

 **ORIGINAL**

Agreement No. 201157-003

**USMX-ILA MASTER CONTRACT
MEMORANDUM OF SETTLEMENT**

BETWEEN

**UNITED STATES MARITIME ALLIANCE, LTD.
(For And On Behalf of Management)**

AND

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO
(For And On Behalf of Itself And Each Of Its Affiliated Districts And Locals
Representing Longshoremen, Clerks, Checkers And Maintenance Employees
Working On Ships And Terminals In Ports On The East And Gulf Coasts Of
The United States)**

This Memorandum of Settlement ("MOS") entered into on this 28th day of August, 2013 between the UNITED STATES MARITIME ALLIANCE, LTD. ("USMX") for and on behalf of its members and any stevedores, marine terminal operators, and carriers that hereafter become members of USMX or that hereafter subscribe to the Master Contract and the INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO ("ILA") for and on behalf of its affiliated districts and locals representing longshoremen, clerks, checkers, and maintenance employees working on ships and terminals in ports on the East and Gulf Coasts of the United States establishes the terms and conditions of employment for a new Master Contract covering only container and ro-ro operations at ports on the East and Gulf Coasts of the United States to replace the existing Master Contract, including all amendments thereto, which went into effect on October 1, 2004 and as extended expired on September 30, 2012 (the "2004 Master Contract").

A. TERM OF AGREEMENT

The term of the new Master Contract (and of all local collective bargaining agreements covering employees engaged in work involving container and ro-ro operations on the East and Gulf Coasts of the United States) shall be for six years from October 1, 2012 through and including September 30, 2018.

RECEIVED

2013 SEP -9 AM 11:50

OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

EFFECTIVE

SEP 9 2013

2013 SEP 10 AM 6:59

RECEIVED

B. WAGES

1. Wage Increases

(a) Effective October 1, 2014, employees who were employed as of September 30, 2013, and who are receiving a straight-time basic wage rate of \$32.00 per hour as of September 30, 2014, shall receive an increase of \$1.00 per hour in their straight-time basic wage rate.

(b) Effective October 1, 2016, employees who were employed as of September 30, 2015, and who are receiving a straight-time basic wage rate of \$33.00 per hour as of September 30, 2016, shall receive an increase of \$1.00 per hour in their straight-time basic wage rate.

(c) Effective October 1, 2017, employees who were employed as of September 30, 2016, and who are receiving a straight-time basic wage rate of \$34.00 per hour as of September 30, 2017, shall receive an increase of \$1.00 per hour in their straight-time basic wage rate.

2. Starting Wage Rate

The starting straight-time basic wage rate for new employees who enter the industry on or after October 1, 2012, shall be \$20.00 per hour.

3. Wage Progression Formula ("Formula")

(a) Effective October 1, 2013, all employees who are receiving a straight-time basic wage rate on September 30 of the prior Contract Year that is less than the highest straight-time basic wage rate will receive an increase in their straight-time basic wage rates in accordance with the following Formula:

- (i) On their second (2nd) Industry Employment Anniversary Date, twenty-five percent (25%) of the difference between the highest straight-time basic wage rate and the employee's straight-time basic wage rate on September 30 of the prior Contract Year;
- (ii) On their fourth (4th) Industry Employment Anniversary Date, fifty percent (50%) of the difference between the highest straight-time basic wage rate and the employee's

straight-time basic wage rate in effect on September 30 of the prior Contract Year; and

- (iii) On their sixth (6th) Industry Employment Anniversary Date, one hundred percent (100%) of the difference between the highest straight-time basic wage rate and the employee's straight-time basic wage rate in effect on September 30 of the prior Contract Year.

(b) The following definitions shall apply to the Formula:

- (i) An employee's Industry Employment Anniversary Date will be based upon the number of Qualified Anniversary Years with which the employee has been credited as of September 30 of the prior Contract Year;
- (ii) A Qualified Anniversary Year for all Contract Years prior to October 1, 2009, is one in which the employee is credited with at least one (1) hour of service. A Qualified Anniversary Year for all Contract Years after September 30, 2009, is one in which the employee is credited with at least 700 hours of service.
- (iii) When applying the Formula, the highest straight-time basic wage rate shall be the rate in effect on the date the Formula is applied.
- (iv) If any employee did not work at least one (1) hour under the Master Contract during the period from October 1, 2000 through and including September 30, 2004, that employee shall not receive any Qualified Anniversary Years for any years prior to the Contract Year ending September 30, 2005.

