FMC Agreement No. 201157

USMX-ILA MASTER CONTRACT MEMORANDUM OF SETTLEMENT

EFFECTIVE JUL 6 2004 UNDER THE SHIPPING ACT OF 1984 Federal Maritime Commission

BETWEEN

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

AND

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

This Memorandum of Settlement entered into this 28th day of June 2004, establishes the terms and conditions for a new Master Contract covering only container and ro-ro operations between the Parties to replace the existing Master Contract, including all amendments thereto, which went into effect on October 1, 1996 and as extended will expire on September 30, 2004 (hereinafter "1996 Master Contract").

A. TERM OF AGREEMENT

1. The term shall be for six years, from October 1, 2004 through and including September 30, 2010.

B. WAGES

2. Employees whose straight-time basic wage rate in effect on September 30, 2004 is more than $21 per hour shall receive the following increases in their straight-time basic wage rate:

EFFECTIVE DATE		INCREASE
October 1, 2004	—	$1.00 per hour
October 1, 2006	—	$1.00 per hour
October 1, 2008	—	$1.00 per hour
October 1, 2009	—	$1.00 per hour

3. Employees whose straight-time basic wage rate in effect on September 30, 2004 is $21.00 per hour or less shall receive the following increases in their straight-time basic wage rate:

EFFECTIVE DATE		INCREASE
October 1, 2004	—	$2.00 per hour
October 1, 2006	—	$2.00 per hour
October 1, 2008	—	$1.50 per hour
October 1, 2009	—	$1.50 per hour

4. The starting straight-time basic wage rate for new employees who enter the industry on or after October 1, 2004 shall be $16.00 per hour.

C. LOCAL FRINGE BENEFIT CONTRIBUTIONS

5. Contributions for local pension, welfare, and other employee fringe benefits shall be increased as follows:

EFFECTIVE DATE	INCREASE
October 1, 2004	$1.00 per hour, raising the total rate from $11.00 to $12.00 per hour, of which $5.00 per hour shall be paid to MILA.
October 1, 2006	$0.50 per hour, raising the total rate from $12.00 to $12.50 per hour, of which $5.00 per hour shall be paid to MILA.
October 1, 2008	$0.50 per hour, raising the total rate from $12.50 to $13.00 per hour, of which $5.00 per hour shall be paid to MILA.

Management guarantees that during the term of the Contract the contributions made pursuant to this Section shall be no less than $124.4 million dollars.

D. MILA

6. FUNDING

(a) The Parties shall amend the Agreement and Declaration of Trust of the Carrier-ILA Container Royalty Fund ("CR-4 Fund") to provide that the sole and exclusive purpose of the CR-4 Fund shall be to provide funding for MILA.

(b) During the term of this Agreement, tonnage contributions to the CR-4 Fund for the funding of MILA shall be increased as follows:

EFFECTIVE DATE	INCREASE
October 1, 2004	$0.25 per ton, raising the contribution rate from $0.20 to $0.45 per ton.
October 1, 2005	$0.75 per ton, raising the contribution rate from $0.45 to $1.20 per ton.
October 1, 2009	$0.25 per ton, raising the contribution rate from $1.20 to $1.45 per ton.

7. PLAN AMENDMENTS

(a) ELIGIBILITY OF ACTIVE EMPLOYEES

(i) To be eligible to be a participant entitled to coverage under MILA's Premier Plan for the calendar year commencing January 1, 2006 and for each of the succeeding calendar years during the term of this Agreement, an employee must work or be credited with at least 1,300 hours of service in the immediately preceding contract year.

(ii) To be eligible to be a participant entitled to coverage under MILA's Basic Plan, for the calendar year commencing January 1, 2006, and for each of the succeeding calendar years during the term of this Agreement, an employee must work or be credited with at least 1,000 hours of service in the immediately preceding contract year.

(iii) To be eligible to be a participant entitled to coverage under MILA's Starter Plan for the calendar year commencing January 1, 2006, and for each of the succeeding calendar years during the term of this Agreement, an employee must work or be credited with at least 700 hours of service in the immediately preceding contract year.

