laws of the United States;
  - b. Payment in full of the monetary amounts set forth herein including the special assessment and criminal fine.
  - c. At its own expense, and at no expense to the Government or the Court, Eagle Ship Management shall develop, adopt and implement an Environmental Compliance Plan ("ECP") subject to review and approval by the United States and consistent with USSG §8D1.4, and attached hereto as Attachment B and incorporated herein. As set forth in Attachment B, all vessels covered by the ECP ("covered vessels") and all shore side offices involved in technical management must be audited by an outside and independent external auditor subject to approval by the United States, *i.e.*, the Court Appointed Monitor ("CAM"). The CAM will also review audit results, assure overall compliance and report to the Court. All audits must be done underway unless, after consultation with ESM and notice to the Interested Parties, the CAM determines in his discretion that an in-port audit would be more appropriate. Each covered vessel must be audited at least four times during the period of probation unless the CAM recommends additional audits. Defendant understands and agrees that the ECP will be included as a Special Condition of Probation and that any violation of its terms by Defendant or any of its related entities or covered vessels may be grounds for the revocation of probation as to the Defendant.
  - d. Defendant will not engage, participate, or assist in, or fund, any post-trial litigation or ancillary litigation brought by any person against the United States or any agency or person thereof.

Application of the Agreement: This Agreement shall bind the Defendant and its successors and assigns and parent and related corporations. Defendant shall further provide each undersigned prosecuting office and the United States Probation Office in the Eastern District of Louisiana with

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immediate notice of any name change, corporate reorganization, sale or purchase of a corporate entity or vessels subject to the ECP, signing or termination of ship management contracts, or similar significant action affecting this Agreement or the ECP. No change in name, change in corporate or individual control, corporate reorganization, change in ownership, merger, change of legal status, sale or purchase of vessels, signing or termination of ship management contracts, or similar action shall alter the responsibilities of the Defendant under this Agreement. Defendant understands and agrees that it shall not engage in any action to seek to avoid the obligations and conditions set forth in this Agreement, including the special conditions of probation and the ECP.

Appellate and Other Waivers of the Defendant: Defendant understands that 18U.S.C. § 3742 and 28 U.S.C. § 1291, may give a criminal defendant the right to appeal a conviction, sentence, restitution, fine, and judgment imposed by the Court. Defendant also understands that ordinarily it may have the right to file collateral challenges to conviction and sentence, and judgment, including but not limited to rights provided by 28 U.S.C. §§ 2255 and 2241, Rule 60 of the Federal Rules of Civil Procedure, Rule 36 of the Federal Rules of Criminal Procedure, and writs of *coram nobis* and *audita querela*. Acknowledging these rights, subject only to the exceptions specifically indicated below, the Defendant, in exchange for the promises and Agreements made by the United States in this Plea Agreement, knowingly and voluntarily:

- (1) Waives and gives up any right to appeal or contest its guilty plea, conviction, sentence, fine, supervised release, and any restitution imposed by any judge under any applicable restitution statute, including but not limited to any right to appeal any rulings on pretrial motions of any kind whatsoever, as well as any aspect of its sentence, including but not limited to any and all rights which arise under 18 U.S.C. § 3742 and 28U.S.C. § 1291; and
- (2) Waives and gives up any right to challenge its sentence collaterally, including but not limited to any and all rights which arise under 28 U.S.C. §§ 2255 and 2241, Rule 60 of the Federal Rules of Civil Procedure, Rule 36 of the Federal Rules of Criminal Procedure, writs of *coram nobis* and *audita querela*, and any other collateral challenges to its sentence of any kind.
- (3) Waives any right to seek or pursue attorney's fees or other litigation expenses, or damages under the Hyde Amendment, 18 U.S.C. § 3006A, and that it acknowledges and agrees that the Government's positions and prosecution of this matter were not vexatious, frivolous, or in bad faith. Defendant further agrees that Eagle Ship Management, or any affiliated entity or any agents acting on its behalf now or in the future, waive any and all claims against the United States Coast Guard, U.S. Department of Homeland Security, U.S. Department

of Justice, or agent, employee, or contractor of any governmental entity, which relate to any aspect of the inspection, examination, and detention of the *M/V Gannett Bulker* or the criminal investigation of this matter, including any related surety or Agreement on Security. Defendant further agrees that it will not pursue or in any way support, directly or indirectly, any legal action or lawsuits, including those brought by third parties, against the United States or any agency, or any personnel, related to the inspection, investigation, or prosecution of Defendant in this matter or involving the *M/V Gannett Bulker*. Defendant further agree to take no position on whether or to what extent the Court should issue an award pursuant to the Act to Prevent Pollution from Ships and that it nor its attorneys will take any position on any application for an award if one is made, unless requested to do so by the United States.

- (4) Waives any and all defenses and claims with regard to the statute of limitations, laches, or any other arguments that any aspect of the charges is time-barred. In the event that this Agreement is not accepted by the Court for any reason, or the Defendant breach any of the terms of this Agreement, the statute of limitations shall be deemed to be tolled from the date of the Plea Agreement to: (1) 120 days following the date of non-acceptance of the Plea Agreement by the Court; or (2) 120 days following the date on which a breach of the Plea Agreement by the Defendant is discovered by the Government
- (5) Defendant agrees that the criminal fine and special assessment are not dischargeable in bankruptcy or an insolvency proceeding and that the defendant will not seek or cause to be sought a discharge or finding or dischargeability as to the criminal fine or special assessment.
- (6) Defendant recognizes that any criminal monetary penalty, whether special assessment, criminal fine, or restitution, that is owed as a result of its conviction will be immediately submitted to the Treasury Offset Program. Defendant waives any objection to its inclusion in the Treasury Offset Program.
- (7) Defendant knowingly, voluntarily, and expressly waive its rights pursuant to Rule 410(a) of the Federal Rules of Evidence upon signing this Plea Agreement and the Joint Factual Statement. Defendant understands and agrees that in the event that it violates the Plea Agreement or seeks to withdraw or withdraws its decision to plead guilty or guilty plea, then any statements made by Defendant, including any statements made in court proceedings or in the Joint Factual Basis, leads from such statements, factual bases or summaries, shall be admissible for all purposes against Defendant in any and all criminal

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proceedings. The only exception to this paragraph is where the Defendant fully comply with this agreement, but the Court nonetheless rejects it. Under those circumstances, the United States may not use Defendant's statements against the Defendant.

Corporate Authorization: Defendant Eagle Ship Management represents that it is authorized to enter into this Plea Agreement and to bind itself all terms. At the time of signing this Agreement, Defendant shall provide to the United States with a written statement in the form of duly authorized corporate resolution certifying that Defendant is authorized to enter into and comply with all of the provisions of this Plea Agreement. The resolutions further shall certify that Defendant's Board of Directors has authorized these actions, and that all corporate formalities for such authorizations have been observed.

Completeness: Defendant understand that the statements set forth above and in the attached Factual Basis and ECP represent Defendant's Agreement with the Government; that there are not any other Agreements, letters, or notations that will affect this Agreement. The terms set forth herein remain subject to review and approval by both prosecuting offices. This Agreement will be final when signed by all parties and filed in Court.

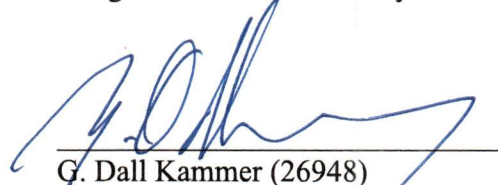
Very truly yours,

ADAM GUSTAFSON  
Acting Assistant Attorney General m  
Environmental & Natural Resources Division  
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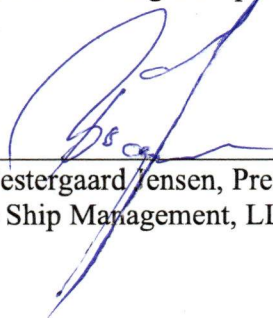


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Defense Counsel 

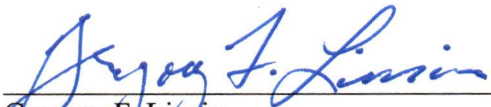
FOR THE DEFENDANT,

On behalf of the Defendant Eagle Ship Management, LLC, I have been authorized by a corporate resolution to sign and bind Eagle Ship Management to this Plea Agreement. Eagle Ship Management has been advised by its attorneys of its rights, of possible defenses, of the Sentencing Guideline provisions, and of the consequences of entering into this Agreement. Eagle Ship Management voluntarily agrees to all of the terms of this Agreement. No promises or inducements have been made to Eagle Ship Management other than those contained in this Agreement. No one has threatened or forced Eagle Ship Management in any way to enter into this Agreement. Eagle Ship Management is satisfied by the representation of its attorneys in this matter.