(c) The Formula shall continue in full force and effect in subsequent Master Contracts, and in extensions of this Master Contract and subsequent Master Contracts. On October 1, 2013, and on each October 1 thereafter while the Formula remains in effect, employees shall be entitled to receive an increase in their straight-time basic wage rate pursuant to the Formula payable on that date.

C. LOCAL FRINGE BENEFIT CONTRIBUTIONS

Effective October 1, 2013, the rate of contribution for local pension, welfare, and other employee fringe benefits shall be increased by \$1.00 per hour for the life of the new Master Contract.

D. CONTAINER ROYALTY DISTRIBUTION

1. Each year during the term of the new Master Contract the total amount of Container Royalty benefits payable to the eligible workforce under the Master Contract shall be no less than the total sum paid in all ports in 2011. Similarly, each year during the term of this Master Contract administrative expenses payable to the local Container Royalty funds covered by the Master Contract shall be no less than the total sum of administrative expenses paid by those funds in 2011. For all ports other than the Port of New York and New Jersey, the year 2011 shall mean the contract year ending September 30, 2011; for the Port of New York and New Jersey, the year 2011 shall mean the calendar year ending December 31, 2011.

2. Each year during the term of this Master Contract any Container Royalty Nos. 1 and 3 assessments collected that are in excess of the amounts needed to satisfy the contractual obligations set forth in section D(1) of this Memorandum of Settlement shall be divided into two equal shares. The ILA shall have the right to designate how one of those shares will be used, and the USMX shall have the right to designate how the other share will be used.

E. CONTAINER ROYALTY CENTRAL COLLECTION FUND

1. During the term of the new Master Contract, USMX and the ILA shall create and maintain a Container Royalty Central Collection Fund (CCF) to collect and distribute all container royalties payable pursuant to this Master Contract.

2. The CCF shall constitute an irrevocable trust for the sole and exclusive purpose of collecting all assessments payable in accordance with the Master Contract to the following joint labor-management fringe benefit trust funds: the Carrier-ILA Container Freight Station Trust Fund, the Carrier-ILA Container Royalty Fund No. 5, the Local Management-ILA Container Royalty Funds entitled to receive the First Container Royalty and Third Container Royalty Assessments, and the Management – ILA Managed Health Care Trust Fund (MILA), which is entitled to receive the Second Container Royalty and the Fourth Container Royalty Assessments. In addition, the CCF will distribute the payouts already provided for in the 2009 Memorandum of Settlement extending the 2004 Master Contract, and the following additional automatic annual payouts:

- | | | |
|-----|---------------------------|-------------------|
| (a) | South Atlantic - | \$3,600,000; |
| (b) | West Gulf - | \$4,000,000; and, |
| (c) | New York and New Jersey - | \$10,000,000. |

USMX and the ILA shall be entitled to add by joint agreement additional automatic payments to other Master Contract ports.

3. During the term of the new Master Contract, USMX and the ILA shall have the right to agree upon a modification, suspension, or elimination of any of the Container Royalty Assessments payable to MILA. Effective September 1, 2013, the Fourth Container Royalty Assessment shall be suspended in accordance with the joint agreement of USMX and the ILA.

4. During the term of the new Master Contract the CCF shall distribute funds to ports in need of assistance for pension funding as jointly agreed by USMX and the ILA.

F. CARRIER-ILA CONTAINER ROYALTY FUND NO. 5

During the term of the new Master Contract, Management will fund Container Royalty Fund No. 5 as required to provide financial assistance to joint Management-ILA employee benefit plans in the local ports or districts. During the term of the new Master Contract, management shall have the right to modify the Container Royalty Fund No. 5 assessment.

