

**CONTAINER MAINTENANCE/REPAIR
AGREEMENT**

between

**METROPOLITAN MARINE MAINTENANCE
CONTRACTORS' ASSOCIATION, INC.**

and the

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION
(AFL-CIO)**

and its affiliated

LOCALS 1814 AND 1804-1

JANUARY 1, 2005 to DECEMBER 31, 2010

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AGREEMENT made as of the first day of January 1, 2005, between METROPOLITAN MARINE MAINTENANCE CONTRACTORS' ASSOCIATION, INC. (hereinafter referred to as "the Association"), as collective bargaining representative of its member contractors (hereinafter referred to as "the employers" or "the contractors" or "management") in the Port of New York and New Jersey, and the INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (AFL-CIO) and its affiliated Locals 1814 and 1804-1 (hereinafter referred to as "the ILA" or "the Union"), as collective bargaining representatives of the container maintenance/repair employees of the aforementioned contractors.

ARTICLE I

RECOGNITION

Section 1. The Association recognizes the Union as the sole and exclusive bargaining agent for all employees covered by this Agreement, and the Union recognizes the Association as the sole and exclusive bargaining agent for all employer members of the Association.

Section 2. This Agreement shall be applicable to the maintenance and repair of all equipment (which shall include, but not be limited to, containers and chassis and other such equipment as the employees herein have historically maintained, which are owned, controlled, operated or interchanged by member companies of MMMCA, USMX and the NYSA who are signatories to collective bargaining agreements with Local 1804-1 and Local 1814) at marine terminals and off-terminal facilities and other work as set forth in Articles XI and XXIII ("Covered Employment") herein.

Section 3. The employer members of the Association agree that they will not contract out any work covered by this Agreement or any work which historically and regularly has been and currently is performed by employees covered by this Agreement or employees covered by other ILA craft agreements unless such work is performed by employees covered by ILA agreements.

ARTICLE II

UNION SECURITY

As a condition of employment, all employees covered by this Agreement shall, on or after the thirtieth (30th) day following the beginning of employment or thirty (30) days after January 1, 2005 (the effective date of this Agreement), or thirty (30) days after the execution of this Agreement, whichever is latest, become members of the Union and remain members in good standing during the term of this Agreement. For purposes of this Article, an employee shall be considered a Union member in good standing if he tenders periodic dues and initiation fees uniformly required as a condition of attaining and retaining Union membership.

ARTICLE III

CHECK-OFF

Section 1 . Each employer covered by this Agreement shall deduct from the gross wages of its employees who so authorize by written assignment or signed "check-off authorization" filed with the Association:

- A. A sum equal to two percent (2%) of said gross wages and earnings paid for on account of dues payable to Locals 1814 or 1804-1, which shall be forwarded once a month to the Locals at their respective addresses.
- B. A sum equal to one percent (1%) of said gross wages and earnings paid for on account of dues payable to the International Office of the ILA, which shall be forwarded once a month to the ILA at 17 Battery Place, New York, New York 10004 in care of the Secretary-Treasurer. That sum shall be reduced to nine-tenths of one percent (.9%) for each employee who authorizes deductions under paragraph D of this Section.
- C. A sum equal to one quarter of one percent (.25%) of said gross wages and earnings paid for of employee members of Local 1814 on account of voluntary contributions payable to the Local 1814, International Longshoremen's Association, AFL-CIO, Political

Action and Education Fund, which shall be forwarded once a month to said fund at 70 20th Street, Brooklyn, New York 11232 in care of the Secretary-Treasurer.

D. A sum equal to one tenth of one percent (.1%) of said gross wages and earnings paid for of employee members of Locals 1804-1 and 1814 on account of voluntary contributions payable to International Longshoremen's Association, AFL-CIO, Committee of Political Education (ILA COPE), which shall be forwarded once a month to said fund c/o International Longshoremen's Association, 17 Battery Place, Suite 930, New York, New York 10004.

E. Credit union deductions and any other legal assessments and deductions properly authorized.

Section 2. Funds due under Section 1 herein shall be paid within thirty (30) days of said deductions from the employee by the employer. Funds not remitted within this time frame shall bear interest at the rate of one percent (1 %) for each subsequent 30 day period or portion thereof.

