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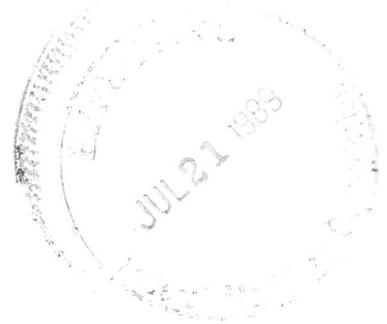
PERMIT NO. 673

BETWEEN THE

CITY OF LOS ANGELES

AND

STEVEDORING SERVICES OF AMERICA



WORLDPORT LA



**Stevedoring
Services
of America**

PERMIT NO. 673

REVENUE SHARING AGREEMENT
GRANTED BY THE CITY OF LOS ANGELES
TO STEVEDORING SERVICES OF AMERICA

This PERMIT (hereinafter called "Agreement"), is entered into this 19th day of July, 1989, by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board"), and STEVEDORING SERVICES OF AMERICA ("Tenant"), Berth 219, Terminal Island, California 90731.

Section 1. Agreement.

(a) Premises Subject to Tariff. City nonexclusively assigns and Tenant accepts the premises described below, subject to the terms and conditions provided herein and to the rates, terms and conditions of Port of Los Angeles Tariff No. 3 as it now exists or may be amended or superseded ("Tariff"). Tenant acknowledges it has received, read and understands the rates, terms and conditions of Tariff and agrees to be bound by these rates, terms and conditions except as may be modified by this Agreement. Tenant understands it is responsible for maintaining a complete and current copy of the Tariff and assumes responsibility for doing so.

(b) Reference to City's Tariff in Tenant's Tariffs and Contracts.

Tenant agrees to insert into all of its written tariffs and contracts with its vessel owning and vessel operating customers entered into, modified or amended after the effective date of this Agreement the following provision:

"Every vessel owner and operator understands and agrees that vessels, their owners and operators using pilots offered by the City of Los Angeles agree to be contractually bound to the terms and conditions of Port of Los Angeles Tariff No. 3 or its successor. Vessel owners' and operators' attention is particularly directed to Item 205 of this tariff which provides that any pilot provided by the City of Los Angeles to assist the vessel is the borrowed servant of the vessel and that neither the City nor the pilot is liable for any accident except as provided in Tariff Item 205. Vessel owners and operators agree that the vessel master at all times remains in control of the vessel and the pilot's assistance is advisory only. Such owners and operators are aware that pilotage trip insurance may be purchased from the City if they wish to cover pilotage associated risks."

Tenant agrees to provide City a copy of any of its tariffs, which relate to services provided by Tenant at its premises and such proof of its compliance with this subsection 1(b) as the Executive Director may reasonably request.

(c) Tenant's Rights Nonexclusive. By approving this Agreement, City does not grant to Tenant the sole or exclusive right to use the premises. Tenant's right to use the premises shall only be preferential or secondary to other users thereof as set forth in Section 2. City has and reserves the right to grant to other users upon twenty-four (24) hours telephonic notice to Tenant the right to use the premises, including the improvements on the premises and any cranes as long as such use by others will not unreasonably interfere with Tenant's use of the premises, improvements and cranes located thereon or Tenant's fulfillment of its contractual obligations to its customers. Tenant may charge such users for the use of non-Port of Los Angeles cranes provided such charges may not without prior consent of the City exceed the rates provided in Tariff for use of City cranes. For the use of non-Port of Los Angeles cranes, Tenant may require such user to use its crane operator. Tenant may also require such user to agree in writing to insure, hold harmless and indemnify Tenant for any liability arising from use of such crane or damage to the crane caused by such user's negligence, the crane operator's negligence, who shall be deemed a borrowed servant of such user, or by any other cause which is not found to be created by the sole negligence of Tenant, and subject to such insurance and indemnity requirements which Tenant may impose upon such user to the full extent of Tenant's own insurance and indemnity requirements imposed by City hereunder. Tenant shall permit other stevedores to serve other users of the premises if another user designated by City so requests subject to such insurance and indemnity requirements which Tenant may impose upon such stevedore to the full extent of Tenant's own insurance and indemnity requirements imposed by City hereunder. All tariff charges which accrue from such other user's use of the premises shall accrue solely for City's benefit and shall not count toward the compensation provisions of this Agreement. To assist City in determining the availability of the premises for use by other users, Tenant shall upon request from City immediately provide City a written summary showing vessels scheduled to call at the premises in the next thirty (30) day period, anticipated tonnages and such other information as City needs to determine the availability of the premises.

Section 2. Premises.

(a) Description. The premises subject to this Agreement comprise Parcel Nos. 1, 2, 3, and 4 (approximately 101 acres) including Berths 215-228 (approximately 5,650 lineal feet). Those parcels and berths are delineated and more particularly described on Drawing No. SSA PH A. This drawing is on file in the office of the Chief Harbor Engineer of the Harbor Department of City ("Harbor Engineer"). A copy of said drawing is attached as Exhibit A and incorporated by reference into this Agreement.

Tenant's right to use the area marked Parcel No. 3 on Exhibit A shall be for the first two compensation periods of this Agreement or for such longer period as is determined by the Board at its sole discretion with notice to Tenant in writing. If the area marked Parcel No. 3 is removed from Tenant's premises, compensation shall be reduced in accordance with Section 4 of this Agreement.

Tenant's right to use the area marked Parcel No. 5 on Exhibit A shall be contingent on the area being used by Yang Ming Line ("YML"). Tenant shall provide City written confirmation of YML's intention to use the area marked Parcel No. 5. Tenant understands that the use of the area marked Parcel No. 5 may be for a period less than two (2) years. Compensation for the use of the area marked Parcel No. 5 shall commence on the later of (i) the effective date of this Agreement or (ii) the first day Tenant handles containers owned, operated, or used by YML on Parcel No. 5, and shall be increased based on the additional area in accordance with Section 4 of this Agreement. If YML discontinues the use of the area or if Evergreen Terminals Corp. ("Evergreen") requests the use of the area, either party upon sixty (60) days written notice to the other may terminate Tenant's rights to use the area marked Parcel No. 5 or may reduce the size of the area. If the area marked Parcel No. 5 or some portion thereof is removed from Tenant's premises, compensation shall be reduced in accordance with Section 4 of this Agreement.

City shall not be responsible for any relocation costs or damages whatsoever that might be associated with the move from the areas marked Parcel Nos. 3 and 5 on Exhibit A.

Tenant shall have the "preferential" right to use Berths 215-223, the "preferential" right to use Berths 224-225 for the first two compensation periods of this Agreement or for such longer period as is determined by the Board at its sole discretion with notice to Tenant in writing and thereafter a "secondary" right and the "preferential" right to use Berths 226-228 for YML vessels and a "secondary" right for all other vessels while using the area marked Parcel No. 5. When the area is removed from the premises Tenant shall have a "secondary" right or a "secondary" right if Tenant never uses Parcel No. 5.

The "preferential" right to use a berth means that if two ships arrive at berth simultaneously, one invited by a preferential user and one invited by a secondary user, the holder of the preferential right may bring its vessel to berth first and unload it so long as such unloading is carried out continuously in accordance with the practice in the trade in Southern California. A right to use a berth "secondarily" means that the secondary user has priority over tertiary and temporary users. If a vessel invited by a preferential user arrives at berth while a vessel invited by the secondary user is being unloaded, the secondary user must immediately vacate the berth provided, however, the preferential and secondary user shall cooperate to permit conclusion of the cargo operations in progress if such operations can be concluded shortly. With respect to Berths 224-225 after the first two compensation periods of this Agreement or such longer period as is determined by Board at its sole discretion, if Tenant is loading/unloading a vessel and City as preferential user or some other preferential user needs Berths 224-225, Tenant may provide another berth area to City so long as City at its sole discretion determines that the other berth(s) is (are) satisfactory for its purposes.

The term "premises" as used in this Agreement, shall include all structures owned by or under the control of Board within said parcels including all improvements erected by Tenant's predecessors which are made

available for Tenant's use whether on or below the surface and such structures as City may construct for Tenant. No other structure shall be considered to be a part of the premises except to the extent that Tenant's maintenance, restoration, and indemnity and insurance obligations shall extend in addition to all buildings or improvements it owns or subject to its control on the premises.

(b) Premises Reduction. At any time during the term of this Agreement, City may with one hundred twenty (120) days written notice to Tenant reduce the area of the premises by no greater than the area marked within Parcel 2 on Exhibit A plus an additional five acres of backland to be determined by City. City may reduce the area of the premises on more than one occasion so long as the cumulative reductions do not exceed the area marked Parcel 2 on Exhibit A plus an additional five acres of backland to be determined by City. City's notice to Tenant shall include a drawing showing the actual area to be removed from Tenant's premises and the backland area that Tenant may use pursuant to subsection (c). The City's right to reduce the area of the premises is absolute and Tenant shall not be entitled to any compensation, offset or damages other than what is provided for in this Agreement. The formula for modification to compensation for the reduction of area described in the notice is set forth in Section 4 of this Agreement.

(c) Option to Use Other Areas Within the Port. If City notifies Tenant of a reduction in the premises in accordance with subsection (b), Tenant at its option will be granted an adjacent backland area. The maximum area that could be granted is described on Drawing No. SSA PH B. A copy of said drawing is attached as Exhibit B and incorporated by reference into this Agreement. If the premises are reduced by removal of the area marked Parcel 2 on Exhibit A, Tenant at its sole discretion may use the area marked Parcels 6 and 7 or some portion thereof on Exhibit B. If the premises are reduced by the additional five acres of backland or some portion thereof, Tenant shall not be entitled to any additional acreage.

Within sixty (60) days from the date City's notice is postmarked, Tenant shall advise City in writing whether it will use the area generally described on Exhibit B, but more particularly described in City's notice to Tenant. In no event shall the backland area made available to Tenant be less than fourteen (14) acres, plus or minus 1/2 acre. If Tenant does not exercise its option to use the area generally described as Parcels 6 and 7 on Exhibit B within said sixty (60) days, City may offer the area to others and shall have no further obligation to provide an area to Tenant for the area taken by City in accordance with subsection (b).

If Tenant exercises its option, Tenant understands and agrees that the area generally described as Parcels 6 and 7 on Exhibit B may not be equal in configuration or equal for operational purposes to the area taken and will accept the area as presented by City. Tenant understands that City will be making improvements to the backland area and that the backland area may not be improved at the time the premises are reduced in accordance with subsection (b). Attached hereto marked Exhibit B-1 is a list of the proposed improvements. If Tenant exercises its option, Tenant may take possession within thirty (30) days after its notice to City with the understanding that

the improvements set forth in Exhibit B-1 may not be started or completed. City shall make all reasonable efforts to complete the improvements shown on Exhibit B-1. The area added shall be incorporated in and made a part of the premises and subject to all the terms and conditions of this Agreement. Tenant upon sixty (60) days written notice to City may reduce the area granted in accordance with this subsection (c) or (d). Any reduction will result in a modification to compensation in accordance with Section 4 of this Agreement.

The formula for modification to compensation for the area added to the premises is set forth in Section 4 of this Agreement and the modification to compensation will be effective on the date City makes the area available for Tenant's use.

City shall not be responsible for any relocation costs or damages whatsoever that might be associated with the reduction in area, move to the backland area or delays in the construction of the improvements.

(d) Additional Option to Use Area Described on Exhibit B. Notwithstanding subsection (c) during the first three (3) years of this Agreement, Tenant may exercise an option to use the area generally described as Parcels 6 and 7 on Exhibit B or a portion thereof upon sixty (60) days written notice to City. If Tenant exercises this option it shall be subject to the terms and conditions of subsection (c) and this Agreement. If Tenant exercises this option prior to City reducing the premises in accordance with subsection (b), City shall not be obligated to provide any additional area to Tenant upon exercising its rights under subsection (b).

(e) Berths 144-146. During the first three (3) years of this Agreement, if Tenant secures for use of the premises (Indies Terminal area), written confirmation of which shall be provided City, either the Nippon Yusen Kaisha ("NYK") container account or a container account of similar volume not using the Port of Los Angeles or approved by the Executive Director for substantially all containers of either company moved through the San Pedro bay ports, City shall provide an area at Berths 144-146 for Tenant. Tenant understands it must first offer its services to NYK and make all reasonable efforts to secure the NYK account. If Tenant is unable after good faith efforts to secure the NYK account, it may then attempt to secure another account for use of the premises. Tenant shall provide City written notice of its intent to service NYK or another company's container account at the premises and its intent to use Berths 144-146. City shall have forty-five (45) days to provide to Tenant the area at Berths 144-146 generally described as Parcel Nos. 1, 3 and 4 on Drawing No. SSA PH C. A copy of said drawing is attached as Exhibit C and incorporated by reference into this Agreement. The area offered by City may be different than the area generally described on Exhibit C. City shall offer Parcel No. 1 of Exhibit C and in addition may offer all or a portion of Parcel Nos. 3 and 4. If Tenant exercises its option to use the area at Berths 144-146, Tenant must accept Parcel No. 1. If City offers all or a portion of Parcel Nos. 3 and 4, Tenant may accept the areas offered within Parcel Nos. 3 and 4 or as otherwise mutually agreed to by the parties.

Said area shall be incorporated in and made a part of the premises and subject to all the terms and conditions of this Agreement. The formula for modification to compensation for the area at Berths 144-146 is set forth in Section 4 of this Agreement.

If Tenant loses the company's container account that was the basis for City granting the use of the area at Berths 144-146, either party upon one hundred twenty (120) days written notice to the other party may terminate the use of the area at Berths 144-146. The formula for modification to compensation for the reduction of area at Berths 144-146 is set forth in Section 4 of this Agreement.

City shall not be responsible for any costs or damages whatsoever that might be associated with Tenant's move to or discontinued use of Berths 144-146.

(f) City's Right to Relocate Tenant from Berths 144-146. Tenant understands and agrees that at some future date, no sooner than July 1, 1992, Evergreen or its successor may move from its present location at Berths 227-236. If Evergreen is going to move from Berths 227-236, City at its sole discretion upon one hundred eighty (180) days written notice to Tenant, may require Tenant to vacate the area at Berths 144-146. If City requires Tenant to vacate the area at Berths 144-146, City shall at Tenant's option, such option to be exercisable by written notice given to City within sixty (60) days after Tenant receives City's notice to vacate, provide an area of approximately equal size including one container berth and container cranes as necessary at Berths 227-228. The maximum area that would be granted Tenant is described as Parcel No. 8, Drawing No. SSA PH D. A copy of said drawing is attached as Exhibit D and incorporated by reference into this Agreement. The actual area to be granted Tenant within the area marked Parcel No. 8 on Exhibit D will be contained within City's notice requesting Tenant to vacate the area at Berths 144-146 but in no event shall be less than nineteen (19) acres plus or minus 1/2 acre and include a container berth of approximately 1,000 lineal feet. The area when granted shall become part of the premises and subject to the terms and conditions of this Agreement.

The formula for modification to compensation for area added and/or removed is set forth in Section 4 of this Agreement. If Tenant fails to exercise its option it still must vacate the Berths 144-146 area within said one hundred eighty (180) days.

City shall not be responsible for any relocation costs or damages whatsoever due to Tenant's vacating the area at Berths 144-146 and move to the area generally described on Exhibit D.

(g) Additional Premises Reduction. At any time after June 1, 1994, City may with one hundred eighty (180) days written notice to Tenant reduce the area of the premises by no greater than seventy-two (72) acres. The maximum area that can be taken from the premises by City is described on Parcel No. 9 of Drawing No. SSA PH E. This drawing is on file in the office of the Harbor

Engineer. A copy of said drawing is attached as Exhibit E and incorporated by reference into this Agreement. City's notice to Tenant shall include a drawing showing the actual area to be removed from Tenant's premises and the area at Seaside that Tenant may use which area shall be approximately the same number of acres plus or minus five (5) acres taken by City in accordance with subsection (g). The City's right to reduce the area of the premises is absolute and Tenant shall not be entitled to any compensation, offset or damages other than what is provided for in this Agreement.

The formula for modification to compensation for the reduction of area described in the notice is set forth in Section 4 of this Agreement which modification shall commence on the date Tenant vacates the area reduced by this subsection (g).

If City notifies Tenant of a reduction in the premises in accordance with this subsection (g), Tenant at its option will be granted an adjacent area. The maximum area that could be granted is described on Exhibit E, Parcel No. 10.

Within sixty (60) days from the date City's notice is postmarked, Tenant shall advise City in writing whether it will use the area generally described in Exhibit E, but more particularly described in City's notice to Tenant. If Tenant does not exercise its right to use the area generally described on Exhibit E within said sixty (60) days, City may offer the area to others and shall have no further obligation to provide an area to Tenant for the area taken by City in accordance with this subsection (g).

If Tenant exercises its option, Tenant understands and agrees that the area generally described on Exhibit E may not be equal in configuration or equal for operational purposes to the area taken and will accept the area as presented by City. If Tenant exercises its option, Tenant may take possession on the same date City takes possession of the area taken in accordance with this subsection. The area added shall be incorporated in and made a part of the premises and subject to all the terms and conditions of this Agreement. The formula for modification to compensation for the area added to the premises is set forth in Section 4 of this Agreement which modification shall commence on the date Tenant takes possession of the area added by this subsection (g).

City shall not be responsible for any relocation costs or damages whatsoever that might be associated with the reduction in area and move to the area at Seaside.

(h) Board to Approve Notices Required by this Section 2. Any notice to Tenant of a modification by addition and/or deletion to the premises contemplated by this Section 2 shall require Board approval. Further approval of the Council of City or of the FMC shall not be required so long as the additions to and/or deletions from the premises are authorized by this Section 2. The additions to and/or deletions from the premises authorized by this Section 2 shall be separate and apart from those authorized by subsection (l) of this Section.

(i) Tenant to Supply Necessary Labor and Equipment. Tenant shall at its own cost and expense, provide all tackle, gear and labor for the berthing and mooring of vessels at the berths and shall provide at its own expense, such appliances and employ such persons as it may require for the handling of goods, wares and merchandise; provided, however, that nothing contained herein shall prevent Tenant from using such appliances as may be installed by City at the berths upon the payment to City of all applicable charges.