Bo Westergaard Jensen, President  
Eagle Ship Management, LLC

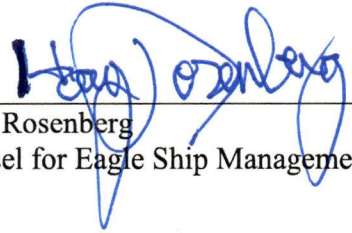
We are counsel for Eagle Ship Management, LLC. We have discussed every part of this Agreement with the authorized representatives of Eagle Ship Management. We have advised the Defendant of its rights, of possible defenses, of the Sentencing Guidelines provisions, and of the consequences of entering into this Agreement. To our knowledge, the decisions of Eagle Ship Management to enter into this Agreement are informed and voluntary.






Gregory F. Linsin  
Counsel for Eagle Ship Management, LLC



Stacey H. Mitchell,  
Counsel for Eagle Ship Management, LLC



Harry Rosenberg  
Counsel for Eagle Ship Management, LLC

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Eagle Ship Management   
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**ATTACHMENT B**

*United States v. Eagle Ship Management LLC*

**ENVIRONMENTAL COMPLIANCE PLAN**

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## **Environmental Compliance Plan**

The following standards and requirements for an Environmental Compliance Plan (“ECP”) have been prepared pursuant to the Plea Agreement dated this same date between the Defendant, Eagle Ship Management LLC (“Defendant” or “ESM”), and the United States Attorney’s Office for the Eastern District of Louisiana and the Environmental Crimes Section of the United States Department of Justice (collectively, the “Government”). Pursuant to Page 4 of the Plea Agreement, ESM has agreed to fully fund and implement this ECP with respect to the vessels and personnel described below.

### **I. APPLICABILITY, PURPOSE, AND DEFINITIONS**

#### **A. Vessels to Which Applicable**

This ECP applies to Defendant and the eight (8) vessels that are operated and/or manned by ESM as of the date of the Plea Agreement, each of which carries a Certificate of Financial Responsibility (“COFR”) issued pursuant to the Oil Pollution Act of 1990 (“OPA 90”). These vessels are listed in Attachment 1 and hereafter referred to as the “Covered Vessels.”

#### **B. Persons to Whom Applicable**

This ECP shall also apply to all ESM shore-side employees and consultants, and shipboard crews, involved with the operation and technical management of the Covered Vessels, who are hereafter referred to as the “Covered Personnel.”

#### **C. Purpose**

This ECP is specifically focused on ensuring that ESM’s policies and procedures are adequately structured and carried out to ensure that the training and onboarding procedures for shipboard crews emphasizes: the importance of compliance with Marine Environmental Protection Requirements; maintaining accurate shipboard records; the need to report improper operations to shoreside personnel; the obligation to refuse to follow illegal orders; and the importance of being truthful when questioned by port state control authorities. These trainings and onboarding procedures are intended, in turn, to ensure that the Defendant and all Covered Vessels fully comply with all applicable Marine Environmental Protection Requirements established under applicable international, flag state, port state, coastal state law, and United States laws including, but not limited to, the International Convention for the 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”), including the Environmental Protection Agency’s Vessel General Permit (“VGP”), Ballast Water Management Convention, OPA 90, (collectively, “Marine Environmental Protection Requirements”), and to the additional requirements and policies established by this ECP itself. In the case of a conflict between this ECP and any of the aforementioned Marine Environmental Protection Requirements such that this ECP is less restrictive, then the more restrictive authority shall govern.

#### **D. Definitions**

***Annual Report of Findings*** means the annual report prepared by the CAM pursuant to Section VI(I)(1).

***Audit Finding*** means an Observation, Non-Conformity, or Major Non-Conformity identified during an audit required under this ECP.

***Audit Report*** means the audit report prepared by the CAM pursuant to Section VII(D).



**CCM** means the Corporate Compliance Manager.

**Company** means Eagle Ship Management LLC.

**Covered Personnel** means those ESM shore-side employees and consultants and shipboard crews, involved with the operation and technical management of the Covered Vessels who are subject to this ECP pursuant to Section I(B).

**Covered Vessels** means those ESM vessels that are subject to this ECP pursuant to Sections I(A) and Attachment 1.

**ECP** means this Environmental Compliance Plan.

**Environmental Open Report** means a report made by shipboard or shore-side personnel of a non-compliance with this ECP, the SMS, and Marine Environmental Protection Requirements. An Environmental Open Report may be one made to the Designated Person Ashore or anonymously through ESM's existing corporate hotline.

**SMS** means ESM's Safety Management System which includes the Environmental Management Manual ("EMM"), the Shipboard Management Manual ("SMM"), the Security Manual, and the Vessel Contingency Manual ("VCM") requirements applicable to the Covered Vessels, and integrates, among other things, International Code for the Safe Management of Ships and for Pollution Prevention ("ISM Code"). The relevant portions of the SMS applicable to the Covered Vessels will cross-reference the requirements for the Covered Vessels contained in this ECP.

**Government** means the United States Attorney's Office for the Eastern District of Louisiana and the Environmental Crimes Section of the United States Department of Justice.

**Interested Parties** means the Government, the United States Probation Office for the Eastern District of Louisiana, U.S. Coast Guard D5 Prevention Department, U.S. Coast Guard D5 Legal, and the U.S. Coast Guard Office of Investigations & Analysis (CG-INV). A list of contacts for each interested party is provided in Attachment 4.

**HSSEQ** means the program that sets forth the policies governing compliance with the health, safety, security, and environmental quality requirements applicable to ESM.

**Major Non-Conformity** means an observed situation where objective evidence indicates a violation of law, including any false statements or the submission of false records made to regulatory authorities or the Interested Parties, including falsification of ship logs or records, or, any violation of the Marine Environmental Protection Requirements or policies established by this ECP that consists of or contributes to the discharge or potential discharge of oil or oily mixtures, garbage, sewage, gray water, cargo residues, ballast water, or other wastes where such a discharge is prohibited.

Inoperable pollution prevention equipment that requires a repair of any kind to be operational will be considered a major non-conformity under this ECP. However, if, at the time of discovery, arrangements had been made for the repair of the equipment in a timely manner and alternate steps had been taken to ensure compliance with regulatory requirements, and, where necessary, measures had been implemented to appropriately store or offload the waste streams that would have been processed by the equipment pending completion of the repairs, then the CAM, CCM or other reviewer shall make affirmative note of the mitigating measures in any report documenting the finding. If such arrangements have been made for repair of the equipment and the other steps taken to ensure compliance with regulatory requirements pending completion of the repairs, the finding will be recorded as an Observation.

**Marine Environmental Protection Requirements** means, collectively, MARPOL, APPS, CWA (including , OPA 90 and the VGP), and PWSA and to the additional requirements and policies

established by this ECP. In the case of a conflict between this ECP and any of the aforementioned requirements such that this ECP is less restrictive, then the more restrictive authority shall govern.

**Non-Conformity** means an observed situation where objective evidence indicates a violation of a Marine Environmental Protection Requirement or a policy established by this ECP, regardless of whether it is immediately repaired or remedied.

**Observation** means a statement of fact made during an audit and substantiated by objective evidence that could lead to a Non-Conformity if not addressed.

