

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

BETWEEN

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

AND

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

This Memorandum of Settlement ("MOS") entered into this 16th day of October, 2009, extends the term and modifies the provisions of the USMX-ILA Master Contract covering the period from October 1, 2004, through September 30, 2010 ("2004 Master Contract"). Except as modified herein, all the terms and conditions of the 2004 Master Contract will remain in full force and effect.

A. TERM OF AGREEMENT - Modifying Article XVI of the 2004 Master Contract

1. The term of the Master Contract and of all local collective bargaining agreements covering employees engaged in work involving container and ro-ro

operations on the East and Gulf Coasts of the United States shall be extended through and including September 30, 2012.

B. WAGES - Modifying Article II of the 2004 Master Contract

1. Wage Increases – Current Employees

(a) Effective October 1, 2009, employees whose straight-time basic wage rate in effect on September 30, 2009, is \$30 per hour shall receive an increase of \$1.00 per hour in their straight-time basic wage rate as provided in Section 1(a) of Article II of the 2004 Master Contract.

(b) Effective October 1, 2011, employees whose straight-time basic wage rate in effect on September 30, 2011, is \$31.00 per hour shall receive an increase of \$1.00 per hour, so that their straight-time basic wage rate shall be \$32.00 per hour.

(c) Effective October 1, 2009, employees whose straight-time basic wage rate in effect on September 30, 2009, is less than \$30 per hour and whose straight-time basic wage rate in effect on September 30, 2004, was more than \$21 per hour shall receive an increase of \$1.00 per hour in their straight-time basic wage rate as provided in Section 1(a) of Article II of the 2004 Master Contract.

(d) Effective October 1, 2009, employees whose straight-time basic wage rate in effect on September 30, 2009, is less than \$30 per hour and whose straight-time basic wage rate in effect on September 30, 2004, was \$21.00 per hour or less shall receive an increase of \$1.50 per hour in their straight-time basic wage rate as provided in Section 1(b) of Article II of the 2004 Master Contract.

2. Starting Wage Rate

(a) The starting straight-time basic wage rate for new employees who enter the industry on or after October 1, 2009, shall be \$20.00 per hour.

(b) Effective October 1, 2009, employees who after receiving the increase of \$1.50 per hour set forth in Section 1(b) of Article II of the 2004 Master Contract still have a straight-time basic wage rate that is less than \$20.00 per hour shall have their straight-time basic wage rate increased to \$20.00 per hour.

3. Tiered Wage Progression Formula

(a) Effective April 1, 2012, all employees who are receiving a straight-time basic wage rate on September 30 of the prior Contract Year that is less than the highest straight-time basic wage rate will receive an increase in their straight-time basic wage rates in accordance with the following Tiered Wage Progression Formula:

- (i) On their third (3rd) Industry Employment Anniversary Date, twenty-five percent (25%) of the difference between the highest straight-time basic wage rate and the employee's straight-time basic wage rate on September 30 of the prior Contract Year;
- (ii) On their fifth (5th) Industry Employment Anniversary Date, fifty percent (50%) of the difference between the highest straight-time basic wage rate and the employee's straight-time basic wage rate in effect on September 30 of the prior Contract Year;
- (iii) On their seventh (7th) Industry Employment Anniversary Date, seventy-five percent (75%) of the difference between the highest straight-time basic wage rate and the employee's straight-time basic wage rate in effect on September 30 of the prior Contract Year; and
- (iv) On their ninth (9th) Industry Employment Anniversary Date, one hundred percent (100%) of the difference between the highest straight-time basic wage rate and the employee's straight-time basic wage rate in effect on September 30 of the prior Contract Year.

(b) Initial Application of Tiered Wage Progression Formula.

An employee who is eligible to receive an increase in the straight-time basic wage rate on April 1, 2012, pursuant to the Tiered Wage Progression Formula shall

receive the increase in two (2) installments: 50% on April 1, 2012, and 50% on July 1, 2012.

(c) **Definitions.** The following definitions shall apply to the Tiered Wage Progression Formula:

- (i) An employee's Industry Employment Anniversary Date will be based upon the number of Qualified Anniversary Years with which the employee has been credited as of September 30 of the prior Contract Year;
- (ii) A Qualified Anniversary Year for all Contract Years prior to October 1, 2009, is one in which the employee is credited with at least one (1) hour of service. A Qualified Anniversary Year for all Contract Years after September 30, 2009, is one in which the employee is credited with at least 700 hours of service.
- (iii) When applying the Tiered Wage Progression Formula, the highest straight-time basic wage rate shall be the rate in effect on the date the Formula is applied.

