

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**TIDEWATER MARINE  
INTERNATIONAL, INC.**

**Defendant.**

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§  
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§  
§  
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§

**CRIMINAL NO.:**

**DEFERRED PROSECUTION AGREEMENT**

The United States Department of Justice, Criminal Division, Fraud Section ("the Department"), Defendant Tidewater Marine International, Inc. ("TMII"), a Cayman Islands corporation,<sup>1</sup> and Tidewater Inc. ("TDW"), on behalf of its wholly-owned subsidiary TMII, by and through their undersigned attorneys, enter into this Deferred Prosecution Agreement ("the Agreement"). The terms and conditions of this Agreement are as follows:

**Criminal Information and Acceptance of Responsibility**

1. TMII acknowledges that the United States will file the attached three-count criminal Information ("the Information") in the United States District Court

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<sup>1</sup> At all times relevant to the conduct described in the filed criminal Information and the attached Statement of Facts (Attachment B), TMII was a Panamanian corporation. TMII was redomiciled in the Cayman Islands effective August 19, 2009.

for the Southern District of Texas charging TMII with two-counts of conspiracy to commit offenses against the United States in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act ("FCPA"), as amended, Title 15, United States Code, Section 78dd-2, and to violate the books and records provisions of the FCPA, Title 15, United States Code, Sections 78m (b)(2)(A), 78m(b)(5), and 78ff(a) (Counts One and Two); and, one count of aiding and abetting a violation of the books and records provisions of the FCPA, Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b), and 78ff(a) (Count Three).

2. TMII knowingly waives: (a) its right to indictment on these charges, as well as all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b); and (b) any objection with respect to venue and consents to the filing of the Information, as provided under the terms of this Agreement, in the United States District Court for the Southern District of Texas.

3. TMII admits, accepts, and acknowledges that it is responsible for the acts of its officers, employees, subsidiaries, and agents as charged in the Information, and that the allegations described in the Information and the facts described in the attached Statement of Facts (Attachment B) are true and accurate.

Should the Department pursue the prosecution that is deferred by this Agreement, TMII agrees that it will neither contest the admissibility of nor contradict the Statement of Facts in any such proceeding, including any guilty plea or sentencing.

#### **Term of the Agreement**

4. This Agreement is effective for a period beginning on the date on which the criminal Information is filed and ending three (3) years and seven (7) calendar days from that date (the "Term"). However, TMII agrees that, in the event that the Department determines, in its sole discretion, that TMII has knowingly violated any provision of this Agreement, an extension or extensions of the term of the Agreement may be imposed by the Department for up to a total additional time period of one year, without prejudice to the Department's right to proceed as provided in Paragraphs 18-21 below. Any extension of the Agreement extends all terms of this Agreement for an equivalent period. Conversely, in the event the Department finds, in its sole discretion, that there exists a change in circumstances sufficient to eliminate the need for the corporate compliance reporting obligation described in Paragraph 15 and Attachment D, and that the other provisions of this Agreement have been satisfied, the Term of the Agreement may be terminated early.

### **Relevant Considerations**

5. The Department enters into this Agreement based on the individual facts and circumstances presented by this case and TMII. Among the facts considered were:

a. TMII and TDW promptly commenced an internal investigation into its dealings with the Freight Forwarding Agent (as described in the Information and Statement of Facts) after becoming aware of information indicating potential issues with its Freight Forwarding Agent;

b. promptly after commencing its internal investigation, TMII and TDW voluntarily disclosed the conduct described in the Information and the attached Statement of Facts to the Department;

c. TMII and TDW voluntarily expanded their internal investigation to numerous operations and areas of the world outside Nigeria where no misconduct had been reported or suspected, and reported all relevant findings to the Department;

d. TMII and TDW hired a General Counsel with substantial international compliance experience, appointed him the Chief Compliance Officer, and established a Corporate Compliance Committee;

e. TMII and TDW issued an enhanced, stand-alone FCPA compliance policy, substantially revised its Code of Conduct, as well as additional relevant policies and procedures, including a vetting and approval process for third party service providers and business partners upon implementation of that policy, and instituted a worldwide training program for employees;

f. TMII and TDW expanded their internal investigation to cover additional countries and business activities;

g. TMII and TDW cooperated with the Department's investigation, including sharing all relevant investigation findings and making available numerous current and former employees;

h. TMII and TDW exhibited leadership in the oil and gas industry by leading an oil and gas industry initiative, both in the United States and abroad, to address the conduct described in Paragraphs 45 through 51 and 58 through 63 of the Information;

i. TMII and TDW implemented an enhanced compliance program and have agreed to undertake further remedial measures as contemplated by this Agreement and described in Attachment C;

j. TDW, on behalf of TMII, agreed to provide a written report to the Department on its progress and experience in maintaining and, as appropriate,

enhancing its compliance policies and procedures, as described in Attachment D;  
and

k. TMII and TDW agreed to continue to cooperate with the Department in any ongoing investigation of the conduct of TMII and its directors, employees, agents, consultants, contractors, subcontractors, subsidiaries, affiliates, and others relating to violations of the FCPA.

6. During the term of this Agreement, TMII, and TDW on behalf of TMII, shall continue to cooperate fully with the Department in any and all matters relating to corrupt payments, related false books and records, and inadequate internal controls. At the request of the Department, and consistent with applicable law and regulations, TMII and TDW shall also cooperate fully with other domestic or foreign law enforcement authorities and agencies as well as the Multilateral Development Banks ("MDBs"), in any investigation of TMII, or any of its present and former directors, employees, agents, consultants, contractors, subcontractors, subsidiaries, affiliates, or any other party, in any and all matters relating to corrupt payments and related false books, records, and inadequate internal controls. TMII, and TDW on behalf of TMII, agrees that its cooperation shall include, but is not limited to, the following:

a. TMII and TDW shall truthfully disclose all factual information not protected by a valid claim of attorney-client privilege or work product doctrine with respect to its activities and those of its present and former directors, officers, employees, agents, consultants, contractors, subcontractors, and subsidiaries concerning all matters relating to corrupt payments and related false books and records and inadequate internal controls, about which TMII and TDW have any knowledge and about which the Department may inquire. This obligation of truthful disclosure includes the obligation of TMII and TDW to provide to the Department, upon request, any document, record or other tangible evidence relating to such corrupt payments, false books and records, or inadequate internal controls about which the Department may inquire of TMII or TDW.

b. Upon request of the Department, with respect to any issue relevant to its investigation of corrupt payments in connection with the operations of TMII, related false books and records, and inadequate internal controls, TMII or TDW shall designate knowledgeable employees, agents, or attorneys to provide to the Department the information and materials described in Paragraph 6(a) above on behalf of TMII. It is further understood that TMII and TDW must at all times provide complete, truthful, and accurate information.

c. With respect to any issue relevant to the Department's investigation of corrupt payments, related false books and records, and inadequate internal controls in connection with the operations of TMII, or any of its present or former parents, subsidiaries, or affiliates, TMII and TDW shall use its best efforts to make available for interviews or testimony, as requested by the Department, present or former directors, officers, employees, agents, consultants, contractors, and subcontractors of TMII and TDW. This obligation includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with federal law enforcement and regulatory authorities. Cooperation under this Paragraph will include identification of witnesses who, to the knowledge of TMII or TDW, may have material information regarding the matters under investigation.

d. With respect to any information, testimony, documents, records, or other tangible evidence provided to the Department pursuant to this Agreement, TMII and TDW consents to any and all disclosures consistent with applicable law and regulation to other governmental authorities, including United States authorities and those of a foreign government, and the MDBs, of such materials as the Department, in its sole discretion, shall deem appropriate.