G. MILA

1. There will be no reduction in MILA benefits during the term of the new Master Contract.

2. Maintenance employees in the Port of New York and New Jersey covered by the collective bargaining agreement between ILA Locals 1804-1 and 1814 and the Metropolitan Marine Maintenance Contractors Association shall be eligible for participation in MILA during the term of the new Master Contract provided their employers pay hourly contributions to MILA at the rate of \$5.50 per hour.

H. DRUG & ALCOHOL POLICY

1. Every local port or district must have mandatory random testing of all crafts, except in the Port of New York and New Jersey where its random-testing program will be held in abeyance so long as the Master Contract workforce in the Port of New York and New Jersey is subject to additional testing by private or governmental agencies that are not parties to the Master Contract.

2. The terms and conditions of the random-testing program in each port or district will be determined by the local parties.

I. NEW TECHNOLOGY AND AUTOMATION

Article X of the Master Contract shall be amended in its entirety to read as follows:

Section 1. Preamble.

Where new devices and new methods are utilized or additional automation is implemented, it is recognized that these make the ILA more competitive and their employers more able to provide continued employment. In conjunction with this, the ILA and USMX agree to establish a New Technology and Automation Committee, consisting of the Co-Chairmen and five (5) additional members from each side.

Section 2. Process.

- a. Notification to Co-Chairmen.
- b. Committee meets to review technology, timetable for implementation, and potential impact on employees including but not limited to the following:
 - (i) Performing an analysis of any economic impact on wages or benefits.
 - (ii) Performing an additional analysis on how an automated facility or operation may affect any craft jurisdiction.
 - (iii) Analyzing possible reassignment within crafts, retraining, and/or assignment to the ILA of all employment positions resulting from technological changes after evaluating productivity, tonnage levels, and any additional work created by technology and automation.
 - (iv) Performing an audit of all job functions and duties at the terminal identified in the notification to the Co-Chairmen to determine whether these functions and duties are properly assigned in conformity with ILA work jurisdiction.
- c. Committee facilitates and participates in local discussions over the impact on the workforce and the local port. If agreement is reached, then the Committee and local ILA and Management shall engage in discussions regarding displaced employees, if any. A displaced employee is one who is regularly employed in the port area where the technology has been implemented and whose job has been eliminated as a result of the implementation of technology. Displaced employees also include those who are regularly employed and who are bumped pursuant to the local port's seniority rules.

Regularly employed means having worked at least 1,000 hours in the port area in the prior contract year.

- d. If a complete agreement on all issues is not reached within 90 days of notification to the Co-Chairmen, then any remaining disputes shall be referred to the Special Panel for resolution. The Special Panel will consist of one senior labor representative and one senior management representative who do not have a direct interest in the dispute. If the Special Panel fails to reach an agreement and issue a determination within 30 days, then the matter will be submitted to arbitration in accordance with the Master Contract. Both the Special Panel's determination and the arbitrator's decision shall be final and binding and shall constitute an enforceable arbitration award.

Section 3. Guiding Principles.

- a. All jobs created by technology and automation shall be filled by qualified ILA-represented employees within their respective crafts after mandatory employer-provided training.
- b. Any displaced employee must be available to accept work opportunities within the employee's craft at the terminal in question or other port areas in accordance with current port seniority requirements and port practices. ILA-represented employees displaced by technology or automation as defined in section (c) above shall be offered protection in wages and benefit contributions. Those employees who have worked between 1,000 and 1,199 hours in the prior contract year will be offered protection up to 35 hours per week. Those who have worked 1,200 hours or more in the prior contract year will be offered protection up to 40 hours per week.

J. CHASSIS MAINTENANCE AND REPAIR WORK PRESERVATION

The following provisions shall be incorporated into the Master Contract:

- USMX and the ILA recognize that the chassis-ownership-and-leasing model has changed significantly over the period of the 2009-2012 Master Contract.
- USMX and the ILA recognize that this situation will continue to develop over the new Master Contract and that further change is likely.
- USMX and the ILA are committed to work preservation provisions to promote continued ILA jurisdiction of the chassis maintenance and repair (M&R) work within the marine terminals and port areas covered by the Master Contract.