**Officer** means the President or Chief Financial Officer of ESM.

**Owner's Standardized Instructions for Crew Managers** means the manual containing the instructions given to all crew management companies that recruit, engage, and train crew members for ESM.

**Shipboard Senior Management** means the Captain, Chief Officer, and Chief Engineer of a Covered Vessel.

**CAM** means the Court Appointed Monitor appointed pursuant to Section VII.

#### **E. Incorporation**

This ECP is incorporated into the Plea Agreement by reference, and ESM's compliance with the terms of this ECP will be a Special Condition of its probation. ESM's failure to comply with any part of this ECP, including but not limited to: (i) refusal to pay valid charges for the CAM; (ii) failure to provide the CAM or other personnel, auditors, or inspectors the material support needed to achieve the objectives of this ECP; (iii) failure to provide the CAM complete unrestricted access to the Covered Vessels, facilities, personnel, or non-privileged documents (except to the extent such access is inconsistent with the safety and security of a vessel and its crew) to accomplish the purposes of this ECP; violation of Marine Environmental Protection Requirements or the additional requirements and policies established by this ECP, may be a basis on which the Government may move to revoke or modify Defendant's probation.

#### **F. Consequences of Obstruction of ECP**

ESM shall take appropriate action, up to and including dismissal, against any individual who obstructs or hinders the development or implementation of this ECP or presents false information or makes false statements during any inspection, monitoring, auditing, or inspection function required by this ECP, or to any U.S. authority performing an inspection or Port State Control activity. ESM will immediately notify the CAM and the Interested Parties of any report or evidence of obstruction or hindrance of the implementation of this ECP. Upon receipt of such report or evidence, the CAM shall promptly initiate further inquiry up to and including an investigation and report the results to ESM and the Interested Parties. ESM has an independent duty to promptly evaluate whether further investigation is warranted, and report the results and any response or remedial measures to the Interested Parties within sixty (60) days.

#### **G. Modifications**

Any proposed modifications to this ECP must be made in writing and signed by the CCM on behalf of Defendant. A proposed modification shall be submitted to the Interested Parties and each shall have thirty (30) days to provide written comments on the proposal. ESM and the Interested Parties acknowledge that modifications of certain ECP requirements may be required by limitations or restrictions resulting from the COVID-19 pandemic or other public health-related conditions, e.g., travel restrictions, social distancing limitations, or other health-related requirements, and the evaluation of reasonable, proposed



modifications on this basis will be given fair and reasonable consideration by ESM and the Interested Parties. If no comments are provided within the thirty (30) day period, the modification will become effective. If an objection is made in writing within the thirty (30) day period, and ESM and the Interested Parties are unable to resolve the issue, either Defendant or the Government may file a motion before the United States District Court for the Eastern District of Louisiana.

#### **H. Obligation to Maintain Copies of ECP and SMS**

ESM and all Covered Vessels will maintain copies of this ECP within its existing SMS, either electronically or in hard copy, or both. Senior shipboard personnel and shore-based supervisory staff must have ready access to this ECP and the SMS.

#### **I. Right of Inspection**

ESM understands that representatives of the U.S. Coast Guard may board, audit, or inspect Covered Vessels managed under this ECP at any time they are found within the jurisdiction of the United States, both pursuant to existing authority and pursuant to this ECP.

### **II. REPORTS AND COMMUNICATIONS**

#### **A. Submission of Documents**

All audits, reports, and documents required by this ECP shall be submitted electronically to the CAM and the Interested Parties. ESM shall provide hard copies of any such materials upon request. Submissions from ESM to CG-INV may be emailed to the following address if the file(s) are less than 10MB: [USCGECP@uscg.mil](mailto:USCGECP@uscg.mil). If the total file(s) to be sent exceed 10MB, the file(s) may be sent to [USCGECP@uscg.mil](mailto:USCGECP@uscg.mil), as the recipient, via the Safe File Exchange (SAFE) site for non-CAC users available at <https://safe.amrdec.army.mil/safe/Welcome.aspx>; otherwise, the report shall be provided to CG-INV in hard copy.

All submissions that involve discussion of an Observation, Non-Conformity, or Major Non-Conformity shall include a list in the beginning of the document identifying the Observation, Non-Conformity, or Major Non-Conformity, even if it was remedied immediately after it was identified.

### **III. CORPORATE STRUCTURE AND RESPONSIBILITIES**

#### **A. Corporate Compliance Manager**

1. Prior to sentencing, ESM shall designate a senior corporate manager as the Corporate Compliance Manager ("CCM"). The CCM shall have overall responsibility for the implementation of this ECP and, with respect to all ECP issues, the CCM shall report directly to the President of ESM. ESM will perform all of the technical management functions for the Covered Vessels.
2. The CCM position shall be filled by an individual with commercial maritime vessel operational experience, who possesses the authority to ensure full implementation of this ECP, and who is thoroughly familiar with the requirements of this ECP, and domestic and international maritime environmental laws and regulations. ESM shall provide the Interested Parties with the name and contact information of the CCM. The CCM shall be authorized to access all records, documents, facilities, and Covered Vessels,

including all spaces within vessels necessary to perform their function, throughout ESM for the purpose of implementing this ECP.

3. The CCM shall communicate with the CAM on a regular basis and will ensure that the internal and CAM audits to be performed under this ECP are carried out.
4. The CCM shall be responsible for ensuring that Audit Findings resulting from any audit under this ECP are appropriately documented, tracked, and resolved and that resolutions are thoroughly documented in a format that can be readily audited. Documentation produced as a result of these efforts shall be made available, upon request, to any personnel performing audit functions under this ECP, including the Interested Parties.
5. The CCM is responsible for developing and implementing a tracking mechanism to ensure that ESM takes corrective action on Audit Findings made by the CAM and makes timely reports to Interested Parties within the timeframes provided in this ECP. This tracking system shall be established no later than the thirty (30) days after sentencing. The CCM shall also be responsible for ensuring actual corrective action is taken on Audit Findings made by the CAM.
6. The CCM shall be responsible for ensuring the maintenance and necessary upgrades of the SMS with respect to those provisions that apply across the Covered Vessels and Covered Personnel.
7. The CCM shall be responsible for annually certifying in writing to the President of ESM the adequacy of Covered Vessel operating budgets, including costs related to the operation, maintenance, and repair of critical accidental discharge prevention components, pollution prevention equipment, use of shore-side reception facilities, labor costs relating to maintenance of machinery spaces, and other related costs necessary to meet the objectives of this ECP. The certification shall be made with the understanding that any false information knowingly submitted is subject to prosecution under 18 U.S.C. § 1001 and other authority. The CCM shall submit the certifications to an Officer of ESM as part of the CCM's annual report, and in conjunction with the annual management reports, which will in turn be provided to the Interested Parties, as discussed below.

The CCM shall promptly review and document open reports by Covered Personnel and shall initiate, monitor, and document all actions taken as a result of such reports as required by this ECP. In the event of a report or a determination of a Major Non-Conformity, the CCM shall make immediate notification to the President of ESM, the CAM, and the Interested parties. The CCM shall be responsible for promptly conducting an inquiry or investigation of such matters, and promptly report the results any response or remedial measures of such an inquiry or investigation to the Interested Parties. The CCM shall also be responsible for ensuring that evidence concerning open reports made by Covered Personnel are preserved. In its discretion, the CAM may initiate an investigation of alleged violations of law or Major Non-Conformities made by Covered Personnel through defendant's open reporting system or otherwise and shall promptly report the results to the CCM and the Interested Parties. The CCM shall promptly conduct an investigation and report the results and any response



or remedial measures of such investigation to the Interested Parties within sixty (60) days.

8. An investigation shall also be promptly initiated by the CCM if an anomaly is identified in a Covered Vessel's budget. The CCM shall maintain records of such reports and actions taken and shall promptly make them available for review by the CAM and the CAM.
9. The CCM shall be responsible for ensuring the development of the training requirements, as detailed in Section VIII and Attachment 3. As part of those training requirements, the CCM shall be responsible for ensuring that Covered Personnel are trained regarding the importance of maintaining accurate shipboard records, the need to report improper operations to shoreside personnel, the obligation to refuse to follow illegal orders, the need to prevent unlawful discharges from the Covered Vessels, the requirement to immediately report certain environmental releases and hazardous conditions, the importance of being truthful when questioned by port state control authorities, the high importance of environmental compliance, and that ESM will take appropriate disciplinary actions for any intentional violations.
10. The CCM shall be responsible for ensuring the full implementation of the Training and Onboarding Requirements, established in Section VIII of this ECP.