### Payment of Monetary Penalty

7. The Department and TMII agree that the application of the United States Sentencing Guidelines (“USSG” or “Sentencing Guidelines”) to determine the applicable fine range yields the following analysis:

- a. The 2009 USSG Manual sets forth the appropriate guidelines to be used in this matter.
- b. Base Offense. Based upon USSG § 2C1.1, the total offense level is 32, calculated as follows:

(a)(2)	Base Offense Level	12
(b)(1)	Specific Offense Characteristic (More than one bribe)	+2
(b)(2)	Specific Offense Characteristic (Value of Benefit Received -- More than \$2.5 million, less than \$7 million)	+18
TOTAL		<hr/> 32

- c. Base Fine. Based upon USSG § 8C2.4(a)(1), the base fine is \$17,500,000 (fine corresponding to the Base Offense level as provided in Offense Level Table).
- d. Culpability Score. Based upon USSG § 8C2.5, the culpability score is 3, summarized as follows:

- |     |                        |   |
|-----|------------------------|---|
| (a) | Base Culpability Score | 5 |
|-----|------------------------|---|
- 
- |           |  |  |
|-----------|--|--|
| (b)(3)(B) | Involvement in or Tolerance of Criminal Activity<br>The unit[s] of the organization within which<br>the offense was committed had 200 or more<br>employees and an individual within high-level |  |
|-----------|--|--|

personnel of the unit participated in, condoned, or was willfully ignorant of the offense; or tolerance of the offense by substantial authority personnel was pervasive throughout the unit. +3

- (g) Self Reporting, Cooperation, and Acceptance of Responsibility  
 Prior to an imminent threat of disclosure or government investigation; and within a reasonably prompt time after becoming aware of the offense, reported the offense to appropriate governmental authorities, fully cooperated in the investigation, and clearly demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct. -5

TOTAL 3

- e. Calculation of Fine Range. Based upon USSG § 8C2.7, the fine range is calculated as follows:

Base Fine	\$17.5 million
Multipliers	0.6/1.2
Fine Range	\$10.5 million/ \$21 million

8. TMII and TDW agree that TMII shall pay a monetary penalty in the amount of \$7.35 million. TMII and TDW agree that TMII shall pay this monetary penalty to the United States Treasury within ten days of the filing of this Agreement in the U.S. District Court for the Southern District of Texas. The \$7.35 million penalty is final and shall not be refunded.

9. Nothing in this Agreement shall be deemed an agreement by the Department that the \$7.35 million amount is the maximum penalty that may be imposed in any future prosecution, and the Department is not precluded from arguing in any future prosecution that the Court should impose a higher fine, although the Department agrees that under those circumstances, it will recommend to the Court that the amount paid under this Agreement should be offset against any fine the Court imposes as part of a future judgment.

10. TMII and TDW acknowledge that no United States tax deduction may be sought in connection with the payment of any part of this \$7.35 million fine.

#### **Conditional Release from Criminal Liability**

11. In return for the full and truthful cooperation of TMII and TDW as described in Paragraphs 5 and 6 above, and its compliance with the other terms and conditions of this Agreement, the Department agrees, subject to Paragraphs 18-21 below, not to use any information related to the conduct described in the attached

Statement of Facts against TMII, TDW, or any of its wholly-owned or controlled subsidiaries in any criminal case, except: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement; (c) in a prosecution or other proceeding relating to any crime of violence; or (d) in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the United States Code. In addition, the Department agrees, except as provided herein, that it will not bring any criminal case against TMII, TDW or any of its wholly-owned or controlled subsidiaries or affiliates related to the conduct of present and former directors, officers, employees, agents, consultants, contractors, and subcontractors, as described in the attached Statement of Facts, or relating to information TMII, or TDW on behalf of TMII, disclosed to the Department prior to the date on which this Agreement was signed.

a. This Paragraph does not provide any protection against prosecution for any corrupt payments, false books or records, or inadequate internal controls, if any, by TMII that occur after the date of this Agreement.

b. In addition, this Paragraph does not provide any protection against prosecution of any present or former director, officer, employee, shareholder, agent, consultant, contractor, or subcontractor of TMII for any violations committed by them.

### **Corporate Compliance Program and Reporting**

12. TMII, and TDW on behalf of TMII, represent that they have implemented and will continue to implement a compliance and ethics program designed to prevent and detect violations of the FCPA and other applicable anti-corruption laws throughout TDW's operations, including those of its subsidiaries, affiliates, agents, and joint ventures, and those of its contractors and subcontractors whose responsibilities include interacting with foreign officials and engaging in other high-risk activities.

13. In order to address any deficiencies in its internal controls, policies, and procedures regarding compliance with the FCPA and other applicable anti-corruption laws, TMII and TDW represent that they have undertaken, and will continue to undertake in the future, in a manner consistent with all of their obligations under this Agreement, a review of the existing internal controls, policies, and procedures within TMII and TDW. Where necessary and appropriate, TMII and TDW will adopt new or modify existing internal controls, policies, and procedures in order to ensure that TMII and TDW maintain: (a) a system of internal accounting controls designed to ensure the making and keeping of fair and accurate books, records, and accounts; and (b) a rigorous anti-corruption compliance code designed to detect and deter violations of the FCPA

and other applicable anti-corruption laws. The internal controls system and compliance code will include, but not be limited to, the minimum elements set forth in Attachment C, which is incorporated by reference into this Agreement.

14. The implementation and maintenance of these policies and procedures shall not be construed in any future enforcement proceeding as providing immunity or amnesty for any crimes not disclosed to the Department as of the date of signing of this Agreement for which TMII and TDW would otherwise be responsible.

15. TDW, on behalf of TMII agrees that on an annual basis during the Term of this Agreement, as further described in Attachment D, TDW shall provide a written report to the Department on its progress and experience in maintaining and, as appropriate, enhancing its compliance policies and procedures.

#### **Deferred Prosecution**

16. In consideration of: (a) the past and future cooperation of TMII and TDW described in Paragraphs 5 and 6 above; (b) TMII's payment of a monetary penalty of \$7.35 million; and (c) TMII's, and TDW's, adoption and maintenance of enhanced compliance measures, the Department agrees that prosecution of TMII for the conduct set forth in the attached Statement of Facts, and for the conduct that TMII disclosed to the Department prior to the signing of this Agreement, be and hereby is deferred for the Term of this Agreement.

17. The Department further agrees that if TMII and TDW fully comply with all of their obligations under this Agreement, the Department will not continue the criminal prosecution against TMII described in Paragraph 1 and, at the conclusion of the Term, this Agreement shall expire. Within thirty (30) days of the Agreement's expiration, the Department shall seek dismissal with prejudice of the Information filed against TMII described in Paragraph 1.

#### **Breach of the Agreement**

18. If, during the Term of this Agreement, the Department determines, in its sole discretion, that TMII or TDW has (a) committed any felony under federal law subsequent to the signing of this Agreement, (b) at any time, provided deliberately false, incomplete or misleading information, or (c) otherwise breached the Agreement, TMII and/or TDW shall thereafter be subject to prosecution for any federal criminal violation of which the Department has knowledge, and the Information described in Paragraph 1 may be pursued by the Department in the U.S District Court for the Southern District of Texas. Any such prosecution may be premised on information provided by TMII or TDW. In the event of a breach of this Agreement by the Defendant, should the Department elect to pursue criminal charges, or any civil or administrative action that was not filed as a result of this Agreement, then:

a. TMII and TDW agree that any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against TMII and/or TDW notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the expiration of the Term plus one year. Thus, by signing this Agreement, TMII and TDW agree that the statute of limitations with respect to any prosecution that is not time-barred on the date of this Agreement shall be tolled for the Term plus one year;

b. TMII and TDW expressly acknowledge and incorporate by reference the Tolling Agreement and Tolling Agreement Extensions that have previously been entered into between TDW entities and the Department; and

c. TMII and TDW waive all defenses based on the statute of limitations, any claim of preindictment delay, and any speedy trial claim with respect to any such prosecution or action, except to the extent that such defenses existed as of the date of the signing of this Agreement or may arise after the conclusion of the tolling period described in subparagraphs 18(a) and 18(b) above.

19. In the event that the Department determines that TMII or TDW have breached this Agreement, the Department agrees to provide TMII and TDW with written notice of such breach prior to instituting any prosecution resulting from



such breach. Within thirty (30) days of receipt of such notice, TMII and TDW shall have the opportunity to respond to the Department in writing to explain the nature and circumstances of such breach, as well as the actions TMII and TDW have taken to address and remediate the situation, which explanation the Department shall consider in determining whether to institute a prosecution.