- The parties recognize the right of the ILA to further jurisdictional expansion by the traditional organizing methods, but this agreement does not contemplate any jurisdictional expansion.
- USMX and the ILA recognize that the operators of chassis pools that are not bound by the Master Contract have made various commitments to USMX and the ILA to continue to use ILA-represented employees for M&R work on their chassis in the port areas covered by the Master Contract, and USMX and the ILA applaud and support these commitments. Going forward USMX and the ILA will work with these chassis pool operators to further solidify these types of commitments, including their possible inclusion into membership in USMX.
- In the new Master Contract, no carrier or association of carriers bound by the Master Contract that operates chassis pools shall sell or transfer chassis except to a buyer that agrees to preserve the ILA's existing jurisdiction over the repair and maintenance of chassis. To achieve that end, the carriers agree that if they or any association of carriers that operates chassis pools sell or transfer chassis to third parties not bound by the Master Contract, they will include the following provisions in the contracts of sale or transfer:
 - a. As a material term of this agreement the purchaser or transferee agrees until September 30, 2018 to continue to use ILA-represented employees that the seller or transferor had used prior to the sale or transfer to maintain and repair the chassis that are the subject of this agreement at marine terminals and off-pier facilities in the historic port areas. The purchaser/transferee also agrees to include the foregoing provision in any subsequent contract of sale entered into on or before September 30, 2018, in which the purchaser/transferee sells or transfers the said chassis to a third party.
 - b. The purchaser/transferee agrees that a breach of this provision will result in irreparable injury to both seller/transferor and the affected employees represented by the International Longshoremen's Association, AFL-CIO, and that both the seller/transferor and the affected ILA-represented employees may not be adequately compensated at law for such breach of the provision. The purchaser/transferee consents to the entry of

injunctive and any other appropriate equitable relief against it with respect to any breach of the provision.

- If any carrier or association of carriers bound by the Master Contract that operates chassis pools decides to sell or transfer chassis, such carrier or association shall inform the ILA and USMX as soon as possible and shall provide to them evidence that the contract of sale or transfer includes the required provisions set forth in subparagraphs a and b above.
- The ILA shall retain its jurisdiction to inspect and maintain chassis at marine terminals and off-pier facilities in the historic port area. No container shall be received, delivered, mounted on or dismounted from a chassis-pool chassis that has been repaired and maintained in the port area by employees who are not represented by the ILA. This provision shall not apply to owner-operator or shipper-owned chassis.
- The parties to the Master Contract shall have the right to reject any chassis at any marine facility covered by the Master Contract that does not meet roadability standards for safety. The Joint Technical Committee shall establish roadability standards for safety that the parties to the Master Contract shall use in the inspection of chassis at marine facilities covered by the Master Contract.

K. JURISDICTION COMMITTEE

The following subsection (c) shall be added to Article VII, Section 4 of the Master Contract:

- (c) Decisions of the Jurisdiction Committee are to be implemented in accordance with the time schedule set forth in the Jurisdiction Committee's decision. The Jurisdiction Committee shall have the power to award actual damages incurred as a result of any violation of the jurisdictional provisions of the Master Contract. Decisions of the Jurisdiction Committee shall constitute final and binding arbitration awards and the parties agree to waive the right to seek judicial review. In addition, the parties shall establish a procedure to resolve a deadlock of the Jurisdiction Committee by selecting in advance a panel of mutually-acceptable arbitrators and use the next available arbitrator to resolve the deadlock on a set time schedule. The parties agree that the arbitrator's award is final and binding.

The failure to comply with the final and binding decision and award of the Jurisdiction Committee or the arbitrator shall constitute a breach of this Master Contract and the ILA reserves the right to take whatever legal action may be appropriate in the circumstances, including, but not limited to, the refusal to provide labor to the offending carrier, marine terminal operator, or stevedoring company. This refusal to supply labor shall not constitute a violation of the No-Strike Clause of the Master Contract or any local longshore collective bargaining agreement.