(b) ELIGIBILITY OF RETIREES

(i) During the term of this Agreement any retiree who is covered under MILA's Premier Plan as a non-Medicare eligible retiree on September 30, 2004, shall continue to be covered under MILA's Premier Plan, as may be modified, until the retiree becomes eligible for Medicare at which time the retiree's MILA benefits will be limited to Medicare wraparound benefits.

(ii) Any active employee who during a six-month window period, commencing October 1, 2004, and ending on March 31, 2005, elects early retirement under the terms of the local pension plan in effect as of September 30, 2004, and actually retires on or before March 31, 2005, shall be eligible during the term of this Agreement to be covered by MILA's Premier Plan, as may be modified, until the retiree becomes eligible for Medicare at which time the retiree's MILA benefits will be limited to Medicare wraparound benefits.

(iii) After the window closes on March 31, 2005, until the expiration of the term of this Agreement, to be eligible for MILA benefits as a non-Medicare eligible retiree, a retiree must be 58 years of age with 25 or more years of service, as defined by the local pension plan, and such retiree will qualify for coverage under MILA's Basic Plan, as may be modified, until such retiree becomes 62 years of age, when the retiree will become eligible to be covered under MILA's Premier Plan, as may be modified, until such retiree becomes eligible for Medicare, at which time such retiree's MILA benefits will be limited to Medicare wraparound benefits.

(iv) Any former employee who no later than September 30, 2004 is no longer in the industry but has sufficient service to qualify for a vested pension benefit upon the attainment of the age of 65 and who is also entitled to receive MILA benefits as of September 30, 2004, shall be eligible to receive MILA Medicare wraparound benefits when he attains the age of 65. Any individual employee who leaves the industry after September 30, 2004 without retiring and who is eligible for a vested pension benefit when he leaves the industry shall not be eligible to receive any MILA benefits when he retires.

(c) PLAN AMENDMENTS

Effective January 1, 2005, the following MILA plan provisions shall be adopted:

(i) The co-pay shall be $15.00 per visit to a primary care physician ("PCP") and $30.00 per visit to a specialist in the Premier Plan and $25.00 per visit to a PCP and $40 per visit to a specialist in the Basic Plan, but there shall be no co-pay for an annual physical.

(ii) The payment rate for out-of-network services shall be sixty (60%) percent of reasonable and customary eligible charges, and the out-of-pocket annual benefit limits that apply to out-of-network charges shall be $6,500 per individual and $13,000 per family.

(iii) There shall be a $500 annual pharmacy family deductible for all active employees and all retirees (including Medicare-eligible retirees) for brand name drugs only except for those brand name drugs for which there is no comparable generic substitute as determined by

the MILA Trustees. This deductible replaces the $500 pharmacy deductible that is currently in place in the MILA Plan.

(d) CREATION OF STARTER PLAN

The MILA Trustees shall place in effect by January 1, 2006, MILA's Starter Plan, which shall provide lesser benefits than those provided by MILA's Basic Plan.

E. CONTAINER ROYALTY CAP

8. The Container Royalty Cap shall be raised to the following levels:

EFFECTIVE DATE		CAP LEVEL
October 1, 2004	—	58 million tons
October 1, 2006	—	63 million tons
October 1, 2008	—	68 million tons
October 1, 2009	—	73 million tons

9. (a) During the term of this Agreement for each Contract Year in which the CAP Level changes the port benchmarks for the ports of New York/New Jersey, Hampton Roads, Charleston, Savannah, Miami/Port Everglades and the West Gulf will be recalculated using the tons reported to the local container royalty funds in the "Base Contract Year." The "Base Contract Year" is the year which commences two years prior to the contract year in which the CAP changes (eg., the port benchmarks for the contract year commencing October 1, 2004, will be calculated based on the container royalty tons reported in the Base Contract Year beginning October 1, 2002 and ending September 30, 2003). Individual port benchmarks for the ports of New York/New Jersey, Hampton Roads, Charleston, Savannah, Miami/Port Everglades and the West Gulf will be calculated using the following formula:

$$\frac{\text{Base Year Local CR Tons}}{\text{Base Year Coastwide CR Tons In All Master Contract Ports}} \times \text{Applicable CR CAP Level}$$

(b) During the term of this Agreement with respect to the Ports of Boston, Philadelphia, Baltimore, Wilmington, NC, Jacksonville and New Orleans, the port benchmark for each of these ports shall be the lesser of (a) the port's benchmark as of September 30, 2004 or (b) the tons reported in the port for container royalty purposes in the Contract Year ending September 30, 2003.