(d) **Future Application of Tiered Wage Progression Formula.**

After the expiration of this MOS, the Tiered Wage Progression Formula shall continue in full force and effect in subsequent Master Contracts commencing October 1, 2012, including any extension of this MOS. On October 1, 2012, and on each October 1 thereafter while the Tiered Wage Progression Formula remains

in effect, employees shall be entitled to receive an increase in their straight-time basic wage rate pursuant to the Tiered Wage Progression Formula payable on that date.

C. MILA - Modifying Article XII of the 2004 Master Contract

Section 2(a) of Article XII of the 2004 Master Contract is modified as follows:

- (a) The increase of \$0.25 per ton in the CR-4 tonnage contribution scheduled to take effect on October 1, 2009, is rescinded.
- (b) Effective October 1, 2009, the \$1.20 per ton CR-4 tonnage contribution rate that was in effect as of September 30, 2009, shall be reduced to \$1.00 per ton.
- (c) Effective October 1, 2011, the CR-4 tonnage contribution rate shall be increased by \$0.15 per ton, thus raising the CR-4 tonnage contribution rate from \$1.00 per ton to \$1.15 per ton.

D. CONTAINER ROYALTY CAP - Modifying Article XI of the 2004 Master Contract

1. Effective October 1, 2009, Section 1 of Article XI of the 2004 Master Contract is amended to delete the reference to the Container Royalty Cap as provided in Section 4 of Article XI of the 2004 Master Contract.

2. Effective October 1, 2009, the Carriers shall have the right to suspend temporarily the payment of the First and Third Container Royalties set forth in Section 1 of Article XI of the 2004 Master Contract until the Carriers have recouped the sum of \$42 million. USMX shall determine the period of the suspension and the manner in which each Carrier shall share in the recoupment of the \$42 million. USMX shall have the obligation to inform the ILA when the suspension has commenced and when it has expired.

3. Effective October 1, 2009, Sections 3 and 4 of Article XI of the 2004 Master Contract, which impose caps on container royalty contributions and benefit payments, are deleted in their entirety.

4. Effective October 1, 2009, the \$0.30 per ton contribution rate to the Carrier-ILA Container Freight Station Trust Fund (“CFS”) set forth in Section 5 of Article XI of the 2004 Master Contract is rescinded in its entirety.

5. Effective October 1, 2010, the contribution rate to the CFS shall be at \$0.05 per ton, which shall be paid until the expiration of the term of the Master Contract as defined in Section A of this MOS.

E. CARRIER-ILA CONTAINER ROYALTY FUND NO. 5

The following new provisions shall be added to Article XI of the 2004 Master Contract:

1. A new Carrier-ILA Container Royalty Fund No. 5 (“CR-5 Fund”) shall be established as of October 1, 2009. The CR-5 Fund shall be administered by a board of trustees comprised of an equal number of trustees appointed by the ILA and by USMX.

2. Effective October 1, 2009, a tonnage contribution rate of \$0.60 per ton shall be paid for the funding of the CR-5 Fund. Effective October 1, 2010, the CR-5 Fund tonnage contribution rate shall be increased by \$0.10 per ton, raising the CR-5 Fund tonnage contribution to \$0.70 per ton, which shall be paid until the expiration of the term of the Master Contract as defined in Section A of this MOS.

3. The sole and exclusive purpose of the CR-5 Fund shall be to provide financial assistance to joint Management-ILA employee benefit plans (other than pension plans) in the local ports or districts. Applications for financial assistance will be granted to local employee benefit plans that are in need due to shortfalls in funding provided the plans meet the criteria for assistance established by the CR-5

Fund trustees, except for the following payments which the CR-5 Fund will distribute without the necessity of any showing of need:

- (a) Commencing with the Contract Year ending September 30, 2010, each local port shall be entitled for each Contract Year during the term of the Master Contract as defined in Section A of this MOS to receive from the CR-5 Fund an amount equal to the CAP excess distribution paid to that port for the Contract Year ending September 30, 2009, calculated in accordance with the provisions of Section 4 of Article XI of the 2004 Master Contract that were in effect until October 1, 2009.