**B. Corporate Accountability**

1. At least quarterly, the CCM shall submit a written report to an Officer of ESM concerning compliance with and implementation of this ECP.
2. At least annually during the term of probation, the CCM shall provide to the President of ESM a written summary concerning compliance with and implementation of this ECP. All issues of non-compliance will be fully disclosed and detailed, along with any corrective action planned and/or taken. The report will highlight outstanding findings. ESM will provide copies of these reports to the CAM and Interested Parties within ten (10) business days after the reports have been provided to the President.
3. Six (6) months prior to the end of the probationary period, the CCM shall ensure a trend analysis is conducted of all Major Non-Conformities, Non-Conformities, and recurring Observations, and identify corrective actions taken or recommended. The CCM shall provide a copy of the trend analysis and summary of corrective actions to the CAM and Interested Parties within ten (10) business days of the completion of each analysis. The analysis shall include an assessment of the contribution, if any, of the following factors to the identified issues:
  - a. Human factors;
  - b. Deficiency in procedural implementation;

- c. Deficiency in substance of training materials;
  - d. Deficiency in SMS or its implementation; and
  - e. Deficiency in oversight.
4. The CCM shall promptly notify the CAM of all circumstances whereby ESM fails to fully support and finance their objectives in implementing all the requirements of this ECP.

**C. Full Cooperation**

1. Within three (3) months of entry of judgment and, at least annually, during the first quarter of each fiscal year during the period of probation, the President of ESM shall advise all Covered Personnel of: i) Defendant's criminal conviction and probation; ii) Defendant's commitment to environmental compliance; iii) the existence of this ECP, its material provisions, and how to access a copy of it; and iv) the names and contact information of the CCM and CAM.
2. The CCM, the ship superintendents and the Master aboard each Covered Vessel shall take all necessary steps to ensure the full cooperation of all Covered Employees during all activities required by this ECP. Employees and entities authorized to conduct business aboard Covered Vessels related to the implementation of the ECP shall be required to cooperate with all such activities as a condition of employment. Any failure to fully cooperate shall be addressed in a manner consistent with Section I(F) above.
3. ESM shall provide cooperation to all persons performing audits and inspections, regardless of location. The CCM shall ensure that the CAM and any other inspection, auditing, monitoring personnel, or U.S. Coast Guard personnel involved in the auditing of any Covered Vessel have unrestricted access to all vessel areas (except to the extent such access is inconsistent with the safety and security of a vessel, its crew, or cargo), documentation, personnel, and material equipment. Every audited Covered Vessel or office shall provide private locations for one-on-one interviews between employees and the various inspection, auditing, or monitoring personnel. For the avoidance of doubt, a Master's decision, in his or her sole reasonable discretion, that any space on a Covered Vessel may not be accessed for reasons of safety and security shall not be deemed obstruction or grounds for discipline even if the decision is subsequently reversed.

**D. SMS and Internal Audits**

1. In accordance with the ISM Code, among other applicable requirements, Defendant developed its SMS, which sets out relevant policy objectives and responsibilities for shipboard crew and shore-side personnel. Where necessary, relevant portions of the SMS will be modified and refined during the term of probation consistent with this ECP.
2. ESM's internal ISM audit program includes internal safety, quality, and environmental audits as well as vessel inspections conducted by superintendents. During

the probationary period, ESM will use best efforts to conduct underway shipboard audits of the Covered Vessels in addition to superintendent inspections.

3. The audits shall include compliance with this ECP and shall follow up on Audit Findings from CAM audits and status of Environmental Open Reports, if any.
4. Internal ISM audit reports shall be prepared for each of the above-described audits and shall be made available to the CAM.

#### **IV. VESSEL PERSONNEL**

##### **A. Engineering Department**

1. In addition to or consistent with their responsibilities under the SMS, Chief Engineers on board all Covered Vessels shall be responsible for:
  - a. Ensuring that all pollution prevention equipment and policies related to compliance with all Marine Environmental Protection Requirements are fully maintained and operational and the immediate reporting all instances of non-compliance to the CCM.
  - b. Ensuring that all documents and records required under the SMS, this ECP, or Marine Environmental Protection Requirements are fully and accurately maintained.
  - c. Assisting in the audit process, which must include the various requirements, policies and procedures addressed in Section VII.
  - d. Monitoring and managing shipboard machinery space wastes, gray water and sewage, and reviewing logs associated with such management, as well as the conditions of any equipment having oil-to-sea interfaces, on a weekly basis.
  - e. Looking for anomalies regarding increasing or decreasing levels of bilge water in the bilge water tank(s) and comparing the rated capacity of the Oily Water Separators (“OWSs”) and/or the clean bilge water tank pump, as applicable, to the actual volumes being processed per hour.
  - f. Looking for anomalies regarding increasing or decreasing levels in the gray water and sewage tanks as related to vessel operations.
  - g. Timely resolving (through repairs and/or applicable SMS procedures) engine room, machinery space, or related environmental concerns, such as inoperative or ineffective pollution prevention equipment, waste handling or monitoring equipment, and leakages stemming from pump seals, packing glands or line breaks, tank overflows, or any other causes contributing to the accumulations of shipboard waste.





- c. Looking for anomalies regarding garbage discharge and off-loading as related to vessel operations.
  - d. Timely resolving (through repairs and/or applicable SMS procedures) all environmental concerns, such as inoperative or ineffective waste handling or monitoring equipment and any other disturbances or issues which may impact the ability to appropriately manage shipboard waste.
  - e. Ensuring that at the end of each contract and any short-term relief period the Chief Officer's handover notes include a description of the current status of the cargo wash water system. If a company-specified format for handover notes is used, this shall require descriptive entries as stated above, not solely answers marked as "Yes" or "No".
  - f. Covered Personnel shall immediately report to the CCM through the open reporting system or other means any violation of law or Marine Environmental Protection Requirements including any false statements in or concerning records required under this ECP or Marine Environmental Protection Requirements.
2. In addition to or consistent with their responsibilities under the SMS, all deck department personnel on board Covered Vessels shall:
- a. Comply with the Training Requirements established in Section VIII of this ECP (as applicable to his/her vessel).
  - b. Assist in the audit process regarding the various requirements, policies and procedures addressed in Section VII.
  - c. Timely resolve (through repairs and/or applicable SMS procedures) all environmental concerns, such as inoperative or ineffective waste handling or monitoring equipment and any other disturbances or issues which may impact the ability to appropriately manage shipboard waste.
  - d. With respect to senior deck officers, at the end of each contract, ensure that handover notes include a description of the current status of the cargo wash water system, as appropriate. If a company-specified format for handover notes is used, this shall require descriptive entries as stated above, not solely answers marked as "Yes" or "No".

**C. Master**

1. In addition to his regular duties, the Master shall:
- a. Ensure that all documents and records required under SMS, this ECP, or the Marine Environmental Protection Requirements are fully and accurately maintained.
  - b. Ensure non-retaliation against whistleblowers.

- c. Have access to the training tracking system, described in Attachment 3, with respect to Covered Personnel aboard the Master's vessel in order to ensure that these personnel have complied with the training requirements established in Section VIII of this ECP.
- d. Maintain on board the vessel, for as long as legally required, or at least the duration of the probationary period, all records required by international conventions and treaties, including the ISM Code, and other Marine Environmental Protection Requirements, and any additional documents or records required under this ECP and the SMS. Additionally, the Master will make such records available to the CAM and the Interested Parties upon request.

