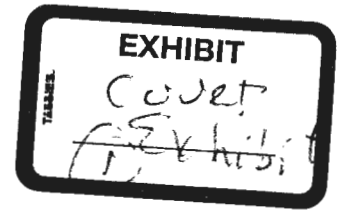


HDM:JPL/MRG  
F. #2019R01460



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

PLEA AGREEMENT

- against -

20-CR-390 (S-1) (ENV)

and

JAVIER AGUILAR,

24-CR-304 (ENV)

Defendant.

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Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States Attorney’s Office for the Eastern District of New York, the United States Attorney’s Office for the Southern District of Texas, the United States Department of Justice, Criminal Division, Fraud Section, and the United States Department of Justice, Criminal Division, Money Laundering and Asset Recovery Section (together, the “Government”) and JAVIER AGUILAR (the “defendant”) agree to the following:

1. The defendant will consent to transfer the case United States v. Javier Alejandro Aguilar Morales, 4:23-CR-335 (GCH) (S.D. Tx.) (the “SDTX Indictment”), from the Southern District of Texas to the Eastern District of New York, pursuant to Rule 20 of the Federal Rules of Criminal Procedure, and will plead guilty to Counts One and Three of the SDTX Indictment charging, respectively, violations of 18 U.S.C. § 371 (Count One) and 18 U.S.C. §§ 1952(a)(1)(A), 1952(a)(3)(A) and 2 (Count Three). The foregoing Counts in the SDTX Indictment carry the following statutory penalties:

Count One (Conspiracy to Violate the Foreign Corrupt Practices Act):

- a. Maximum term of imprisonment: 5 years  
(18 U.S.C. § 371).
- b. Minimum term of imprisonment: 0 years  
(18 U.S.C. § 371).
- c. Maximum supervised release term: 3 years, to follow any term of imprisonment; if a condition of release is violated, the defendant may be sentenced to up to 2 years without credit for pre-release imprisonment or time previously served on post-release supervision (18 U.S.C. §§ 3583 (b) and (e)).
- d. Maximum fine: Greater of \$250,000, or twice the gross gain or twice the gross loss  
(18 U.S.C. §§ 3571(b)(2), (b)(3) and (d)).
- e. Restitution: In the full amount of each victim's losses as determined by the Court  
(18 U.S.C. §§ 3663 and 3664).
- f. \$100 special assessment  
(18 U.S.C. § 3013).
- g. Other penalties: Removal as set forth below in paragraph 15.

Count Three (Travel Act – Texas Commercial Bribery):

- a. Maximum term of imprisonment: 5 years  
(18 U.S.C. § 1952(a))(1)(A)).
- b. Minimum term of imprisonment: 0 years  
(18 U.S.C. § 1952(a))(1)(A)).
- c. Maximum supervised release term: 3 years, to follow any term of imprisonment; if a condition of release is violated, the defendant may be sentenced to up to 2 years without credit for pre-release imprisonment or time previously served on post-release supervision (18 U.S.C. §§ 3583 (b) and (e)).
- d. Maximum fine: Greater of \$250,000, or twice the gross gain or twice the gross loss  
(18 U.S.C. §§ 3571(b)(2), (b)(3) and (d)).

- e. Restitution: In the full amount of each victim’s losses as determined by the Court (18 U.S.C. §§ 3663 and 3664).
- f. \$100 special assessment (18 U.S.C. § 3013).
- g. Other penalties: Removal as set forth below in paragraph 15.

The sentence imposed on each count may run consecutively to each other, and to any sentence imposed by the Court in connection with United States v. Javier Aguilar, 20-CR-390 (S-1) (ENV), the defendant, having on February 23, 2024, been convicted by a jury in the Eastern District of New York (the “EDNY Trial”) on all three counts of the redacted superseding indictment (ECF Dkt. No. 244, the “EDNY Indictment”).<sup>1</sup>

2. The defendant understands that although imposition of a sentence in accordance with the United States Sentencing Guidelines (the “Guidelines” and “U.S.S.G.”) is not mandatory, the Guidelines are advisory and the Court is required to consider any applicable Guidelines provisions as well as other factors enumerated in 18 U.S.C. § 3553(a) to arrive at an appropriate sentence in this case. The Government will advise the Court and the Probation Department of information relevant to sentencing, including criminal activity engaged in by the defendant, and such information may be used by the Court in determining the defendant’s sentence. See 18 U.S.C. § 3661 (“No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.”). The