- (b) Commencing with the Contract Year ending September 30, 2010, the South Atlantic District Escrow Fund (SADEF) and the West Gulf's Maritime-ILA Pension, Retirement, Welfare & Vacation Fund (PRW&VF) shall each be entitled for each Contract Year during the term of the Master Contract as defined in Section A of this MOS to receive an amount from the CR-5 Fund to fund vacation and holiday benefits calculated in accordance with the terms and provisions of the letter agreements between USMX and the South Atlantic & Gulf Coast District, ILA, dated April 6, 2005 (relating to the West Gulf vacation and holiday benefits) and April 12, 2005 (relating to the South Atlantic vacation and holiday benefits) (hereinafter the "Letter Agreements"). This amount shall not exceed what the SADEF and the PRW&VF will receive from the carriers' CAP excess distribution for the Contract Year ending September 30, 2009. The obligations imposed on the Carriers in the Letter Agreements will be assumed by the CR-5 Fund, as provided herein, for the Contract Years ending September 30, 2010, September 30, 2011, and September

30, 2012, and neither USMX nor the Carriers shall have any further obligations under the Letter Agreements.

F. NEW TECHNOLOGY - Modifying Appendix G of the 2004 Master Contract

Effective October 1, 2009, the following new provision shall be added as Paragraph 5 to Appendix G of the 2004 Master Contract:

USMX and the ILA will create a standing Technology Committee in accordance with the provisions of Paragraph 3 of this letter. Members will be appointed shortly after ratification by both USMX and the ILA of the Memorandum of Settlement dated October 16, 2009.

The Committee is charged with developing a mission statement that will include:

- (a) Performing an analysis of any economic impact on wages and benefits;
- (b) Performing an additional analysis on how an automated facility or operation may affect any craft jurisdiction;
- (c) Analyzing possible reassignment, retraining, severance, and/or assignment to the ILA of all employment positions resulting from technological changes in accordance with the provisions of Article X, Section 1 of the Master Contract, after evaluating productivity, tonnage levels and any additional work created by technology;

Following completion of this analysis, the parties shall convene for the purpose of negotiating a final resolution of these issues.

G. ILA JURISDICTION - Modifying Article VII of the 2004 Master Contract

Effective October 1, 2009, the following new provision shall be added as Section 11 to Article VII of the 2004 Master Contract:

Management reaffirms the ILA's jurisdiction as set forth in Articles VII, VIII and IX of the 2004 Master Contract and in particular, that such jurisdiction applies from the point at which the container/cargo comes within the control of ILA-represented bargaining unit members. If necessary, issues arising over interpretation of these articles will be adjudicated by the Jurisdiction Committee.

H. JURISDICTION COMMITTEE - Modifying Section 4 of Article VII of the 2004 Master Contract

The following new provision shall be added as subsection (c) to Section 4 of Article VII of the 2004 Master Contract:

Decisions of the Jurisdiction Committee are to be implemented by a port immediately unless the Jurisdiction Committee establishes an alternate time schedule. Decisions of the Jurisdiction Committee are final and binding and shall have the force and effect of an arbitration award that may be enforced in a court of law. In addition, the parties shall establish a procedure to resolve a deadlock of the Jurisdiction Committee by selecting in advance a panel of arbitrators that are mutually acceptable and use the next available arbitrator to resolve the

deadlock on a set time schedule. The parties agree that the award is final and binding.

I. PORT OF DISCOVERY – Modifying Article IX of the 2004 Master Contract

Effective October 1, 2009, the following new provision shall be added as

Section 5 in Article IX of the 2004 Master Contract:

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

J. CONTINUATION OF EXISTING TERMS AND CONDITIONS

1. All terms and conditions of the 2004 Master Contract in effect on September 30, 2009, except as modified herein, and all terms and conditions of all current local contracts in effect on September 30, 2009, that apply to container and ro-ro operations shall remain in effect through September 30, 2012.

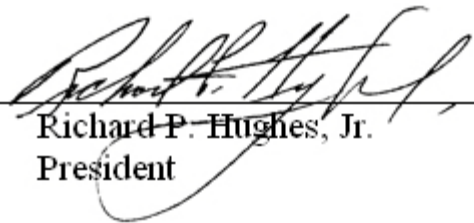
2. This Agreement satisfies all issues between the Parties and shall go into full force and effect upon ratification by the Parties.

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
Chairman/CEO

INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, AFL-CIO

By 
Richard P. Hughes, Jr.
President