(j) Reservations. This Agreement and the premises delivered are and shall be at all times subject to the following:

(1) Utility Rights-of-Way. Rights-of-way for sewers, pipelines, conduits and for telephone, telegraph, light, heat and power lines as may from time to time be determined necessary by Board, including the right to enter upon, above, below or through the surface to construct, maintain, replace, repair, enlarge or otherwise utilize the premises for such purpose, without compensation or abatement of rent, provided the surface shall be restored as much as possible to the condition previously existing and provided further that if any such activity will interfere with Tenant's use of the premises so as to effectively deny Tenant's use of greater than five percent (5%) of the total acreage granted hereunder for a period exceeding thirty (30) days, then Tenant shall be provided a replacement area similar in size to the area Tenant is unable to use. If City is unable to provide a replacement area, compensation shall be reduced in accordance with Section 4 based on the acres the use of which Tenant is denied. Tenant is aware the City Department of Water and Power or other utilities providing service to the terminal both periodically and in an emergency need to service or repair facilities on the premises. Tenant agrees to relocate at its expense, its cargo, chassis and equipment to provide Department of Water and Power or any other utility adequate access for periodic and emergency maintenance. In an emergency, Tenant agrees to complete such relocation within six (6) hours of receiving notice from City.

(2) Streets and Highways. Rights-of-way for streets and other highways and for railroads and other means of transportation which are apparent from a visual inspection of the premises or which shall have been duly established or which are reserved herein.

(3) Prior Exceptions. All prior exceptions, reservations, grants, easements, leases or licenses of any kind whatsoever as the same appear of record in the Office of the Recorder of Los Angeles County, California, or in the official records of City or any of its various departments City represents that to best of its knowledge there exists no such prior exceptions which would substantially deprive Tenant of the benefits of this Agreement or substantially interfere with its operations.

(4) Oil Drilling. The right of City to occupy portions of the premises as may be necessary for drilling purposes and to use and grant others the right to use the same to drill for and produce oil or other hydrocarbon substances therefrom; provided, that such uses do not

materially interfere with the operation of Tenant hereunder and, provided further, that the rental herein designated shall be adjusted proportionately to compensate for the surface areas to be used.

(k) Inspection. Tenant has inspected the premises in contemplation of occupying them for the uses permitted and agrees that:

(1) Suitability. The premises, including any improvements covered by this Agreement, are suitable for Tenant's intended uses. No officer or employee of City has made any representation or warranty with respect to the premises, including improvements and Tenant has not relied on any such warranty or representation unless the nature and extent of such representation or warranty is described in writing and attached to this Agreement.

(2) Additions and Improvements at Tenant's Expense. Any modification, improvement, or addition to the premises and any equipment installation required by the Fire Department, Department of Building and Safety, Air Quality Management District, Regional Water Quality Control Board, Coast Guard, Environmental Protection Agency, or any other local, regional, state or federal agency in connection with Tenant's operations shall be constructed or installed at Tenant's expense. Taking into consideration the then existing custom and practice of the Port of Los Angeles ("Port") as determined by the Board at its sole discretion, City may assume some or all the costs of such additions and improvements. City hereby represents to the best of its knowledge there is no pending improvement, modification or addition to the premises or equipment which has been requested or required by any such agency with respect to the premises.

(l) Amendment of Provisions. If this Agreement requires the approval of the Council of City or the Federal Maritime Commission ("FMC") to become effective, then by mutual agreement land and water not exceeding ten percent (10%) of the area granted or 20,000 square feet, whichever is greater, may be permanently added to or deleted from the premises granted herein without further approval of the Council of City or of the FMC subject to the following conditions: (1) So long as such change in area is not temporary within the meaning of Tariff Item 640 (or its successor), the minimum annual guarantee and revenue sharing breakpoint set forth in Section 4 shall be increased or decreased pro rata to reflect any such addition or deletion; (2) if the change involves the addition or deletion of any improvement, the adjustment to the minimum annual guarantee and revenue sharing breakpoint(s) shall also take into account this change in the same manner in which the compensation was originally calculated; (3) if permanent changes in area are made on more than one occasion, the cumulative net change in area may not exceed ten percent (10%) or 20,000 square feet, whichever is greater, of the originally designated area. The Board is authorized to execute amendments to this Agreement to effect the foregoing adjustments to area and compensation without further action of the Council or the FMC, provided, however, copies of any Amendments made pursuant to this provision shall be filed with the City Council and FMC for information. The provisions above shall not limit the

Board's right to adjust the size of the premises or compensation in other ways so long as Council approval and Shipping Act requirements are satisfied.

Section 3. Term.

(a) Length. This Agreement has a term not to exceed ten (10) years and shall terminate on June 30, 1999. This Agreement shall be submitted to the Federal Maritime Commission of the United States of America for review pursuant to Section 5 of the Shipping act of 1984 ("Act"). Tenant understands that City may seek other operators or other uses for the premises for the period following the term of this Agreement. The entry by City into this Agreement with Tenant shall not be interpreted as an assurance that Tenant will be granted the use of the premises or any other lands within the Harbor District for any period beyond the term hereof.

This Agreement shall take effect as of the latest of (i) the first day after it becomes effective under the Act or the FMC determines it is not subject to said Act, (ii) thirty-one (31) days after publication of the order or ordinance approving this Agreement, and (iii) the first day after FMC Docket No. 88-23 has been dismissed with prejudice as to all parties. Tenant's obligation to pay compensation shall begin on the Agreement effective date unless otherwise provided in Section 4.

(b) Holdover. Tenant shall not hold over any part of the premises after termination or expiration of this Agreement without first obtaining the Executive Director's written approval. Any such holdover shall be deemed an extension of this Agreement on a month-to-month basis and upon the same terms and conditions as set forth in this Agreement except that the minimum annual guarantee and revenue sharing breakpoint(s) during the holdover period shall be one hundred fifty percent (150%) of the minimum annual guarantee and one hundred fifty percent (150%) of the revenue sharing breakpoint(s) for the immediately preceding compensation period unless the Board at its sole discretion with written notice to Tenant increases the compensation by some lesser percentage provided, however, if a new agreement is reached, then the monies paid during the holdover period shall count against the new compensation which shall accrue from the date the holdover commenced. If the new compensation is more than the compensation paid during the holdover, Tenant shall immediately pay City the difference due for the holdover period. If the new compensation is less than the amount due and paid for the holdover period, Tenant shall be entitled to a credit against future sums owed to City under the Agreement. No interest shall accrue on the amount due to City or Tenant pursuant to this provision except to the extent Tenant fails to pay any deficiency with thirty (30) days of a billing from City. If interest is due it shall accrue at the rate provided in Item 1227 of Tariff, currently two percent (2%) per month. If no new Agreement is entered into and the holdover is for a period less than twelve (12) months the minimum annual guarantee but not revenue sharing breakpoint(s) shall be prorated by multiplying it by the fraction $X/360$ where X is the number of days in the holdover period provided however Tenant shall not be entitled to any refund if the tariff charges

counting toward the minimum annual guarantee which have accrued exceed the prorated minimum.

Section 4. Compensation.

(a) Payment of Tariff No. 3 Charges. Tenant shall be responsible for: (1) collecting Tariff charges accruing at the premises established and required by Tariff less that portion of Tariff charges in excess of the amount Tenant is required to pay City which Tenant elects not to collect from its customers, as stated in its terminal services agreements with its customers, copies of which may be viewed upon request at the offices of Tenant by the Executive Director or someone from the finance section of the Port which information is to be held in confidence by the Executive Director and the finance division of the Port and for (2) remitting to City the amounts of such shared charges, whether or not collected, in accordance with the provisions of subdivision (b) of this section and Exhibits F, F-1, and F-2 provided, however, the Tariff and this Agreement do not require Tenant to collect Tariff charges from its customers which are in excess of the amount Tenant is required to pay City under this Agreement, so long as Tenant is not delinquent in its payment obligations under this Agreement and so long as any sharing by Tenant is in accordance with any requirements of the Shipping Act of 1984 or its successor and this Agreement. Tenant shall remit to City one hundred percent (100%) of all tariff charges which are not shared pursuant to Section 4(b). Notwithstanding any other provision of this Agreement, Tenant's obligation to pay all compensation payable under this Section 4 shall not be affected by any circumstance, including, without limitation, any set-off, counterclaim, recoupment, defense or other right which Tenant may have against City.

(b) Minimum Annual Guarantee and Revenue Sharing. For each annual compensation period for the term of this Agreement, Tenant guarantees to City for use of the premises a minimum annual payment. In this Section 4, the term "annual compensation period" may be referred to as "year" and the "minimum annual payment" is referred to as "minimum annual guarantee" or "MAG." Years commence on the effective date of this Agreement unless otherwise provided. The minimum annual guarantee for the first five (5) years shall be as set forth in Exhibits F, F-1, and F-2" subject to any adjustments as provided below. The minimum annual guarantee shall accrue the first day of each annual compensation period and shall be paid as provided in Exhibits F, F-1, and F-2 based on Port accounting records of verified billed amounts. Payment of the MAG shall entitle Tenant, its customers or invitees to use the office space designated in Exhibits F, F-1, F-2 without additional charge. Tenant shall pay for any office space used in excess of that specified in Exhibits F, F-1, and F-2, at the tariff rate. Tenant shall be entitled to share tariff charges accruing at the premises with City as provided in Exhibits F, F-1, and F-2 based on Port accounting records of verified billed amounts.

In addition to the minimum annual guarantee required by this subsection (b), Tenant guarantees to City for each compensation period a minimum annual guarantee based solely on monies paid to City for wharfage, dockage, storage

and demurrage as a result of YML's cargo handled at the premises ("YML guarantee"). The YML guarantee shall be One Million Seven Hundred Thousand Dollars (\$1,700,000) each compensation period or a pro rata portion thereof if YML uses the premises for less than twelve (12) months. The YML guarantee shall exist so long as YML uses the premises. Thirty (30) days after the end of each compensation period City shall determine the monies it has received from Tenant as wharfage, dockage, storage and demurrage attributable to YML's cargo handled at the premises. If City has been paid less than One Million Seven Hundred Thousand Dollars (\$1,700,000), Tenant shall within thirty (30) days after written notice by City pay the difference to City.

(c) Adjustment of Compensation - Tariff Changes. On the effective date of an increase or decrease in the Tariff rate for Merchandise Not Otherwise Specified (N.O.S.), the minimum annual guarantee and revenue sharing breakpoint(s) specified in Exhibits F, F-1, and F-2 shall be increased or decreased proportionately by multiplying them by the factor: X divided by Y, where X represents the increased or decreased tariff wharfage rate for cargo Not Otherwise Specified (N.O.S.) and Y represents the N.O.S. wharfage rate being superseded. Tenant thereafter shall pay City a minimum annual guarantee based on the revised rate and shall share revenues based on the revised breakpoints. The minimum annual guarantee and revenue sharing breakpoints for each year shall be the weighted average based on the number of days of those in effect during the year. All tariff increases occurring after the day Tenant signs this Agreement shall result in the described adjustment.

(d) Adjustment in the Compensation for Reduction or Addition of Area of Premises. At any time during the first five (5) years of this Agreement if area is added or deleted, the minimum annual guarantee and revenue sharing breakpoints shall be adjusted by increasing or decreasing said amounts by the following amounts:

	<u>MAG</u>	<u>RSB</u> <u>(50%-50% Sharing)</u>	<u>RSB</u> <u>(75%-25% Sharing)</u>
Years 1 and 2	\$58,500/acre	\$27,100/acre	\$58,500/acre
Year 3	\$76,500/acre	\$27,100/acre	\$58,500/acre
Years 4 and 5	\$76,500/acre	\$27,100/acre	\$70,200/acre

The amounts set forth above shall be prorated for any portion of an acre and shall be prorated for the portion of the year the acres are either added to or deleted from the premises.

An example would be as shown on Exhibit G attached hereto and made a part of this Agreement.

(e) Adjustment of Compensation Payments and Compensation Periods. It is the intent of the parties that the interests of City and Tenant with respect to the payment and receipt of compensation as described in this Agreement shall replace those currently in effect as of July 1, 1989. Accordingly, not later than ninety (90) days after the effective date of this Agreement, the parties shall mutually calculate the amount of compensation which would have been due and payable as if this Agreement had been in effect from and after

said date. If the amount of compensation which would have been due and payable exceeds that which accrues in accordance with the currently effective agreement for the premises, Tenant shall pay to City the difference within 120 days after the effective date hereof. If the amount of compensation calculated in accordance with this Agreement from said date is less than that which accrues in accordance with the currently effective agreement, City shall credit Tenant with the difference. Accordingly, after this Agreement becomes effective, the first compensation period shall be considered to run from July 1, 1989, through June 30, 1990. Successive compensation periods shall begin on July 1 and conclude June 30.

(f) Filing of Statements and Payments of Charges. Tenant agrees to furnish all statements, manifests, reports and other supporting documents to pay the total amount of all charges accruing at the premises pursuant to and at or before the time provided in tariff, except as otherwise provided in this Agreement.

Tenant shall file with the Executive Director, on forms provided by the Los Angeles Harbor Department, a statement verified by the Tenant, its manager or duly authorized representative, showing all tariff charges counting toward the minimum annual guarantee or revenue sharing breakpoints as described in Exhibit F, F-1, and F-2, which accrue at the premises for each vessel berthing or mooring at the premises. Such statement shall be filed on or before the tenth (10th) day following the departure of each vessel.

(g) Payment Procedure. The parties recognize that existing agreements with City, if any, remain in effect until superseded. Accordingly, Tenant shall continue to make payments as provided in such agreements until this Agreement becomes effective. After this Agreement becomes effective, Tenant shall cause each of its customers to file with City on forms provided by City as provided in Tariff, a statement verified of one of the customer's officers or other duly authorized representative showing all tariff charges accrued during each port call of the customer's vessels. Based upon this information, City shall invoice Tenant for tariff charges due City as provided by the Tariff and this Agreement and Tenant shall remit such tariff charges to City. If Tenant at the end of each compensation year has not remitted sufficient tariff charges to cover the minimum annual guarantee for that period, Tenant shall submit within thirty (30) days all additional monies to assure the minimum annual guarantee is paid. If this Agreement terminates through no fault of Tenant, Tenant shall, on or before thirty (30) days thereafter, with or without notice from City, pay all monies due City. Any compensation due and unpaid shall incur a delinquent charge as set forth in Item 1227 (or its successor) of the Tariff, currently two percent (2%) per month.

(h) Records and Accounts. All books, accounts and other records showing the affairs of Tenant with respect to its non-stevedoring business transacted at, upon or over the premises shall be available locally, and shall be subject to examination, audit and transcription by Executive Director or any person designated by him. If it becomes necessary to make such examination, audit or transcription at any place other than within fifty (50) miles of the premises, then all costs and expenses necessary, or incident to such examination, audit or transcription shall be paid by Tenant. These records shall be retained

during the term of this Agreement so that the records for the four (4) most recent years are available. After this Agreement terminates, Tenant shall maintain the records for the four (4) most recent years for at least two (2) years. Upon request in writing by Executive Director or his designated representative, Tenant shall furnish a statement of the exact location of all records and the name and telephone number of the custodian of these records. The statement shall be submitted within fifteen (15) days of the request and shall contain such detail and cover such period of time as may be specified in any such request. Records produced for City are subject to the Public Records Act of Government Code Sections 6250 et seq. If City receives a request for production of such records and Tenant objects to such production City shall provide Tenant an opportunity to file a court action to protect such records before it produces such records.

(i) Renegotiation of Compensation. The compensation to be paid by Tenant to Board for each five (5) year period or any portion thereof following the first five (5) year period which ends on June 30, 1994 shall be readjusted. Such compensation shall be mutually agreed upon between Tenant and Board at some time not more than nine (9) months and not less than three (3) months before the beginning of each such period and shall be established by order of Board provided that if compensation has not been determined by the beginning of the new compensation period, the minimum annual guarantee and revenue sharing breakpoint(s) for the new period, subject to the final compensation being negotiated, shall be one hundred fifty percent (150%) of the minimum annual guarantee and one hundred fifty percent (150%) of the revenue sharing breakpoint(s) of the former period which shall be paid in the same manner as provided in Section 4(g) of this Agreement except that the Board at its sole discretion by written notice to Tenant may reduce the percentage increases of one hundred fifty percent (150%) to a lesser amount. If negotiation for the new compensation has not begun six (6) months prior to expiration of each five (5) year period, Tenant shall immediately set a date with City to discuss the readjustment of compensation. If Tenant and Board cannot agree upon the amount of such compensation, the compensation for the new period shall be determined in the following manner:

Three appraisers shall be appointed. One appraiser shall be appointed by Board, one by Tenant and the third by the two appraisers so appointed. If such compensation has not been mutually agreed upon within the time above prescribed, Board shall give to Tenant a written notice demanding an appraisal of the fair rental value of the premises and naming the person appointed by Board to act as an appraiser on its behalf. Within fifteen (15) days from the service of such notice, Tenant shall appoint an appraiser and notify Board of such appointment. If either party shall not have notified the other in writing of the appointment of its appraiser, the Presiding Judge of the Superior Court of the State of California for the County of Los Angeles shall, upon the request of either party, appoint the appraiser for the party so in default. If the two appraisers so chosen shall be unable to agree upon the third appraiser within ten (10) days after the appointment of the second appraiser, the third appraiser shall be appointed by said Presiding Judge. Any vacancy shall be filled by the party who made the original appointment to the vacant place.

The appraisers shall reach their opinions concerning the fair rental value of the premises in writing within sixty (60) days after the appointment of the third appraiser. Such opinions shall take into consideration the uses permitted under this Agreement and all of its terms, conditions and restrictions. Such opinions shall also take into consideration all of the factors and data relating to such value which may properly be considered in determining the fair value of leaseholds under the laws of eminent domain in the State of California. If any appraiser fails to file his opinion within said sixty (60) days, a new appraiser shall be appointed in the manner prescribed above.

Upon the filing of the three opinions, Board shall properly set a date for, and on said date hold, a public hearing. At such hearing said opinions and such other evidence of the fair compensation value of the premises as may be presented by Tenant or others shall be received and considered. Based upon such evidence, Board's adopted policy on rate of return and any other relevant factors, Board shall determine the fair compensation value of the premises and shall establish the same by order as the compensation to be paid by Tenant for the five (5) year period under consideration. Before the new rate becomes effective, the Board order or amendment approving said rate shall be filed with the FMC and become effective under the Shipping Act of 1984 and 1916.