20. In the event that the Department determines that TMII or TDW have breached this Agreement: (a) all statements made by or on behalf of TMII or TDW to the Department or to the Court, including the attached Statement of Facts, and any testimony given by TMII or TDW before a grand jury or any tribunal, at any legislative hearings, whether prior or subsequent to this Agreement, or any leads derived from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the Department against TMII; and (b) TMII and TDW shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence or any other federal rule, that statements made by or on behalf of TMII or TDW prior or subsequent to this Agreement, and any leads derived therefrom, should be suppressed. The decision whether conduct or statements of any individual will be imputed to TMII or TDW for the purpose of determining

whether TMII or TDW has violated any provision of this Agreement shall be in the sole discretion of the Department.

21. TMII and TDW acknowledge that the Department has made no representations, assurances, or promises concerning what sentence may be imposed by the Court if TMII or TDW breaches this Agreement and this matter proceeds to judgment. TMII further acknowledges that any such sentence is solely within the discretion of the Court and that nothing in this Agreement binds or restricts the Court in the exercise of such discretion.

#### **Sale or Merger of TMII**

22. TMII and TDW agree that in the event either sells, merges, or transfers all or substantially all of its business operations as they exist as of the date of this Agreement, whether such sale is structured as a stock or asset sale, merger, or transfer, it shall include in any contract for sale, merger, or transfer a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement.

#### **Public Statements by TMII**

23. TMII, and TDW on behalf of TMII, expressly agree that they shall not, through present or future attorneys, directors, officers, employees, agents, or any other person authorized to speak for TMII or TDW make any public statement,

in litigation or otherwise, contradicting the acceptance of responsibility by TMII set forth above or the facts described in the attached Statement of Facts. Any such contradictory statement shall, subject to cure rights of TMII described below, constitute a breach of this Agreement and TMII thereafter shall be subject to prosecution as set forth in Paragraphs 18-21 of this Agreement. The decision whether any public statement by any such person contradicting a fact contained in the Statement of Facts will be imputed to TMII or TDW for the purpose of determining whether they have breached this Agreement shall be at the sole discretion of the Department. If the Department determines that a public statement by any such person contradicts in whole or in part a statement contained in the Statement of Facts, the Department shall so notify TMII and TDW, and TMII and TDW may avoid a breach of this Agreement by publicly repudiating such statement(s) within five (5) business days after notification. Consistent with the obligations of TMII as set forth above, TMII and TDW shall be permitted to raise defenses and to assert affirmative claims in civil, regulatory, or foreign proceedings relating to the matters set forth in the Statement of Facts. This Paragraph does not apply to any statement made by any present or former employee of TMII or TDW in the course of any criminal, regulatory, or civil case

initiated against such individual, unless such individual is speaking on behalf of TMII or TDW.

24. TMII and TDW agree that if either or any of their direct or indirect affiliates or subsidiaries issues a press release in connection with this Agreement, TMII and TDW shall first consult the Department to determine whether (a) the text of the release is true and accurate with respect to matters between the Department and TMII and TDW; and (b) the Department has no objection to the release. Nothing herein shall limit the right of TMII and TDW to make truthful disclosures required by applicable securities laws and regulations.

#### **Limitations on Binding Effect of Agreement**

25. This Agreement is binding on TMII and TDW and the Department but specifically does not bind any other federal agencies, or any state, local, or foreign law enforcement or regulatory agencies, or any other authorities, although the Department will bring the cooperation of TMII and TDW and its compliance with its other obligations under this Agreement to the attention of such agencies and authorities, if requested to do so by TMII.

#### **Notice**

26. Any notice to the Department under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or

registered or certified mail, in each case, for the Department, addressed to Deputy Chief-FCPA Unit, Fraud Section, Criminal Division, U.S. Department of Justice, Fourth Floor, 1400 New York Avenue, N.W., Washington, D.C. 20005 and, for TMII and TDW, addressed to Lucinda A. Low, counsel to TMII and TDW, Steptoe & Johnson LLP, 1330 Connecticut Avenue NW, Washington, D.C. 20036. Notice shall be effective upon actual receipt by TMII or TDW.

**Complete Agreement**

27. This Agreement sets forth all the terms of the agreement between TMII, TDW, and the Department. No amendments, modifications, or additions to this Agreement shall be valid unless they are in writing and signed by the Department, the attorneys for TMII, and a duly authorized representative of TMII.

**AGREED:**

**FOR THE**

**DEPARTMENT OF JUSTICE:**


DENIS J. McINERNEY  
Chief, Fraud Section  
Criminal Division

By: Stacey K. Luck  
Stacey K. Luck  
Senior Trial Attorney

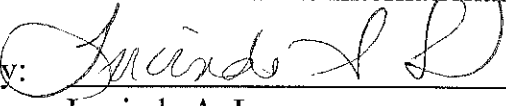
United States Department of Justice  
Fraud Section, Criminal Division  
1400 New York Ave., N.W.  
Washington, D.C. 20005  
(202) 514-5650

**FOR TIDEWATER MARINE  
INTERNATIONAL, INC. ("TMII")**

By: \_\_\_\_\_


  
Bruce D. Lundstrom  
Executive Vice President, General Counsel  
and Secretary  
Tidewater Marine International, Inc.

By: \_\_\_\_\_

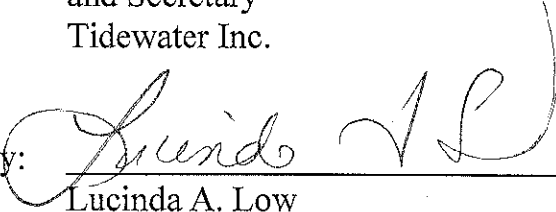
  
Lucinda A. Low  
Counsel for Tidewater Marine  
International, Inc.

**FOR TIDEWATER INC.**

By: \_\_\_\_\_

  
Bruce D. Lundstrom  
Executive Vice President, General Counsel  
and Secretary  
Tidewater Inc.

By: \_\_\_\_\_

  
Lucinda A. Low  
Counsel for Tidewater Inc.

Houston, Texas, on this 1<sup>st</sup> day of November 2010.

## GENERAL COUNSEL'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for Tidewater Marine International, Inc. ("TMII") and Tidewater Inc. ("TDW"). Counsel fully advised me of the rights of TMII and TDW, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement. I understand the terms of this Agreement and voluntarily agree, on behalf of TMII and TDW, to each of its terms.

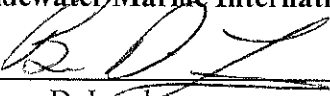
I have carefully reviewed the terms of this Agreement with the Board of Directors of TMII and TDW. I have advised and caused outside counsel for TMII and TDW to advise the Board of Directors fully of the rights of TMII and TDW, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into the Agreement.

No promises or inducements have been made other than those contained in this Agreement. Furthermore, no one has threatened or forced me, or to my knowledge any person authorizing this Agreement on behalf of TMII and TDW, in any way to enter into this Agreement. I am also satisfied with outside counsel's representation in this matter. I certify that I am General Counsel for TMII and TDW that I have been duly authorized by TMII and TDW to execute this Agreement on behalf of TMII and TDW.

Date: Oct. 29, 2010

**Tidewater Inc.**  
**Tidewater Marine International, Inc.**

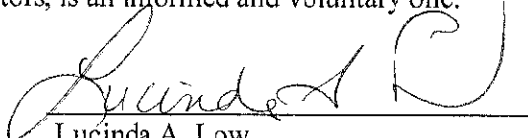
By:

  
\_\_\_\_\_  
Bruce D. Lundstrom  
Executive Vice President, General Counsel and Secretary

### CERTIFICATE OF COUNSEL

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

Date: November 1, 2010

  
\_\_\_\_\_  
Lucinda A. Low  
Counsel for Tidewater Inc. and  
Tidewater Marine International, Inc.