Anyone failing to comply with an outstanding award of the Jurisdiction Committee or the deadlock-breaking arbitrator shall be liable for liquidated damages in the amount of \$10,000 per day for each day that the offending local union, carrier, marine terminal operator, or stevedoring company fails to comply with the schedule set forth in the award. In the event the losing party commences an action in federal court to vacate an award issued by the deadlock-breaking arbitrator, the ILA shall not have the right to refuse to provide labor so long as liquidated damages are paid for failure to comply with the deadlock-breaking arbitrator's award. Actual damages payable by an offending carrier, marine terminal operator, or stevedoring company shall be paid to the aggrieved workers or the Fringe Benefit Fund in the port as determined by the Jurisdiction Committee or the arbitrator. Liquidated damages shall be paid to the Fringe Benefit Fund in the port. Actual damages and liquidated damages payable by a local union shall be paid to the aggrieved Management party.

In the event that USMX and the ILA shall institute suit to confirm and enforce an award under this section, they shall be entitled to recover prejudgment interest, costs, reasonable attorney's fees, and other expenses incurred in the litigation.

The losing party shall have the right to commence an action in federal court to vacate an award issued by the deadlock-breaking arbitrator. The limitations period for this action shall be 60 days from the date of the award. The losing party must comply with the award notwithstanding the pendency of any federal court action. Any actual damages awarded by the arbitrator and any liquidated damages for failure to comply must be paid in escrow to the co-chairmen of the Jurisdiction Committee pending the final

disposition of the federal court action. If it does not prevail in the federal court action, the losing party shall pay reasonable attorney's fees to the opposing party.

L. JURISDICTION

1. **Marine Terminal Work.** The following language shall be added to the end of Article VII, Section 8 of the Master Contract:

If technology permits work performed under the Master Contract to be performed at a facility other than the existing facility or if marine terminal work historically and traditionally performed under the Master Contract at a facility is moved to a facility other than the existing facility, the terminal operator or signatory carrier will be required to move that work to a facility in the port area, where the work will be performed by the ILA workforce. The terminal operator or signatory carrier is required to notify the ILA of its intention to remove work to another facility.

2. **Work Preservation.** The following language shall be added to the end of Article VII, Section 1 of the Master Contract:

The carriers and marine terminal operators that are parties to the USMX-ILA Master Contract shall not contract out to any affiliate, subsidiary, or other entity in which they have an interest any Master Contract work historically and regularly performed by ILA employees at waterfront piers and terminals and at off-pier facilities within port areas covered by the Master Contract, unless the affiliate, subsidiary, or other entity employs workers covered by the Master Contract to perform that work.

3. **State Port Authorities.** Article VII, Section 7 of the Master Contract shall be amended in its entirety to read as follows:

- a. USMX and the ILA shall conduct a study to determine how the business model currently used by Port Authorities in the Ports of Charleston, SC, Savannah, GA, and Wilmington, NC, could be altered to permit work currently performed by state employees to be performed by ILA-represented employees in a more productive, efficient, and competitive fashion. USMX and the ILA will use this study to meet with these Port Authorities in an effort to convince them to employ ILA-represented employees.
- b. USMX agrees to formally notify any port authority contemplating or intending to develop a new container handling facility that USMX members may be prohibited from using the new facility if the work at that facility is not performed by Master Contract bargaining unit employees.

4. **Access to Computers.** The ILA raised concerns that the parties had not yet fully implemented Article VIII, Section 3(a) specifically as to the provision “Management and ILA agree that they will develop a methodology to confirm who is performing computer input work that falls within the ILA’s jurisdiction. Both Management and the ILA agree that the methodology will vary from one terminal to another because of the different computer systems utilized in various ports and terminals.” Both the ILA and USMX are committed to fully implementing this Article during the term of the new Master Contract.
5. **Article VIII.** Throughout the course of bargaining several concerns were raised over the work covered by Article VIII of the Master Contract. The parties agree that these issues are important and that they should be submitted to the grievance machinery for adjudication. The parties are committed to the newly strengthened grievance process.
6. **Customs—CES/CBP.** The parties agree that it is important to redouble industry efforts to regain the Customs Exam work recently outsourced to non USMX-ILA contractors. The parties agree to commission Ron Signorino to write a white paper on how this might be accomplished. It is also agreed that once the white paper is completed USMX and the ILA will jointly approach CBP to address our concerns.
7. **Joint Contract Implementation Team.** Upon ratification of the Master Contract, the parties will create a Joint Contract Implementation Team to take all required action to implement the new Agreement.
8. **Port Area.** The term “Port Area” in the Master Contract means the historic definition of what is considered the Port Area in each port covered by the Master Contract.
9. **Warranties.** During the warranty period manning will be one ILA mechanic or as provided in the local agreement. The training for the warranty work is to be at the discretion of the employer. After the initial warranty period, extended warranty work will require one ILA mechanic per warranty staff onsite. The ILA will be provided warranty documentation.