Each party shall pay the costs and expenses of the appraiser appointed by it, together with fifty percent (50%) of the costs and expenses of the third appraiser.

The monies paid at the one hundred fifty percent (150%) rate shall count against the new compensation which shall accrue from the date the new five (5) year period commences. If the new compensation is more than the compensation paid at the one hundred fifty percent (150%) rate, Tenant shall immediately pay City the difference due for the period in question. If the new compensation is less than the amount paid at the one hundred fifty percent (150%) rate, Tenant shall be entitled to a credit against future sums owed to City under this Agreement. No interest shall accrue on the amount due to City or Tenant pursuant to this provision except to the extent Tenant fails to pay any deficiency within thirty (30) days of a billing from City. If interest is due it shall accrue at the rate provided in Item 1227 of Tariff, currently two percent (2%) per month. Before the newly negotiated rate becomes effective, the Board order or amendment approving the specially negotiated rate shall be filed with the FMC and become effective under the Shipping Acts of 1984 and 1916.

(j) Deposits to Secure Compensation Obligations. Upon the written request of the Executive Director at his sole discretion, Tenant shall provide a cash deposit, certificate of deposit, surety bond, letter of credit, letter of guarantee or other form of security acceptable to the Executive Director in an amount not to exceed the MAG in effect at the time such security is required payable to the City of Los Angeles or payable as the parties may otherwise agree to guarantee its compensation obligations to City. Any security posted shall be in a form satisfactory to the Executive Director and the City Attorney and subject to the approval of the City Attorney. Tenant

agrees to execute any and all documents necessary to create a secured interest in City if the form of security provided, in City's opinion, requires such security agreement. City shall have the right to draw upon the security at any time after City has provided Tenant a written notice of delinquency in the payment of compensation in accordance with Section 4 and Tenant has failed to cure the delinquency within thirty (30) days of the date the notice is postmarked or personally delivered to Tenant. If City uses all or any part of the deposit, Tenant shall immediately make another deposit in the form above as directed by City in an amount equal to the amount so used so that at all times during the term of this Agreement, said deposit shall be maintained in the sum stated above. The Executive Director at his sole discretion may review Tenant's audited financial statements, including but not limited to balance and income statements and such other financial information to the extent necessary to determine whether Tenant can meet its obligations under this Agreement. Tenant shall provide such security in satisfactory form within thirty (30) days of the date City's notice is postmarked.

(k) Disputed Payments. Tenant recognizes that disputes may arise over monies due the City in accordance with this Agreement. Tenant and City shall make a good faith effort to resolve any disputes as expeditiously as possible. Tenant agrees, upon receiving a billing from City which it disputes to deposit the disputed amount in the form of cash, or certificate of deposit in the City's name in an escrow account to be mutually agreed upon by the parties within sixty (60) days of the date of billing. The deposit shall be held in the escrow account pending the resolution of the dispute. Each party shall share the costs of the escrow account on a 50-50 basis. If the dispute is resolved in the City's favor, City shall receive the money and all accumulated interest. If the dispute is resolved in the Tenant's favor, Tenant shall receive the money and all accumulated interest. Tenant understands that its failure to provide a deposit acceptable to City within sixty (60) days shall be considered a material default of this Agreement and City shall be entitled to cancel this Agreement upon thirty (30) days written notice. Failure to provide a deposit shall require Tenant to make all payments in accordance with Item 1225 of the Tariff and Tenant shall be removed from the Credit List authorized by Item 1215 of the Tariff or as amended or superseded. This subsection (k) shall not apply if the billing for one disputed amount exceeds One Hundred Thousand Dollars (\$100,000).

Section 5. Uses.

(a) Permitted Uses. Tenant shall use the premises for the docking and mooring of vessels owned, operated, or chartered by Tenant or vessels of Tenant's customers and for the assembling, distributing, loading and unloading of goods, wares and merchandise on and from such vessels over, through and upon such premises and from and upon other vessels. Tenant shall not use or permit the premises or any part thereof to be used for any other purpose without the prior written approval of Board, and subject to such restrictions, limitations and conditions as may be imposed by Board.

(b) Solicitation and Service of Customers. Tenant may solicit and serve customers at the premises provided, Tenant agrees not to solicit and serve any customer which is a Tenant of the City at other premises in the Port of Los Angeles or which is regularly served by a tenant of the Port of Los Angeles without the prior written approval of Executive Director.

(c) Increased Insurance Rates. Tenant agrees not to use the premises in any manner, except for the purposes enumerated herein, that will result in the cancellation of any insurance that City or other parties may have on the premises. If Tenant's use does cause cancellation of City's coverage, Tenant agrees to immediately cease such use upon seven (7) calendar days' written notice from City calculated from the date of postmark or date of delivery of City's letter. Tenant further agrees not to keep on the premises or permit to be kept, used, or sold thereon, anything prohibited by any policy of fire insurance covering the premises.

(d) State Tidelands Grant. This Agreement, and the premises granted hereby, shall at all times be subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled, "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929, (Stats. 1929, Ch. 651), as amended, and Article XI of the Charter of the City of Los Angeles relating to such lands. Tenant agrees not to use the premises in any manner, even in its use for the purposes enumerated herein, which will be inconsistent with such limitations, conditions, restrictions and reservations.

(e) Shipping Act. Notwithstanding any other provision contained herein, except to the extent Tenant already has an Agreement with City for portions of the premises described herein, Tenant shall not use the premises hereby granted or furnish any facilities or services thereon for or in connection with a common carrier by water as that term is defined in the Shipping Act, 1984, as amended, unless and until this Agreement has been submitted to the Federal Maritime Commission pursuant to the Shipping Act of 1984, and has either become effective under or has been determined not to be subject to said Act.

(f) Load Limit. Tenant shall not bring any cargo handling equipment onto the premises without first: (i) providing to Harbor Engineer a list showing the name, type, weight, and wheel loading of the equipment and the area of the terminal in which it is to be used; and (ii) receiving Harbor Engineer's written permission to use said equipment. Equipment listed on the attached schedule and other equipment having similar weight and wheel loading characteristics shall be deemed to satisfy the terms of the preceding sentence. No loading in excess of that listed in the Harbor Engineer's permit shall be allowed on any wharf apron, which is that portion of the premises extending inboard from the face of the wharf to the bulkhead wall (the wall separating the land from the water). No railroad loading shall exceed the amount specified in the Harbor Engineer's permit. No loading in the remainder of the premises shall be such as to damage paving or underground utilities. If City discovers that overloading by Tenant exists, upon receipt of notice

thereof from City, Tenant shall immediately correct the condition and shall be responsible for and shall indemnify the City for any damage arising therefrom.

(g) Clearing of Wharf. Upon the departure of a vessel which has been berthed at the premises, Tenant at its cost, shall forthwith clear the wharf for its entire length inboard to the bulkhead wall so that such area shall be available for use in connection with cargo to be loaded or discharged from other appropriately scheduled vessels when necessary to reasonably accommodate the operational needs of secondary, tertiary and other users permitted in accordance with the terms of this Agreement and the Tariff.

(h) Wilmington Truck Route. It is recognized by both parties that Tenant does not directly control the trucks serving the terminal. However, Tenant will make its best effort to notify truck drivers, truck brokers and trucking companies, that trucks serving the terminal must confine their route to the designated Wilmington Truck Route of Alameda Street and "B" Street; Figueroa Street from "B" Street to "C" Street; and Anaheim Street east of Alameda Street. A copy of the Wilmington Truck Route is attached hereto and marked Exhibit H, which may be modified from time to time at the sole discretion of the Executive Director with written notice to Tenant.

Section 6. Default and Termination.

(a) Default and Right to Terminate.

(1) Upon the neglect, failure or refusal by Tenant to comply with any of the terms or conditions of this Agreement, after thirty (30) days' written notice and demand by Executive Director to comply with any such term or condition, Board may, at its option, declare this Agreement forfeited. Thereafter Board may recover possession of the premises as provided by law. However, if there is any default in the payment by Tenant of the compensation payable under Section 4, Executive Director may give to Tenant a ten (10) day notice to pay all sums then due, owing and unpaid. If such payment is not made within such ten (10) day period, at the election of City, stated in such notice, this Agreement and Tenant's rights hereunder are forfeited and City has the rights above set forth.

(2) Upon any forfeiture of this Agreement, Tenant shall immediately surrender all rights in and to the premises and all improvements. Tenant expressly agrees to indemnify City for any loss City may suffer if the Agreement is terminated and Tenant fails to vacate the premises. These losses include, but are not limited to, increased costs to City's contractors, if their work is delayed by Tenant's failure to vacate the premises and City's loss of increased revenues resulting from the delay in re-renting the premises at the then current rate. Upon any such forfeiture of this Agreement, any and all buildings, structures and improvements of any character whatsoever, erected, installed or made by Tenant or by a predecessor with whom Tenant has been affiliated or has dealt directly under, through, or because of, or pursuant to the terms of

this Agreement, or any prior Agreement shall immediately ipso facto either become the property of City free and clear of any claim of any kind or nature of Tenant or its successors in interest, and without compensation to Tenant or its successors, or with respect to Tenant's improvements only become removable by Board at the sole expense of Tenant, at the option of Board. Notwithstanding anything herein to the contrary, all cranes owned by Tenant shall remain the property of Tenant and shall not be forfeited hereunder.

(3) If this Agreement is forfeited as set forth above, Board may enforce all of its rights and remedies under this Agreement. The damages that City may recover include the worth at the time of the award of the amount by which the unpaid compensation for the balance of the term of this Agreement exceeds the amount of such compensation loss for the same period Tenant proves could have been reasonably avoided. The parties specifically agree the compensation to which City is entitled subject to such avoidable compensation loss includes:

(i) The worth at the time of the award of future guaranteed minimums payable under this Agreement from the date of forfeiture to the end of the term of this Agreement; and

(ii) The worth at the time of the award of all rent pursuant to the revenue sharing provision of this Agreement from the date of forfeiture to the end of the term of this Agreement. If a dispute arises as to the amount owned by Tenant under the revenue sharing provision of this Agreement, the parties agree that the factors to be considered in the calculation of said amount are:

- a. Tenant's past history of revenue sharing payments to City under this Agreement, and
- b. if the information in (a) is not available for a twelve months period, then the amounts of cargo handled by Tenant at other facilities it may operate and the amounts of revenues generated by similar tenants under revenue sharing agreements with the City.

For purposes of this provision, the minimum annual guarantee shall be deemed to accrue at the beginning of each compensation period. Tenant specifically recognizes the right of City to collect the damages permitted by Civil Code Section 1951.2 which Tenant acknowledges it has read.

(4) Any default in Tenant's obligations to make payments to City under the terms of any berth assignment, lease, permit or other agreements, when such default involves the sum of One Hundred Thousand Dollars (\$100,000) or more, shall constitute a material default on the part of Tenant with respect to this Agreement. At any time Tenant has defaulted in payments due under other agreements, City may give Tenant a thirty (30) day default notice for this Agreement as provided above and this Agreement may be forfeited if the default in rental payments of

other agreements, including but not limited to berth assignments, leases and permits, is not current within this thirty (30) day period.

(b) Thirty-Day Nonuse. If Tenant fails or ceases to use the premises or any substantial portion thereof for the purposes and in the manner herein prescribed for a period of more than thirty (30) consecutive days without the consent of Board, Board may declare this Agreement forfeited in accordance with the provisions of subsection (a) of this Section 6. Thereupon all the right, title and interest of Tenant hereunder shall cease and terminate. However, if cessation of or failure to use as herein prescribed is caused by reason of war, bona fide strikes or riots, civil commotion, acts of public enemies, earthquake, other natural disaster or action of the elements, and Tenant so notifies the Board within ten (10) days from the date said period of cessation or failure to use began, such period of nonuse shall be excluded in computing the thirty (30) day period set forth herein.

(c) Termination by Court Decree. If a United States Court, State or Federal Court, renders a decision which has become final and which will prevent the performance by City or Tenant of any of its obligations under this Agreement, then either party hereto may terminate this Agreement by written notice. Thereafter all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall terminate.

(d) Termination by Destruction of Premises. If all of the major structures owned by or under control of Board are totally destroyed or rendered unusable by fire not resulting from Tenant's neglect or fault, or by earthquake, other natural disaster or action of the elements or by governmental action as a result of the discovery of hazardous waste or hazardous materials as those terms are defined in Section 8(b) of this Agreement, or are so nearly destroyed as to require rebuilding, then the compensation shall be paid to the time of such destruction and this Agreement shall thereupon terminate. Neither party hereto shall have any further rights or be under any further obligations on account of this Agreement, except that City shall be entitled to receive all rent accrued to the date of destruction prorated based on the number of days in the compensation period preceding the destruction of the premises except that with respect to hazardous waste and hazardous materials the restoration obligations set forth in Section 8(b) shall remain in effect. For the purposes hereof, damage or injury to the extent of fifty percent (50%) of the replacement value of all of the major structures including not just buildings, but container yard improvements owned by or under the control of Board shall constitute a total destruction thereof. If such structures are partially destroyed by fire not resulting from Tenant's neglect or fault, earthquake, or other natural disaster or action of the elements, or by governmental action as a result of the discovery of hazardous waste or hazardous materials as those terms are defined in Section 8(b) of this Agreement not resulting from Tenant's or Indies Terminal Company's use of the premises, City with reasonable promptness and dispatch shall repair and rebuild the same, providing the same can be repaired and rebuilt within one hundred eighty (180) working days. If such damage cannot be repaired within a one hundred eighty (180) working days, either party shall forthwith have the right to terminate this Agreement. Additionally, any destruction to the

extent that such materially hinders the use of the entrance or access to the premises and/or the wharf, apron or berthing area, which cannot be repaired or rebuilt within one hundred eighty (180) working days shall be deemed to be a total destruction notwithstanding that the extent of the same is less than fifty percent (50%) of the replacement value of all the structures, and in such event Tenant shall forthwith have the right to terminate this Agreement. Tenant shall pay compensation during such period of repair or rebuilding in the proportion that the portion of the premises occupied by Tenant bears to the entire premises. For the purposes hereof, damage or injury that amounts to less than fifty percent (50%) of the replacement value of all the major structures owned by or under the control of Board shall be considered as a partial destruction. This provision does not apply to structures constructed by Tenant.

(e) Termination and Abatement of Compensation as a Result of Force Majeure. If the operation of the premises (including any structures or facilities constructed thereon, or the container crane(s), or any parts thereof) is suspended or abated or utilization thereof prevented or impaired by governmental authority (provided the governmental action is not a result of Tenant's neglect or fault), civil commotion, acts of God, reason of war, the public enemy, warlike operations, strikes or other labor disputes, lockouts (other than those caused by Tenant), or other work stoppages (provided such are bona fide labor-management disputes), so as to render the premises wholly or in substantial part untenable or unfit for use or so as to make it impracticable for Tenant to make reasonable or full use thereof, the Minimum Annual Guarantee and compensation for container cranes payable by Tenant and the Revenue Sharing Breakpoints, for the year in which the force majeure incident occurs shall be reduced, commencing the thirtieth (30th) day after Tenant notifies City in writing of the commencement of any of the foregoing occurrences. Such reduction shall be applicable until such condition or conditions cease. The amount of such reduction shall be determined by multiplying the Minimum Annual Guarantee and Revenue Sharing Breakpoints and crane compensation otherwise due by a fraction of which the numerator is the number of days (less thirty (30) days) during which the premises are untenable or unfit for use or incapable of use, and the denominator is three hundred sixty-five (365).

If, despite the above force majeure incident the premises are partially available for use, the Minimum Annual Guarantee and Revenue Sharing Breakpoints shall be reduced as above during the period of such force majeure incident but only in proportion to the adverse affect on Tenant's operation of the premises caused by such force majeure incident. Such adverse affect shall be measured by objective factors (such as historical operations as reflected in Tenant's books and records) and in the event of an unresolved dispute between City and Tenant thereon, each party shall be entitled to present to the appropriate trier of fact what it considers relevant evidence on such matter.

(f) Bankruptcy, Credit Arrangements, Attachments, Tax Liens. The occurrence of any one of more of the following events shall constitute a material default and breach of this Agreement by Tenant:

(1) The making by Tenant of any general assignment, or general arrangement for the benefit of creditors;

(2) The filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy;

(3) The appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the premises or of Tenant's interest in this Agreement;

(4) Any attachment of Tenant's assets at the premises for nonpayment by Tenant of any of its debts where such seizure is not discharged within ninety (90) days or contested in good faith by Tenant; or

(5) The filing of any tax lien against Tenant not discharged within ninety (90) days or contested in good faith by Tenant.

The seizure of the premises by the Internal Revenue Service shall automatically terminate this Agreement without any notice by City to Tenant provided such seizure is not vacated within ninety (90) days.

(g) Reduction in Minimum Annual Guarantee. Tenant's obligation to pay the minimum annual guarantee and additional sums shall not be reduced or excused when this Agreement is terminated except when this Agreement is terminated pursuant to the terms of subsections (c), (d) and (e) of this Section 6 [Termination by Court Decree, Termination by Destruction of the Premises and Termination and Abatement as a result of Force Majeure]. If a termination or abatement occurs under Section 6(c), (d) and (e), and if the minimum annual guarantee has not been achieved by the end of the year, Tenant shall be liable for only the pro rata portion of the minimum annual guarantee for that period the premises were actually available for use by Tenant provided however, if tariff charges for the prorated year have accrued in excess of the prorated minimum annual guarantee, Tenant shall remit all these tariff charges to City except to the extent Tenant is entitled to share revenues as provided by Section 4. The revenue sharing breakpoint(s) shall also be prorated.

(h) City as Agent to Store Property. If Tenant fails or refuses to remove its property from the premises at the expiration or termination of this Agreement, Tenant hereby irrevocably appoints City as the agent of Tenant to enter upon the assigned premises and remove any and all persons and/or property whatsoever situated upon the assigned premises and to place all or any portion of said property (except such property as may be forfeited to City) in storage for the account of and at the expense of Tenant provided however this provision shall not prevent City from taking possession and disposing of Tenant's property in anyway permitted by law and provided that this provision shall not obligate City to move or dispose of Tenant's property. It is agreed this provision is intended to assure City it may maintain complete control over the premises granted to Tenant and is not to be

construed as creating any duties of City to third persons interested in Tenant's personal property.