## **ATTACHMENT A**

### **CERTIFICATE OF CORPORATE RESOLUTIONS**

WHEREAS, Tidewater Marine International, Inc. ("TMII") and Tidewater Inc. (collectively the "Company") have been engaged in discussions with the United States Department of Justice, Criminal Division, Fraud Section ("the Department") about certain illegal payments to foreign officials to assist in obtaining business for the Company; and

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

WHEREAS, the Company's Executive Vice President, General Counsel and Secretary Bruce D. Lundstrom, together with outside counsel for the Company, have advised the Board of Directors of the Company of its rights, possible defenses, the Sentencing Guidelines' provisions, and the consequences of entering into such agreement with the Department;

Therefore, the undersigned, the Executive Vice President, General Counsel and Secretary of Tidewater Inc. and TMII, hereby certifies that at a meeting on September 23, 2010, the Board of Directors of Tidewater Inc. resolved as follows:

1. The Company (i) consents to the filing in the United States District Court for the Southern District of Texas of a three-count Information charging

TMII with two counts of conspiracy to commit offenses against the United States in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act ("FCPA"), as amended, Title 15, United States Code, Section 78dd-2, and to violate the books and records provisions of the FCPA, Title 15, United States Code, Sections 78m (b)(2)(A), 78m(b)(5), and 78ff(a) (Counts One and Two); and, one count of aiding and abetting a violation of the books and records provisions of the FCPA, Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b), and 78ff(a) (Count Three); (ii) waives indictment on such charges and enters into a Deferred Prosecution Agreement with the Department; and (iii) agrees to accept a monetary penalty against TMII of \$7.35 million and to pay \$7.35 million to the United States Treasury with respect to the conduct described in the Information;

2. The Executive Vice President, General Counsel and Secretary of TMII, Bruce D. Lundstrom, has been authorized, empowered, and directed, on behalf of the Company, to execute the Deferred Prosecution Agreement substantially in such form as reviewed by this Board of Directors at this meeting with such changes he may approve;

3. The Executive Vice President, General Counsel and Secretary of TMII, Bruce D. Lundstrom, has been authorized, empowered, and directed to take

any and all actions as may be necessary or appropriate and to approve the forms, terms, or provisions of any agreement or other documents as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and

4. All of the actions of the Executive Vice President, General Counsel and Secretary of TMII, Bruce D. Lundstrom, which actions would have been authorized by the meeting of Tidewater Inc.'s Board of Directors on September 23, 2010, except that such actions were taken prior to the adoption of such resolutions, have been severally ratified, confirmed, approved, and adopted as actions on behalf of the Company.

Date: Oct. 29, 2010



Bruce D. Lundstrom  
Executive Vice President, General Counsel  
and Secretary  
Tidewater Inc.  
Tidewater Marine International, Inc.

## **ATTACHMENT B**

### **STATEMENT OF FACTS**

The following Statement of Facts is incorporated by reference as part of the Deferred Prosecution Agreement (“the Agreement”) between the United States Department of Justice, Criminal Division, Fraud Section (“the Department”) and Tidewater Marine International, Inc. (“TMII”), and the parties hereby agree and stipulate that the following information is true and accurate. As set forth in Paragraph 3 of the Agreement, TMII admits, accepts, and acknowledges that it is responsible for the acts of its subsidiaries, officers, employees, and agents as set forth below.

Should the Department pursue the prosecution that is deferred by this Agreement, TMII agrees that it will neither contest the admissibility of, nor contradict, this Statement of Facts in any such proceeding.

If this matter were to proceed to trial, the Department would prove beyond a reasonable doubt, by admissible evidence, the facts alleged below and set forth in the criminal Information filed in this matter. This evidence would establish the following:

### *The Foreign Corrupt Practices Act*

1. The Foreign Corrupt Practices Act of 1977, as amended, Title 15, United States Code, Section 78dd-l, *et seq.* ("FCPA"), was enacted by Congress for the purpose of, among other things, making it unlawful for certain classes of persons and entities to act corruptly in furtherance of an offer, promise, authorization, or payment of money or anything of value to a foreign government official for the purpose of obtaining or retaining business for, or directing business to, any person.

2. Furthermore, the FCPA required any issuer of publicly traded securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934, Title 15, United States Code, Section 781 ("the Exchange Act"), to make and keep books, records, and accounts that accurately and fairly reflect the transactions and disposition of the company's assets and prohibited the knowing falsification of an issuer's books, records, or accounts. 15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(5), and 78ff(a). The FCPA's accounting provisions also required that issuers maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to (I) permit preparation of financial statements in conformity with generally accepted

accounting principles or any other criteria applicable to such statements, and (II) maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals, and appropriate action is taken with respect to any differences. 15 U.S.C. § 78m(b)(2)(B).

### ***Relevant Tidewater Entities***

3. Tidewater Inc. ("TDW") was a Delaware corporation with headquarters in New Orleans, Louisiana. TDW, through its subsidiaries and affiliates (collectively, "Tidewater"), operated offshore service and supply vessels designed to support all phases of offshore energy exploration, development and production throughout the world. TDW's securities were registered with the SEC pursuant to Section 12(b) of the Exchange Act and were publicly traded on the New York Stock Exchange. Accordingly, TDW was an "issuer" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-1(a).

4. Defendant TIDEWATER MARINE INTERNATIONAL, INC. ("TMII") was a wholly-owned subsidiary of TDW incorporated in the Republic of Panama and was the primary international operating entity for TDW. TMII had managerial and administrative operations in the United States, and it exercised

contractual rights and control over Tidewater's vessel operations in Nigeria and Azerbaijan, among other areas. TMII's principal place of business was located in New Orleans, Louisiana. Accordingly, TMII was a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

5. Tidewater Marine, L.L.C. ("Tidewater Marine") was a wholly-owned subsidiary of TDW, located in New Orleans, Louisiana. Tidewater Marine was the majority owner of Tidex Nigeria Limited, Tidewater's operating subsidiary in Nigeria.

6. Tidex Nigeria Limited ("Tidex") was a Nigerian company that was 60% majority owned by Tidewater Marine. Tidex provided agency and operational support, at the direction of TMII, for all vessels that Tidewater operated in Nigeria during the relevant period.

7. Tidewater Crewing Limited ("TCL") was a wholly-owned subsidiary of TDW incorporated in the Cayman Islands. TCL was a payroll entity that employed and paid many of Tidewater's personnel working in Nigeria and Azerbaijan during the relevant period. Operationally, TMII provided management and operational support for a majority of Tidewater's international operations, but many of the TMII managers and employees were administratively employed by TCL.

### *Relevant Tidewater Individuals*

8. The "Director of Tax," a United States citizen, was an employee of TDW located in New Orleans, Louisiana. The Director of Tax was a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

9. The "Vice President of Operations," an Australian citizen, supervised TDW's Middle East region, including Azerbaijan, from August 2002 to August 2004. The Vice President of Operations also supervised TDW's Nigerian operations from August 2004 through 2007. The Vice President of Operations was employed by TCL, but was a manager for TDW and TMII. The Vice President of Operations was an employee and agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

10. The "Dubai Area Controller," a United States citizen, was Tidewater's Area Controller in Dubai, United Arab Emirates ("U.A.E."), for TMII from 2001 through May 2008. The Dubai Area Controller was responsible for the finance operations of TMII's Dubai and Azerbaijan operations during that period. The Area Controller was employed by TDW but was a functional employee and agent of TMII. The Area Controller was an employee and agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.



11. The "Regional Finance Director," a British citizen, oversaw the finances for Tidewater in the North Sea and West Africa, including Nigeria, from in or around August 2001 through in or around April 2004. From in or around April 2004 to in or around December 2005, the Regional Finance Director oversaw the finances for Tidewater's Egypt region, which beginning in November 2004, included Azerbaijan. The Regional Finance Director was employed by TCL, but was a functional employee and agent of TMII. The Regional Finance Director was located in Egypt from in or around April 2004 to December 2005. The Regional Finance Director was an employee and an agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

12. The "Azerbaijan General Manager A," a United States citizen, was TMII's Azerbaijan General Manager until December 2002. The Azerbaijan General Manager A was employed by TCL, but was a functional employee and agent of TMII. The Azerbaijan General Manager A was a "domestic concern" and an employee and agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

13. The "Azerbaijan General Manager B," a United States citizen, was TMII's Azerbaijan country manager between in or around December 2002 and in or around August 2004. The Azerbaijan General Manager B was employed by

TCL, but was a functional employee and agent of TMII. The Azerbaijan General Manager B was a "domestic concern" and an employee and agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

14. The "Nigeria Area Manager," a British citizen, was Tidewater's Nigerian Operations' Area Manager from April 2005 through July 2007.