## **V. SHORE-SIDE COVERED PERSONNEL**

### **A. Operation, Maintenance, and Repair Personnel**

- 1. ESM shall require all shore-side Covered Personnel having routine involvement with any aspect of the operation, maintenance, and repair of Covered Vessels to report in writing to the CCM any information related to the inability of a Covered Vessel or its crew to comply with this ECP. Such information shall include knowledge obtained during any ship visits, audits, or inspections, regardless of the stated purpose of the particular visit, audit, or inspection.
- 2. All Covered Personnel shall immediately report to the CCM any violation of law or Marine Environmental Protection Requirements including any false statements in or concerning records required under this ECP or Marine Environmental Protection Requirements.

## **VI. COURT APPOINTED MONITOR**

### **A. Selection of Court Appointed Monitor**

During the entire probationary period, a CAM shall be appointed to conduct the audits and submit the reports described below and monitor ESM's compliance with this ECP. Within forty-five (45) days of the entry of judgment, ESM shall submit to the Government a list of five (5) qualified candidates for the CAM position, from which the Government will select a candidate to serve. To the extent practicable, ESM will endeavor to submit candidates that have not provided auditing services to ESM or any of its related corporate entities within the last calendar year prior to the signing of the Plea Agreement or are not associated with the Classification Societies or Flag Administrations to which the Covered Vessels are classed or registered. In the event that none of the candidates is found acceptable, or if the work of the CAM is unsatisfactory at any time, the Government may request that ESM supply additional candidates. ESM agrees to facilitate making any candidates available to be interviewed by the government. The Government reserves the right to reject any proposed CAM. All work performed by the CAM and its auditors must be certified as being accurate and truthful. The certification shall be made with the understanding that any false information knowingly submitted is subject to prosecution under 18 U.S.C. §1001 and other authority.



**B. Qualifications**

Qualified candidates for the CAM include individuals or firms that have staff with the following experience, expertise, and capabilities:

1. expertise and competence in the marine environmental regulatory programs under United States and other Marine Environmental Protection Requirements;
2. experience in performing environmental audits in industrial or maritime environments;
3. sufficient expertise and competence to assess whether ESM has adequate policies, procedures, and equipment in place to ensure compliance with this ECP and to ensure regulatory compliance, correct non-compliance, and prevent future non-compliance; and
4. demonstrated capability to evaluate the effort and commitment of ESM in satisfying the requirements of this ECP and the SMS.

**C. Adequacy of Staff**

The CAM must have adequate staff to perform the work required of this ECP. 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 CAM 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 CAM shall employ at least one senior level Marine Engineer (Chief, First or Second Engineer), or someone with equivalent experience, to perform shipboard machinery space audits.

**D. Contract, Compensation, and Expenses**

ESM agrees to provide the Government with the proposed contractual agreement between ESM and the CAM detailing the scope of work that the CAM will perform. The Government will provide any comments or objections within seven (7) days. The reasonable compensation and expenses of the CAM, and any persons hired by the CAM in connection with its duties under this ECP, shall be paid by ESM. Compensation of the CAM and the people it hires shall be in accordance with the reasonable and customary terms commensurate with their respective experience and responsibility.

**E. Contractual Independence**

During the term of probation, the CAM shall not directly own any stock in ESM; must have no other ongoing contractual or business relationship, other than that of the CAM, with ESM; and may not seek or serve in other capacities with ESM, unless first disclosed to the Interested Parties and the Court and unless expressly approved by the Interested Parties. For purposes of this ECP, the CAM may be an organization or individual who has provided, and may from time to time, provide SMS assessment work for ESM's underwriters. The CAM must exercise independent judgment and ensure that the objectives set forth in this ECP are met. ESM and the CAM shall notify the Interested Parties if any contractual relationships or proposed contractual relationships between ESM and the CAM arise during the term of probation.

**F. Functional Independence**

The CAM shall function independently of ESM but may communicate with ESM about the substance of its work. At its discretion and with notice to the Interested Parties, the CAM, may share with ESM its audit checklist. The CAM may consult with but shall not receive or request review or approval of any form from any employee of ESM regarding the development, clearance, or evaluation of any document, report, or communication of any kind, whether draft or final, required by this ECP.

**G. Confidentiality**

The CAM shall maintain the confidentiality of any non-public information entrusted or made available to the CAM by ESM (whether directly or through the Interested Parties). The CAM shall share such information only with the Court and Interested Parties, as appropriate under this ECP, and shall sign a non-disclosure agreement, if requested, with ESM memorializing the same. Within thirty (30) days after the end of the CAM's term, the CAM shall either return any information obtained from ESM, or certify that such information has been destroyed. Anyone hired by the CAM shall also sign a non-disclosure agreement with similar return or destruction requirements as set forth in this paragraph if requested.

**H. CAM Access**

The CAM shall have full access necessary to Covered Personnel, company records, Covered Vessels (except to the extent such access is inconsistent with the safety and security of a vessel, its crew, or passengers) and shore-side facilities to perform its auditing function.

**I. Reports and Notifications**

The CAM shall be assigned the following tasks and responsibilities:

1. Conduct a review and submit an Annual Report of Findings to the CCM, the Interested Parties, and the Court regarding the rounds of audits conducted by the CAM.
  - a. The annual reports shall provide a summary of the findings with respect to the adequacy of the audits, internal and external, recommendations for change, and compliance with the ECP.
  - b. The annual report shall also include and address any other information of which the CAM becomes aware pertaining to ESM's capabilities to meet the objectives of this ECP, including the trends analysis, any inadequacies of the TPA or with respect to ESM's performance, whether personnel-based or related to any of its Covered Vessels, systems, equipment, or components. All reports shall be certified as true and accurate.

If the CAM discovers or receives information or evidence regarding obstruction or hindrance of the implementation of this ECP, or of a Major Non-Conformity, or a failure of ESM to consider and act upon, as appropriate, an Audit Finding, the CAM must immediately report the occurrence to the Interested Parties and may conduct an audit or investigation of the facts and circumstances at its discretion.

2. Provide any additional reports to the Court, ESM and/or the Interested Parties, including those that may be requested by the Court or as otherwise appropriate, concerning any of the requirements of this ECP.

## **VII. AUDITING PROCESS**

### **A. Timing and Numbers of Audits**

1. Audits of the Covered Vessels (as described below) shall commence as soon as is reasonably practicable after the Government selects the CAM.
2. The CAM shall conduct in person audits on each of the Covered Vessels during each year of probation. Within thirty (30) days of his/her engagement and every three months thereafter, the CAM will consult with ESM to review the current trading schedules for the Covered Vessels in an effort to identify scheduled transits for the Covered Vessels that would reasonably permit the audits to be conducted while the vessel is underway, when systems are in operation and when personnel are performing their normal routines. If this consultation does not identify appropriate transits for underway audits of particular vessels, e.g., no scheduled transits of four days or less, or scheduled calls to only high-risk ports, or scheduled calls to jurisdictions for which securing a visa would be problematic, then with notice to the Interested Parties, the CAM may consider whether to conduct an in-port audit instead of an underway audit. The CAM shall have sole discretion to select when and which Covered Vessels to audit and will utilize its best efforts to choose those vessel and voyages with the shortest itineraries. The CAM shall conduct an audit of the shoreside management office and shoreside training one time per year.

### **B. Audit Scope**

1. Vessel audits will be performed to ascertain and evaluate training, including onboarding training and procedures for new and returning crew, as well as the required periodic training programs for deck and engine room personnel, and the knowledge, skills, and abilities of shipboard and shore-side Covered Personnel as they relate to the requirements of this ECP and the SMS.
2. Audits of ESM shoreside training events typically attended by the largest number of shipboard crew members will be performed at least annually to ascertain and evaluate the training, instructors, and effectiveness.
3. The CAM shall ensure that the audits conducted in each year of probation collectively cover all of the requirements below. The decision of which of these particular requirements to focus on in any given audit, and the audit steps to test those requirements, will be committed to the discretion of the CAM, however, the CAM must ensure that the testing and verification are rigorous to fully ascertain compliance. Once the first audit is conducted, the CAM shall consult with the Government and Defendant in order to evaluate which requirements were tested and verified, which should be tested and verified next, as well as the overall rigor of the initial audit.