10. The payment of container royalty assessments shall cease in every port when the number of tons reported to the local Container Royalty Fund in the port exceed the benchmark determined using the formula set forth in paragraph 9(a) of this Agreement, as if that formula were applicable to all Master Contract ports, and container royalty assessments in excess of such benchmarks shall be paid to CCC Service Corporation for distribution as follows:

Forty (40%) percent shall be refunded to the Carriers;

Twenty (20%) percent shall be paid to MILA; and

Forty (40%) percent shall be paid to an escrow fund established by a single local port or by a group of ports ("Local Escrow Fund") to pay local benefits.

11. In the event the application of the provision in Paragraph 9(b) results in an obligation to pay Container Royalty Dollars Nos. 1 and 3 on tons in excess of the agreed upon CAP Level set forth in Paragraph 8 of this Agreement, such obligation shall be satisfied solely from that portion of the

container royalties in excess of the benchmarks collected and set aside for distribution to the Local Escrow Funds pursuant to Paragraph 10 of this Agreement without any allocation of the amount of that obligation to any particular port.

12. During the term of this Agreement, a port's existing benchmark may be reviewed and adjusted prospectively at the beginning of a contract year by the parties to this Agreement if such port experiences a dramatic annual decrease in the tons reported for container royalty purposes.

13. The portion of the CAP refund paid to a Local Escrow Fund pursuant to Paragraph 10 of this Agreement shall not be used for supplemental cash benefits (except as provided in Paragraph 11 of this Agreement), nor shall the use of this portion of the CAP refund result in any carrier being considered an employer in relation to any local port employee pension benefit plan within the meaning of the Employee Retirement Income Security Act ("ERISA"), except in any port where the carrier already is an employer under ERISA.

F. ILA JURISDICTION OVER WORK COVERED BY THIS AGREEMENT

14. Paragraph 11-12(B) of the 1996 Master Contract is deleted and replaced by the provisions set forth on Attachment A to this Agreement. The new provision includes a new grievance procedure and a set of guidelines, which includes a glossary of terms, concerning clerks and checkers jurisdiction.

15. Paragraph 11-12(C) of the 1996 Master Contract is deleted and replaced by the provisions set forth on Attachment B to this Agreement.

16. Paragraph 13 of the 1996 Master Contract is deleted and replaced by the provisions set forth on Attachment C to this Agreement.

G. CONTINUATION OF EXISTING TERMS AND CONDITIONS

17. All the terms and conditions of the 1996 Master Contract, including all extensions and amendments thereto as well as accommodations in effect on September 30, 2004, shall remain in effect during the entire term of this Agreement except as modified by the provisions of this Agreement.

18. This Agreement satisfies all issues between the parties and shall go into full force and effect upon ratification of the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

UNITED STATES MARITIME ALLIANCE, LTD.

By James A. Capo

James A. Capo
Chairman/CEO

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO

By John Bowers

John Bowers,
President

FINAL CLERICAL JURISDICTION MASTER CONTRACT LANGUAGE

Clerical Work

(B) Clerks shall perform all clerical work on container waterfront facilities which traditionally and regularly has been performed by them, including but not limited to work related to the receipt and delivery of cargo, hatchchecking, prestow, (hatch sequence sheet) plan clerking, recording of receipt and delivery of containers received or delivered at waterfront facilities, timekeeping, location and yard work, and demurrage recording, which work shall not be removed from the waterfront facility. The input and output of information by computers related to the foregoing work functions shall also be performed by Checkers and Clerks.

DATED: March 23, 2004

FINAL MEMO

RE: Management Proposals to the ILA Jurisdiction Committee

1. Prior to October 1, 2004, the Jurisdiction Committee will visit every port that raises an issue concerning any violation of the Master Contract's jurisdiction provisions. The Jurisdiction Committee will render a report within 30 days of each visit. The Jurisdiction Committee can use an independent third party to perform fact finding whenever the Committee agrees that such action is necessary.

2. After October 1, 2004, Management and the ILA will set up a labor adjustor system to hear and resolve Master Contract jurisdictional disputes within 30 days of the dispute being presented. Part of this system will permit the labor adjustors, on an as-needed basis, to use an independent third party to perform fact finding whenever the Jurisdiction Committee agrees that such action is necessary.