(i) Relocation Assistance. It is understood and agreed that nothing contained in this Agreement shall create any right in Tenant for relocation assistance or payment from City upon the expiration or termination of this Agreement or upon termination of any holdover period. Tenant acknowledges and agrees that it shall not be entitled to any relocation assistance or payment pursuant to the provisions of Title 1, Division 7, Chapter 16, of the Government Code of the State of California (Sections 7260 et seq.) with respect to any relocation of its business or activities upon the expiration or termination of this Agreement or upon the termination of any holdover period. In consideration of the level of compensation set under this Agreement, Tenant expressly waives any relocation assistance with such statutes or any future statutes may allow.

Section 7. Improvements.

(a) Approval of Plans. Tenant shall not construct or alter any works, structures or other improvements upon the premises, including a change in the grade thereof, without first submitting to Harbor Engineer a complete set of drawings, plans, and specifications and obtaining his approval. Harbor Engineer shall have the right to order changes in said drawings, plans and specifications and Tenant shall make such changes at its expense.

(b) Compliance with Applicable Laws. Every work, structure or improvement constructed, or alteration or change of grade made by Tenant shall conform with the plans and specifications submitted to the Harbor Engineer including any modifications required by the Harbor Engineer and shall conform in all respects to the applicable federal, state, regional, and local laws, statutes, ordinances, rules and regulations. The approval of Harbor Engineer given as provided in this Section 7 shall not constitute a representation or warranty as to such conformity.

(c) Cost of Permits. Tenant, at its own expense, shall obtain all permits necessary for such construction and shall require by contract that its construction contractors and subcontractors comply with all applicable federal, state, regional, and local statutes, ordinances, rules and regulations.

(d) Cost of Construction. All construction by Tenant pursuant to this Section 7 shall be at Tenant's sole expense. Tenant agrees to keep the premises and improvements constructed free and clear of liens for labor and materials. Tenant agrees to hold City harmless and agrees to defend City against liability or responsibility resulting from Tenant's construction.

(e) Notices. Tenant shall give written notice to Harbor Engineer, in advance, of the date it will commence any construction. Immediately upon the completion of the construction, Tenant shall notify Harbor Engineer of the date of such completion and shall, within thirty (30) days after such

completion, file with him a statement, verified by the Tenant or its duly authorized representative, setting forth the cost of the labor and material used. Tenant shall also file with Harbor Engineer, in a form acceptable to Harbor Engineer, a set of "as built" plans for such construction.

(f) Ownership. All improvements, works and structures made or erected by Tenant upon the premises shall be and remain the property of Tenant, subject to the terms and conditions contained herein particularly those of Section 6.

(g) Pipelines. For any pipelines, utilities or structures ("structures") of any type Tenant places on the premises, whether placed above or below ground, Tenant agrees to maintain on the premises as-built drawings and agrees to provide to City within twenty-four (24) hours notice of City's request a copy of such as-built drawings. Tenant also agrees within such period to precisely locate the position of such structures if City considers the drawings insufficient to locate them. Tenant agrees any work necessary to locate such structures or any damage which may result from the location being misdescribed, whether incurred by Tenant or City, shall be borne exclusively by Tenant.

(h) City Constructed Improvements. If City has promised to construct any improvements it shall make a good faith effort to complete them in a timely fashion, Tenant recognizes that such construction may be delayed, take longer than anticipated or interfere with Tenant's efficient use of the premises. Tenant recognizes that its operations will be affected during the time construction of various improvements is carried out. Tenant agrees that City is not liable for damages resulting from delays in construction or of City's inability to construct the improvements. Tenant agrees the completion of the improvements described is not a condition precedent to this Agreement becoming effective or remaining in effect. Tenant agrees to occupy the premises, begin operations of its business and assume all obligations under this Agreement on the first day this Agreement becomes effective.

(i) Supervision of Work. If City constructs any improvements on the premises, Tenant recognizes that City reserves total control over the design of City constructed facilities, award of the contract, and supervision of contractor. During construction of the improvements, Tenant shall give no orders to any contractors constructing City improvements unless first requested in writing by City to do so and agrees to cooperate fully with contractors in providing all necessary access to the premises and generally cooperating with the contractor. City shall use its best efforts to see that the work does not unreasonably interfere with Tenant's operations.

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Section 8. Maintenance and Restoration.

(a) Maintenance.

The maintenance obligations of the parties are as follows:

(1) Maintenance Performed by City at City's Expense (Except as Noted). Except as provided in subsections (a)(3), (a)(4), (a)(7) and (a)(8), City will maintain at its expense the roofs and exteriors of all buildings owned by City and the structural integrity of wharf structures and buildings owned by City. The "wharf structure" for purposes of this subsection means the beams, girders, subsurface support slabs, bulkheads and prestressed concrete or wood piling, joists, pile caps and timber decking (except as noted below), and any and all mooring dolphins. The wharf structure does not include the paving, the surface condition of timber decking or the fendering system. City will maintain and repair at its expense all fire protection sprinkler systems, fire hydrant systems, standpipe systems, fire alarm systems, and other fire protective or extinguishing systems or appliances (portable fire extinguishers and hoses excluded) which have been or may be installed in buildings or structures City owns on the premises. City shall also perform at its expense all electrical substation and switchgear preventive maintenance.

(2) Maintenance Performed by City at Tenant's Expense. Subject to the provisions of subsections (a)(3), (a)(4), (a)(7) and (a)(8), City shall maintain and repair the fender system along the wharves at Tenant's expense in accordance with City's wharf damage procedures, a copy of which will be provided to Tenant upon its request; provided, however, that with respect to the fender system at Berths 222-225, City shall absorb Seventy-five Thousand Dollars (\$75,000) actual repair costs made by the City during each compensation period until such time as the fender system is improved to the satisfaction of both parties. If the Seventy-five Thousand Dollars (\$75,000) sum to be absorbed by City is not reached during a compensation period, the balance shall be carried forward to the next compensation period. If, however, Tenant fails to pay City in accordance with City's wharf damage procedure (which contains depreciation criteria favorable to Tenant), other than Berths 222-225, then City reserves the right to collect the actual cost of repair based on depreciation factors as established by City estimates from annual diver surveys or other surveys such as damage surveys. City shall also maintain and repair refrigerated receptacle outlets at Tenant's expense, except that maintenance of such receptacles shall be at City's expense for the period from June 1, 1989 through September 30, 1989. City shall also maintain at expense of Tenant backflow devices and potable water systems and heating and air conditioning systems, so long as City forces are available.

(3) Maintenance Performed by Tenant at Its Expense. Tenant shall be responsible for performing and paying for all maintenance and repairs not expressly covered above. Tenant shall be responsible at its expense for inspecting and assuring that all necessary portable fire extinguishers are present on the premises and maintained in an operable

condition. Notwithstanding subsection (1) above, all modifications or repairs to the electrical, plumbing or mechanical systems resulting from "call outs" (Tenant requested repairs requested on weekend, holidays or other than 7:45-4:15 Monday-Friday or such other times as City adopts as its maintenance force work hours) are at Tenant's expense. Tenant shall also be responsible at its expense for inspecting the premises and keeping the premises, [including but not limited to the surface of timber decking, all paving, landscaping, irrigation systems, fencing, signage, and striping (if any) and relamping] and all works, structures and improvements thereof, whether a part of the premises or placed by Tenant in a safe, clean, sanitary and sightly condition. All maintenance performed by Tenant shall assure the premises are maintained in a first class operating condition and in conformance with all applicable federal, state, regional, municipal and other laws and regulations. The appearance, safety and operational capability of the premises shall be maintained to the satisfaction of the Executive Director. Tenant shall make all efforts necessary to immediately discover and guard against any patent defects in all surfaces of timber decking, paving, buildings, structures and improvements on the premises without request from City. Tenant shall also completely maintain at its expense all buildings, structures, improvements, timber decking surfaces and paving it erects, owns, or installs. All modifications and repairs which Tenant makes to City owned or Tenant owned buildings, structures, improvements, timber decking and paving require a Harbor Department Engineering permit. Sample permits are available upon request from the Harbor Engineer. Tenant agrees to strictly comply with all the terms and conditions of the Harbor Engineer's permit. Tenant shall maintain in its offices at the premises at all times the Harbor Engineer's permit allowing the work performed and proof that the work has been performed in accordance with all terms and conditions of the permit. Modifications and repairs shall be made in a first class manner using materials of a kind and quality comparable to the items being replaced (in-kind replacement shall be utilized if material still manufactured). Tenant is obligated at its expense to take both such preventive and remedial maintenance actions as are necessary to assure that premises are at all times safe and suitable for use regardless of whether Tenant is itself actively using all of the premises. Tenant shall provide notice to the Director of Port Construction and Maintenance and Director of Construction Management five (5) calendar days before any paving work is performed provided, however, Tenant shall immediately repair any condition creating a risk of harm to any user of the premises. All materials used and quality of workmanship shall be satisfactory to the Director of Construction Management.

(4) Tenant's Responsibility for Damage. Notwithstanding the foregoing, if damage to the wharf structure or any other building, structure, improvement or surface area at the premises is caused by the acts or failure to act of Tenant, its officers, agents, employees or its invitees, (including but not limited to customers of Tenant and contractors retained by Tenant to perform work on the premises -- hereafter collectively "invitees"), Tenant shall be responsible for all costs, direct or indirect, associated with repairing the damage and the City shall have the option of requiring Tenant to make the repairs or

itself making the repairs. If City makes the repairs, Tenant agrees to reimburse City for the City's cost of repair. All damage shall be presumed to be the responsibility of Tenant and Tenant agrees to be responsible for such damage unless Tenant can demonstrate to the satisfaction of City that someone other than its officers, agents, employees, or invitees caused the damage. Tenant agrees to reimburse City for the cost of repair to City's wharf for any damage to the wharf resulting from a collision between a vessel and the wharf while docking or undocking unless Tenant demonstrates that such damage was caused by the sole active negligence of City or demonstrates that such damage was caused by an invitee of some other Tenant to which the premises are also assigned. The sufficiency of proof presented by Tenant to City shall be determined by City acting reasonably in its sole judgment. Notwithstanding the foregoing, this subsection (4) with respect to secondarily assigned berths shall only apply when Tenant or its invitees are using the secondarily assigned berths. Tenant's obligations as a vessel owner or operator pursuant to City's Tariff Item 205 (or its successor) or pursuant to any pilotage contract Tenant may have with City are not reduced by the provisions of this subsection.

(5) City's Option to Perform Work at Tenant's Expense. If Tenant fails to repair, maintain and keep the premises and improvements as above required, Executive Director may give thirty (30) days' written notice to Tenant to correct such default, except that no notice shall be required where, in the opinion of Executive Director, the failure creates a hazard to persons or property. If Tenant fails to cure such default within the time specified in such notice, or if Executive Director determines that a hazard to persons or property exists due to such failure, Executive Director may but is not required to enter upon the premises and cause such repair or maintenance to be made, and the costs thereof, including labor, materials, equipment and administrative overhead, to be charged against Tenant. Such charges shall be due and payable with the next rent payment. During all such times, the duty shall be on Tenant to assure the premises are safe and Tenant shall erect barricades and warning signs to assure workers and the public are protected from any unsafe condition. None of City's remedies described above shall preclude City from terminating this Agreement if City is not satisfied with Tenant's compliance with the maintenance provisions of this Agreement so long as Tenant has been given thirty (30) days written notice of City's intent to terminate and during said thirty (30) days Tenant shall have the right to cure the condition complained of by City.

(6) Inspection of Premises and Tenant Repairs. Tenant shall be responsible for inspecting the premises (including all surfaces of timber decking, paving, structures, buildings and improvements) and at all times maintaining the premises in a safe condition subject to Section 8(a)(1). Executive Director and/or his representatives shall have the right to enter upon the premises and improvements constructed by Tenant at all reasonable times for the purpose of determining compliance with the terms and conditions of this Agreement or for any other purpose incidental to the rights of City. This right of inspection imposes no obligation upon City to make inspections nor liability for failure to make such

inspections. By reserving the right of inspection, City assumes no responsibility or liability for loss or damages to the property of Tenant or property under the control of Tenant, whether caused by fire, water or other causes. City assumes no responsibility for any shortages of cargo handled by Tenant. If City requests drawings and/or specifications showing the location and nature of repairs to be made or previously made by Tenant (including by its invitees), Tenant agrees to provide to City the material requested in writing within ten (10) calendar days of request by City.

(7) City's Access to Maintain and Repair Premises. If City deems it necessary to maintain or repair the premises, Tenant, shall cooperate fully with City to assure that the work can be performed timely and during City's normal working hours. If City is required to perform any work outside its normal working hours due to the actions of Tenant or a request by Tenant, and the work would otherwise be at City's expense, Tenant shall be responsible for the difference in hourly rates between normal working hourly rates and hourly rates outside the normal working hours.

(8) Repair Obligations Dependent on Indemnity/Insurance Provisions. City's agreement to perform certain repairs and to pay for certain repairs is expressly conditioned on the indemnity and insurance provisions of this Agreement remaining in force and effect. If Tenant fails to comply with the indemnity and insurance provisions or if these provisions are ever deemed not applicable, then Tenant shall be obligated to perform and pay for all repairs to the premises without exception at its own expense. Tenant shall perform such repairs only after it has secured the Harbor Engineer's general permit. Such work shall be deemed completed only when all terms of the permit have been satisfied. If City inspects any work performed by Tenant and finds it unsatisfactory, Tenant shall be obligated to correct the work to City's reasonable satisfaction at Tenant's expense.

(9) Definition of City's Actual Costs. Whenever this section requires Tenant to reimburse City for the City's cost of maintenance, the City's cost of maintenance is agreed to include all direct and indirect costs which City incurs whether with its own forces or with an independent contractor. These costs include salary and all other costs City incurs from its employees ("salary burden"), all material and equipment costs including an administrative equipment handling charge, and also a general administrative overhead cost consistent with City's billing practice to its other tenants.

(10) Exhibit Listing More Common Maintenance Items. Attached as Exhibit I, is a detailed description of items which is intended to describe the more common maintenance work which may be necessary at the premises. Not all items listed will be present at all premises within the Port. Costs and responsibilities shall be apportioned as set forth in this exhibit except as may otherwise be required by the provisions above.

(11) Maintenance by City. All maintenance performed by City shall conform in all respects to the applicable federal, state, regional, and local laws, statutes, ordinances, rules and regulations.

(b) Restoration and Surrender of Premises.

(1) On or before expiration of the term of this Agreement, or any sooner termination thereof other than by forfeiture pursuant to subsections (a) and (b) of Section 6 of this Agreement, Tenant shall remove, at its sole cost and expense, all works, structures, improvements and pipelines of any kind (collectively referred to as "structures") placed on the premises by Tenant. Tenant shall leave the premises including all structures constructed, owned or controlled by Tenant free from hazardous materials and hazardous waste contamination as those terms are defined under applicable federal, state or local law, rule or ordinance that exist as a result of Tenant's use of the premises or that existed as a result of Indies Terminal Company's use of the premises as defined under Permit No. 531 or Preferential Berth Assignment Nos. 201, 215, 215A, 217 and 217A and leave the surface of the ground in a clean level, graded and compacted condition with no excavations or holes resulting from structures removed. Upon the expiration of the term of this Agreement or any sooner termination thereof, other than by forfeiture pursuant to subsections (a) and (b) of Section 6 of this Agreement, Tenant shall quit and surrender possession of the premises to Board leaving all City improvements in at least as good and usable a condition, acceptable to Executive Director, as the same were in at the time of the first occupation thereof by Tenant under this or any prior Agreement, lease or permit to which Tenant or Indies Terminal Company was a party, ordinary wear and tear excepted. However the damage to the paving installed by City or the ground regardless of the nature of Tenant's operations on the premises will not be presumed to be normal wear and tear. If the condition of the premises is upgraded by City during occupancy of the premises, Tenant agrees to be responsible for restoring the premises to the upgraded condition. Tenant agrees to remove all debris and sunken hulks from channels, slips and water areas within or fronting upon premises that exist as a result of Tenant's operations at the premises. Tenant expressly waives the benefits of the "Wreck Act" (Act of March 3, 1899) 33 U.S.C. Section 401 et seq. and the Limitation of Liability Acts (March 3, 1851, c. 43, 9 Stat. 635) (June 26, 1884, c. 121, Sec. 18, 23 Stat. 57) 46 U.S.C. 189 (Feb. 13, 1893, c. 105, 27 Stat. 445) 46 U.S.C. Sec. 190-196 and any amendments to these Acts if it is entitled to claim the benefits of such acts. If City terminates this Agreement pursuant to Section 6(a) or 6(b) Tenant is also obligated to restore the premises as provided above or to pay the cost of restoration if City chooses to perform the work. The term "Tenant" used in this Section 8 shall include agents, employees, contractors, subcontractors and/or invitees of the Tenant.

(2) Tenant may only handle and temporarily store hazardous materials in the course of normal operations in connection with common carriage by water in interstate and foreign commerce, subject to regulations contained in 33 C.F.R. Part 126. If Tenant has handled,

stored, transported, transferred, received, disposed of or otherwise allowed any material to remain on the premises which is classified by any federal or state agency as hazardous material or hazardous waste [Tenant's attention is particularly called to the Resource Conservation and Recovery Act of 1967 (RCRA), 42 U.S.C. Sec. 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. Sec. 9601, et seq.; the Clean Water Act, 33 U.S.C. Sec. 1251 et seq.; the Clean Air Act, 42 U.S.C. Sec. 7901 et seq.; California Health & Safety Code Sec. 25300 et seq. and Sec. 25100 et seq.; and California Water Code Sec. 13000 et seq.; California Administrative Code, Title 22, Division 4, Chapter 30, Article 4] and such material has contaminated or threatens to contaminate the premises or adjacent premises (including structures, soil or groundwater), Tenant, to the extent obligated by federal, state or local law or regulation and to the extent necessary to satisfy the City (all such agencies collectively hereafter referred to as "City") shall at its own expense perform soil and ground water tests to the satisfaction of City to determine the extent of such contamination, and remove, neutralize or dissipate on site any contaminants from the premises. If such contaminants cannot be neutralized or dissipated on site to satisfaction of City, Tenant shall remove and properly dispose of all contaminated soil, material or groundwater and replace such soil, or material with clean fill dirt or, material suitable to City.