- a. Evaluate the onboarding procedures for new and returning crew to ensure all crew understand the requirement to maintain accurate shipboard records at all times and the proper procedures for correcting an erroneous entry and making a corrective entry.
- b. Assess whether the Covered Personnel understand the obligation to refuse to follow an illegal order or an order that would result in the falsification of a vessel record or the improper discharge of an oily mixture overboard without processing it through the pollution prevention equipment or the discharge of any other waste stream overboard in violation of a Marine Environmental Protection Requirement.
- c. Assess the Covered Personnel's understanding of the need to report promptly any illegal order or improper operations to shoreside personnel and the methods whereby such reports can be made.
- d. Assess the Covered Personnel's understanding of the need to prevent unlawful discharges from the Covered Vessels.
- e. Evaluate the Covered Personnel's understanding of the importance of being truthful when being questioned by port state control authorities.
- f. Assess each vessel's crew and its ability to handle the operational, maintenance, and repair workloads in maintaining all systems, equipment, and components onboard in order to minimize waste stream development.
- g. Assess the knowledge of and ability of the vessel's crew to follow procedures for the proper management of bilge water, cargo residues and washwater, sewage, gray water, and garbage.
- h. Assess and evaluate documentation showing whether all vessel officers understand the requirements of this ECP and the environmental sections of the SMS as to the obligations and responsibilities of their respective positions.
- i. Assess the SMS and current practices and procedures associated with the Master, Chief Officer, and Chief Engineer's capability to communicate regarding issues relating to the SMS with shore-side personnel, including the superintendents and the CCM, and review such communications.
- j. Assess through interviews of crewmembers and review of records the adequacy of the onboarding training programs and procedures to ensure compliance with environmental requirements and prevent improper discharges from the Covered Vessels.
- k. Assess the adequacy of reference materials related to each environmental procedure required by this ECP and the SMS.
- l. Assess the existing SMS procedures and equipment related to management of bilge water, cargo residues and washwater, sewage, gray water, and garbage.

- m. Assess the SMS procedures and the equipment used to handle emergencies, including a review of the Shipboard Oil Pollution Emergency Plan and an evaluation of the capabilities of personnel performing such duties.
- n. Assess the adequacy of documentation relating to the operation, use, maintenance, and repair of equipment related to compliance with Marine Environmental Protection Requirements.
- o. Assess the performance and proper use of pollution prevention procedures and equipment related to compliance with Marine Environmental Protection Requirements.
- p. Assess bilge water management including all indications of excessive leaking into the bilges or excessive bilge loading or failure to properly manage and document machinery space waste streams, including indications of improper overboard discharges or releases of pollutants or regulated machinery space waste.
- q. Assess the adequacy of equipment and procedures involved in ballast water management including the operability and recordkeeping of ballast water treatment system and stripping systems.
- r. Assess the adequacy of shore-side training and effectiveness of training instructors and materials.

**C. Audit Protocols**

1. Audit check list items shall include narrative statements indicating how audit determinations were made and the identities of individuals interviewed in the course of the audit. All identified audit check list items will be recorded as Observations, Non-Conformities, or Major Non-Conformities. Observations, Non-Conformities, or Major Non-Conformities are to be reported in the beginning of every audit report and shall be described in narrative detail.
2. Information or evidence regarding possible obstruction or hindrance of the implementation of this ECP, or of a potential or confirmed Major Non-Conformity, or a failure of ESM to consider and act upon, as appropriate, an Audit Finding, shall be immediately reported to the CCM and Interested Parties. The CAM may make further inquiries, request information and records, interview shoreside or shipboard staff, or conduct an audit or investigation at it deems appropriate or as requested by the Court. The CCM shall ensure that the necessary notifications occur as required by applicable international and/or United States laws and regulations. The CAM shall also immediately notify the CCM and the Interested Parties if it discovers a Major Non-Conformity during a Final Audit. Such notification may include a recommended course of action.

**D. Audit Reports**

1. The CAM shall produce an audit report for each vessel audit. Each report shall contain detailed Audit Findings, including the factual basis for each finding in narrative form. Audit Findings that the audited vessel or office was able to immediately rectify shall be included in the audit report.
2. Audit reports shall identify and summarize in the first few pages any Observations, Major Non-Conformities, or other Audit Findings with respect to all audited items and the following particular areas of concern:
  - a. Any instance of shipboard or shoreside personnel not having received the training required by Section VIII.
  - b. Any violation of any condition or special condition of probation, of this ECP, or of any Marine Environmental Protection Requirement.
  - c. Any instance in which a violation of the Marine Environmental Protection Requirements was not immediately reported to the CCM, or timely reported to the flag Administration, and/or the appropriate port or coastal state authorities as required.
  - d. Any instance in which there was a failure to immediately report an event requiring immediate reporting to any regulatory authority, including but not limited to the environmental releases or hazardous conditions.
  - e. Any instance in which shipboard personnel failed to maintain accurate shipboard records regarding environmental compliance, failed to promptly correct an erroneous entry, and/or failed to make a required corrective entry.
3. Audit reports shall also:
  - a. Detail all allegations of environmental-related non-compliance or violations.
  - b. Assess the adequacy of documentation relating to the operation, use, maintenance, and repair of equipment related to compliance with Marine Environmental Protection Requirements.
  - c. Assess the adequacy, performance and proper use of pollution prevention procedures and equipment related to compliance with Marine Environmental Protection Requirements.
  - d. Assess bilge water management including all indications of excessive leaking into the bilges or excessive bilge loading or failure to properly manage and document machinery space waste streams, including indications of improper overboard



discharges or releases of pollutants or regulated machinery space waste.

- e. Assessment of the appropriate equipment and procedures involved in ballast water management including the operability and recordkeeping of ballast water treatment system and stripping systems.
4. Audit reports may include, if appropriate, recommendations to correct any Audit Findings, to include the above-described areas of concern.
  5. Audit reports shall contain information related to the audit's administration and identify the following:
    - a. Audit scope, including the time period covered by the audit.
    - b. The date(s) the on-site portion of the audit was conducted.
    - c. Identification of the audit team members.
    - d. Days/hours spent during onboard phase of the audit.
    - e. Identification of the company representatives and regulatory personnel observing the audit, if any.
    - f. The distribution list for the audit report.
    - g. A summary of the audit process, including any comments on any obstacles encountered.
  6. Audit reports shall contain a narrative description of the audit certified to be true and accurate, that includes, but is not limited to, the following:
    - a. Attitude of ship and/or shore-side personnel and ship-board culture.
    - b. Any recommendations to ESM improve its SMS, including recommendations for follow-up audits where considered necessary.
  7. The CAM shall submit all audit reports, in electronic form, to the CCM and the Interested Parties. The CAM shall make hard copies of the audit reports available upon request.

**E. CAM Audit Findings and Corrective and Preventive Actions**

1. ESM must address each Audit Finding of a Non-Conformity or Major Non-Conformity through corrective action with respect to the particular Covered Vessel or shore-side operation that is the subject of the Audit Finding, and, where appropriate, with preventive action across the broader set of Covered Vessels or shore-side operations if ESM determines that an Audit Finding presents a sufficiently high risk beyond the particular Covered Vessel or shore-side

operation in question. If there is an unresolvable disagreement between ESM and the CAM as to an Audit Finding, such disagreement will be brought to the attention of the Interested Parties.

2. ESM will provide the funding and resources required to facilitate implementation of corrective and preventive actions. Corrective action for Major Non-Conformities shall commence as soon as is reasonably practicable. Corrective action for other Audit Findings shall commence within forty-five (45) days of the respective audit closing meeting.
3. The CCM shall ensure that corrective and preventive actions are taken to address any Audit Findings related to shore-side operations within ESM, taking into account any recommendations received from the CAM.
4. When Audit Findings are related to a Covered Vessel or a broader set of Covered Vessels, the CCM shall ensure that corrective and preventive measures are taken to address such findings, taking into account any recommendations received from the CAM.