#### *TMII Agents*

15. The "Consulting Firm" was a United States consulting company incorporated in Texas and headquartered in Baku, Azerbaijan. The Consulting Firm provided TMII a broad range of services including accounting services for the Baku accounting department and tax advice and assistance. The Consulting Firm was a "domestic concern" and an agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

16. The "Azerbaijan Agent" was the managing director of the Consulting Firm. TMII hired the Consulting Firm as an agent of TMII through the Azerbaijan Agent. The Azerbaijan Agent was directly involved in the Consulting Firm's assistance to TMII with on-site Azeri tax audits and assisted in paying bribes to Azeri tax inspectors to resolve the audits in 2001, 2003 and 2005. The Azerbaijan

Agent was an agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

17. The "Dubai Entity" was an entity associated with the Consulting Firm. The Dubai Entity maintained a bank account in Dubai, U.A.E. that was used to receive payments in 2001, 2003, and 2005 from TMII, to be passed to Azeri tax inspectors in Azerbaijan. The Dubai Entity was an agent of a "domestic concern" within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

18. The "Freight Forwarding Agent" was an international freight forwarding and customs clearing agent based in Switzerland with operations throughout the world, including Nigeria. The Freight Forwarding Agent had 38 branches in several states within the United States, including in Houston, Texas. The Freight Forwarding Agent's Houston, Texas office was the hub for its oil and gas industry customers. TMII contracted with the Freight Forwarding Agent's Nigerian subsidiary to provide customs services in Nigeria. The Freight Forwarding Agent also paid bribes to Nigerian Customs Service officials on behalf of TMII and its affiliates to cause such officials to disregard certain regulatory requirements relating to the temporary importation of Tidewater vessels into Nigerian waters, and sought reimbursement from Tidend for payments that the Freight Forwarding Agent invoiced as "intervention" payments. The Freight

Forwarding Agent was an agent of a “domestic concern” within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2.

*Government Officials*

19. During the relevant time, the General State Tax Inspection Office within the Ministry of Finance for the Republic of Azerbaijan (later renamed the Ministry of Taxes for the Republic of Azerbaijan, collectively referred to as the “Azeri Tax Authority”) was responsible for administering and collecting tax assessments and duties for the Republic of Azerbaijan. The Azeri Tax Authority was an agency and instrumentality of the Republic of Azerbaijan and its employees, including tax inspectors, were “foreign officials” within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2(h)(2)(A).

20. The Ministry of Finance of the Federal Republic of Nigeria was responsible for assessing and collecting applicable duties and tariffs on goods imported into Nigeria, and did so through a government agency called the Nigeria Customs Service (NCS). The NCS was an agency and instrumentality of the Government of Nigeria and its employees were “foreign officials” within the meaning of the FCPA, Title 15, United States Code, Section 78dd-2(h)(2)(A).

### ***TMII's Operations***

21. Tidewater owned and operated offshore service and supply vessels that were chartered by energy exploration, development and production companies. Tidewater operated throughout the world through a series of subsidiaries and affiliates, including TMII. TMII provided managerial and administrative oversight for most of Tidewater's international operations, including those in Nigeria and Azerbaijan, among other countries. Employees working in areas where TMII operated, including the Vice President of Operations, Dubai Area Controller, Regional Finance Director, Azerbaijan General Manager A, and Azerbaijan General Manager B, were frequently paid and administratively employed by a company, such as TCL which operated as a payroll entity, although those employees functionally reported and operated as employees and agents of TMII.

### ***Bribes Paid to Azeri Tax Inspectors***

22. In 2001, 2003, and 2005, the Azeri Tax Authority initiated tax audits of TMII's business operations in Azerbaijan. TMII employed the Consulting Firm (including the Azerbaijan Agent) to assist with the audits. In 2001, 2003, and 2005, TMII, through its employees and agents, paid bribes to Azeri tax inspectors to improperly secure favorable tax assessments.

23. In total, TMII caused approximately \$160,000 to be paid to the Dubai Entity, while knowing that some or all of the money would be paid to Azeri tax inspectors. The payments to the Dubai Entity were made to secure an improper advantage and obtain favorable tax treatment relating to the three audits. The benefit received and the potential tax liability avoided by TMII as a result of the payment of the bribes was approximately \$820,000.

24. In 2001, the bribe was recorded on TDW's books and records as a payment to the Dubai Entity for "payment of taxes," in an account for "professional services" related expenses. The bribes paid through the Dubai Entity that were booked as "payment for taxes" were relied upon for the purpose of preparing TDW's consolidated year-end financial statements which were filed with the SEC.

25. In 2003, the bribe was recorded on the books and records of a TMII Azeri joint venture (the "Azerbaijan Joint Venture"), which was not consolidated in TDW's financial statements. Accordingly, for fiscal year 2003, the bribe payments to the Azeri tax inspector were not rolled-up into TDW's year-end financial statements.

26. In 2005, the bribe was recorded on TMII's books as agent expenses paid to the "[Dubai Entity]" in an account relating to "Crew Travel" expenses.

TMII's books and records were then consolidated into the books and records of TDW for purposes of preparing TDW's consolidated year-end financial statements which were filed with the SEC.

### *2001 Tax Audit*

27. In or around July 2001, TMII learned that the Azeri Tax Authority intended to audit TMII's Azerbaijan operations and requested information relating to TMII's contract with Subcontractor A, a personnel company TMII had used to hire non-Azeri workers ("expatriates") for its Azerbaijan operation.

28. In response to this request, the Azerbaijan Agent advised TDW, TMII, and other Tidewater employees, including the Director of Tax and the Area Controller, that if the contract with Subcontractor A was provided to the Azeri Tax Authority during the tax audit, TMII could be subject to approximately a 55% withholding tax on the crew wages that previously had not been paid by the company. To avoid this potential tax liability, the Azerbaijan Agent suggested that the actual contract with Subcontractor A not be provided to the Azeri Tax Authority and, instead, a separate, false contract be created and submitted to conceal the fact that expatriate crews were hired through Subcontractor A. In addition, the Azerbaijan Agent suggested that the matter could be resolved by paying a bribe to the tax inspectors.

29. TDW, TMII, and other Tidewater employees, including the Director of Tax and the Dubai Area Controller, were aware of the plan to create new documents that altered the terms of the contract with Subcontractor A and to backdate the newly created contract for submission to the Azeri tax authorities. These employees also participated in the review of the altered and backdated contract.

30. TMII and other Tidewater employees, including the Dubai Area Controller, approved payments to the Dubai Entity, which were intended to be used, in whole or in part, to pay bribes to the officials.

31. In or around August 2001, the Azerbaijan Agent reached an agreement with the Azeri tax inspector to resolve TMII's exposure in exchange for a \$50,000 bribe.

32. In or around August 2001, pursuant to instructions from the Azerbaijan Agent, TMII and other Tidewater employees caused \$50,000 to be transferred from an account in the United States to an account in the name of the Dubai Entity in Dubai, U.A.E., intending that some or all of the money would be transferred to the Azeri tax inspectors.

33. In or around August 2001, TMII received the Tax Audit Report from the Azeri tax inspector, which was backdated July 15, 2001. The Report noted



TMII's total tax liability was \$1,704.90. Among other things, the Report concluded that TMII had properly paid taxes on its expatriate wages. There was no mention or assessment of a separate \$50,000 payment.

### *2003 Tax Audit*

34. In or around June 2003, the Azerbaijan Tax Authority initiated another tax audit of TMII's Azerbaijan operations.

35. In or around July 2003, the Azerbaijan Agent advised the Vice President of Operations and General Manager B that an Azeri tax inspector had said TMII's potential tax exposure could be "at least \$100K" if things went "formal."