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<sup>1</sup> The maximum statutory term of imprisonment for each of the charges in the EDNY Indictment is: 5 years for Count One (Conspiracy to Violate the Foreign Corrupt Practices Act (18 U.S.C. § 371)); 5 years for Count Two (Violation of the Foreign Corrupt Practices Act (15 U.S.C. § 78dd-2)); and 20 years for Count Three (Conspiracy to Commit Money Laundering (18 U.S.C. § 1956(h))).

Government estimates the likely adjusted offense level under the Guidelines, in connection with both the EDNY Indictment and the SDTX Indictment, to be 40, which is predicated on the following Guidelines calculation:

EDNY Indictment

Count One (Conspiracy to Violate the Foreign Corrupt Practices Act):

Base Offense Level (§ 2C1.1(a)(2))	12
Plus: More Than One Bribe (§ 2C1.1(b)(1))	+2
Plus: Value Of Benefit Received More Than \$9.5 Million (§§ 2C1.1(b)(2), 2B1.1(b)(1)(K))	+20
Plus: Offense Involved High-Level Public Official (§ 2C1.1(b)(3))	<u>+4</u>
Subtotal:	<u>38</u>

Count Two (Violation of the Foreign Corrupt Practices Act):

Base Offense Level (§ 2C1.1(a)(2))	12
Plus: More Than One Bribe (§ 2C1.1(b)(1))	+2
Plus: Value Of Benefit Received More Than \$9.5 Million (§§ 2C1.1(b)(2), 2B1.1(b)(1)(K))	+20
Plus: Offense Involved High-Level Public Official (§ 2C1.1(b)(3))	<u>+4</u>
Subtotal:	<u>38</u>

Count Three (Money Laundering Conspiracy):

Base Offense Level (§ 2S1.1(a)(1))	38
Plus: Convicted Under Section 1956 (§ 2S1.1(b)(2)(B))	+2
Plus: Sophisticated Means (§ 2S1.1(b)(3))	<u>+2</u>
Subtotal:	<u>42</u>

SDTX Indictment

Count One (Conspiracy to Violate the Foreign Corrupt Practices Act):

Base Offense Level (§ 2C1.1(a)(2))	12
Plus: More Than One Bribe (§ 2C1.1(b)(1))	+2
Plus: Value Of Payment More Than \$550,000 (§§ 2C1.1(b)(2), 2B1.1(b)(1)(H))	<u>+14</u>
Subtotal:	<u>28</u>

Count Three (Travel Act – Texas Commercial Bribery):

Base Offense Level (§§ 2E1.2(a)(2), 2C1.1(a)(2))	12
Plus: More Than One Bribe (§ 2C1.1(b)(1))	+2
Plus: Value Of Payment More Than \$550,000 (§§ 2C1.1(b)(2), 2B1.1(b)(1)(H))	<u>+14</u>
Subtotal:	<u>28</u>

Grouping Analysis (§§ 3D1.2(d), 3D1.3(b))

	<u>Level</u>
Highest Offense Level (EDNY Indictment – Count Three)	42
Less: Zero-Point Offender (§ 4C1.1(a))	<u>-2</u>
Total	<u>40</u>

Assuming the defendant falls within Criminal History Category I, an adjusted offense level of 40 carries a range of imprisonment of 292–365 months. The defendant stipulates to the above Guidelines calculation. The defendant further stipulates that the value of the benefit received by his employer, Vitol, in connection with the 2016 Fuel Oil Contract relevant to his crimes of conviction under the EDNY Indictment was at least \$19.8 million. The defendant further stipulates that the amount of the bribes paid in connection with the ethane supply contracts relevant to his crime of conviction under Count Three of the EDNY Indictment and to his guilty plea to Counts

One and Three of the SDTX Indictment was at least \$550,000. The defendant waives his right to a Fatico hearing on such issues.

3. The Guidelines estimate set forth in paragraph 2 is not binding on the Government, the Probation Department or the Court. If the Guidelines offense level advocated by the Government, or determined by the Probation Department or the Court, is, for any reason, including an error in the estimate, different from the estimate, the defendant will not be entitled to withdraw the plea and the Government will not be deemed to have breached this agreement.