Section 3. Deductions made hereunder shall be paid monthly by the employer to such representative of the Union as may be designated by the Union. Remittance of such dues and fees to the Union by the employer shall be accompanied by a record of those for whom deductions have been made, and the amounts to be credited to each employee for whom deductions have been made.

Section 4. The amount of the Union dues and fees set forth in Section 1 shall be determined by the Union. The Association shall be notified in writing signed by the President and Financial Secretary of each of the locals which are parties to this Agreement, of the amount of any increase or decrease in Union dues and fees. In the event of any change in said dues and fees, the change shall become effective in the payroll period following the Union's written notice to the Association of the change.

Section 5. The Trustees of the Metro-ILA Fringe Benefit Fund are directed to deduct from the vacation, paid holiday, jury duty and bereavement benefits due to employees covered by this Agreement the dues and any initiation fee payable to the Union, provided that said employees

authorize the deductions by written assignment or signed “check-off authorization” filed with the Fringe Benefit Fund.

Section 6. The Union agrees to indemnify and hold the Association, its employer members, and the Trustees of the Metro-ILA Fringe Benefit Fund harmless with respect to any sums deducted and remitted to the Union pursuant to this Article.

ARTICLE IV

GUARANTEED HOURS OF WORK, MEAL HOURS,

MINIMUM STAFFING AND FLEX-TIME

Section 1. The regular work week shall consist of five (5) consecutive days, commencing on Monday at 8:00 A.M. and ending on Friday at 5:00 P.M. All work over eight (8) consecutive hours in any work day shall be compensated for at the overtime rate of one and one-half (1 ½) times the employee’s regular straight-time hourly rate.

Section 2. All employees called in on any weekday shall receive a minimum of eight (8) hours’ pay per day commencing at 8:00 A.M. from the date of call-in to the Friday of that week.

Section 3. All employees called in on Saturday, Sunday or holiday, shall receive a minimum of four (4) hours’ pay at the prevailing rate.

Section 4. All employees called in at 7 P.M. shall receive a minimum of eight (8) hours’ pay at the prevailing rate.

Section 5. All employees called in at 12:00 Midnight shall receive a minimum of six (6) hours’ pay at the prevailing rate.

Section 6. For employees not covered under the flex-time provisions of Section 11 herein, meal periods shall be:

Midnight	to	1:00 A.M.
6:00 A.M.	to	7:00 A.M.
Noon	to	1:00 P.M.
6:00 P.M.	to	7:00 P.M.

If a meal period is not used, it shall be compensated for at the overtime rate of twice the employee's regular straight-time hourly rate.

Section 7. A fifteen (15)-minute "break" shall be provided within a reasonable midpoint of every four (4) hour work period. A twenty (20)-minute period shall be provided at the end of the work day for washing up and returning tools.

Section 8. The employers agree that they will not employ workers not covered by this Agreement to do the work of covered employees during meal hours.

Section 9. Where a member contractor is working for a neutral chassis pool which is owned or operated by a stevedore or leasing company that consolidates work for more than one steamship line, the minimum staffing shall be three (3) employees and a foreman.

Any inspection of equipment or inventory of parts shall also be included for the purposes of maintaining minimum staffing.

Section 10. WORK SHIFT DIFFERENTIAL.

Notwithstanding the above, each employer may establish an additional work shift outside normal working hours, from Monday through Friday only, at the wage rate of 120% of the straight-time hourly rate for those employees. Saturday, Sunday and holiday rates shall remain at time and one-half. Employees shall receive preference for this work shift in order of seniority. This section applies only to container and chassis repair work.

Section 11. FLEX-TIME

In order to make operations at waterfront terminals more efficient, the parties agree to adjust the work hours of covered employees by the implementation of "flex time" during the term of this Agreement. Flex time shall apply only to the receiving and delivery of containers and chassis at waterfront terminals, excluding rail operations, in the Port of New York and New Jersey.

The flex-time system shall work as follows:

- A. Starting work times will be 6:00 A.M., 9:00 A.M. and 1:00 P.M. Additional starting times may be agreed to by the parties during the term of this Agreement.