DATED: March 23, 2004

FINAL JURISDICTION COMMITTEE
GUIDELINES AND GLOSSARY OF TERMS

The members of the Jurisdiction Committee, in order to provide a framework to resolve outstanding issues regarding the jurisdiction of the ILA Clerks and Checkers, have agreed upon the following definitions and the statement of principle that will be used to define and identify the specific functions that fall within the ILA's jurisdiction.

In applying Section 11-12(B) of the Master Contract, members of the Jurisdiction Committee shall be bound by the following principle. Management and the ILA agree that the ILA Clerks and Checkers shall have jurisdiction over each and every function set forth in Section 11-12(B), which is performed on container waterfront facilities on behalf of signatory employers in each and every port covered by the Master Contract, provided that such function was at any time in the past performed by the ILA Clerks and Checkers in that port. It is further understood that clerical work currently performed by state port authorities or government agencies, if discontinued, will fall under the ILA's jurisdiction.

The following basic list of terms are intended to be descriptive and not all encompassing and are not intended to limit the jurisdiction or functions of the ILA Clerks and Checkers as they exist under local agreements in the various ports covered by the Master Contract.

Unless there is agreement between the ILA in a local port and an employer in the local port, any deviation from the jurisdiction provisions of the Master Contract shall not constitute a waiver, amendment or rescission of the jurisdiction provisions of the Master Contract.

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Receiving & Delivery of cargo shall mean checking and/or clerking of all cargo received into and/or out of a container terminal operated and controlled by a USMX member company. The input and output of information related to change of status (eg, change of vessel, change of discharge port, etc.) once the container is received at the waterfront facility shall also be performed by the Checkers and Clerks. Management and the ILA agree that they will develop a methodology to confirm who is performing computer input work that falls within the ILA's jurisdiction. Both Management and the ILA agree that the methodology will vary from one terminal to another because of the different computer systems utilized in various ports and terminals.

Hatchchecking shall mean the checking, tallying, verification and recording of all containers and/or cargo loaded, discharged or restowed to/from a vessel or barge at a container terminal operated and controlled by a USMX member company.

Pre-stow & Plan Clerking shall mean the making of sequence sheets and/or the making of a pre-stow plan that would be used in loading and discharging vessels and barges in accordance with Management instructions. Such work shall include but not be limited to all work relating to the bay plan. The use of a computer in the performance of the above function falls within the ILA's jurisdiction.

Timekeeping shall mean the Timekeeper's duties and functions, which shall include, at the discretion of Management, but not be limited to, keeping longshore time and the preparation of time sheets and payroll information. If a computer is used to perform this function, this will fall under the ILA's jurisdiction.

Location & Yard Work shall mean the identification, location and control of all containers, chassis, and or cargo to be loaded, discharged or restowed to or from the vessel or barge. Necessary paperwork and computer utilization required to perform these clerical functions, as required by Management's direction and planning, shall fall within the ILA's jurisdiction.

Demurrage Recording shall mean the preparation, computation, and checking of container demurrage receipts.

DATED: March 23, 2004

FINAL NEW TECHNOLOGY MASTER CONTRACT LANGUAGE

New Technology

(C) Where new devices and new methods are utilized, it is recognized that these make the ILA more competitive and their employers more able to provide continued employment. Management also agrees that the impact on employees of any new technology shall be the basis for prior discussions with the ILA. It is agreed that all affected employees, who held these positions which have become impacted and discontinued by technology will be afforded the opportunity for retraining at Management's expense to acquire the necessary skills for employment in this industry. Employment positions within the ILA work jurisdiction resulting from technological changes will be offered to ILA employees affected by such changes to the extent that they are able to perform such work with reasonable training. Persons trained under such a program must accept jobs so offered.