If Tenant during its occupancy contaminates the premises or adjacent premises (including structures, soil or groundwater) Tenant shall immediately notify the City and at Tenant's expense perform such soil and ground water testing as City deems necessary and shall take immediate steps to remove the contaminants to the satisfaction of City. If the premises or adjacent premises are contaminated by any products or their derivatives handled by Tenant under this Agreement or by Indies Terminal Company under Permit No. 531 or Preferential Berth Assignment Nos. 201, 215, 215A, 217 and 217A, the contamination is presumed to be caused by Tenant and the burden of proving contamination by someone other than Tenant including Tenant's or Indies Terminal Company's predecessors shall be on Tenant.

Any tests required of Tenant by this Section shall be performed by a certified testing laboratory satisfactory to City. By signing this Agreement Tenant hereby irrevocably directs any such laboratory to provide City upon written request from City copies of all of its reports, test results, and data gathered. As used in this Section the term "Tenant" includes agents, employees, contractors, subcontractors, and/or invitees of the Tenant.

(3) "Site Characterization Study". At any time during the term of this Agreement, either party may at its expense prepare and submit to the other party a full site characterization plan to enable a determination of the extent of soil and groundwater contamination at the premises. The plan shall include detailed plans for sampling and chemical analysis of the soil and groundwater and shall be in conformance with all applicable

federal, state and local regulations and guidelines. Once the site characterization plan has been reviewed by both parties, the party undertaking the study shall commence the investigation of soil and groundwater and shall provide the results to the other party.

If contamination is discovered during site characterization, the parties shall mutually agree upon a site restoration plan. The plan and any costs related to removal, neutralization or dissipation of the contaminates shall be borne by the party responsible for the contamination as provided in Section 8(b) and Section 9(b).

(4) Rent During Restoration. Tenant understands and agrees it is responsible for complete restoration of the premises including the cleaning up of any area it has contaminated before the expiration of this Agreement. If, for any reason, such restoration is not completed before such expiration, then Tenant is obligated to pay City compensation during such restoration as determined by the fair market value of the land as if there was not any such contaminant and the Harbor Department's then established rate of return. If Tenant disposes of any contaminated soil, material or groundwater, Tenant shall provide City copies of all records indicating the type of material being disposed of as indicated on a uniform Hazardous Waste Manifest, the method of transportation of the material to the disposal site and the location of the disposal site.

(5) Bond or Other Form of Security.

(i) Tenant also agrees to provide City a bond, certificate of deposit in City's name, irrevocable letter of credit or other form of security acceptable to the Executive Director in an amount reasonably determined by Board to assure removal of hazardous materials from the premises resulting from Tenant's or Indies Terminal Company's use of the premises if at any time during its operations after discovery of contaminates on the premises City demands such bond.

(ii) Tenant shall also provide City a bond, certificate of deposit in City's name, irrevocable letter of credit or other form of security acceptable to the Executive Director if requested by City in the last two (2) years of this Agreement in an amount to assure restoration of the premises. The amount of said security shall be determined at the sole discretion of the Board after Tenant has had the opportunity to provide its opinion as to the amount, supported by a detailed estimate of an independent contractor having expertise in demolition of improvements but in no event in an amount to exceed One Million Dollars (\$1,000,000.00)

(iii) Any security required by this subsection (5) shall be placed in an escrow account mutually agreeable to the parties. The escrow account shall use the security to pay all restoration costs mutually agreed to by the parties. If the parties fail to agree on any restoration costs the security shall be held until the parties agree or as determined by an appropriate California court. Each party to share the costs of the escrow account on a 50-50 basis.

(6) Annual Disclosure. On the effective date of this Agreement, and annually thereafter, including the year after the termination of this Agreement, Tenant shall submit to City the names and amounts of all hazardous materials, or any combination thereof, which were handled, stored, received, transported, transferred, used or disposed of on the premises, or which Tenant intends to store, handle, receive, transport, transfer, use or dispose of on the premises.

(7) Tenant's breach of any of the provisions of this subsection (b) shall entitle City to forfeit this Agreement.

(c) Services and Utilities. Unless otherwise provided for herein, Tenant shall pay all charges for services furnished to the premises or used in connection with its occupancy, including but not limited to heat, gas, power, telephone, water, light and janitorial services, and pay all deposits, connection fees, charges and meter rentals required by the supplier of any such service, including City.

(d) Inspection of Premises. Executive Director and his duly authorized representatives shall have the right to enter upon the premises and improvements constructed by Tenant at any and all reasonable times during the term of this Agreement for the purpose of determining compliance with its terms and conditions or for any other purpose incidental to the rights of City. The right of inspection reserved hereunder shall impose no obligation upon City to make inspections to ascertain the condition of the premises, and shall impose no liability upon City for failure to make such inspections. By reserving the right of inspection, City assumes no responsibility or liability for loss or damage to the property of Tenant or property under the control of Tenant, whether caused by fire, water or other causes. Nor does it assume responsibility for any shortages of cargo handled by Tenant at the premises.

(e) Signs. Tenant shall not erect or display, or permit to be erected or displayed, on the premises, or upon works, structures and improvements made by Tenant, any advertising matter of any kind, including signs, without first obtaining the written consent of Executive Director. Tenant shall post, erect and maintain on the premises such signs as Executive Director may direct.

Section 9. Indemnity and Insurance.

(a) Indemnity. Tenant shall at all times relieve, indemnify, protect, defend and save harmless City and any and all of its boards, officers, agents and employees from any and all claims and demands, actions, proceedings, losses, liens, costs and judgments of any kind and nature whatsoever, including expenses incurred in defending against legal actions, for death of or injury to persons or damage to property including property owned by or under the care and custody of City, and for civil fines and penalties, that may arise from or be caused directly or indirectly by:

(1) Any dangerous, hazardous, unsafe or defective condition of, in or on the premises, of any nature whatsoever, which may exist by reason

of any act, omission, neglect, or any use or occupation of the premises by Tenant, its officers, agents, employees, sublessees, licensees or invitees;

(2) Any operation conducted upon or any use or occupation of the premises by Tenant, its officers, agents, employees, sublessees, licensees or invitees under or pursuant to the provisions of this Agreement or otherwise;

(3) Any act, omission or negligence of Tenant, its officers, agents, employees, sublessees, licensees or invitees, regardless of whether any act, omission or active or passive negligence of City, its officers, agents or employees contributed thereto;

(4) Any failure of Tenant, its officers, agents or employees to comply with any of the terms or conditions of this Agreement or any applicable federal, state, regional, or municipal law, ordinance, rule or regulation; or

(5) The conditions, operations, uses, occupations, acts, omissions or negligence referred to in subdivisions (1), (2), (3) and (4) of this subsection (a), existing or conducted upon or arising from the use or occupation by Tenant or its invitees on any other premises within the Harbor District, as defined in the Charter of City.

Tenant also agrees to indemnify City and pay for all damages or loss suffered by City and the Harbor Department, including but not limited to: damage to or loss of City property, to the extent not insured by City's property insurance coverage; injury to city employees; and from loss of City revenue from any source, caused by or arising out of the conditions, operations, uses, occupations, acts, omissions or negligence referred to in subdivisions (1), (2), (3) (4) and (5) of this subsection (a). The term "persons" as used in this subsection (a) shall include but not be limited to officers and employees of Tenant.

(b) Indemnity - Hazardous Materials. Tenant shall also indemnify, defend and hold City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution of the value of the premises, damages for loss or restriction on use of rentable or useable space or of any amenity of the premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise as a result of contamination of the premises by hazardous materials which are within Tenant's or Indies Terminal Company's responsibilities as set forth in Section 8 of this Agreement. This indemnification of City by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency because of hazardous material present in the soil or groundwater on or under the premises which are within Tenant's or Indies Terminal Company's responsibilities as set forth in Section 8 of this Agreement. The foregoing

indemnity shall survive the expiration or earlier termination of this Agreement.

(c) Liability for Damages to Premises Caused by Third Parties. City's grant of the premises to Tenant imposes the obligation on Tenant to maintain the necessary security on the premises to assure they are not used by anyone not having the permission of Tenant or City. Tenant is liable for all damages to the premises caused by its invitees. It is also responsible for damage caused by third parties, unless Tenant, within thirty (30) calendar days after said damages are discovered by Tenant, secures and furnishes the City with information and evidence reasonable satisfactory to the City fixing liability on some responsible person other than Tenant, its invitees, licensees, sublessees or contractors and subcontractors. Damages at the facility are conclusively presumed to be caused by the Tenant unless Tenant demonstrates to the satisfaction of the City that said damages were caused by a third party unconnected to Tenant's operations. If Tenant demonstrates to the satisfaction of the City that said damages were caused by such other person, Tenant shall not be responsible for the cost of repairing the damage but shall be responsible for assuring the premises are kept in a safe condition until repaired. This provision shall not, however, reduce Tenant's liability to City based on the pilotage provisions of Tariff Item 205 or any pilotage contract if damage is caused by Tenant's operation of any vessels at the premises.

(d) Insurance. Tenant shall procure and maintain at its expense and keep in force at all times during the term of this Agreement the following insurance:

(1) Public Liability and Property Damage. Broad form comprehensive public liability and property damage insurance (including automobile and contractual liability assumed coverages) written by an insurance company authorized to do business in the State of California or otherwise reasonably acceptable to Executive Director with Tenant's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or death or property damage arising out of each accident or occurrence. If the submitted policy provides for an aggregate limit, such limit shall not be less than Five Million Dollars (\$5,000,000) except as otherwise may be acceptable to Executive Director. Said limits shall be without deduction, provided that Executive Director may permit a deductible amount in those cases where, in his judgment, such a deductible is justified. The insurance provided shall contain a severability of interest clause. In all cases, regardless of any deductible, said insurance shall contain a defense of suits provision. If Tenant operates watercraft or incurs other marine liability exposure, liability coverage for such watercraft and marine exposure must be provided as above. The submitted policy shall, in addition, provide the following coverage either in the original policy or by endorsement substantially as follows:

"(i) Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or in any endorsement or certificate now or hereafter attached hereto, it is agreed that the

City of Los Angeles, its Harbor Department, the City's and Department's officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all operations, uses, occupations, acts and activities of the insured under Permit No. _____, and under any amendments, modifications, extensions or renewals of said Agreement regardless of whether such operations, uses, occupations, acts and activities occur on the premises or elsewhere within the Harbor District, and regardless of whether liability is attributable to the insured or a combination of the insured and the additional insured;

"(ii) The policy to which this endorsement is attached shall not be cancelled, reduced in coverage or nonrenewed until after the Board and the City Attorney of City have each been given thirty (30) days' prior written notice by certified mail addressed to P.O. Box 151, San Pedro, California 90733-0151;

"(iii) The coverage provided by the policy to which this endorsement is attached is primary coverage (or excess of primary coverage when an excess policy is also submitted) and any other insurance carried by City is excess of this insurance and shall not contribute to it;

"(iv) If one of the insureds incurs liability to any other of the insureds, this policy shall provide protection for each insured against whom claim is or may be made, including claims by other insureds in the same manner as if separate policies had been issued to each insured. Nothing contained herein shall operate to increase the company's limit of liability.

"(v) Notice of occurrences or claims under the policy shall be made to [Tenant's insurance carrier is to provide this information]."

(2) Fire Legal Liability. In addition to and concurrently with the aforesaid insurance coverage, Tenant shall also procure and maintain, either by an endorsement thereto or by a separate policy, fire legal liability insurance with a minimum limit of One Hundred Thousand Dollars (\$100,000.00), covering legal liability of Tenant for damage or destruction by fire or explosion to the works, structures and improvements owned by City provided that said minimum limits of liability shall be subject to adjustments by Executive Director to conform with the deductible amount of the fire insurance policy maintained by Board. Such policy may provide for waiver of subrogation in favor of Tenant so long as permitted by Board's fire insurance policy. Neither City nor Board should be named as additional insureds in such policy; however, the same cancellation notice as required for the public liability policy above described must be included.

(3) Fire and Extended Coverage Insurance. Tenant shall secure, and shall maintain at all times during the life of this Agreement, fire and extended coverage insurance covering ninety percent (90%) of the replacement value of the works, structures and improvements erected by

Tenant on the premises, with such provision in the policies issued to cover the same, or in riders attached thereto, as will provide for all losses over Fifty Thousand Dollars (\$50,000) to be payable to Board to be held in trust for reconstruction. Such policies shall provide that Tenant's insurance carrier waive any right of subrogation against the City if it is contended that the City caused or contributed to any loss. In the event of loss or damage by fire to any of such structures or improvements, Tenant shall undertake replacement or reconditioning of such structures within ninety (90) days following any such loss. In the event Tenant shall undertake such replacement or reconditioning within said period of ninety (90) days, such proceeds shall be released by Board to Tenant as payments are required for said purpose. Upon the completion of such replacement or reconditioning to the satisfaction of Executive Director, any balance thereof remaining shall be paid to said Tenant forthwith. In the event Tenant fails to undertake such replacement or reconditioning within said period of ninety (90) days, such proceeds shall be retained by City.

(4) Notice of Cancellation. Each insurance policy described above shall provide that it will not be cancelled or reduced in coverage until after Board and the City Attorney of City have each been given thirty (30) days' prior written notice by certified mail addressed to P. O. Box 151, San Pedro, California 90733-0151.

(5) Duplicate Insurance Policies. Tenant shall furnish two certified copies of each policy to Board. Alternatively, two duplicate original endorsements on forms provided by the Department may be submitted. The form of such policy or endorsement shall be subject to the approval of the City Attorney of City.

(6) Renewal of Policies. At least thirty (30) days prior to the expiration of each policy, Tenant shall furnish to Board a certificate or certificates showing that the policy has been renewed or extended or, if new insurance has been obtained, two certified copies of each new policy or two duplicate originals endorsements on forms provided by the Department shall be furnished to Board, and the form thereof shall be subject to the approval of the City Attorney of City. If Tenant neglects or fails to secure or maintain the required insurance, or if Tenant fails to submit copies thereof as required above, Board may, at its option and at the expense of Tenant, obtain such insurance for Tenant.

(7) Modification of Coverage. Executive Director, at his discretion based upon recommendation of independent insurance consultants to City, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Tenant.

(e) Accident Reports. Tenant shall report in writing to Executive Director within fifteen (15) days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000.00) to property, occurring upon the premises, or elsewhere within the

Harbor District if Tenant's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Tenant, its officers or managing agents.

(f) Compensation Terms Dependent on Indemnity Provisions. Tenant is aware that the City's willingness to agree to the compensation provisions of this Agreement is dependent upon Tenant's complying with each of the indemnity obligations above and on the enforceability of such provisions. Therefore, it is agreed that if any of these provisions shall be determined to be unenforceable, City may require Tenant to pay an adjusted minimum annual guarantee and revenue sharing breakpoints. If City chooses to adjust the minimum annual guarantee and revenue sharing breakpoints due from Tenant, the revised minimum annual guarantee and revenue sharing breakpoints shall be increased by five percent (5%) effective thirty (30) days after the date the provisions were rendered unenforceable. Notwithstanding the foregoing, if Tenant continues to provide City insurance which provides the same protection to City that City would have had prior to any provisions being rendered unenforceable, then City's right to increase compensation shall be delayed so long as Tenant provides said insurance.

Section 10. Sublease and Assignment.

(a) Transfer of Tenant's Interest in Agreement. No assignment, sublease, transfer, gift, hypothecation or grant of control or other encumbrance of this Agreement (hereafter such transactions are individually and collectively referred to as "transfers") or any interest therein or any right or privilege thereunder, whether voluntary or by operation of law, in whole or in part, and whether accomplished directly by transfer of the Agreement or indirectly by the transfer of Tenant's assets or stock shall be valid for any purpose unless first approved by City. City's consent shall be received for all transfers including intracorporate transfers, transfers resulting from mergers and corporate acquisitions and all transfers occurring after any previously approved Board transfers. City's review of proposed transfers and, if appropriate, consent shall be the sole responsibility of Board provided, that, if Board's consent is conditioned upon new Agreement terms (other than compensation adjustments) not previously approved by Council, the Agreement shall be amended and City Council approval of the transfer shall be required. No transfer, even if approved by Board, shall act to relieve Tenant or any guarantor of Tenant's obligations of the obligations under this Agreement unless Board so orders.

For purposes of this subsection, the term "by operation of law" includes the placement of all or substantially all of Tenant's assets in the hands of a receiver or trustee, an assignment by Tenant for the benefit of creditors, the adjudication of Tenant as a bankrupt, the institution of any proceedings (by Tenant or against Tenant) under the Bankruptcy Act as the same now exists or under any amendment thereof which may hereafter be enacted or

under any other act relating to the subject of bankruptcy wherein Tenant seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition or reorganization.

(b) Tenant May Not Require Any Remuneration for Transfer of Agreement. Tenant recognizes that the premises granted by this Agreement are held in trust by the City to benefit the people of the State of California. Tenant recognizes that Board: (1) wishes to encourage commerce, navigation and fishery, as required by the grants from the State of California by assuring it retains control over all property which Tenant itself no longer wishes to use; and (2) wishes to assure that property it has granted to Tenant is not later transferred by Tenant, directly or indirectly, for any remuneration which is defined as money or any other item of value. Accordingly, Tenant represents it will not, in transferring the premises granted by this Agreement, whether such transfer is accomplished by transfer of this Agreement alone, or of the assets of Tenant, or of corporate stock, require the transferee to pay any remuneration for the transfer of its interest under this Agreement. This provision however shall not affect Tenant's right to receive any remuneration for transferring assets it owns other than its interest under this Agreement.

If Tenant transfers any interest in this Agreement for any remuneration, Board may in its sole discretion either terminate this Agreement by providing Tenant seven (7) calendar days written notice with the termination becoming effective at the end of the seventh day or if Tenant has received any remuneration, require Tenant to pay such remuneration to Board or both terminate the Agreement and require Tenant to pay such remuneration to Board.

(c) Information to be Submitted to Board if Transfer Requested. Before Board shall be required to act on any proposed transfer, Tenant and the proposed transferee agree to provide Board the following items:

(i) All information explaining the terms and conditions of the proposed transfer in sufficient detail to assure Board may determine if Tenant is receiving any remuneration for the transfer of the interest in this Agreement. Board shall be provided all available information regarding the valuation of any assets transferred and all data supporting such valuation.