B. Employees hired at 6:00 A.M. will be paid in the following manner:

- 1) 6:00 A.M. to 8:00 A.M. at time and a quarter.
- 2) 8:00 A.M. to 3:00 P.M. at straight time, with a one-hour lunch period to be taken between 11:00 A.M. and noon.
- 3) After 3:00 P.M. at time and a half.

C. Employees hired at 9:00 A.M. will be paid in the following manner:

- 1) 9:00 A.M. to 5:00 P.M. at straight time, with a one-hour lunch period to be taken between 1:00 P.M. and 2:00 P.M.
- 2) 5:00 P.M. to 6:00 P.M. at time and a quarter.
- 3) After 6:00 P.M. at time and a half.

D. Employees hired at 1:00 P.M. will be paid in the following manner:

- 1) 1:00 P.M. to 5:00 P.M. at straight time.
- 2) 5:00 P.M. to 10:00 P.M. at time and a quarter, with a one-hour dinner period to be taken between 5:00 P.M. and 6:00 P.M.
- 3) After 10:00 P.M. at time and a half.

E. Where such work is performed after 5:00 P.M., Monday through Friday, there shall be one staff person employed per craft, with no other minimum staffing required.

F. Where such work is performed on Saturday, Sunday, or holiday, there shall be two staff persons employed per craft, with no other minimum staffing required.

Section 12. REEFER

A. All temperature checks shall be done by labor provided by Metro-ILA reefer mechanics.

B. The minimum staffing shall be one (1) foreman and two (2) mechanics.

C. If a reefer is accompanied by a generator set, then the generator set will be included in the TCIR inspections.

D. All dangerous work shall, at a minimum, have two (2) men working.

Section 13. WARRANTY AND GUARANTEE WORK

All maintenance and repair work performed under normal warranty and guarantee terms of a reasonable period, other than extended warranties and guarantees, shall be performed by employees covered by this Agreement so long as it does not invalidate any warranty or guarantee

terms for that equipment. In the event the said work requires training unique to the particular equipment, the warrantors, guarantors, owners or operators of the equipment shall train and pay a minimum of one (1) Metro-ILA mechanic.

ARTICLE V

MOVING OF DAMAGED EQUIPMENT

All driving, stacking, and unstacking of damaged and repaired equipment that has historically and regularly been performed by Metro-ILA labor shall be done by employees covered by this Agreement and placed in a ready row for future handling.

ARTICLE VI

PAID HOLIDAYS

Section 1. The Trustees of the Metro-ILA Fringe Benefit Fund shall pay the following benefits to each eligible employee covered by Article XI, Section 1 of this Agreement, and shall deduct all sums required by Federal, State and municipal agencies:

A. Pre-1997 Hired Employees (Except Sweepers and TIR Employees)

Per Holiday	
2005	\$212.40
2006	\$220.40
2007	\$228.40
2008	\$228.40
2009	\$236.40
2010	\$260.40

B. Sweepers, TIR Employees and Post-1996 Hired Employees

The Trustees of the Metro-ILA Fringe Benefit Fund shall provide Holiday Pay to each eligible employee covered by this Agreement who is a Sweeper or a TIR employee or was

hired post 1996 for each Holiday based on the individual's contractual straight time wage set forth in Article XI (Wages and Manning), plus any differentials, multiplied by eight, in effect on October 1st of the year in which the benefit is to be paid. Deducted from the Holiday Pay shall be all sums required by Federal, State and Municipal agencies.

The annual benefits due shall be paid in the first week of December. All checks shall be issued with year to date data reflected thereon.

Section 2. The following are paid holidays:

Paid Holidays			
1	New Year's Day	9	Labor Day
2	Martin Luther King Jr.'s Birthday	10	Columbus Day
		11	Election Day
3	Lincoln's Birthday	12	Veterans' Day
4	Washington's Birthday	13	Thanksgiving Day
5	St. Patrick's Day	14	Christmas Eve
6	Good Friday	15	Christmas Day
7	Memorial Day	16	New Year's Eve
8	Fourth of July		

Section 3. Covered employees shall be entitled to benefits in each year of this Agreement based upon the following schedule:

Number of Hours Worked	
In Prior Calendar Year	Number of Paid Holidays Due
0 to 699	0
700 to 999	12
1000 to 1499	14
1500 or above	16

Section 4. All work performed on paid holidays shall be compensated for at the overtime rate of one and one-half (1 ½) times the employee's regular straight time hourly rate. In the event of any of

the holidays falling on a Sunday, the public practice of celebrating such holidays on Monday shall be observed.