4. The defendant agrees not to file an appeal or otherwise challenge, by petition pursuant to 28 U.S.C. § 2255 or any other provision, the conviction entered pursuant to both the EDNY Indictment and the SDTX Indictment in the event that the Court imposes a total term of imprisonment of 365 months or below. This waiver is binding without regard to the sentencing analysis used by the Court. The defendant waives all defenses based on the statute of limitations and venue with respect to any prosecution that is not time-barred on the date that this agreement is signed in the event that (a) the defendant's conviction is later vacated for any reason, (b) the defendant violates this agreement, or (c) the defendant's plea is later withdrawn. The defendant further waives the right to raise on appeal or on collateral review any argument that (a) the statutes to which the defendant is pleading guilty and was found guilty of are unconstitutional and (b) the admitted conduct and conduct proven at trial does not fall within the scope of the statutes. Nothing in the foregoing waiver of appellate and collateral review rights shall preclude the defendant from raising a claim of ineffective assistance of counsel in an appropriate forum. The defendant does not waive and reserves his right to appeal or challenge the sentence imposed pursuant to both the EDNY Indictment and the SDTX Indictment. The defendant waives any right to additional disclosure from the government in connection with the guilty plea in connection with

the SDTX Indictment and the trial conviction in connection with the EDNY Indictment. The defendant agrees that with respect to all charges referred to in paragraphs 1, 4 and 5(a) he is not a “prevailing party” within the meaning of the “Hyde Amendment,” 18 U.S.C. § 3006A note, and will not file any claim under that law. The defendant agrees to pay the special assessment by check payable to the Clerk of the Court at or before sentencing. The defendant understands that he may be subject to removal as set forth in paragraph 15 below. Nevertheless, the defendant affirms that he wants to plead guilty as set forth herein and to waive his right to appeal as set forth at the beginning of this paragraph, even if the consequence is the defendant’s automatic removal from the United States.

5. The Government agrees that:

- a. no further criminal charges will be brought against the defendant for his participation in: (i) criminal activity involving bribery and associated money laundering and conspiracy to commit the same of Ecuadorian officials and intermediaries and Mexican officials and intermediaries, in or about and between 2015 and 2020; (ii) criminal activity involving bribery, including but not limited to interstate or foreign travel or transportation in aid of commercial bribery, associated money laundering, and conspiracy to commit the same, of employees of Pemex Procurement International, MexGas International S.L., and PMI Trading, as well as their present or former parents, subsidiaries, affiliates, predecessors, successors, and/or other associated and/or assimilated entities/organizations, in or about and between 2015 and 2020; and (iii) other criminal activity involving bribery, kickbacks or similar payments for the defendant’s benefit and/or Vitol S.A.’s benefit, associated money laundering, and conspiracy to commit the same, that was alleged to be relevant conduct, admitted in evidence, and/or sought to be admitted in evidence in the EDNY Trial, it being understood that this agreement does not bar the use of such conduct as a predicate act or as the basis for a sentencing enhancement in a subsequent prosecution, including, but not limited to, a prosecution pursuant to 18 U.S.C. §§ 1961 et seq., and at the time of sentence, it will move to dismiss the remaining counts of the SDTX Indictment;

and, based upon information now known to the Government, it will

- b. not recommend or advocate for a cumulative sentence greater than 240 months imprisonment on all counts of conviction, namely Counts One, Two and Three of the EDNY Indictment and Counts One and Three of the SDTX Indictment, even if the Guidelines range determined by the Court exceeds 240 months imprisonment, it being understood that the Government has only the authority to recommend and such recommendation or request does not bind the Court; and
- c. make no motion for an upward departure under the Sentencing Guidelines.

If information relevant to sentencing, as determined by the Government, becomes known to the Government after the date of this agreement, the Government will not be bound by paragraphs 5(b) and 5(c). Should it be judged by the Government that the defendant has violated any provision of this agreement, the defendant will not be released from his plea of guilty or his waiver of appeal but the Government will be released from its obligations under this agreement, including but not limited to the provisions of paragraphs 5(a)-(c).