(ii) Audited financial statements of Tenant and of the proposed transferee and all federal and state tax returns of Tenant and transferee which would show how the transfer of interest was treated for tax purposes and such other records as requested by Board's Chief Financial Officer.

(iii) All information requested by the Department's Property Management Division to demonstrate the ability of the proposed transferee to adequately market the property being transferred and to generate the level of cargo operations anticipated when City granted the premises to Tenant for the purposes and uses allowed.

(iv) A complete business biography and history of the proposed transferee and its officers, partners, and managers, if any.

(v) A notarized statement from the authorized representative of Tenant and the proposed transferee stating the following:

"Tenant and transferee have read the conditions of Permit No. _____ (Agreement) and are aware that the Agreement between City and Tenant may not be transferred, either directly or indirectly by a sale of the assets of Tenant or a controlling interest in the stock of Tenant, without the approval of the Board of Harbor Commissioners. Tenant and transferee are aware that Tenant may not receive any remuneration in any form from transferee attributable to the interest which City has granted Tenant in the Agreement and which Tenant wishes to transfer. This provision does not prevent Tenant from receiving remuneration for physical improvements it has made to the premises at its expense unless City has reimbursed Tenant for the cost of such improvements. Tenant and transferee each warrant and represent to City that the transfer in interest which the Board is not being asked to approve does not involve the payment of any remuneration to Tenant for the interest it is transferring in the Agreement. Tenant understands that even if Board approves the transfer in interest: (1) Tenant and guarantors remain liable for all obligations under the Agreement; (2) Transferee assumes responsibility for all outstanding obligations of Tenant under this Agreement including unpaid rent; and (3) In the event of default by any transferee of Tenant or any successor of Tenant in the performance of any of the terms of the Agreement, Board may proceed directly against Tenant without the necessity of exhausting remedies against said transferees or any security held by Board. Tenant and transferee are aware that any misrepresentations of the facts stated herein can result in the termination of the Agreement and the forfeiture of any compensation paid for the Agreement to City."

If Board approves any transfer of this Agreement, Tenant and the transferee shall also provide Board such additional information as Board thereafter requests to verify Tenant's and transferee's compliance with this Section 10.

(d) Conditions of Transfer. Tenant's request for Board approval of a transfer of its interest in this Agreement shall be subject to compliance with the following further conditions:

(i) At the time of such transfer, this Agreement shall be in full force and effect and either no default then exists or no default will exist upon consummation of the transfer.

(ii) When requesting Board's consent to a transfer, Tenant shall demonstrate that: (1) The financial condition of the proposed transferee is as sound as that of Tenant at the time this Agreement was initially entered into or as at the time of the proposed transfer whichever provides the better financial security to Board; and (2) the proposed

transfer will not unfavorably affect the revenues of the City, maritime employment or the services available to the maritime community. The parties agree the Board's right to refuse to consent to any assignment is unconditional and Board may refuse to consent for any reason and that Tenant considered this right of the Board in determining whether to enter into this Agreement and in agreeing to the compensation terms provided above.

(iii) Even if Board consents to the proposed transfer, Board may first require that transferee and Board agree on a new compensation rate for the premises transferred. If Board determines Tenant is receiving remuneration attributable to its interest in this Agreement, Board shall be entitled to retain all or part of such remuneration as it deems appropriate or refuse its consent to such transfer.

(e) Transfer of Stock. If, during any calendar year after the filing of the application for this Agreement, more than ten percent (10%) of the outstanding shares of capital stock of Tenant is traded, Tenant shall notify Executive Director in writing within ten (10) days after the transfer date and shall require Executive Director approval for such transfer; provided, however, that this provision shall have no application in the event Tenant is a corporate entity whose stock is listed on either the American Stock Exchange, the New York Stock Exchange, or the Pacific Stock Exchange. Notwithstanding this provision all capital stock transfers of more than twenty five percent (25%) shall require Board approval in accordance with this Section 10.

Section 11. Miscellaneous.

(a) Statements of Tenant as Applicant. This Agreement is granted pursuant to an application filed by Tenant with Board. If the application or any of the attachments thereto contain any material misstatements of fact, Board may cancel this Agreement. Upon any such cancellation of the Agreement granted hereunder, Tenant shall quit and surrender the premises as provided in subsection (a) of Section 6 hereof.

(b) Applicable Law. It is expressly understood and agreed that this Agreement and all questions arising thereunder shall be construed according to the laws of the State of California.

(c) Compliance with Applicable Laws. Tenant shall, at all times, in its use and occupancy of the premises and in the conduct of its operations thereon, comply with all laws, statutes, ordinances, rules and regulations applicable thereto, enacted and adopted by federal, state, regional, municipal or other governmental bodies, or departments or offices thereof. In addition to the foregoing, Tenant shall comply immediately with any and all directives issued by Executive Director or his authorized representative under authority of any such law, statute, ordinance, rule or regulation.

(d) Affirmative Action. Tenant agrees not to discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age or physical handicap. All assignments, subleases and transfers of interest in this Agreement under or pursuant to this Agreement shall contain this provision.

The provisions of Section 10.8.4 of the Los Angeles Administrative Code as set forth in the attached Exhibit J are incorporated herein and made a part hereof.

(e) License Fees and Taxes. Tenant shall pay all taxes and assessments of whatever character levied upon or charged against the interest of Tenant, if any, created by this Agreement in the premises or upon works, structures, improvements or other property thereof, or upon Tenant's operations hereunder. Tenant shall also pay all license and permit fees required for the conduct of its operations hereunder.

TENANT IS AWARE THAT THE GRANTING OF THIS AGREEMENT TO TENANT MAY CREATE A POSSESSORY PROPERTY INTEREST IN TENANT AND THAT TENANT MAY BE SUBJECT TO PAYMENT OF A POSSESSORY PROPERTY TAX IF SUCH AN INTEREST IS CREATED.

(f) Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable to any extent by a final judgment of any court of competent jurisdiction, the remainder of the Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall continue in full force and effect.

(g) Waiver of Claims. Tenant hereby waives any claim against City and Board and its officers, agents or employees for damages or loss caused by any suit or proceedings directly or indirectly challenging the validity of this Agreement, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable or delaying the same or any part thereof from being carried out.

(h) Conflict of Interest. It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of the Harbor Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, City may immediately terminate this Agreement by giving written notice thereof.

(i) Visitors. Tenant shall allow Executive Director and his designated representatives access to the premises for the purpose of showing the premises and works, structures and improvements made by Tenant to visitors upon the

giving of reasonable notice to Tenant, provided, however, that such entry shall not unreasonably interfere with Tenant's operations.

(j) Attorneys' Fees. If either party brings any action or proceeding to enforce, protect, or establish any right or remedy arising out of or based upon this Agreement, including but not limited to the recovery of damages for its breach, the prevailing party in said action or proceeding shall be entitled to recovery of its costs and reasonable attorneys' fees, including the reasonable value of the services of the Office of City Attorney or house counsel of Tenant. If however, either party prior to, during trial, or after any appeal, makes a written offer to settle the dispute for a sum less than ultimately obtained by the person refusing the offer, the prevailing party shall be deemed to be the party making the offer.

(k) Notices. In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States registered mail, postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purpose hereof, unless otherwise provided by notice in writing from the respective parties, notice to City shall be addressed to Executive Director, Los Angeles Harbor Department, P. O. Box 151, San Pedro, California 90733-0151 and notice to Tenant shall be addressed to it at the address set forth above. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

(l) Agent to Receive Service of Process. Tenant hereby irrevocably appoints the Terminal Manager at premises or an officer of company located at the address as set forth above as its agent for the purpose of service of process in any suit or proceeding which may be instituted in any court of the State of California or in any federal court in said State by City which arises out of or is based upon this Agreement. Delivery to such agent or, delivery to the terminal manager's office of a copy of any process in any such action shall constitute valid service upon Tenant. It is further expressly agreed, covenanted and stipulated that if for any reason service of such process upon such agent is not possible, then in such event Tenant may be served with such process in or out of this State in any manner authorized by California law. It is further expressly agreed that Tenant is amenable to the process so served, submits to the jurisdiction of the court so acquired, and waives any and all objection and protest thereto. It is Tenant's obligation at all times, whether during the term of this Agreement or after its termination, to provide the Harbor Department Executive Director in writing a correct address where Tenant can be located.

(m) Waivers. No waiver by either party at any time of any of the terms, conditions, covenants or agreements of this Agreement shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by the proper party. The subsequent acceptance of rent by Board shall not be deemed to be a waiver of any other breach by Tenant of any term, covenant or condition of this Agreement other than the failure of Tenant to timely make the particular rent payment so accepted, regardless of Board's knowledge of such other breach. No delay, failure or omission of either party

to execute any right, power, privilege or option arising from any default, nor subsequent acceptance of guarantee then or thereafter accrued, shall impair any such right, power, privilege, or option, or be construed to be a waiver of any such default or relinquishment thereof, or acquiescence therein, and no notice by either party shall be required to restore or revive the time is of the essence provision hereof after waiver by the other party or default in one or more instances. No option, right, power, remedy or privilege of either party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to City by this Agreement are cumulative, and no one of them shall be exclusive of the other or exclusive of any remedies provided by law, in that the exercise of one right, power, option or remedy by City shall not impair its rights to any other right, power, option or remedy.

(n) Extent of Water Frontage. In case this Agreement or any improvements made hereunder or this Agreement or any part thereof shall be assigned, transferred, leased or subleased and the control thereof be given or granted to any person, firm, or corporation so that such person, firm or corporation shall then own, hold or control more than the length of water frontage permitted or authorized under Section 140(f) of the Charter of City or if Tenant shall hold or control such water frontage, then this Agreement and all rights hereunder shall thereupon and thereby be absolutely terminated, and any such attempted or purported assignment, transfer or sublease, or giving or granting of control to any person, firm or corporation which will then own, hold or control more than such permitted or authorized length of water frontage shall be void and ineffectual for any purpose whatsoever.

(o) Integration. This Agreement constitutes the whole Agreement between City and Tenant. There are no terms, obligations or conditions other than those contained herein. No modifications of this Agreement shall be valid and effective unless evidenced by an agreement in writing.

(p) Time of the Essence. Time is expressly declared to be of the essence in this Agreement.

(q) Extensions. Board shall have the right to grant reasonable extensions of time to Tenant for any purpose or for the performance of any obligation of Tenant hereunder.

(r) Effective Date. The date appearing in the introductory paragraph of this Agreement shall be the effective date as established by Section 3(a).

(s) Agreement Superseded. This Agreement when effective supersedes existing Agreement No. 531 between City and Tenant for generally the same premises less certain areas except to the extent either party has already incurred any rights or obligations under the superseded agreement. Except as expressly provided otherwise herein, such Agreement shall govern the rights and liabilities of the parties until the effective date of this Agreement. Thereafter, this Agreement controls for all of the premises held hereunder.

(t) Business Tax Registration Certificate. The Tenant represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Charter 2, Sections 21.00 and following, of the Los Angeles Municipal Code) or is exempt. The Tenant shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended.

(u) Minority Business Enterprise/Women Business Enterprise. Tenant is aware of the Los Angeles Harbor Department's Minority Business Enterprise/Women Business Enterprise (MBE/WBE) policy (hereinafter "Policy"). Tenant shall comply with the Harbor Department's Policy for the construction of any improvements on the premises. Any construction contracts by Tenant shall include the Department's MBE/WBE policy, attached as Exhibit K, which is incorporated herein and made a part hereof.

Tenant acknowledges that Board reserves the right to amend or modify its Policy from time to time. Any such amendment or modification to the Policy shall be binding on Tenant from the date Board approves such changes at a public meeting after notice and an opportunity to be heard thereon. Any contracts including subleases entered into by Tenant pursuant to this Agreement prior to Board approval of changes to the Policy shall not be affected by such changes.

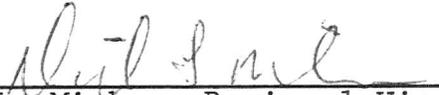
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first hereinabove written.

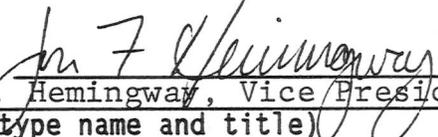
THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

By 
Ezunial Burts, Executive Director

Attest: Audrey H. Yamaki
Audrey H. Yamaki, acting Secretary

STEVEDORING SERVICES OF AMERICA

By 
David L. Michou, Regional Vice President
(Print/type name and title)

Attest: 
Jon F. Hemingway, Vice President
(Print/type name and title)

APPROVED AS TO FORM
June 28, 1989
JAMES K. HAHN, City Attorney

By 
GERALD F. SWAN, Assistant

GFS:k1s
06/23/89

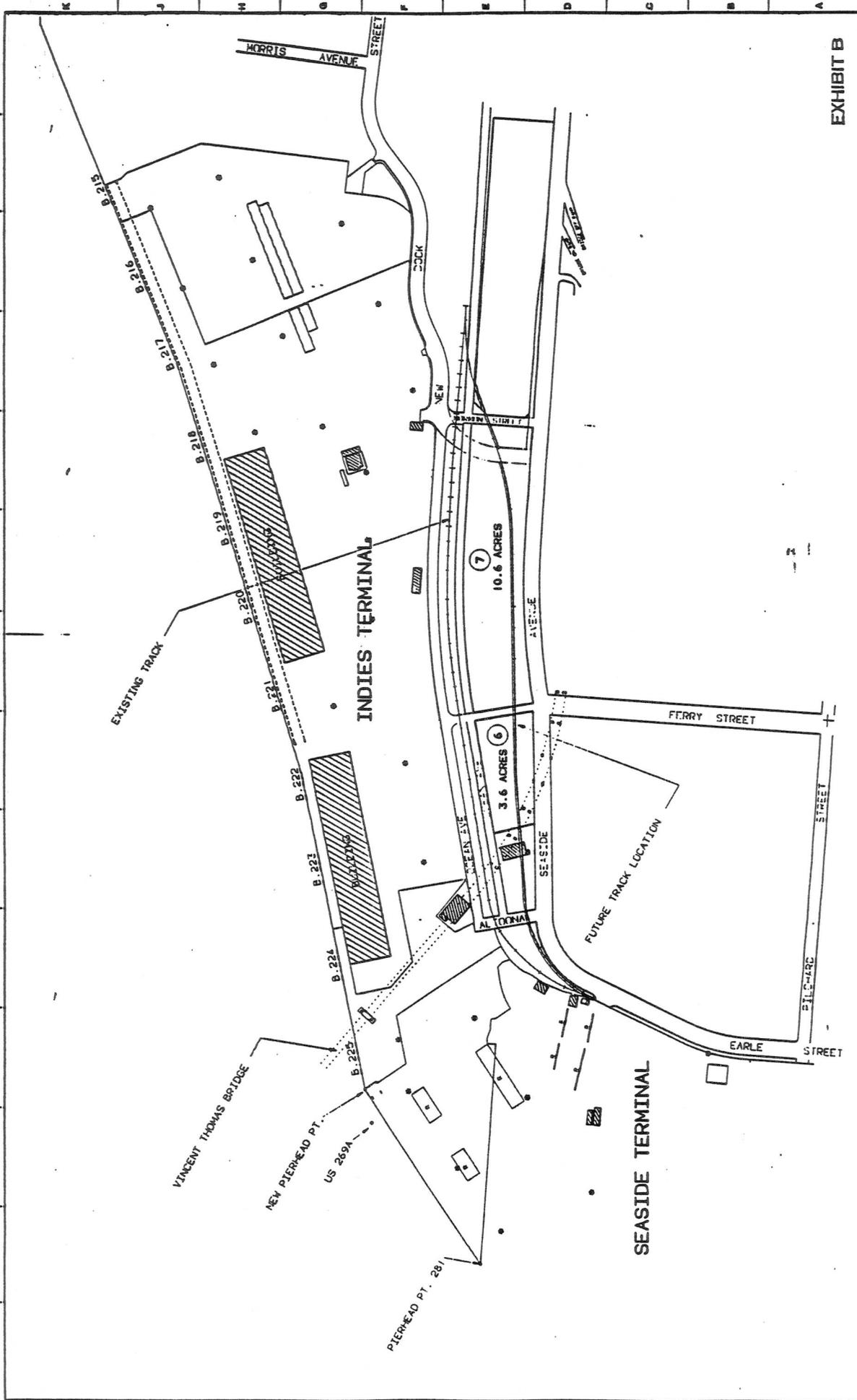


EXHIBIT B

BERTHS 214 - 229 INDIES TERMINAL WORLDPORT LA PROJECT NO. 11-11-1 SHEET NO. 11-11-1-13		SHEET NO. 11-11-1-13 SHEET NO. 11-11-1-14 SHEET NO. 11-11-1-15 SHEET NO. 11-11-1-16 SHEET NO. 11-11-1-17 SHEET NO. 11-11-1-18 SHEET NO. 11-11-1-19 SHEET NO. 11-11-1-20 SHEET NO. 11-11-1-21 SHEET NO. 11-11-1-22 SHEET NO. 11-11-1-23 SHEET NO. 11-11-1-24 SHEET NO. 11-11-1-25 SHEET NO. 11-11-1-26 SHEET NO. 11-11-1-27 SHEET NO. 11-11-1-28 SHEET NO. 11-11-1-29 SHEET NO. 11-11-1-30 SHEET NO. 11-11-1-31 SHEET NO. 11-11-1-32 SHEET NO. 11-11-1-33 SHEET NO. 11-11-1-34 SHEET NO. 11-11-1-35 SHEET NO. 11-11-1-36 SHEET NO. 11-11-1-37 SHEET NO. 11-11-1-38 SHEET NO. 11-11-1-39 SHEET NO. 11-11-1-40 SHEET NO. 11-11-1-41 SHEET NO. 11-11-1-42 SHEET NO. 11-11-1-43 SHEET NO. 11-11-1-44 SHEET NO. 11-11-1-45 SHEET NO. 11-11-1-46 SHEET NO. 11-11-1-47 SHEET NO. 11-11-1-48 SHEET NO. 11-11-1-49 SHEET NO. 11-11-1-50 SHEET NO. 11-11-1-51 SHEET NO. 11-11-1-52 SHEET NO. 11-11-1-53 SHEET NO. 11-11-1-54 SHEET NO. 11-11-1-55 SHEET NO. 11-11-1-56 SHEET NO. 11-11-1-57 SHEET NO. 11-11-1-58 SHEET NO. 11-11-1-59 SHEET NO. 11-11-1-60 SHEET NO. 11-11-1-61 SHEET NO. 11-11-1-62 SHEET NO. 11-11-1-63 SHEET NO. 11-11-1-64 SHEET NO. 11-11-1-65 SHEET NO. 11-11-1-66 SHEET NO. 11-11-1-67 SHEET NO. 11-11-1-68 SHEET NO. 11-11-1-69 SHEET NO. 11-11-1-70 SHEET NO. 11-11-1-71 SHEET NO. 11-11-1-72 SHEET NO. 11-11-1-73 SHEET NO. 11-11-1-74 SHEET NO. 11-11-1-75 SHEET NO. 11-11-1-76 SHEET NO. 11-11-1-77 SHEET NO. 11-11-1-78 SHEET NO. 11-11-1-79 SHEET NO. 11-11-1-80 SHEET NO. 11-11-1-81 SHEET NO. 11-11-1-82 SHEET NO. 11-11-1-83 SHEET NO. 11-11-1-84 SHEET NO. 11-11-1-85 SHEET NO. 11-11-1-86 SHEET NO. 11-11-1-87 SHEET NO. 11-11-1-88 SHEET NO. 11-11-1-89 SHEET NO. 11-11-1-90 SHEET NO. 11-11-1-91 SHEET NO. 11-11-1-92 SHEET NO. 11-11-1-93 SHEET NO. 11-11-1-94 SHEET NO. 11-11-1-95 SHEET NO. 11-11-1-96 SHEET NO. 11-11-1-97 SHEET NO. 11-11-1-98 SHEET NO. 11-11-1-99 SHEET NO. 11-11-1-100
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EXHIBIT B-1

INDIES TERMINAL BACKLAND

IMPROVEMENTS

List of Tasks to be Completed.