## **VIII. TRAINING REQUIREMENTS**

### **A. Time of Implementation**

Unless otherwise stated, all of the Training Requirements set forth below shall be implemented for the personnel who sail on the Covered Vessels as soon as is reasonably practicable, but in any event not later than one (1) month from the date of sentencing.

### **B. Onboarding Procedures**

1. The onboarding training and procedures for all officers and crew of the Covered Vessels shall include content that emphasizes:
  - a. The requirement to maintain accurate shipboard records at all times and the proper procedures for correcting an erroneous entry and making a corrective entry;
  - b. The obligation on the part of every officer and crew member to refuse to follow an illegal order or any order that would result in the improper discharge of an oily mixture overboard without processing it through the pollution prevention equipment or the discharge of any other waste stream overboard in violation of a Marine Environmental Protection Requirement;
  - c. The obligation to report immediately improper operations to shoreside personnel and the methods available for making such reports;
  - d. The obligation to prevent unlawful intentional and accidental discharges from the Covered Vessels;
  - e. The importance of being truthful when questioned by port state control authorities;
  - f. The obligation to ensure compliance with all applicable Marine Environmental Protection Requirements established under applicable

international, flag state, port state, coastal state law, and United States laws including, but not limited to, the International Convention for the 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”), including the Environmental Protection Agency’s Vessel General Permit (“VGP”), Ballast Water Management Convention, OPA 90, (collectively, “Marine Environmental Protection Requirements”), and to the additional requirements and policies established by this ECP itself.

- g. That in the case of a conflict between the ECP and any Marine Environmental Protection Requirements, the more restrictive authority shall govern.
- h. The requirement to cooperate fully with all activities required by the ECP and with audits and inspections performed by the CAM.

**IX. UPDATES TO ESM’S SMS**

**A. Initial Updates to the SMS**

- 1. ESM has an existing SMS, which includes policies and procedures that are integral to an environmental management system. Under this ECP, ESM will incorporate or enhance these existing elements as part of an updated SMS. As more fully described in Attachment 3, ESM shall ensure that the SMS includes and addresses the following:
  - a. Environmental Management Manual;
  - b. Shipboard Management Manual;
  - c. Security Manual;
  - d. Standard Instructions for Crew Managers, including crew selection criteria, pre-joining criteria, training matrix, onboarding platform; and
  - e. Continuous evaluation and improvement.

**B. Updates Following CAM Audit Report**

- 1. If the CAM recommends revisions to the SMS, ESM shall, within thirty (30) days of receipt, submit its proposed revisions to the SMS or its response to the proposed revisions to the CAM and the Interested Parties for review and comment.
- 2. As part of its continual improvement, ESM will update the SMS as necessary or in response to findings by the CAM, the CCM, and ESM internal auditors, as appropriate with notice to the Interested Parties for review and comment.

**X. CHANGES RELATED TO COVERED VESSELS**

A. Notification of Changes

1. On at least a quarterly basis, ESM shall notify the Interested Parties, and the CAM of: (i) any change in name, flag of registry, recognized organization, ownership, or Classification Society of any Covered Vessel; and (ii) any relinquishment of a COFR for a Covered Vessel. ESM agrees that this ECP and its requirements shall remain in effect for all Covered Vessels, regardless of changes in the vessels' flag of registry, recognized organizations, name, or Classification Society.
2. Covered Vessels for which ESM has relinquished ownership, operation, technical management, and commercial management through a vessel sale or transfer to an unaffiliated third party shall be excluded from the requirements of this ECP on the date ESM relinquishes such ownership, operation, technical management, and commercial management and has so advised the Interested Parties.

**XI. SELF-ENFORCEMENT**

ESM agrees that it will undertake and implement the necessary procedures to ensure that the Covered Personnel diligently comply with this ECP and the associated requirements in their entirety. Among other efforts, ESM shall ensure that its internal auditing procedures include the criteria established in this ECP.

**XII. SCHEDULE**

ESM shall strictly comply with the requirements of this ECP, including the dates and periods mentioned herein. Should ESM be unable to comply with any of the deadlines herein, ESM shall promptly notify the Interested Parties in advance of the deadline and, where relevant, the CAM, to request that the Interested Parties grant ESM such additional time.

**XIII. ACKNOWLEDGEMENT**

Defendant ESM has read this ECP carefully and understands it thoroughly. Defendant ESM enters into this ECP knowingly and voluntarily, and agrees to abide by its terms.



**ATTACHMENT 1**

**Covered Vessels**

VESSEL	IMO NUMBER
Crane	9441283
Egret Bulker	9441295
Gannet Bulker	9441300
Grebe Bulker	9441312
Ibis Bulker	9441324
Kingfisher	9441348
Jay	9441336
Martin	9441350

## **ATTACHMENT 2**

### **Updates to the SMS**

ESM, with input from the CCM and his designees, shall be responsible for maintaining the SMS, which address the following elements:

### **Environmental Policy**

The SMS should be based upon a documented and clearly communicated policy. This policy should set out ESM's commitment to a cleaner marine environment. It should include:

- Enhanced training and onboarding procedures to emphasize the need for environmental compliance and the duty to report noncompliant events;
- Provision for compliance with environmental requirements;
- Commitment to continuous improvement in environmental performance;
- Commitment to pollution prevention that emphasizes source reduction and accident prevention; and
- Commitment to continuous reduction of environmental risks.

### **Environmental Requirements and Voluntary Undertakings**

Relevant provisions of the SMS shall be communicated to all Covered Employees and to all vendors, technicians, and other non-crew members whose work could affect ESM's ability to meet the Marine Environmental Protection Requirements, as well as consideration of voluntary undertakings arising from industry norms or the adoption of best practices. Covered Employees and third parties need only be familiar with the SMS components that relate to the scope of their employment or work on behalf of ESM. Such communication will be executed in a manner appropriate to the circumstances.

### **Objectives and Targets**

The SMS will reference this ECP, which contains specific objectives and targets for:

- The Covered Vessels achieving and maintaining compliance with the requirements of this ECP, including through continuous improvement in regulated and non-regulated areas;
- Training, educating, and fostering among all Covered Personnel the need for solid environmental stewardship through a conscious effort at pollution prevention, a duty not to comply with unlawful orders, a duty to report unlawful orders to the CCM and CAM, available methods for immediate and anonymous reporting to the CCM and CAM; and
- Pollution prevention that emphasizes source reduction, where appropriate, for the generation of bilge water on the Covered Vessels.

The SMS shall establish appropriate time frames to meet these objectives and targets, which shall be documented and updated as necessary, as Marine Environmental Protection Requirements change, as operational changes occur that could impact environmental performance, or as a result of recommendations made by the CAM.

### **Structure, Responsibility, and Resources**

ESM will ensure that it has sufficient personnel and other resources to meet its objectives and targets. The SMS will include documentation explaining the steps for achieving those objectives and targets. The SMS will include descriptions of the roles and responsibilities of all Covered Personnel, as well the accountability of the Covered Personnel with respect to meeting the requirements of this ECP and the SMS.

### **Corrective and Preventive Action and Emergency Procedures**

ESM through its SMS, will establish and maintain documented procedures for preventing, detecting, investigating, and promptly initiating corrective actions, and reporting (both internally and externally) of environmental releases and safety related conditions, or any other occurrence that may affect its ability to comply with international or U.S. law, the law of the Flag State, or the requirements of this ECP and promptly initiate corrective actions.

Such measures must focus particular attention on incidents that may have an effect on compliance with environmental and safety requirements, as well as the requirements of the SMS and the ECP.

The SMS must also establish documented procedures for mitigating any adverse impacts on the environment that may be associated with emergency situations and for ensuring that similar incidents are avoided. The SMS must include procedures for tracking any preventive and corrective actions that are taken. If the environmental violation or incident resulted from a weakness in the system, the SMS should be updated and refined to minimize the likelihood of such problems recurring in the future. The SMS should also, to the extent possible, provide for the testing and evaluation of emergency procedures.