6. The defendant agrees that any statements made by the defendant under oath during the plea proceeding will be admissible against the defendant in any criminal case involving the Government and the defendant as: (a) substantive evidence offered by the Government in its case-in-chief and rebuttal case; (b) impeachment evidence offered by the Government on cross-examination; and (c) evidence at any sentencing hearing or other hearing, notwithstanding any other subsequent event, including but not limited to the defendant's withdrawal or attempted withdrawal of his guilty plea. If the defendant violates any provision of this agreement, prosecutions for crimes currently known and unknown to the Government that are not time-barred by the applicable statutes of limitation on the date this agreement is signed may be commenced against the defendant notwithstanding the expiration of the statutes of limitation between the signing of this agreement and the commencement of any such prosecutions. If any such prosecutions are brought, the defendant waives all claims 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 statute or rule that statements made by the defendant on or after July 10, 2020, including any statements made by the defendant under oath during the plea proceeding, or any leads derived therefrom, should be suppressed.

7. The defendant acknowledges that he obtained and/or acquired property that is subject to forfeiture as a result of conspiring to commit money laundering, in violation of 18 U.S.C. § 1956(h), as alleged in the EDNY Indictment. The defendant consents to the entry of a forfeiture money judgment in the amount of seven million one hundred twenty-nine thousand nine hundred and thirty-eight dollars and zero cents (\$7,129,938.00) (the “Forfeiture Money Judgment”). The defendant agrees that the amount of the Forfeiture Money Judgment and any payments toward the Forfeiture Money Judgment represent any property, real or personal, involved in the defendant’s violation of 18 U.S.C. § 1956(h), or any property traceable to such property, and/or a substitute asset, and thus are forfeitable to the United States pursuant to 18 U.S.C. §§ 982(a)(1) and 982(b)(1), and 21 U.S.C. § 853(p), in any administrative and/or judicial (civil or criminal) proceeding(s) at the Government’s exclusive discretion. The defendant consents to the entry of an Order of Forfeiture, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, imposing the Forfeiture Money Judgment.

8. The Forfeiture Money Judgment shall be paid in full no later than 30 days before the date of sentencing (the “Due Date”). All payments toward the Forfeiture Money Judgment shall be made to the United States Marshals Service by wire transfer or other means pursuant to written instructions provided by the Government. The defendant consents to the restraint of all payments made toward the Forfeiture Money Judgment. The defendant also waives all statutory deadlines, including but not limited to deadlines set forth in 18 U.S.C. § 983.

9. If the defendant fails to pay any portion of the Forfeiture Money Judgment on or before the Due Date, the defendant consents to the forfeiture of any other property of his up to the amount of the unpaid Forfeiture Money Judgment, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1), and further agrees that the conditions of 21 U.S.C. § 853(p)(1)(A)-(E) have been met.

10. The defendant agrees to fully assist the government in effectuating the payment of the Forfeiture Money Judgment, by among other things, executing any documents necessary to effectuate any transfer of title to the United States. The defendant agrees not to file a claim or petition seeking remission or contesting the forfeiture of any property against which the government seeks to execute the Forfeiture Money Judgment in any administrative or judicial (civil or criminal) proceeding. The defendant further agrees not to assist any person or entity in the filing of any claim or petition seeking remission or contesting the forfeiture of any property against which the government seeks to satisfy the Forfeiture Money Judgment in any administrative or judicial (civil or criminal) forfeiture proceeding.

11. The failure of the defendant to forfeit any monies and/or properties as required under this agreement, including the failure of the defendant to execute any document to accomplish the same on timely notice to do so, may constitute a material breach of this agreement. Upon such a breach, the defendant will not be entitled to withdraw the plea or waiver of appeal, but the Government may bring additional criminal charges against the defendant.

12. The defendant represents that he will disclose all of his assets to the United States on the financial statement entitled “United States Department of Justice Financial Statement” (hereinafter, the “Financial Statement”) at least 30 days before the date of sentencing and will provide a copy to the Government as directed. The defendant agrees that a failure to

disclose all assets on the Financial Statement and to inform the government in writing of any material changes up until the time of sentencing constitutes a material breach of this agreement. Upon such a breach, the defendant will not be entitled to withdraw the plea or waiver of appeal, but the Office may bring additional criminal charges against the defendant. Should undisclosed assets which the defendant owns or in which the defendant has an interest be discovered, the defendant knowingly and voluntarily waives his right to any required notice concerning the forfeiture of said assets and agrees that said assets shall be forfeited to the United States pursuant to 18 U.S.C. §§ 982(a)(1) and 982(b)(1), and 21 U.S.C. § 853(p), as any property, real or personal, involved in the defendant's violation of 18 U.S.C. § 1956(h), or any property traceable to such property, and/or a substitute asset.

