



FIRST AMENDMENT TO  
PERMIT NO. 673

WHEREAS, City and Stevedoring Services of America (hereinafter "Tenant" or "SSA") desire to provide an operating area for Yang Ming Marine Transport Ltd. (hereinafter "YML") within the premises granted to SSA; and

WHEREAS, City and SSA also desire to increase the size of SSA's premises by adding one parcel of approximately ten (10) acres; and

WHEREAS, City desires to purchase from SSA certain improvements built at SSA's expense on the premises which will benefit the City;

NOW, THEREFORE, City and Tenant mutually agree to amend Permit No. 673 as follows:

Section 1. Revised Premises.

In addition to the premises granted by Section 2(a) of Permit No. 673, City hereby delivers and Tenant hereby accepts the following additional area to be used nonexclusively and preferentially subject to the terms of Permit No. 673 effective September 30, 1989:

(a) Ten (10) acres (+/- .1/10 acre) designated as the area outlined in yellow, delineated and more particularly described on the sketch on file in the office of the Harbor Engineer. A copy of said sketch marked Exhibit "L" is attached hereto and made a part hereof.

(b) A formal drawing incorporating all areas amended into Permit No. 673 will be substituted as the agreement exhibit when prepared by Harbor Engineer.

(c) In consideration of City providing the additional area described above and modifying the compensation requirements, SSA agrees to provide an operating area within its terminal for the operations of YML as more particularly described in Permit No. 681 between City, YML and SSA.

Section 2. Compensation - Effect of Permit No. 681 and YML and of Cargo Handled by YML on SSA's Minimum Annual Guarantee/Revenue Sharing Breakpoints.

(a) Section 4 is amended by adding a new subsection (1):

"All tariff charges for wharfage, dockage, storage and demurrage, ("qualifying charges") incurred by YML at the premises assigned

to SSA from July 1, 1989 under Permit No. 673 shall be counted toward SSA's minimum annual guarantee and revenue sharing breakpoints. However, SSA may not count in any one year more than \$2,400,000 of YML's qualifying charges. In addition, such charges shall count toward the minimum annual guarantee and revenue sharing breakpoints only so long as YML operates at the operating area pursuant to Permit No. 681 or a carryover under Permit No. 591."

(b) Section 4 is further amended by adding a new subsection (m):

"Tenant shall not be required to pay any additional compensation for the ten (10) acres added to the premises by this Amendment so long as YML occupies the operating area pursuant to Permit No. 681 or a carryover under Permit No. 591. On the date Permit No. 681 terminates or YML discontinues the use of the operating area granted by Permit No. 681 or a carryover under Permit No. 591, the ten (10) acres described in Section 1 of this Amendment shall be deleted from the premises. Tenant shall be given thirty (30) days written notice of the termination of Permit No. 681 or YML's discontinued use of the operating area granted by Permit No. 681 setting forth the specific date that the ten (10) acres will be removed from the premises.

The application of tariff charges to revenue sharing breakpoints will be based on the chronological sequence of vessel arrivals and on Port accounting records of verified billed amounts.

### Section 3. Compensation - Wharfage Credit.

In consideration of the improvements constructed by Tenant at Berth 227, which said improvements include fencing, striping, gate construction, communication equipment and scale installation, City agrees to allow a wharfage credit to Tenant in an amount not to exceed their actual cost, but in no event in excess of One Hundred Ninety Thousand Dollars (\$190,000). Such cost shall include only the actual amount paid by Tenant to suppliers and contractors to complete the work. Tenant agrees that title to all improvements it has constructed for which a credit is allowed are automatically transferred to City upon completion of construction and acceptance by City. Such improvements shall be governed by all the terms and conditions of Permit No. 673, as amended. City acknowledges that Tenant has complied with the condition precedent to its receiving the credit provided in this Section by submitting to City its plans and specifications, bills and proof of payment to the Property Management section of the Los Angeles Harbor Department. Tenant having complied with the condition precedent, the wharfage credit will be issued by the Department and may be used to offset compensation due after the effective date of this Amendment.

### Section 4. Improvements - Guarantee.

If any defect in the improvements constructed by Tenant is discovered during the term of this Agreement, Tenant shall be obligated at its expense to correct such defect.

Section 5. Effective Date.

This Amendment shall be submitted to the Federal Maritime Commission for review pursuant to the Shipping Act of 1984 and shall become effective the later of (i) as provided in Section 5 of the Act or the first day after a determination by the Federal Maritime Commission that such Amendment is not subject to the Act, and (ii) thirty-one (31) days after publication of the order or ordinance approving this Amendment.

Except as provided herein, all other remaining terms and conditions of Permit No. 673 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Permit No. 673 on the date to the left of their signatures.

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

Date SEP 13 1990

By Tay Yoshitani  
Tay Yoshitani Executive Director

Attest Audrey H. Yamaki  
Audrey H. Yamaki *acting* Board Secretary

STEVEDORING SERVICES OF AMERICA  
DAVID L. MICHOU

Date 5/18/90

By David L. Michou  
REGIONAL VICE PRESIDENT  
(Print/Type Name and Title)

Attest M.H.K. Aschemeyer  
M.H.K. ASCHEMEYER, VICE PRESIDENT  
(Print/Type Name and Title)

APPROVED AS TO FORM  
May 27, 1990  
JAMES K. HAHN, City Attorney

By Gerald F. Swan  
GERALD F. SWAN, Assistant

GFS:kls  
5/14/90