1. Relocate existing Union Pacific tracks.
2. Purchasing Union Pacific right-of-way and adjoining Union Pacific property.
3. Vacate Ocean Avenue.
4. Prepare and execute reciprocal ground leases with Caltrans.
5. Relocate Caltrans maintenance/repair yard.
6. Design backland improvements - include:
 - removal of all existing tracks in the area;
 - demolish concrete warehouse - NEC Altoona and Seaside Avenues
7. Bid Process.
8. Award of Bid.
9. Construction.
10. Occupancy.

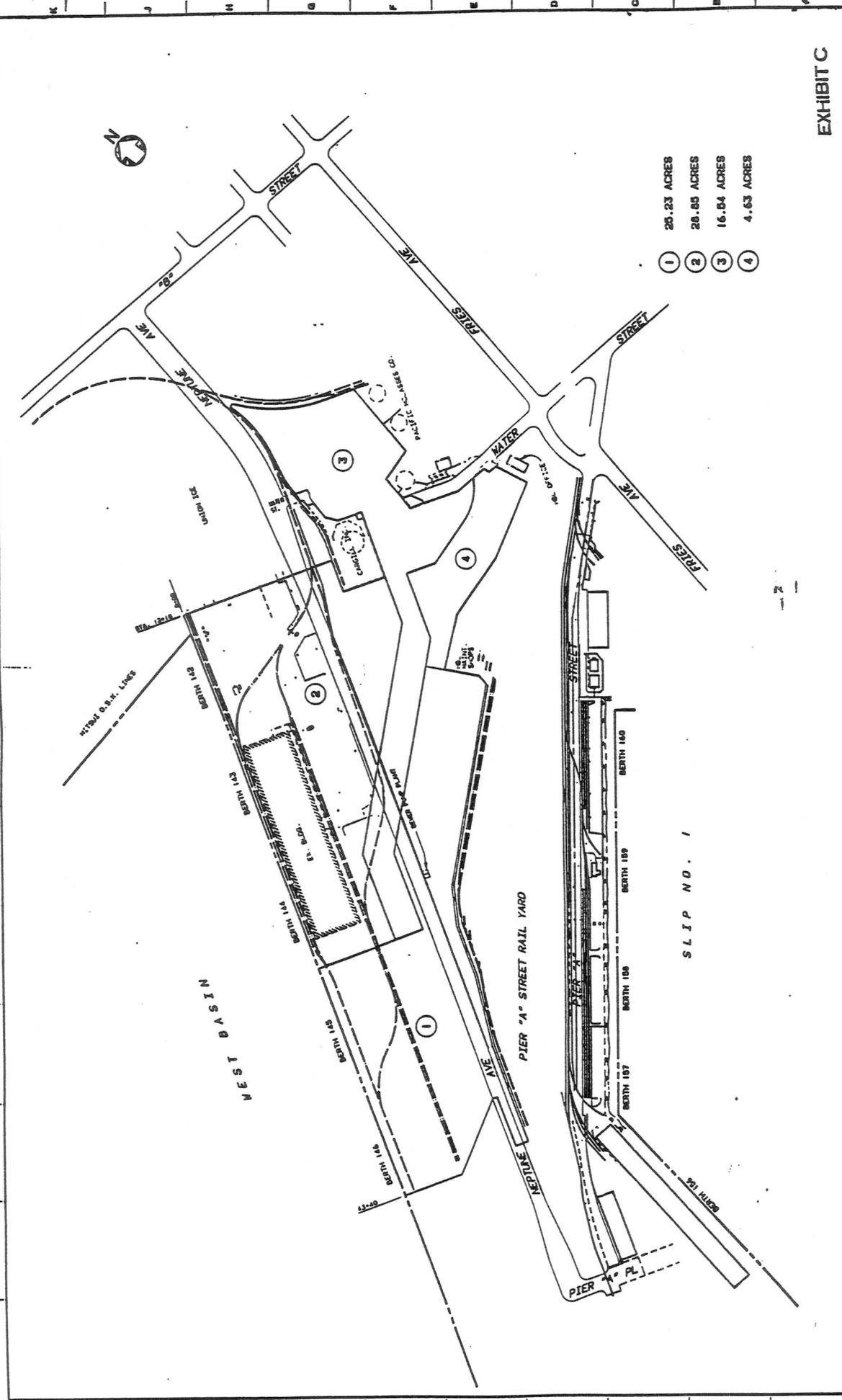


EXHIBIT C

<p>PROPERTY OWNER: SSA PH C</p> <p>PROJECT: BERTH 142-144 STUDY</p> <p>LOCATION: WORLDPORT LA</p>													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
<p>REMARKS: [Detailed notes for each berth area]</p>										<p>DATE: []</p> <p>BY: []</p>			

I. Minimum Annual Guarantee. (years 1 and 2)

(1) Tenant shall remit one hundred percent (100%) of all tariff dockage, wharfage, storage and demurrage charges (hereafter "qualifying tariff charges") accruing at the premises to City as provided in Section 4(a) until City has been paid Two Million Seven Hundred Thirty-four Thousand Three Hundred Ninety Dollars (\$2,734,390) of the minimum annual guarantee ("MAG") of Five Million Nine Hundred Two Thousand Six Hundred Fifty Dollars (\$5,902,650). No other tariff charges shall count toward Two Million Seven Hundred Thirty-four Thousand Three Hundred Ninety Dollars (\$2,734,390) or the minimum annual guarantee. Tenant may retain the portion of the qualifying tariff charges provided in Section II below once City has been paid Two Million Seven Hundred Thirty-four Thousand Three Hundred Ninety Dollars (\$2,734,390) of the minimum annual guarantee. The minimum annual guarantee includes Tenant's right to use 9,000 square feet of office space without additional charge.

(2) If Tenant has not generated sufficient qualifying tariff charges to pay City the minimum annual guarantee by the end of each compensation year, Tenant shall within thirty (30) days of the end of each compensation year pay such additional sums as are necessary to assure City has been paid the minimum annual guarantee. All monies due and unpaid after this thirty (30) days elapses shall bear interest at the rate provided in Item 1227 of Tariff (or its successor provision), currently 2% per month.

(3) If Tenant in any preceding compensation year has been required to make up a deficiency in the minimum annual guarantee as provided in subsection (2) above or if City in its sole discretion has any substantial reason to question Tenant's financial condition, City may, at its sole election, require Tenant to pay the minimum annual guarantee for the balance of the term or any portion thereof in monthly installments at the beginning of each month. Each such payment shall be in the amount of 1/12 of the minimum annual guarantee or such adjusted amount as is necessary to assure City will receive the requisite amount each month to assure full payment of the minimum annual guarantee each compensation year.

II. Revenue Sharing Breakpoints (RSB). (years 1 and 2)

Tenant may, for the first and second year of the first five (5) years withhold fifty percent (50%) of the qualifying tariff charges accruing after City has first been paid sufficient qualifying tariff charges to meet \$2,734,390 of Tenant's minimum annual guarantee. In addition, after Tenant has paid City a total of Five Million Nine Hundred Two Thousand Six Hundred Fifty Dollars (\$5,902,650) from qualifying tariff charges, Tenant may thereafter retain seventy-five percent (75%) of all future qualifying tariff charges accruing during the year.

Tenant's right to share revenue is conditioned upon Tenant's payments to City being current. If Tenant is delinquent in compensation payments pursuant to Section 4 of this Agreement, Tenant shall be notified in

writing of such delinquency. If Tenant fails to cure such delinquency within thirty (30) days from the date City's notice is postmarked (the "cure period"), Tenant shall thereafter remit one hundred percent (100%) of tariff charges otherwise qualifying for revenue sharing to City until the delinquency has been cured. If Tenant fails to cure and to remit one hundred percent (100%) of all qualifying tariff charges to City after the last day of the the cure period, City shall have the additional right upon ten (10) days written notice of continued delinquency to cancel Tenant's right to share revenues for the balance of the year in which the delinquency occurred, or a 4 month period whichever is greater. The provisions of this Section II shall be in addition to any other rights City may have under the terms of this Agreement with respect to delinquent compensation payments.

III. Automobile Tariff Charges.

Tenant is allowed to include automobile tariff charges as part of the qualifying tariff charges for reaching the MAG and RSB for years 1 and 2 only. If during years 1 and 2 there is an increase in tariff rates for automobiles, Tenant shall pay City 100% of the incremental increase and said incremental increase shall not count toward the MAG or RSB. Tenant's MAG and RSB will not increase for any Tariff adjustments for automobiles in which Tenant is not entitled to revenue share.

I. Minimum Annual Guarantee. (year 3)

(1) Tenant shall remit one hundred percent (100%) of "qualifying tariff charges" accruing at the premises to City as provided in Section 4(a) until City has been paid Two Million Seven Hundred Thirty-four Thousand Three Hundred Ninety Dollars (\$2,734,390) of the minimum annual guarantee ("MAG") of Seven Million Seven Hundred Eighteen Thousand Eight Hundred Fifty Dollars (\$7,718,850). Qualifying tariff charges, which are defined as those charges which count toward the minimum annual guarantee and the revenue sharing breakpoints described below, are all tariff dockage and wharfage charges. Tenant may retain the portion of the qualifying tariff charges provided in Section II below once City has been paid Two Million Seven Hundred Thirty-four Thousand Three Hundred Ninety Dollars (\$2,734,390) of the minimum annual guarantee. All automobile wharfage charges and other tariff charges shall always be paid 100% to City. The minimum annual guarantee includes Tenant's right to use 9,000 square feet of office space without additional charge.

(2) If Tenant has not generated sufficient qualifying tariff charges to pay City the minimum annual guarantee by the end of each compensation year, Tenant shall within thirty (30) days of the end of each compensation year pay such additional sums as are necessary to assure City has been paid the minimum annual guarantee. All monies due and unpaid after this thirty (30) days elapses shall bear interest at the rate provided in Item 1227 of Tariff (or its successor provision), currently 2% per month.

(3) If Tenant in any preceding compensation year has been required to make up a deficiency in the minimum annual guarantee as provided in subsection (2) above or if City in its sole discretion has any substantial reason to question Tenant's financial condition, City may, at its sole election, require Tenant to pay the minimum annual guarantee for the balance of the term or any portion thereof in monthly installments at the beginning of each month. Each such payment shall be in the amount of 1/12 of the minimum annual guarantee or such adjusted amount as is necessary to assure City will receive the requisite amount each month to assure full payment of the minimum annual guarantee each compensation year.

II. Revenue Sharing Breakpoints (RSB). (year 3)

Tenant may, for the third year of the first five (5) years withhold fifty percent (50%) of the qualifying tariff charges accruing after City has first been paid sufficient qualifying tariff charges to meet \$2,734,390 of Tenant's minimum annual guarantee. In addition, after Tenant has paid City a total of Five Million Nine Hundred Two Thousand Six Hundred Fifty Dollars (\$5,902,650) from qualifying tariff charges, Tenant may thereafter retain seventy-five percent (75%) of all future qualifying tariff charges accruing during the year.

Tenant's right to share revenue is conditioned upon Tenant's payments to City being current. If Tenant is delinquent in compensation payments pursuant to Section 4 of this Agreement, Tenant shall be notified in

writing of such delinquency. If Tenant fails to cure such delinquency within thirty (30) days from the date City's notice is postmarked (the "cure period"), Tenant shall thereafter remit one hundred percent (100%) of tariff charges otherwise qualifying for revenue sharing to City until the delinquency has been cured. If Tenant fails to cure and to remit one hundred percent (100%) of all qualifying tariff charges to City after the last day of the cure period, City shall have the additional right upon ten (10) days written notice of continued delinquency to cancel Tenant's right to share revenues for the balance of the year in which the delinquency occurred, or a 4 month period whichever is greater. The provisions of this Section II shall be in addition to any other rights City may have under the terms of this Agreement with respect to delinquent compensation payments.

I. Minimum Annual Guarantee. (year 4 and 5)

(1) Tenant shall remit one hundred percent (100%) of "qualifying tariff charges" accruing at the premises to City as provided in Section 4(a) until City has been paid Two Million Seven Hundred Thirty-four Thousand Three Hundred Ninety Dollars (\$2,734,390) of the minimum annual guarantee ("MAG") of Seven Million Seven Hundred Eighteen Thousand Eight Hundred Fifty Dollars (7,718,850). Qualifying tariff charges, which are defined as those charges which count toward the minimum annual guarantee and the revenue sharing breakpoints described below, are all tariff dockage and wharfage charges. Tenant may retain the portion of the qualifying tariff charges provided in Section II below once City has been paid Two Million Seven Hundred Thirty-four Thousand Three Hundred Ninety Dollars (\$2,734,390) of the minimum annual guarantee. All automobile wharfage charges and other tariff charges shall always be paid 100% to City. The minimum annual guarantee includes Tenant's right to use 9,000 square feet of office space without additional charge.

(2) If Tenant has not generated sufficient qualifying tariff charges to pay City the minimum annual guarantee by the end of each compensation year, Tenant shall within thirty (30) days of the end of each compensation year pay such additional sums as are necessary to assure City has been paid the minimum annual guarantee. All monies due and unpaid after this thirty (30) days elapses shall bear interest at the rate provided in Item 1227 of Tariff (or its successor provision), currently 2% per month.

(3) If Tenant in any preceding compensation year has been required to make up a deficiency in the minimum annual guarantee as provided in subsection (2) above or if City in its sole discretion has any substantial reason to question Tenant's financial condition, City may, at its sole election, require Tenant to pay the minimum annual guarantee for the balance of the term or any portion thereof in monthly installments at the beginning of each month. Each such payment shall be in the amount of 1/12 of the minimum annual guarantee or such adjusted amount as is necessary to assure City will receive the requisite amount each month to assure full payment of the minimum annual guarantee each compensation year.

II. Revenue Sharing Breakpoints. (years 4 and 5)

Tenant may, for the fourth and fifth year of the first five (5) years withhold fifty percent (50%) of the qualifying tariff charges accruing after City has first been paid sufficient qualifying tariff charges to meet \$2,734,390 of Tenant's minimum annual guarantee. In addition, after Tenant has paid City a total of Seven Million Eighty-three Thousand One Hundred Eighty Dollars (\$7,083,180) from qualifying tariff charges, Tenant may thereafter retain seventy-five percent (75%) of all future qualifying tariff charges accruing during the year.

Tenant's right to share revenue is conditioned upon Tenant's payments to City being current. If Tenant is delinquent in compensation payments pursuant to Section 4 of this Agreement, Tenant shall be notified in

writing of such delinquency. If Tenant fails to cure such delinquency within thirty (30) days from the date City's notice is postmarked (the "cure period"), Tenant shall thereafter remit one hundred percent (100%) of tariff charges otherwise qualifying for revenue sharing to City until the delinquency has been cured. If Tenant fails to cure and to remit one hundred percent (100%) of all qualifying tariff charges to City after the last day of the cure period, City shall have the additional right upon ten (10) days written notice of continued delinquency to cancel Tenant's right to share revenues for the balance of the year in which the delinquency occurred, or a 4 month period whichever is greater. The provisions of this Section II shall be in addition to any other rights City may have under the terms of this Agreement with respect to delinquent compensation payments.

EXAMPLE (SSA REVENUE SHARING PERMIT)

SSAPRO

Assumptions:

Area deletion of 20 acres occurs on August 1, 1992
 Area addition of 18 acres occurs on August 15, 1992
 Year 3 compensation period - June 1, 1992 to May 31, 1993
 Year 3 wharfage and dockage total = \$20,000,000

6/1/92 to and including 7/31/92 = 61 days
 8/15/92 to and including 5/31/93 = 290 days

Yearly proration factors:

61 days/365 days = 16.712%
 290 days/365 days = 79.452%

	MAG	50/50 RSB	75/25 RSB
YEAR 3 COMPENSATION PER ACRE	\$76,500	\$27,100	\$58,500
YEAR 3 COMPENSATION BASED ON 85 ACRES	85	\$6,502,500	\$2,303,500
		\$6,500,000	\$2,300,000
YEAR 3 COMPENSATION PER AGREEMENT		\$4,972,500	\$4,975,000

COMPUTATION OF ADJUSTED COMPENSATION

65 ACRES FOR 365 DAYS @ 100%	\$4,972,500	\$1,761,500	\$3,802,500
20 ACRES FOR 61 DAYS @ 16.712%	\$255,699	\$90,581	\$195,534
18 ACRES FOR 290 DAYS @ 79.452%	\$1,094,055	\$387,567	\$836,630

ADJUSTED YEAR 3 COMPENSATION BASE \$6,322,253 \$2,239,648 \$4,834,664

CALCULATION OF REVENUE SHARING COMPONENTS DUE PORT

\$0 - \$2,239,648	100.00%	2,239,648	2,239,648	0
\$2,239,649 - \$4,835,664	50.00%	5,190,033	2,595,016	2,595,016
\$4,835,665 +	25.00%	12,570,319	3,142,580	9,427,739

TOTAL PORT SSA
 \$20,000,000 \$7,977,244 \$12,022,756

CRANE PAYMENT SCHEDULE

SSAPR01

ASSUMPTIONS:

PRINCIPAL \$3,000,000
 INTEREST RATE 10.00%
 AMORTIZATION PERIOD (YRS) 5
 ANNUAL PAYMENT DUE DATE June 1

	BEGINNING PRINCIPAL	INTEREST PAYMENT	PRINCIPAL PAYMENT	PRINCIPAL BALANCE
June 1, 1989	3,000,000		600,000	2,400,000
June 1, 1990	2,400,000	240,000	600,000	1,800,000
June 1, 1991	1,800,000	180,000	600,000	1,200,000
June 1, 1992	1,200,000	120,000	600,000	600,000
June 1, 1993	600,000	60,000	600,000	0

TRUCKS ENTERING AND LEAVING THE PORT MUST USE THE ROUTE SHOWN BELOW.
CAMIONES ENTRANDO Y SALIENDO EL PORTO DEVEN DE USAR LA RUTA INDICADO ABAJO.