36. In or around July 2003, the Azerbaijan Agent negotiated with the Azeri tax inspector to resolve the audit through the payment of a \$40,000 bribe disguised as a "consultancy fee." The purpose of the payment was to resolve the tax audit with no additional taxes or penalties assessed.

37. In or around July 2003, TMII caused two payments of \$20,000 each to be transferred to an account in the name of the Dubai Entity in Dubai, U.A.E., while knowing that some or all of the payments would be transferred to the Azeri tax inspector.

38. In order to conceal the bribes relating to the 2003 audit from the books and records of the Azerbaijan Joint Venture, the Area Controller asked the Azerbaijan Agent to have the Consulting Firm prepare an invoice for \$40,000 indicating that the payment was for "professional services" associated with an Azeri tax audit of TMII's Azerbaijan Joint Venture. The Azerbaijan Agent initially responded to the Area Controller that fulfilling the request to create the fictitious documents was "rather difficult for us as we are a US company too." Ultimately, the Azerbaijan Agent secured from the Dubai Entity five separate false invoices, collectively in the amount of \$40,000, purportedly for "Tax and Legal Consultancy in relation to the Tax Inspection" provided for the Azerbaijan Joint Venture.

39. In or around July 2003, the Azeri Tax Authority issued the final Tax Audit Report, which concluded that TMII overpaid taxes and, therefore, was entitled to receive a tax rebate.

#### *2005 Tax Audit*

40. In or around June 2005, the Azerbaijan Tax Authority initiated another tax audit of TMII's Azerbaijan operations.

41. In or around September 2005, the Azerbaijan Agent advised several TMII employees that an Azeri tax inspector had said that TMII's minimum tax exposure was approximately \$300,000.

42. In or around November 2005, the Azerbaijan Agent negotiated with the Azeri tax inspectors to resolve the audit through the payment of \$75,000. Of the money to be paid, \$70,000 was for a bribe to be paid to the tax inspectors and disguised as a "consultancy fee," and \$5,000 was to be paid to the Ministry of Taxes account for payment of TMII's tax liability.

43. In or around November 2005, TMII caused \$70,000 to be transferred to an account in the name of the Dubai Entity in Dubai, U.A.E., intending that some or all of the money would be transferred to the Azeri tax inspector.

44. In or around November 2005, the Azeri Tax Authority issued the final Tax Audit Report, which concluded TDW owed \$4,967.60 in unpaid taxes.

#### *Details of the Bribes Paid to Azeri Tax Officials*

##### *Azerbaijan 2001 Tax Audit Payments*

45. On or about July 20, 2001, TMII's Azerbaijan General Manager A, located in Azerbaijan, sent an email to the Dubai Area Controller, located in Dubai, and the Director of Tax, located in Louisiana, in which he wrote the Azerbaijan Agent had advised that it would be "unwise to submit the

[Subcontractor A] contract as written due to the fact that Azeri law would require TDW to pay the 56% withholding tax.” General Manager A further advised that the Azerbaijan Agent recommended that “we submit a contract stating [Subcontractor A] provided” only non-taxable employees and “that we simply make no mention of expat crew. [The Azerbaijan Agent] is of the opinion the auditor will not ‘drill’ this far to uncover such things.....I need to also mention that [the Azerbaijan Agent] has indicated that the lead auditor has stated that there are ways to finish the audit in a very timely fashion.”

46. On or about August 3, 2001, the Director of Tax, located in Louisiana, sent an email to the Azerbaijan Agent, located in Azerbaijan, in which he approved the altered and backdated Subcontractor A contract that had been provided by the Azerbaijan Agent and asked the agent “to prepare it for submission to the auditor.”

47. In or around August 2001, the Azerbaijan Agent reached an agreement with an Azeri tax inspector to resolve TDW’s tax liability in exchange for a \$50,000 bribe.

48. On or about August 13, 2001, the Azerbaijan Agent sent an email to the Director of Tax, located in Louisiana, advising the Director of Tax that an agreement had been reached to pay \$50,000 to the Azeri tax inspector, through the Dubai Entity, to resolve the audit. The Azerbaijan Agent wrote that the Azeri tax

inspector had provided a copy of a Tax Clearance Report that was "in line with the mutual understanding and agreement that we reached [a] few days ago, i.e., overall TDW's exposure will not exceed \$50k. [The tax inspector] is still working on exact figures for the allocation of this amount, but as far as TDW is concerned it is all fine anyway. . . . Once the payment reaches this [Dubai Entity] account TDW and Tax Inspector will sign the Tax Clearance and relevant protocols and give us one copy of each. We, then, will release the funds. This would be a very final step in this story."

49. On or about August 14, 2001, TMII caused \$50,000 to be wire transferred from an account located in the United States to a bank account belonging to the Dubai Entity in Dubai, U.A.E.

***Azerbaijan 2003 Tax Audit Payments***

50. On or about July 7, 2003, the Azerbaijan General Manager B sent an email to the Vice President of Operations advising that the Azerbaijan Agent spoke with the Azeri tax inspector who suggested the 2003 tax audit could be resolved through a payment of \$60,000.

51. On or about July 10, 2003, the Azerbaijan General Manager B sent an email to the Dubai Area Controller advising that the Azerbaijan Agent was

negotiating the resolution of the tax audit, which would include a payment to the Azeri state inspector through the Dubai Entity to avoid detection.

52. On or about July 10, 2003, the Dubai Area Controller responded to the Azerbaijan General Manager B's email writing that "[w]e should not endeavor to maintain any files or correspondence regarding this matter in the Baku office."

53. On or about July 16, 2003, the Azerbaijan General Manager B sent an email to the Dubai Area Controller advising that the Azerbaijan Agent had "negotiated a deal to resolve the tax enquiry" and asking whether the payment could be passed through a local joint venture operation "to reduce TDW exposure".

54. On or about July 21, 2003, the Azerbaijan Agent sent an email to the Azerbaijan General Manager B advising that the resolution of the audit was being finalized and that \$40,000 would need to be paid through the Dubai Entity to resolve the matter. The Azerbaijan Agent wrote that the tax inspectors had sent a copy of the tax audit report that "they [had] done their job quite as we agreed," and explained that TDW would owe no additional money other than the agreed amount of \$40,000, which was described as an "all inclusive" "consultancy fee" for the tax inspectors. The Agent further explained that the tax inspectors were going to draft the report so that it did "not look suspicious and does not attract any unnecessary attention in the future." The Agent instructed the Azerbaijan General Manager B

to wire \$20,000 to the Dubai Entity, which would represent 50% of the all inclusive consultancy fee, and to wire the final \$20,000 payment after the tax inspectors provided the final version of their formal report and other relevant paperwork.

55. On or about July 21, 2003, the Azerbaijan Agent sent an email to the Area Controller in which he provided the wire instructions for the \$40,000 payment to the Dubai Entity in two \$20,000 installments.

56. On or about July 23, 2003, the Azerbaijan Agent emailed the Dubai Area Controller advising that the money had not been received and, as a result, the Agent was having a "difficult time with our friends."

57. On or about July 23, 2003, TMII caused the first installment payment of \$20,000 to be wire transferred to the Dubai Entity's bank account in Dubai, U.A.E.

58. On or about July 24, 2003, the Dubai Area Controller sent an email to the Azerbaijan Agent requesting that the Azerbaijan Agent prepare an invoice from the Consulting Firm for "Professional Services associated with the Azerbaijan Tax Department Inspection" for the Azerbaijan Joint Venture.

59. On or about July 24, 2003, the Azerbaijan Agent informed the Area Controller that the funds had been received "and delivered to the consultants" who

were "working on the rest of the paperwork and will be ready by Monday next week." The Azerbaijan Agent instructed the Dubai Area Controller to pay the second \$20,000 payment into the same bank account. The Azerbaijan Agent advised that the request regarding the Consulting Firm invoice would be "difficult for us as we are a US company too."