### **Training, Awareness, and Competence**

The SMS shall establish procedures to ensure that all Covered Personnel have been trained and are capable of carrying out their responsibilities under this ECP and the SMS. In particular, the training should highlight means to enhance the ability of such personnel to ensure compliance with environmental and safety requirements and voluntary undertakings, including the requirements of this ECP. In addition, the SMS shall provide for the proper briefing and supervision of vendors, technicians, and other non-crewmembers whose job responsibilities could affect the ability of the Covered Vessels to comply with the requirements of this ECP.

Additional training requirements are provided in Attachment 3.

### **Organizational Decision-Making and Planning**

The SMS must describe how these various management system elements will be integrated into ESM's overall decision-making and planning, in particular, decisions on capital improvements, training programs, and vessel operations, maintenance, and repair activities.

### **Continuous Evaluation and Improvement**

The SMS must include methods to perform periodic, documented and objective auditing of performance in achieving these objectives and targets and on how well the SMS assists ESM 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 vessel systems, equipment and components, and the ability and proficiency at which vessel crewmembers and personnel ashore comply to the policies and procedures established by this SMS.

#### **Additionally the SMS:**

Will identify an ongoing process for assessing operations for the purposes of preventing and controlling or minimizing waste stream development and accidental releases.

Will include organization charts, as appropriate, that identify shore-side and vessel individuals having environmental performance, risk reduction, and regulatory compliance responsibilities. And, will specify responsibilities of shore-side vessel operational and technical management to report information related to environmental releases, system casualties resulting in internal spills, excessive waste development, and leaking equipment with oil-to-sea interfaces.

Will make compliance with environmental policies of this ECP, the SMS, and other Marine Environmental Protection Requirements a positive factor in performance evaluations, and failure to comply a basis for discipline, which may range from counseling or retraining up to an adverse performance evaluation and/or dismissal.

Will establish an affirmative duty to: (1) be truthful in all statements made to regulatory authorities, including the Flag State, Class, and Port State Control; (2) not comply with unlawful orders; (3) immediately report the CCM and CAM unlawful orders, violations or suspected violations of Marine Environmental Protection Requirements, discharges, spills, environmental incidents and other environmental concerns, false recordkeeping, false records, inoperable equipment, or the misuse of equipment.

Will establish, implement and describe a confidential anonymous reporting system to ensure that employees may immediately and confidentially report matters of concern to the CCM and CAM, including but not limited to unlawful orders, violations or suspected violations of Marine Environmental Protection Requirements, discharges, spills, environmental incidents and other environmental or safety concerns, hazardous conditions, false recordkeeping, false records, inoperable equipment, or the misuse of equipment.

Will identify all operations and activities where documented standard operating procedures (“SOPs”) are needed to prevent potential violations or unplanned waste stream releases, with a primary emphasis on marine engineering, vessel engine room and machinery space operations, systems, equipment and components, including but not limited to pollution prevention procedures and equipment related to compliance with Marine Environmental Protection Requirements.

Will provide a system for conducting and documenting routine, objective, self-inspections by ESM internal auditors and Chief Engineers to check for malfunctions, deterioration, and inadequate maintenance of pollution prevention equipment, crew member adherence to SOPs, unusual circumstances that create a risk pollution risk.



## ATTACHMENT 3

### Employee Training Program

#### Implementation and Administration

- The CCM will be responsible for ensuring there are training programs in place to educate and train those working aboard the Covered Vessels and shore side employees associated with the technical management of the Covered Vessels.
- In person training shall occur at least annually and be performed by qualified instructors, who can include ESM personnel or outside consultants.
- Within one month (1) months of the date of sentencing, ESM will develop and provide the CAM with current and updated written training program to educate the Covered Personnel on the environmental impact of operations and to be aware of the policies and procedures that form the basis of this ECP and relevant sections of the SMS, and which meet the specific requirements of this section.
- The CCM shall ensure that the training program is uniformly implemented for all Covered Personnel and with respect to all Covered Vessels.

#### Training Program

- ESM may tailor training to the work responsibilities and department of the various types of Covered Personnel, provided that the training contains the following common elements:
  - Explanation of the corporate environmental compliance structure, including the CCM and contact information.
  - Comprehensive overview of this ECP, all relevant sections of the SMS, and applicable Marine Environmental Protection Requirements.
  - Importance of environmental and safety policy compliance, accurate recordkeeping, the obligation to refuse to comply with unlawful orders, the need to immediately report instances of environmental noncompliance and hazardous conditions, and the need to be truthful in responding to questions from port state control authorities, and the prohibition on all forms of obstructive behavior, including but not limited to falsification of records, destruction of records, ordering or suggesting that others make false statements.
  - Sanctions and consequences for violations for the Defendant and the employee, such as remedial training, suspension, termination, and civil and criminal liability.
  - Methods and procedures for immediate and anonymous reporting to the CCM.
- Where relevant for the work responsibilities of the Covered Personnel being trained, the training shall also contain the following elements:
  - Pollution prevention and minimization programs specifically as it relates to engine department procedures and operations.
  - Existing legal obligations to immediately report certain discharges, including

discharges of a harmful quantity of oil, and existence of hazardous conditions.

- All requirements set forth in Section VIII - Training Requirements of this ECP.
- All other shipboard environmental protection-related procedures examined and described in this ECP.
- Timing and presentation method
  - Shore-side Covered Personnel who are employed as of the date of the implementation of the training program must complete it within the first three (3) months of the probationary period. Shore-side Covered Personnel hired after the implementation of the training program must complete it before they assume their duties.
  - Shipboard Covered Personnel who are employed as of the date of the implementation of the training program must complete it within the first month of the probationary period or within ten (10) days of coming aboard a Covered Vessel on a new contract, whichever is earlier. Shipboard officers hired after the implementation of the training program must complete it prior to commencing their duties on a new contract on a Covered Vessel; and other personnel “ratings” within fourteen (14) days of commencing their duties on a new contract on a Covered Vessel.
  - An assessment of competence will be conducted at least once in every calendar year. Update and refresher training will be given as required to maintain and demonstrate competence. After an employee has completed the training program, that employee must complete refresher training at least once during each calendar year thereafter.
  - To the extent practicable, the training program must be administered in-person for those Covered Personnel taking it for the first time. If the training program cannot be held in person due to health restrictions, vessel sailing schedules, or another extenuating circumstance, it shall be sufficient for ESM to hold the training via an interactive online platform such as Zoom, WebEx, Microsoft Teams, or a similar program. If ESM is unable to administer the first-time training in-person or via an interactive online platform, ESM shall contact the Interested Parties to discuss alternate means of compliance with this portion of the ECP.
  - The refresher training can be administered via a computer-based module.

### **Recordkeeping and Auditing**

- The CCM will maintain a catalog that provides an overview of the training program; identifies the persons responsible for delivering the training program; and establishes a tracking system to be used to monitor the type, frequency, and successful completion of training.
- The CCM shall provide the CAM with details of the training program provided to the Covered Personnel. As part of its annual Report of Findings, the CAM shall be required to provide an assessment of the training program, both with respect to shore-side Covered Personnel and shipboard Covered Personnel.

**ATTACHMENT 4**

**Interested Party Contacts**

1. U.S. Attorney's Office for the Eastern District of Louisiana  
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2. DOJ Environmental Crimes Section  
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Senior Litigation Counsel  
Environmental Crimes Section  
U.S. Department of Justice  
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By Email to: [Richard.Udell@usdoj.gov](mailto:Richard.Udell@usdoj.gov)
  
3. U.S. Probation Office for Eastern District of Louisiana  
United States Probation and Pretrial Services
  
4. U.S. Coast Guard Office of Investigations and Analysis  
U.S. Coast Guard Commandant (CG - I N V - 1)  
Office of Casualty Investigations & Analysis  
Attn: Designated Representative of the Coast Guard 2703 Martin Luther King Jr. Ave,  
SE Stop 7501  
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Email: [USCGECP@uscg.mil](mailto:USCGECP@uscg.mil) (less than 10MB)
  
5. U.S. Coast Guard Office of Prevention, Sector New Orleans