Section 5. An employee who has been absent from work by reason of disability incurred while employed in the industry for which he has received or continues to receive Worker's Compensation payments and benefits, New Jersey Temporary Disability Benefits or New York Disability Benefits, shall receive a credit for hours not worked during such period of disability up to a maximum of twenty (20) hours per week. Such credit shall be granted for a maximum of three (3) years, which shall include years prior to the effective date of this Agreement.

Section 6. Eligibility and benefits shall be determined by the Trustees of the Metro-ILA Fringe Benefit Fund.

ARTICLE VII

RIGHTS OF MANAGEMENT AND LABOR

Section 1. The employer and the union shall determine the number of employees needed on any job.

Section 2. The employer shall have the right to summarily dismiss any employee for just cause under Article X.

ARTICLE VIII

SHOP STEWARDS

A duly elected or appointed Union Shop Steward may serve as the employee representative in all complaints or other matters desired to be brought to the attention of the Union, the Association, the employer or the foreman. The Steward shall also serve as a Safety Inspector. The Steward on the job shall not interfere with the orderly operation of the employer's business and shall perform Union duties on his own time. In the event that any Union representative feels required to ascertain if any provision of this Agreement is being complied with, such determination shall be made by the Shop

Steward in the area where the employees are working. In the event that the employer feels aggrieved by any improper action of the Steward, he shall complain to the Union representative, who shall have the power to remove the Steward on finding that the facts warrant such action.

ARTICLE IX

SENIORITY

Seniority shall be based on classifications and length of service with a particular shop, except that merit shall be considered as grounds for promotion.

ARTICLE X

GRIEVANCE AND ARBITRATION

In the event of any dispute or controversy arising during the life of this Agreement as to the interpretation of same, the employees shall continue to work pending its resolution in the following manner:

- A. Any dispute or controversy which may arise during the term of this Agreement shall be investigated on the job immediately by representatives of the employer and the Union. The parties shall endeavor to reach an immediate decision. If no decision is reached at that level, paragraph B of this Article shall come into effect. The employee(s) affected shall continue to work where he has been last assigned pending final decision, unless he has been suspended or terminated by his employer.
- B. Upon the filing of a written grievance with the Association by either the employer or the Union, the matter in dispute shall be submitted to a Committee of four (4), two (2) of whom shall represent the Association and two (2) of whom shall represent the Union. The Committee of four (4) shall meet as soon as reasonably possible after the grievance has been submitted. The decision of the majority of this Committee shall be final and binding. The decision of this Committee shall be sent to the grievant within seven (7) business days of said written decision being issued. In the event of failure on the part of this Committee of four

(4) to reach a satisfactory decision, they shall proceed to select a fifth member who must be satisfactory to both sides, and the decision of the majority of the Committee so augmented shall be final and binding upon the parties. The fifth member shall be selected within seven (7) days of the failure of the Committee of four (4) to reach a satisfactory decision. If a fifth member shall not be agreed upon within seven (7) days, the Committee shall request the American Arbitration Association to appoint said fifth member. Judgment upon any award rendered by the arbitrators hereunder may thereafter be entered in any court having jurisdiction thereof.

Any grievance filed pursuant to this Article must be submitted to the Committee within six months of the events giving rise to the grievance. Failure to comply with this requirement will result in the summary denial of the grievance.

- C. In order to avoid the necessity of prolonged litigation procedures, the parties agree that any questions regarding the payment of monies due from an employer to the Association or to any of the trust funds established under this Agreement may be submitted to arbitration at the office of the Association. The Union, the Association, or the Trustees of any Fund herein may file a written Demand for Arbitration concerning the payment of contributions or other monies due to the Funds or the Association. The Association shall thereupon serve a Notice of Arbitration upon the party alleged to owe the monies by facsimile and by Certified Mail, Return Receipt Requested. The arbitration shall thereafter proceed as set forth in paragraph B of this Article. Judgment upon any award rendered by the arbitrators hereunder may thereafter be entered in any court having jurisdiction thereof.
- D. In addition to all other relief that the arbitrators are entitled to award, the arbitrators may in their discretion require the employer to post cash, a surety bond, or other adequate security in favor of the Funds and the Association to ensure the payment of future contributions to the Funds and the Association. The nature and amount of the security to be required and the length of its duration shall be in the sole discretion of the arbitrators. The failure of the employer to comply with this or any other part of the award shall constitute a breach of this