60. On or about July 29, 2003, the Azerbaijan Agent sent an email to the Dubai Area Controller advising that the Azeri tax inspector had provided a copy of the "paperwork" and directing that the second \$20,000 transfer be made on Monday, July 28, 2003.

61. On or about July 29, 2003, TMII caused \$20,000 to be wire transferred to the Dubai Entity's bank account in Dubai, U.A.E.

62. On or about August 9, 2003, the Dubai Entity sent the Dubai Area Controller an invoice dated June 30, 2003, for the first installment in the amount of \$20,000, mischaracterizing it as fees for "Tax and Legal Consultancy in relation to the Tax Inspection."

63. On or about August 9, 2003, the Dubai Entity sent the Dubai Area Controller four additional invoices, each for \$5,000. The invoices were dated July 2, 2003, July 14, 2003, July 22, 2003, and July 26, 2003, respectively, and were mischaracterized as invoices for "Tax and Legal Consultancy."



64. On or about September 7, 2003, the Azerbaijan General Manager B sent an email to the Dubai Area Controller regarding the final Tax Audit Report, noting that TMII had underpaid certain taxes by approximately \$10,000 and overpaid other taxes and, as a result, "TDW (sic) will actually receive a formal rebate from the Azeri Tax Authority."

*Azerbaijan 2005 Tax Audit Payments*

65. On or about October 31, 2005, the Azerbaijan Agent sent an email to the Regional Finance Director advising that an Azeri tax inspector had estimated TMII's potential exposure for the 2005 tax audit at approximately \$300,000, but that the inspector suggested the matter could be finished for only \$80,000, which "could be a combination of some 'consultancy fee' as well as some amount to be stated in the formal tax audit opinion. I presume that most of it will be a consultancy fee with perhaps \$10K in the formal paperwork."

66. On or about November 2, 2005, the Azerbaijan Agent sent an email to the Regional Finance Director advising that the Azeri tax inspector had agreed to resolve the 2005 tax audit for a total of \$75,000, only \$5,000 of which would be reflected in the actual tax audit report. The Azerbaijan Agent instructed the Regional Finance Director to wire \$70,000 to a bank account belonging to the Dubai Entity and explained that only \$5,000 would need to be "transferred

locally...to the Tax Ministry's account as company's overall tax assessment for the audited period. This amount will correspond with the formal tax audit report." The Azerbaijan Agent concluded that if the Regional Finance Director was "happy with this scenario we will then invoice for the 'consultancy' work to cover such expenses."

67. On or about November 7, 2005, TMII caused \$70,000 to be wire transferred to the Dubai Entity's bank account in Dubai.

68. On or after November 7, 2005, TMII recorded the \$70,000 payment to the Dubai Entity in its books and records as "Crew Travel" expenses.

***TMII's Payment of Bribes to Nigerian Customs Officials  
Through the Freight Forwarding Agent***

69. From in or around January 2002 through in or around March 2007, Tidex, through its employees, affiliates, and agents, authorized the payment of approximately \$1.6 million to the Freight Forwarding Agent as reimbursements for bribes paid by the Freight Forwarding Agent, made on Tidex's behalf, to NCS employees to induce the officials to disregard certain regulatory requirements in Nigeria relating to the temporary importation of Tidewater vessels into Nigerian waters. By in or around August 2004, TMII managers and employees were aware of and condoned the payments.

70. Tidex employees working in Nigeria generally understood that non-Nigerian flagged vessels could be temporarily imported into Nigeria after receiving a temporary importation permit ("TIP"). A TIP was an authorization from the NCS to import, on a duty-free basis, heavy equipment, including vessels, into Nigeria. Once temporarily imported, the vessels could be chartered to customers in Nigeria as long as the TIP remained valid. No fee was generally required to obtain the TIP, although a company was required to post a bond as security for any duties that might be owed during the life of the TIP. TIPs were generally valid for up to twelve months and typically could be extended twice for six months each time if necessary.

71. Tidewater chose to temporarily import the majority of its vessels to work in Nigerian waters. Tidex, the Tidewater entity based in Nigeria, employed the Freight Forwarding Agent to apply for and secure its TIPs and TIP extensions.

72. Tidex employees frequently authorized the reimbursement of the Freight Forwarding Agent for payments that it represented it had made to NCS officials to resolve a variety of issues that arose, including when:

- (1) a vessel arrived in Nigeria prior to the issuance of a TIP;
- (2) a vessel arrived in Nigeria prior to the issuance of the bond associated with a TIP;

(3) a vessel moved from one customs zone to another prior to the issuance of a TIP or a bond, or when a TIP had expired;

(4) a chartered vessel with a valid TIP was chartered to a new customer without canceling the TIP and securing a new TIP;

(5) a vessel left Nigerian waters with a valid TIP, and returned to Nigerian waters without canceling the TIP and securing a new TIP; and

(6) a TIP had expired.

73. The payments to the NCS officials to resolve these issues were referred to by the Freight Forwarding Agent as “interventions” or “recycling” payments and were understood by the Tidex employees to be bribes, in whole or in part, paid by the Freight Forwarding Agent to NCS employees. To secure reimbursement for the bribes paid on Tidex’s behalf, the Freight Forwarding Agent provided invoices to the Tidex office in Nigeria and characterized the payments as “interventions” or “recycling.” Tidex, in turn, reimbursed the Freight Forwarding Agent for the claimed expenses.

74. In or around August 2004, certain TMII employees and managers, including the Vice President of Operations, became aware that the “intervention” and/or “recycling” payments were, in whole or in part, bribes paid by the Freight Forwarding Agent to NCS officials. Thereafter, certain TMII employees and

managers authorized the payment of at least 129 additional “interventions.” In total, between in or around August 2004 and in or around 2007, TMII employees and other Tidewater employees authorized the payment of approximately \$1,089,000 to the Freight Forwarding Agent, on Tidex’s behalf, knowing that some or all of the monies had been paid by the Freight Forwarding Agent to NCS officials to induce them to disregard Nigerian regulations, to not impose fines and penalties, and to allow Tidewater vessels to operate in Nigerian waters without a valid TIP. The total benefit in avoided costs, duties, and penalties received by TMII in exchange for these payments was approximately \$5,800,000.

75. Between in or around August 2004 and in or around March 2007, the bribes paid to the NCS officials through the Freight Forwarding Agent were recorded in Tidex’s books and records as payments to the [“Freight Forwarding Agent”] and recorded in an account tracking “other vessel costs”. Tidex’s books and records were then consolidated into TDW’s year-end financial statements which were filed with the SEC.

***Details of TMII’s Payment of Bribes to Nigerian Customs Officials Through the Freight Forwarding Agent***

76. On or about August 17, 2004, Nigeria Area Manager sent an email to the Vice President of Operations, advising that Tidewater was facing a delay in importing one of its vessels into Nigeria because the necessary contract documents

were not completed. The Nigeria Area Manager explained that Tidewater could provide the Freight Forwarding Agent an "intervention" payment of approximately \$6,000 to circumvent paperwork requirements and import the vessel without the paperwork.

77. Between on or about August 17, 2004, and October 4, 2004, the Vice President of Operations approved the "intervention" payment.

78. Between in or around August 2004 and in or around March 2007, TMII and Tidex managers and employees, including the Vice President of Operations and the Nigeria Area Manager, approved or condoned "intervention" payments to the Freight Forwarding Agent knowing that some or all of the money would be paid as bribes to NCS officials in exchange for circumventing the Nigerian customs service rules.