13. The defendant knowingly and voluntarily waives his right to any required notice concerning the forfeiture of the monies and/or properties forfeited hereunder, including notice set forth in any indictment, information or administrative notice. In addition, the defendant knowingly and voluntarily waives his right, if any, to a jury trial on the entry of a Forfeiture Money Judgment, and waives all constitutional, legal and equitable defenses to the forfeiture of said monies and/or properties, including, but not limited to, any defenses based on principles of double jeopardy, the Ex Post Facto clause of the Constitution, any applicable statute of limitations, venue, or any defense under the Eighth Amendment, including a claim of excessive fines.

14. The defendant agrees that the entry and payment of the Forfeiture Money Judgment is not to be considered a payment of a fine, penalty, restitution loss amount, or payment of any income taxes that may be due, and shall survive bankruptcy.

15. The defendant recognizes that pleading guilty may have consequences with respect to the defendant's immigration status if the defendant is not a citizen of the United States.

Under federal law, a broad range of crimes are removable offenses, including the offenses to which the defendant is pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and the defendant understands that no one, including the defendant's attorney or the District Court, can predict with certainty the effect of the defendant's conviction on the defendant's immigration status. The defendant nevertheless affirms that the defendant wants to plead guilty regardless of any immigration consequences that the defendant's plea may entail, even if the consequence is the defendant's automatic removal from the United States.

16. This agreement does not bind any federal, state, or local prosecuting authority other than the United States Attorney's Office for the Eastern District of New York, the United States Attorney's Office for the Southern District of Texas, the United States Department of Justice, Criminal Division, Fraud Section, and the United States Department of Justice, Money Laundering and Asset Recovery Section, and does not prohibit the Government from initiating or prosecuting any civil or administrative proceedings directly or indirectly involving the defendant.

17. Apart from any written proffer agreements, if applicable, no promises, agreements or conditions have been entered into by the parties other than those set forth in this agreement and none will be entered into unless memorialized in writing and signed by all parties. Apart from any written proffer agreements, if applicable, this agreement supersedes all prior

promises, agreements or conditions between the parties. To become effective, this agreement must be signed by all signatories listed below.

Dated: Brooklyn, New York  
JULY 23 . 2024

BREON PEACE  
United States Attorney  
Eastern District of New York

By:

[Redacted]  
Jonathan P. Lax  
Matthew R. Galeotti  
Assistant United States Attorneys

Approved by:  
[Redacted]  
Hiral D. Mehta  
Supervising Assistant U.S. Attorney

ALAMDAR S. HAMDANI  
United States Attorney  
Southern District of Texas

By:

[Redacted]  
Sherin Daniel  
Assistant United States Attorney

Approved by:  
[Redacted]  
Suzanne Elmilady,  
Deputy Chief, Fraud Section SDTX

I have read the entire agreement and discussed it with my attorney. I understand all of its terms and am entering into it knowingly and voluntarily.

JAVIER AGUIRRE  
Defendant

GLENN S. LEON  
Chief, Fraud Section  
Criminal Division, Dept. of Justice

By:

[Redacted]  
Clayton P. Solomon, Trial Attorney  
Derek J. Ettinger, Assistant Chief  
Jonathan P. Robell, Assistant Chief

Approved by:

[Redacted]  
David Fuhr  
Chief, FCPA Unit

MARGARET A. MOESER  
Chief, Money Laundering  
and Asset Recovery Section,  
Criminal Division, Dept. of Justice

By:

[Redacted]  
Adam J. Schwartz, Deputy Chief  
D. Hunter Smith, Trial Attorney

Approved by:

[Redacted]  
Mary Butler  
Chief, International Unit

Approved by:

[Redacted]  
Ilena Jaroslaw, Esq.  
Lynn Neils, Esq.  
Counsel to Defendant