Agreement, and the Union, the Association and the Trustees of any Fund herein reserve the right to take whatever legal action may be appropriate in the circumstances, including, but not limited to, the withdrawal of labor from the employer by the Union, the suspension or expulsion of the employer from membership in the Association, and the disqualification of the employer from further participation in the Funds.

ARTICLE XI

WAGES AND MANNING

Section 1. Wage increases, to include skill differentials, for all employees covered by this Agreement shall be:

Base Wage

Effective Dates	Jan. 1, 2005	Jan. 1, 2006	Jan. 1, 2007	Jan. 1, 2008	Jan. 1, 2009	Jan. 1, 2010
Wage Increases	\$1.00	—	\$1.00	—	\$1.00	\$1.00
Parity Increases						\$2.00

Skill Differentials:

Effective Dates	2005	2006	
M&R	\$1.00	\$1.00	(Excludes Sweepers)
TIR	\$1.00		(With Computers)

Wage Rates to Include Base, Skill Differential & Parity Pre-1997 Actives Only Contract Years 2005 - 2007			
	Jan. 1, 2005	Jan. 1, 2006	Jan. 1, 2007
Foreman-Dispatcher	\$27.00	\$28.00	\$29.00
Truck Driver	\$26.55	\$27.55	\$28.55
Equipment Operator	\$26.55	\$27.55	\$28.55
Mechanic	\$26.55	\$27.55	\$28.55
TIR Man with Computer	\$26.55	\$26.55	\$27.55
TIR Man without Computer	\$25.55	\$25.55	\$26.55
Assistant Mechanic	\$26.35	\$27.35	\$28.35
Helper	\$26.15	\$27.15	\$28.15
Handyman	\$25.95	\$26.95	\$27.95
Tire Repairman	\$26.55	\$27.55	\$28.55
Sandblaster	\$26.55	\$27.55	\$28.55
Sweeper	\$25.15	\$25.15	\$26.15

Wage Rates to Include Base, Skill Differential & Parity Pre-1997 Actives Only Contract Years 2008 - 2010			
	Jan. 1, 2008	Jan. 1, 2009	Jan. 1, 2010
Foreman-Dispatcher	\$29.00	\$30.00	\$33.00
Truck Driver	\$28.55	\$29.55	\$32.55
Equipment Operator	\$28.55	\$29.55	\$32.55
Mechanic	\$28.55	\$29.55	\$32.55
TIR with Computer	\$27.55	\$28.55	\$31.55
TIR Man without Computer	\$26.55	\$27.55	\$30.55
Assistant Mechanic	\$28.35	\$29.35	\$32.35
Helper	\$28.15	\$29.15	\$32.15
Handyman	\$27.95	\$28.95	\$31.95
Tire Repairman	\$28.55	\$29.55	\$32.55
Sandblaster	\$28.55	\$29.55	\$32.55
Sweeper	\$26.15	\$27.15	\$30.15

Section 2.

- A. All persons employed prior to January 1, 2005 shall be paid, effective January 1, 2005, a minimum of \$19 per hour, plus a skill differential, if applicable, of \$1 per hour for a total of \$20 per hour, and any such annual increases effective thereafter.

- B. All persons employed after January 1, 2005 shall be paid a minimum of \$18 per hour, plus a skill differential, if applicable, of \$1 per hour, and any such annual increases effective

thereafter.

- C. All foremen and shop stewards shall receive the differential pay applicable to their respective areas of responsibility.
- D. All mechanics and working foremen shall receive an additional ten cents (\$.10) per hour over the prevailing rate as a tool allowance.

Section 3. In consideration of the above wage increases and skill differentials, both the employers and the Union will extend their best efforts to insure that, as of January 1, 2005:

- A. All new entry-level applicants for employment as mechanics or electricians are certified graduates of technical schools in the areas of welding, diesel/automotive, electrical/electronics, refrigeration/HVAC, or possess such other skills as may be required for their anticipated areas of work, or have demonstrated work experience and related knowledge levels commensurate with that of a technical school graduate.
- B. All new entry-level applicants for employment as equipment drivers have a commercial driver's license.