79. On or about the dates listed below, Tidewater employees located in Nigeria authorized the following "intervention" payments to the Freight Forwarding Agent knowing that some or all of the money would be paid as bribes to NCS officials in exchange for circumventing the Nigerian customs service rules:

<b>Invoice Date</b>	<b>Approximate Amount of TI Intervention and/or TI Recycling Invoice</b>
12/3/2004	\$3,490
1/20/2005	\$11,370
5/26/2005	\$6,243
11/10/2005	\$6,930
12/27/2005	\$6,930
12/27/2005	\$6,930
1/3/2006	\$6,930
3/6/2006	\$15,060
3/8/2006	\$15,410
7/6/2006	\$20,920
11/30/2006	\$19,450
12/15/2006	\$19,450
12/22/2006	\$19,450
12/22/2006	\$19,450

<b>Invoice Date</b>	<b>Approximate Amount of TI Intervention and/or TI Recycling Invoice</b>
3/31/2007	\$29,000



## ATTACHMENT C

### CORPORATE COMPLIANCE PROGRAM

In order to address any deficiencies in its internal controls, policies, and procedures regarding compliance with the Foreign Corrupt Practices Act ("FCPA"), Title, 15, United States Code, Sections 78dd-1 *et seq.*, and other applicable anti-corruption laws, Tidewater Marine International, Inc. ("TMII") and Tidewater Inc. (collectively, the "Company") agree to continue to conduct, in a manner consistent with all of their obligations under this Agreement, appropriate reviews of their existing internal controls, policies, and procedures.

Where necessary and appropriate, the Company agrees to adopt new or to modify existing internal controls, policies, and procedures in order to ensure that it maintains: (a) a system of internal accounting controls designed to ensure that the Company makes and keeps fair and accurate books, records, and accounts; and (b) a rigorous anti-corruption compliance code, standards, and procedures designed to detect and deter violations of the FCPA and other applicable anti-corruption laws. At a minimum, this should include, but not be limited to, the following elements to the extent they are not already part of the Company's existing internal controls, policies, and procedures:

1. The Company will develop and promulgate a clearly articulated and visible corporate policy against violations of the FCPA, including its anti-bribery,

books and records, and internal controls provisions, and other applicable foreign law counterparts (collectively, the “anti-corruption laws”), which policy shall be memorialized in a written compliance code.

2. The Company will ensure that its senior management provides strong, explicit, and visible support and commitment to its corporate policy against violations of the anti-corruption laws and its compliance code.

3. The Company will develop and promulgate compliance standards and procedures designed to reduce the prospect of violations of the anti-corruption laws and the Company’s compliance code, and the Company will take appropriate measures to encourage and support the observance of ethics and compliance standards and procedures against foreign bribery by personnel at all levels of the company. These anti-corruption standards and procedures shall apply to all directors, officers, and employees and, where necessary and appropriate, outside parties acting on behalf of the Company in a foreign jurisdiction, including but not limited to, agents and intermediaries, consultants, representatives, distributors, teaming partners, contractors and suppliers, consortia, and joint venture partners (collectively, “agents and business partners”), to the extent that agents and business partners may be employed under the Company’s corporate policy. The Company shall notify all employees that compliance with the standards and procedures is the duty of individuals at all levels of the company. Such standards and procedures

shall include policies governing:

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

4. The Company will develop these compliance standards and procedures, including internal controls, ethics, and compliance programs on the basis of a risk assessment addressing the individual circumstances of the Company, in particular the foreign bribery risks facing the Company, including, but not limited to, its geographical organization, interactions with various types and levels of government officials, industrial sectors of operation, involvement in joint venture arrangements, importance of licenses and permits in the company's operations, degree of governmental oversight and inspection, and volume and importance of goods and personnel clearing through customs and immigration.

5. The Company shall review its anti-corruption compliance standards and procedures, including internal controls, ethics, and compliance programs, no less than annually, and update them as appropriate, taking into account relevant

developments in the field and evolving international and industry standards, and update and adapt them as necessary to ensure their continued effectiveness.

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

7. The Company will ensure that it has a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts to ensure that they cannot be used for the purpose of foreign bribery or concealing such bribery.

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

and business partners; and (b) annual certifications by all such directors, officers, and management employees, and, where necessary and appropriate, agents, and business partners, certifying compliance with the training requirements.

9. The Company will maintain, or where necessary establish, an effective system for:

a. Providing guidance and advice to directors, officers, employees, and, where necessary and appropriate, agents and business partners, on complying with the Company's anti-corruption compliance policies, standards, and procedures, including when they need advice on an urgent basis or in any foreign jurisdiction in which the Company operates;

b. Internal and, where possible, confidential reporting by, and protection of, directors, officers, employees, and, where necessary and appropriate, agents and business partners, not willing to violate professional standards or ethics under instructions or pressure from hierarchical superiors, as well as for directors, officers, employees, and, where necessary and appropriate, agents and business partners, willing to report breaches of the law or professional standards or ethics concerning anti-corruption occurring within the Company, suspected criminal conduct, and/or violations of the compliance policies, standards, and procedures regarding the anti-corruption laws for directors, officers, employees, and, where necessary and appropriate, agents and business partners; and

c. Responding to such requests and undertaking necessary and appropriate action in response to such reports.

10. The Company will institute appropriate disciplinary procedures to address, among other things, violations of the anti-corruption laws and the Company's anti-corruption compliance code, policies, and procedures by the Company's directors, officers, and employees. The Company shall implement procedures to ensure that where misconduct is discovered, reasonable steps are taken to remedy the harm resulting from such misconduct, and to ensure that appropriate steps are taken to prevent further similar misconduct, including assessing the internal controls, ethics, and compliance program and making modifications necessary to ensure the program is effective.

11. To the extent that the use of agents and business partners is permitted at all by the Company, it will institute appropriate due diligence and compliance requirements pertaining to the retention and oversight of all agents and business partners, including:

a. Properly documented risk-based due diligence pertaining to the hiring and appropriate and regular oversight of agents and business partners;

b. Informing agents and business partners of the Company's commitment to abiding by laws on the prohibitions against foreign bribery, and of the Company's ethics and compliance standards and procedures and other

measures for preventing and detecting such bribery; and

c. Seeking a reciprocal commitment from agents and business partners.

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

13. The Company will conduct periodic review and testing of its anti-corruption compliance code, standards, and procedures designed to evaluate and improve their effectiveness in preventing and detecting violations of anti-corruption laws and the Company's anti-corruption code, standards and procedures, taking into account relevant developments in the field and evolving international and industry standards.

## **ATTACHMENT D**

### **CORPORATE COMPLIANCE REPORTING**

1. Tidewater Inc. ("TDW"), on behalf of Tidewater Marine International, Inc. ("TMII"), agrees that it will report periodically, at no less than 12-month intervals, in accordance with the schedule described in Paragraph 3 below, during the term of this Agreement, to the Fraud Section of the Department of Justice ("the Department") regarding remediation and implementation of the compliance program and internal controls, policies, and procedures described in Attachment C.<sup>2</sup>

2. During the Term of this Agreement, should TDW discover credible evidence, not already reported to the Department, that questionable or corrupt payments or questionable or corrupt transfers of property or interests may have been offered, promised, paid, or authorized by any TDW entity or person, or any entity or person working directly for TDW, or that related false books and records have been maintained, TDW shall promptly report such conduct to the Department.

3. During the Term of this Agreement, TDW shall: conduct an initial review and prepare an initial report, and conduct and prepare two follow-up reviews and reports, as described below:

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<sup>2</sup> Pursuant to Paragraph 4 of the Agreement, the Agreement is effective for "a period beginning on the date on which the criminal Information is filed and ending three (3) years and seven (7) calendar days from that date (the 'Term')."



a. By no later than a year from the date the Deferred Prosecution Agreement is filed with the Court in the Southern District of Texas, TDW shall issue a written report covering the prior 12-month period and setting forth a complete description of its compliance efforts to date, its proposals reasonably designed to improve the policies and procedures of TDW for ensuring compliance with the FCPA and other applicable anticorruption laws, and the parameters of the subsequent reviews. The report shall be addressed to the Deputy Chief – FCPA Unit, Fraud Section, Criminal Division, U.S. Department of Justice, 1400 New York Ave., Bond Building, Fourth Floor, Washington, D.C. 20005.

b. TDW shall undertake two follow-up reviews, incorporating any comments provided by the Department on its initial review and report, to further monitor and assess whether the policies and procedures of TDW are reasonably designed to detect and prevent violations of the FCPA and other applicable anticorruption laws.

c. The first follow-up review and report shall be completed by no more than one year after the initial review. The second follow-up review and report shall be completed by no more than one-year after the completion of the first follow-up review.

d. TDW may extend the time period for submission of the follow-up reports with prior written approval of the Department.