10. **General Jurisdiction Provisions.** The general jurisdiction provisions contained in Article VII of the Master Contract apply to all three crafts: longshoremen, checkers and clerks, and maintenance employees

M. CFS SUBSIDY AND TRAINING PROGRAM

The following provisions will be incorporated into the Master Contract:

Assessment Rate

There will be an assessment rate equivalent to \$0.25 per ton for the first three (3) years of the Master Contract.

Subsidy

The wages, manning and scope of work will be negotiated on a local level to accommodate the subsidy rates listed below and to compete with the local competition:

- The subsidy rate will be **\$28 per hour in 2012-2013** for the pre-approved hours for each pre-approved task
- The subsidy rate will be **\$27 per hour in 2013-2014** for the pre-approved hours for each pre-approved task
- The subsidy rate will be **\$25 per hour in 2014-2015** for the pre-approved hours for each pre-approved task
- The subsidy rate will be **\$24 per hour in 2015-2016** for the pre-approved hours for each pre-approved task
- The subsidy rate will be **\$22 per hour in 2016-2017** for the pre-approved hours for each pre-approved task
- The subsidy rate will be **\$21 per hour in 2017-2018** for the pre-approved hours for each pre-approved task.

Training

- The training program currently in effect and paid for with CFS assessments will be continued.
- Any changes to this program will be recommended by the CFS Trustees to the Bargaining Parties for consideration.

Audits

- Existing CFS operations will be audited at the start of the contract and ongoing to determine task times and verify intensities. Task times will be consistent within each port.
- Major CFS Stations will have a yearly audit. All others will be as required.

New CFS Applications and New Operations

- All new CFS applications are subject to CFS Trustee approval and will receive the 2017-2018 contract year subsidy rates.
- All new operations within existing CFS's are subject to CFS Trustees' approval but will receive the existing CFS Subsidy rate in effect for that station.
- If in the CFS Trustees' discretion, they feel that the extent of the new business opportunity mentioned immediately above is so large as to materially impact the hiring and the overall business of the existing CFS, then that new business will receive the 2017-2018 contract year subsidy rate.

Container Royalty

- A centralized and uniform reporting process will be implemented system wide that will include current date with the addition of the carrier name and tonnage.
- Due dates for reporting will also be established and enforced.
- The per-ton credit will be the equivalent of Container Royalties 1 through 5 plus CFS in total.

Manning and Scope of Work

- Any manning issues, including work opportunities, will be governed by historical past practices of the CFS program and Article VII, Section 9 of the USMX-ILA Master Contract.

New York/New Jersey CFS

- Due to the nature of assessments in New York – New Jersey, any changes or additions to the program in New York and New Jersey will be handled by the CFS Trustees.

New Assessment and Subsidy Considerations

- Prior to the conclusion of the 2014-2015 Contract Year and in each Contract Year thereafter, if in the CFS Trustees' opinion, there is a need for adjustment to the Assessment Rate or the Subsidy Rate, due to any unforeseen increase or decrease in the training program or the subsidy rate program, they may recommend to the Bargaining Parties their concerns. Any adjustment agreed by the bargaining parties will be effective on the start date of the subsequent contract year.

N. MAJOR DAMAGE CRITERIA FOR CONTAINERS

Appendix D of the Master Contract shall be amended to read as follows:

MAJOR DAMAGE CRITERIA FOR CONTAINERS

As provided in Article IX, section 3(a) of the Master Contract, the following is a definition of the criteria adopted by the ILA/Carrier Master Contract Committee for a container with major damage. Nothing herein contained shall be deemed to limit the work jurisdiction of the ILA in accordance with the Containerization Agreement.