Section 4.

- A. Layoff is on Friday only.
- B. There is a minimum guarantee of forty (40) hours for employees called in on Monday.
- C. There will be a minimum of two (2) employees and one (1) foreman employed on all jobs. This does not apply to a mobile unit.
- D. There will be a minimum of one (1) TIR employee per lane. Any changes to the manner in which the TIR inspections are performed, either by written form, computer, scanner, or other methodology, will be discussed with the Union prior to implementation. No such changes will be implemented without the mutual consent of the parties.

A TIR inspection must be performed in every instance where an intermodal chassis is interchanged to a motor carrier. Any deviation from this procedure must be discussed on a prior basis with the Union. Where a TIR inspection identifies a deficiency, to include the general roadworthiness of tires and wheels and the functioning of all lights, then the equipment shall be referred to roadability.

Section 5. Employees shall be paid in full not later than the Friday following the close of the work week. All pay envelopes and checks shall include the employer's name, the employee's name, gross wages, social security tax, withholding tax, check-off deductions, net wages, and the date on which the work week ended or the last day worked, in addition to information year to date.

Section 6. Every effort shall be made to arrange for the payment of wages at a time and place as convenient as possible to the employees. The employers shall pay all wages by check or direct deposit only.

ARTICLE XII

ASSOCIATION ACCOUNT

The member employers agree to pay monthly to the MMMCA Association Account during the term of this Agreement a sum equal to two and three quarters percent (2.75%) of the gross earnings of each of their employees covered by this Agreement to cover the Association's administrative costs. "Gross earnings" includes the required wage payments for all hours worked under this Agreement, but does not include bonuses. At any time during the term of this Agreement, the contribution rate set forth herein may be modified by the member employers of the Association in accordance with the provisions of the By-Laws of the Association then in effect without the necessity of amending this Agreement.

ARTICLE XIII

FRINGE BENEFIT FUND

Section 1. The member employers agree, each for itself, to pay monthly the contributions specified in Section 2 hereof to the Trustees of the Metro-ILA Fringe Benefit Fund for the employees of said employers covered by this Agreement.

The member employers also guarantee the maintenance of all employee benefits set forth in this Agreement.

Section 2.

Contribution rates effective from January 1, 2005 to December 31, 2005:

- A. For employees who entered the industry before January 1, 1997, the hourly contribution rate shall be \$13.39, which includes contributions to the Metro-ILA Pension Fund.
- B. For employees who entered the industry after December 31, 1996, the contribution rate shall be \$12.66, which includes contributions to the Metro-ILA Pension Fund.

In addition to the above, the employers agree to pay to the Trustees of the Fringe Benefit Fund monthly a sum equal to eight and eight-tenths (8.8%) percent of the gross earnings made during the prior month by each of their employees covered by this Agreement. "Gross earnings" includes the required wage payments for all hours worked under this Agreement, but does not include bonuses.

Section 3. The Trustees of the Metro-ILA Fringe Benefit Fund are directed to pay out of the contributions received pursuant to this Article the following:

- A. To the Trustees of the Metro-ILA Pension Fund, all sums required by the Pension Fund in accordance with Article XV.
- B. To all eligible employees, Paid Holiday benefits in accordance with Article VI.
- C. To all eligible employees, Vacation benefits in accordance with Article XIV.
- D. To all eligible employees, Bereavement benefits in accordance with Article XVII.
- E. To all eligible employees, Jury Duty benefits in accordance with Article XVIII.

Section 4. Any contributions received by the Trustees of the Fringe Benefit Fund shall be allocated to the Metro-ILA Pension Fund and the Metro-ILA Fringe Benefit Fund pro-rata in proportion to the contributions due each Fund from the employers for the period to which the remittance is applied.

Section 5.