Management shall discuss the impact of the new technology on the workforce with ILA representatives. An employer shall be required to notify in writing the ILA International President and representatives in the local port area of the employer's intended introduction of new technology no later than one hundred eighty (180) days prior to the scheduled date of the employer's implementation of the new technology. On failure to reach agreement, the new technology shall not be placed in effect but held in abeyance for a maximum period of 60 days after either side has filed a grievance provided the grievance is filed no later than the sixtieth (60th) day after the issuance by the employer of the notice to ILA representatives in the local port area. The grievance shall be heard and resolved by a three (3) person panel. The panel shall consist of one person selected by the ILA, one person selected by Management, and an arbitrator selected pursuant to the procedures set forth in Section 15 of the Master Contract. A grievance may only be filed as to the impact of new technology on the work force including any workers who may be displaced. The following time limits shall be applicable:

- Filing of the grievance, and discussions thereafter for a maximum of 20 days.
- On failure to agree, an expedited arbitration will be held and a determination to be issued by the panel on or before the 60th day, after the filing of the grievance.
- The panel shall issue its decision within such 60-day period and the new technology may not be placed in effect by Management until after the panel's decision which shall only have prospective effect.

DATED: March 23, 2004

FINAL M & R
MASTER CONTRACT LANGUAGE

Maintenance Work Covered by the Agreement

It is agreed that the jurisdiction of the ILA shall cover the maintenance and repair of equipment (which term includes containers and chassis) and such equipment as its members have historically maintained and which is owned, controlled, operated, or interchanged by USMX members including, but not limited to (a) container cranes, (b) container handling equipment and (c) container cranes and container handling equipment which is acquired for new deep-sea terminal facilities. The ILA's jurisdiction remains in effect at waterfront container facilities, and / or off-pier premises used for servicing and repair of equipment covered by this agreement, in accordance with the Containerization Agreement.

Further, all said equipment, be it owned, leased or controlled by USMX members and / or signatories to the Master Contract, etc., once it is presented at waterfront facilities, shall be covered by this agreement.

Furthermore, it is recognized that the marine terminal work of all ILA crafts has been traditionally performed on pier and waterfront facilities. When such marine terminal work is moved off the marine terminal by the terminal operator or by a signatory carrier to facilities in the port area, the ILA shall retain its work jurisdiction, where the work is the work that would have been performed in the marine terminal or port area.

Major damaged equipment must be repaired in the port where the major damage is discovered provided, however, that where a carrier needs to reposition empties or where it is otherwise necessary to its operations, a carrier shall notify the ILA maintenance local of the repositioning and the equipment numbers of the major damage equipment. Thereafter, it shall also report the time, place and nature of the repairs performed by ILA labor in an ILA port on such damaged equipment. Such notification shall be subject to the audit procedure.

In fulfilling the above objectives, it is agreed that:

1. No damaged equipment shall be loaded aboard ship for export except under the procedures provided below.
2. No employer or carrier shall permit damaged equipment to leave the compound except under the procedures provided herein.
3. The employers and carriers shall not enter into any leasing agreement that circumvents the work jurisdiction of the ILA covered under this Agreement.

Determination Procedure

1. An ILA / Carrier Master Contract Committee has established amended criteria attached as part of the Appendix for a container with major damage in accordance with uniform criteria which relate to safety, structural soundness, roadability and seaworthiness of the various types of containers. These criteria shall be distributed to the ILA maintenance employees in the inspection (or roadability) lanes at each container terminal.
2. In accordance with the criteria established in paragraph No. 1, ILA employees may designate a container or chassis which they examine and find damaged (as defined in such paragraph 1 criteria) as out of service on a T.I.R. form and such container shall be placed in a deadline status in accordance with the procedures of the terminal involved.
3. The carrier shall be notified of such designation as soon as possible and shall have the right to determine that such container or chassis shall either be repaired (in an ILA port of its choosing) or if it disagrees with the ILA determination that such container was damaged within the paragraph 1 criteria, the container in question shall be placed back into service or repositioned as an empty.

Grievance and Audit

The ILA shall have the right to be informed of the action so taken and to grieve the matter, if it so desires, under the terms and conditions of the grievance procedures agreed to by the parties in the Master Agreement. If it is determined under such grievance procedure that the container in question should have been repaired, the carrier shall pay liquidated damages of $1,000 per container ($2,000 per container for willful violations), as ruled in such determination.

Fact finding and audit under the grievance procedure shall be provided by an independent auditor selected by the parties who shall have the right to audit all applicable documentation of a carrier to determine compliance with this agreement. Such audit shall be available to the grievance procedure and may be used to establish compliance or the lack thereof.

DATED: March 23, 2004