The definition of a container having major damage shall be any container or container component which causes the loss of structural integrity to a point in which it creates an unsafe condition.

Major damage to the following critical component connections shall constitute loss of structural integrity and shall be considered an unsafe condition:

- 1) Bottom rail to corner post severed
- 2) Top rail to corner post severed
- 3) Top corner fitting to corner post severed
- 4) Bottom corner fitting to corner post severed

The above discernible major damage is supplemented by the following, any of which is considered major damage.

Connection	Description
All rails including side rails:	Holed, cut, torn, cracked or broken component and/or welds not to include flanges, of more than 2 inches vertical or 3 inches horizontal. Bend, dent or bow, not to include flanges, of 3 inches or more

deep, and 20% of the length, or any container out of square causing fittings not to connect.

Headers and sills:

Holed, cut, torn, cracked or broken component and/weld, not to include flanges, of more than 2 inches vertical, or 3 inches horizontal. Bend, dent or bow, not to include flanges, of 3 or more inches deep; or any container out of square, causing fittings not to connect.

All exterior panels, including side but not roof panel (roof panel is outlined below)

Any one cut more than 19 inches.

Top corner fitting

Cracked weld, cracked fitting or bent to not fit into a container cell.

Bottom corner fitting

Cracked weld, cracked fitting or bent to not fit into a container cell

Crossmembers

If 3 or more adjacent cross members are severed, missing or damaged at any point, it should be repaired.

Door assembly

Damages affecting the proper opening or closing of the door or locking mechanism.

Roof panel

Cut or severed more than 36"

Roof bows

3 or more adjacent bows disconnected.

Corner posts

Holed, cut, torn or cracked; broken component and/or welds. Any single deformation such as bend, bow, bent, more than 2 inches deep and ten inches long or causing fittings not to connect or be out of square.

Floors

Flooring that has a hole that is at least nine inches by nine inches that has broken through to the container undercarriage, is unpatched, visible during inspection, excluding preexisting repairs.

Major structural damage

Container out of cube so as not to fit in slot or cannot be lifted by a container spreader.

Normal wear and tear, holes and dents or compression lines do not cause a loss of structural integrity and, therefore, do not constitute major damage or an unsafe condition.

However, the above does not constitute the removal of roadability and FWHA inspections presently performed by ILA maintenance men or otherwise limit the work jurisdiction of the ILA in accordance with the Containerization Agreement of the Master Contract. No repairs can be made to circumvent major damage. Any major damaged items documented on the estimate shall be repaired, once the estimate has been approved.

O. PORT OF DISCOVERY

The following new provision shall be added as Section 5 in Article IX of the 2004 Master Contract:

It is necessary to implement a system to monitor compliance of repair of major damage in accordance with the Master Contract. For this purpose, it shall be the responsibility of each port to establish a procedure that will verify that all parties are complying with the provisions of the Master Contract in that port. Each port shall provide to the Jurisdiction Committee the procedure established in that port.

In order to be recognized as a valid POD System by the Jurisdiction Committee, each port's system must be able to do the following:

- (a) Identify major damage.
- (b) Track the movement of equipment identified with Major Damage.
- (c) Record and validate the repairs of the equipment.

P. EXISTING TERMS AND CONDITIONS

1. All the terms and conditions of the 2004 Master Contract, including all extensions and amendments thereto as well as all decisions and determinations of the various USMX-ILA Committees and Boards, including the USMX-ILA Industry Resource Committee, shall remain in full force and effect during the entire term of this Agreement from October 1, 2012, to and including September 30, 2018, except as modified by the terms of this Memorandum of Settlement.

2. This Memorandum of Settlement which has been ratified by the parties settles all issues between the parties relating to all crafts and shall go into full force and effect on October 1, 2012.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Settlement on the day and year first above written.

**UNITED STATES MARITIME
ALLIANCE, LTD.**

By: _____

David F. Adam,
Chairman/CEO

**INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, AFL-CIO**

By: _____

Harold J. Daggett,
President

23298