Ruta designado de camión de carga

Designated Truck Route at the Port of Los Angeles

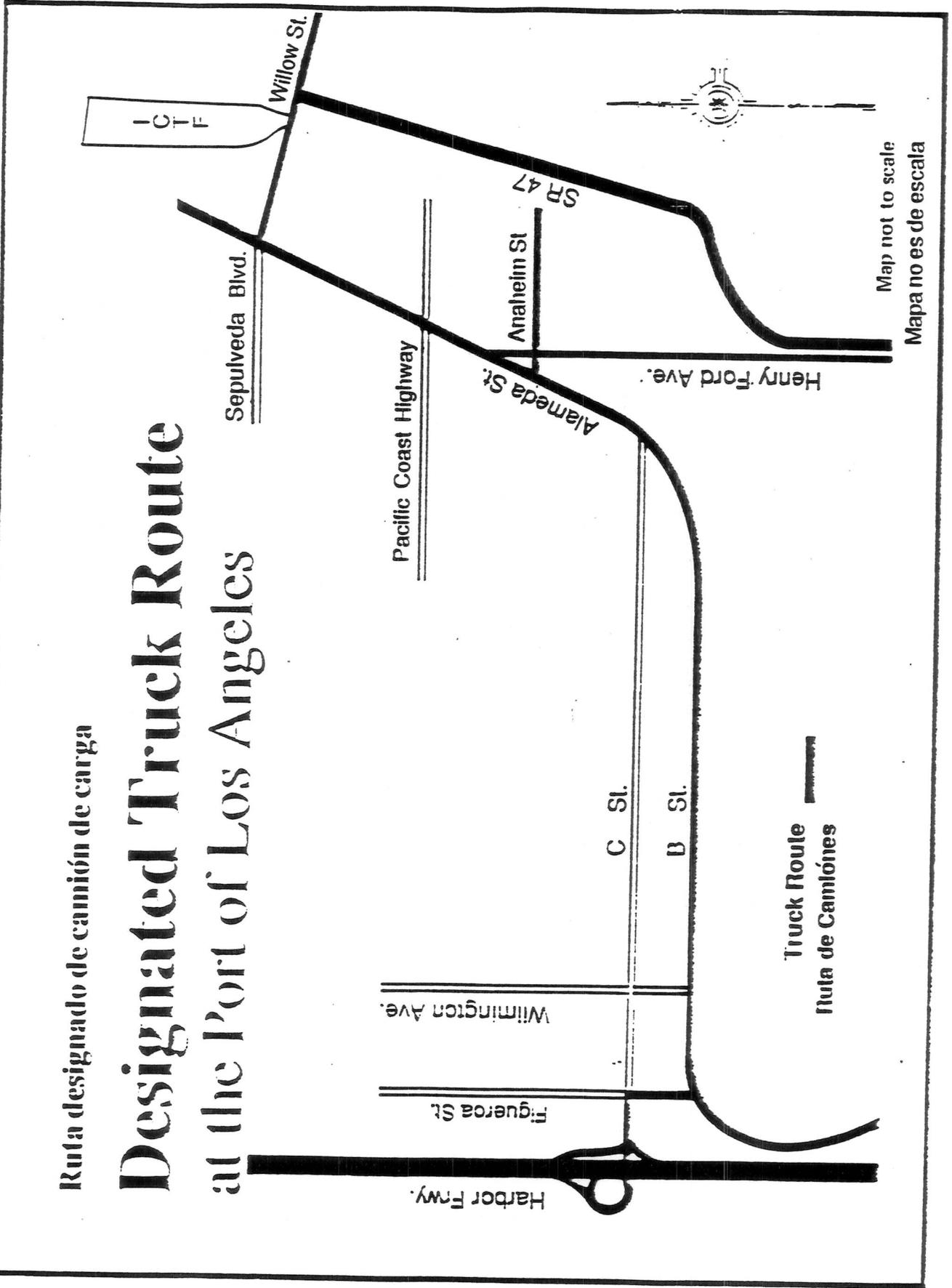


EXHIBIT "I"

MARINE TERMINAL MAINTENANCE PROVISIONS
FOR ALL LEASE AGREEMENTS

I. Structural Maintenance & Repair Performed by City at City's Expense*
Within Lease Area

1. Roofs
2. Exteriors of structures, including exterior painting
3. Wharf structure (as defined)
4. Wharf bulkheads
5. Rock slopes
6. Maintenance dredging
7. Replacement of deteriorated electrical conduit and pipeline system
8. High and low voltage systems, including switchgear and crane power trench
9. Fire protection sprinkler systems, fire hydrant systems, standpipe systems, fire alarm systems

II. Maintenance & Repair Performed by City at Tenant's Expense Within Lease Area

1. Fender system repair (wharf damage procedure)
2. Refrigerated receptacle outlet (reefer) maintenance
3. Backflow devices and potable water systems
4. HVAC servicing and repair

III. Operational Maintenance & Repair to be Performed by the Tenant. Port Will Perform if Forces Available by Accommodation Work Order Within Leased Area at Tenant's Expense. Tenant However Remains Responsible for Sufficiency of All Work

This portion of the Exhibit describes the maintenance and repair of items commonly found on terminal premises granted to Tenants. Not all items listed below may be present on all terminal premises. This list is only illustrative of the items which Tenant must maintain.

1. All landscaping, including irrigation systems
2. Daily janitorial service***
3. Relamping of terminal wharf and backland light standards**
4. Interior painting
5. Elevator and escalator maintenance**
6. Clarifier maintenance & servicing***
7. All toxic waste removal***
8. Storm drain inlet maintenance and cleaning
9. Cleaning clogged drains, including toilet/urinal stoppages
10. Pneumatic tube system maintenance**
11. Emergency generator unit maintenance**
12. Mooring capstans

13. Mechanical ramps and loading dock boards
14. Passenger gantries**, baggage systems**, conveyor systems**
15. Replacement of all light bulbs
16. Traffic and backland area striping (requires permit & approval by Harbor Engineer)
17. Weigh scales**
18. Wheel stop maintenance
19. Fence and gate maintenance
20. Rolling and sliding door maintenance
21. Window, door glass replacement
22. Carpet, tile, and vinyl floor replacements
23. All mechanical, electrical, hydraulic and air equipment and devices used by Tenant to maintain Tenant-owned machinery and equipment
24. Gate house equipment, including gate arms and mechanical/electrical equipment therein
25. Recharging and servicing of fire extinguishers
26. Surface paving, wharf and backland (as defined in agreement)
27. All underground and above ground tanks, pipelines and appurtenances unless the Agreement specifically otherwise provides.

* To be maintained at Tenant's expense if damaged by Tenant.

** To be maintained to Port's standards and subject to periodic audits and inspection by the Port of Los Angeles

*** At no time does Port provide or perform

IV. City May, but is Not Obligated to Maintain or Repair Items Tenant Fails to Maintain or Repair at Tenant's Expense

AFFIRMATIVE ACTION PROGRAM

A. Definitions

The following definitions shall apply to the terms used in this Exhibit:

"Affirmative Action" means the taking of positive steps by a contractor or subcontractor to ensure that its practices and procedures will promote and effectuate the employment, retention and advancement of a particular class or category of employee, generally referred to as a minority group, including women and any person or group described by race, religion, sex, ancestry, national origin, age, and physical handicap. The action may also involve the concept, when applicable, of remedying the continuing effects of past discrimination.

"Affirmative Action Plan" means a plan, program, scheme, or policy setting forth in detail acts to be taken, procedures to be followed, and standards to be adhered to to establish an Affirmative Action Program. It may include provisions for positive recruitment, training and promotion, and procedures for internal auditing and reporting to ensure compliance and measure the success of the program.

"Awarding Authority" means any Board or Commission of the City of Los Angeles, or any authorized employee or officer of the City of Los Angeles, including the Purchasing Agent of the City of Los Angeles, who makes or enters into any contract or agreement for the provision of any goods or services of any kind or nature whatsoever for or on behalf of the City of Los Angeles.

"Contract" means any agreement, franchise, lease, or concession, including agreements for any occasional professional or technical personal services, for the performance of any work or service, the provision of any materials or supplies, or the rendition of any service to the City of Los Angeles or to the public, which is let, awarded or entered into with, or on behalf of, the City of Los Angeles or any awarding authority thereof.

"Contractor" means any person, firm, corporation, partnership, or any combination thereof, who submits a bid or proposal or enters into a contract with any awarding authority of the City of Los Angeles.

"Employment Practices" means any solicitation of, or advertisement for, employees, employment, change in grade or work assignment, assignment or change in place or location of work, lay-off, suspension or termination of employees, rate of pay or other form of compensation including vacation, sick and compensatory time, selection for training, including apprenticeship programs, any and all employee benefits and activities, promotion and upgrading, and any and all actions taken to discipline employees for infractions of work rules or employer requirements.

"Office of Contract Compliance" is that office of the Department of Public Works of the City of Los Angeles created by Article X of Chapter 13 of Division 22 of the Los Angeles Administrative Code.

"Subcontractor" means any person, firm or corporation or partnership, or any combination thereof who enters into a contract with a contractor to perform or provide a portion or part of any contract with the City.

B. During the performance of this contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, age or physical handicap.

1. This provision applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work, or service category.

3. The contractor or subcontractor agrees to post a copy of paragraph B hereof in conspicuous places at its place of business available to employees and applicants for employment.

C. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, age or physical handicap.

D. At the request of the awarding authority or the office of Contract Compliance, the contractor shall certify on a form to be supplied, that the contractor has not discriminated in the performance of this contract against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, age or physical handicap.

E. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program of this contract, and on their or either of their request to provide evidence that it has or will comply therewith.

F. The failure of any contractor or subcontractor to comply with the Affirmative Action Program of this contract may be deemed to be a material breach hereof. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and

fair hearing after notice and an opportunity to be heard has been given to the contractor or subcontractor in accordance with the provisions of Section 22.359.3 of the Los Angeles Administrative Code.

G. Upon a finding duly made that the contractor or subcontractor has breached the Affirmative Action Program of this contract, this contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor or subcontractor is an irresponsible bidder pursuant to the provisions of Section 386 of the Los Angeles City Charter. In the event of such determination, such contractor or subcontractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he shall establish and carry out a program in conformance with the provisions hereof.

H. In the event of a finding by the Fair Employment Practice Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any Court of competent jurisdiction that the contractor or subcontractor has been guilty of a willful violation of the Fair Employment Practice Act of California, or the Affirmative Action Program of this contract, there may be deducted from the amount payable to the contractor or subcontractor by the City of Los Angeles under this contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of this contract.

I. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

J. The office of Contract Compliance shall promulgate rules and regulations and forms for the implementation of the Affirmative Action Program of this contract, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.

K. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

L. At the time its bid is submitted, the contractor shall submit an AFFIRMATIVE ACTION PLAN to the awarding authority which shall meet the requirements of this ordinance. The awarding authority may also require contractors and suppliers to take part in a prebid or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months next succeeding the date of contract award or the date of first approval by the Office of Contract Compliance whichever is the earliest.

L. (1). Every contract or subcontract in excess of \$5,000 which may provide construction, demolition, renovation, conservation, or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. (2). A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance.

M. Contractors and suppliers who are members in good standing of a trade association which has negotiated an Affirmative Action Program with the Board of Public Works, Office of Contract Compliance may make the program of such association their commitment for the specific contract upon approval of the Office of Contract Compliance, without the process of a separate prebid or preaward conference. Such an association agreement shall be effective for a period of twelve months next succeeding the date of approval by the Office of Contract Compliance. Trade associations shall provide the Office of Contract Compliance with a list of members in good standing in such association.

N. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed approved Affirmative Action Nondiscrimination Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any affirmative action plan or change the affirmative action plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.

O. The Affirmative Action Plan required to be submitted hereunder and the prebid or preaward conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for nonapprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Preapprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of contractors, subcontractors and suppliers of all ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions, and practices generally observed in private industries in the contractor's, subcontractor's, or supplier's geographical area for such work; and

6. The entry of qualified women and minority journeymen into the industry.

7. The provision of needed supplies or job conditions to permit persons with some unusual physical condition to be employed, and minimize the impact of any physical handicap.

P. Any adjustments which may be made in the contractor's or supplier's work force to achieve the requirements of the City's affirmative action contract compliance program in purchasing and construction shall be accomplished by either or both an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement, or death and not by termination, lay-off, demotion, or change in grade.

Q. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the prebid or preaward conferences shall not be confidential and may be publicized by the contractor at his discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its contract compliance affirmative action program.

R. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement. and shall have application only to discriminatory employment practices by contractors, subcontractors or suppliers engaged in the performance of City contracts.

Minority Business Enterprise/Women Business Enterprise. It is the policy of the City of Los Angeles to provide Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs) ¹ and all other business enterprises an equal opportunity to participate in the performance of all City contracts. Bidders and proposers shall assist the City in implementing this policy by taking all reasonable steps to ensure that all available business enterprises, including local MBEs and WBEs, have an equal opportunity to compete for and participate in City contracts. Bidders' or proposers' good faith efforts to reach out to MBEs, WBEs and all other business enterprises shall be determined by the following factors:

(1) The bidder's or proposer's efforts to obtain participation by MBEs, WBEs and other business enterprises could reasonably be expected by the Awarding Authority to produce a level of participation by interested subcontractors, including 18 percent MBE and 4 percent WBE as established by the Awarding Authority.

(2) The bidder or proposer attended pre-solicitation or pre-bid meetings, if any, scheduled by the Awarding Authority to inform all bidders or proposers of the requirements for the project for which the contract will be awarded. The Awarding Authority may waive this requirement if the bidder or proposer certifies it is informed as to those project requirements.

(3) The bidder or proposer identified and selected specific items of the project for which the contract will be awarded to be performed by subcontractors to provide an opportunity for participation by MBEs, WBEs and other business enterprises. The bidder or proposer shall, when economically feasible, divide total contract requirements into small portions or quantities to permit maximum participation of MBEs, WBEs and other business enterprises.

¹ Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) - for the purposes of this City policy Minority Business Enterprises and Women Business Enterprises are defined as any business, bank or financial institution which is owned and operated by a minority group member or woman, or such business, bank or financial institution of whom 50% or more of its partners or stockholders are minority group members or women. If the business is publicly owned, the minority members or stockholders must have at least 51% interest in the business and possess control over management capital earnings.

(4) The bidder or proposer advertised for bids or proposals from interested business enterprises not less than 10 calendar days prior to the submission of bids or proposals, in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media specified by the Awarding Authority.

(5) The bidder or proposer provided written notice of its interest in bidding on the contract to those business enterprises, including MBEs and WBEs, having an interest in participating in such contracts. All notices of interest shall be provided not less than 10 calendar days prior to the date the bids or proposals were required to be submitted. In all instances, the bidder or proposer must document that invitations for subcontracting bids were sent to available MBEs, WBEs and other business enterprises for each item of work to be performed.

The Mayor's Office of Small Business Assistance shall be available to help identify interested MBEs, WBEs and other business enterprises.

(6) The bidder or proposer documented efforts to follow up initial solicitations of interest by contacting the business enterprises to determine with certainty whether the enterprises were interested in performing specific portions of the project.

(7) The bidder or proposer provided interested enterprises with information about the plans, specifications and requirements for the selected subcontracting work.

(8) The bidder or proposer requested assistance from organizations that provide assistance in the recruitment and placement of MBEs, WBEs and other business enterprises not less than 15 days prior to the submission of bids or proposals.

(9) The bidder or proposer negotiated in good faith with interested MBEs, WBEs and other business enterprises and did not unjustifiably reject as unsatisfactory bids or proposals prepared by any enterprise, as determined by the Awarding Authority. As documentation the bidder or proposer must submit a list of all sub-bidders for each item of work solicited, including dollar amounts of potential work for MBEs, WBEs and other business enterprises.

(10) The bidder or proposer documented efforts to advise and assist interested MBEs, WBEs and other business enterprises in obtaining bonds, lines of credit, or insurance required by the Awarding Authority or contractor.

Achievement of expected levels of participation in paragraph (1) above may only be used as one of the 10 indicia,

above, of whether a bidder or proposer has made a good faith effort to recruit MBEs, WBEs and other business enterprises. If the Awarding Authority has established expected levels of participation for MBE and WBE contractors, failure to meet those levels shall not by itself be the basis for disqualification of the bidder or proposer. An Awarding Authority's determination of the adequacy of the bidder's or proposer's good faith effort must be based on due consideration of all indicia of good faith as set forth above.

In the event that an Awarding Authority is considering awarding away from the lowest bidder or not awarding a contract to a proposer because the bidder or the proposer is determined to be nonresponsive for failure to comply with the good faith indicia set forth above, the Awarding Authority shall, if requested, and prior to the award of the contract, afford the bidder or proposer the opportunity to present evidence to the Awarding Authority in a public hearing of the bidder's or proposer's good faith efforts in making its outreach. In no case should an Awarding Authority award away pursuant to this program if a bidder or proposer makes a good faith effort but fails to meet the expected levels of participation.