- A. The Trustees of the Metro-ILA Fringe Benefit Fund are directed to provide out of the contributions received pursuant to this Article benefits of the type described below in such amounts as in their prudent judgment the assets of the Fringe Benefit Fund will permit. These benefits shall consist of life insurance, accidental death and

dismemberment insurance, hospitalization insurance, major medical insurance and those benefits which the

employer is required to provide by the Disability Benefits Law of the State of New York or the New Jersey Temporary Disability Benefits Law, whichever is applicable in the case of a given employee, and such other benefits as the Trustees may determine in their prudent judgment. (All benefits provided pursuant to this Section shall hereinafter be referred to collectively as “welfare benefits”).

- B. It is agreed that no deductions for disability benefits shall be made by an employer from the wages of the employees covered by this Agreement so long as a valid approved private plan continues to be available to the Trustees. In no event, however, will disability coverage become the financial obligation of the employee.

Section 6. For the benefits set forth in Section 5 of this Article, “eligible employees” are all employees covered by this Agreement who worked at least one thousand (1,000) hours in the prior calendar year for one or more member contractors:

- A. During the January 1, 2005 to December 31, 2005 period, shall be eligible for welfare benefits January 1, 2006 through December 31, 2006.
- B. During the January 1, 2006 to December 31, 2006 period, shall be eligible for welfare benefits January 1, 2007 through December 31, 2007.
- C. During the January 1, 2007 to December 31, 2007 period, shall be eligible for welfare benefits January 1, 2008 through December 31, 2008.
- D. During the January 1, 2008 to December 31, 2008 period, shall be eligible for welfare benefits January 1, 2009 through December 31, 2009.
- E. During the January 1, 2009 to December 31, 2009 period, shall be eligible for welfare benefits January 1, 2010 through December 31, 2010.
- F. During the January 1, 2010 to December 31, 2010 period, shall be eligible for welfare benefits January 1, 2011 through December 31, 2011.

Section 7. APPLICATION PERIOD:

- A. October 1, 2005 to December 31, 2005 - for January 1, 2006 coverage.
October 1, 2006 to December 31, 2006 - for January 1, 2007 coverage.
October 1, 2007 to December 31, 2007 - for January 1, 2008 coverage.
October 1, 2008 to December 31, 2008 - for January 1, 2009 coverage.
October 1, 2009 to December 31, 2009 - for January 1, 2010 coverage.

October 1, 2010 to December 31, 2010 - for January 1, 2011 coverage.

- B. Applications must be filed during the stipulated period at the Administrative Office of the Metro-ILA Fringe Benefit Fund.
- C. Applications filed as required must be approved by the Trustees of the Fringe Benefit Fund.

Section 8.

- A. An employee applicant who has worked at least seven hundred (700) hours but less than one thousand (1,000) hours during the prior calendar year shall be granted an alternative benefit plan under the Fringe Benefit Fund whose terms are at the discretion of the Trustees of that Fund.
- B. Regardless of the minimum eligibility requirement set forth in this Article, the Trustees will continue to provide benefits as may be required by applicable State laws regarding disability.
- C. An employee who has been absent from work by reason of disability incurred while employed in the industry for which he has received or continues to receive Worker's Compensation payments and benefits, New Jersey Temporary Disability Benefits or New York Disability Benefits, shall receive a credit for hours not worked during such period of disability up to a maximum of twenty (20) hours per week. In the event of such disability, the credit referred to herein shall be granted for a maximum of three (3) years, which shall include years prior to the effective date of this Agreement.

Section 9. Pensioners and their dependents shall be eligible for welfare benefits only to the extent determined by the Trustees of the Fringe Benefit Fund.

Section 10. All present and future salaried employees of the Union, the Association, any of the trust funds herein and the member employers shall be eligible for participation in the Welfare Plan, provided that equitable contributions shall be made to the Fund monthly or in a manner acceptable to the Trustees of the Fringe Benefit Fund.

Section 11. Eligibility and benefits for all applicants shall be determined by the Trustees of the Fringe Benefit Fund.

ARTICLE XIV

VACATION BENEFITS

Section 1. The Trustees of the Metro-ILA Fringe Benefit Fund shall pay to each eligible employee covered by this Agreement a sum equal to eight percent (8%) of the gross earnings (as defined in Article XIII, Section 2) of each such employee, and shall deduct all sums required by Federal, State and municipal agencies.

Section 2. Vacation payments to eligible employees shall be made by the Trustees of the Metro-ILA Fringe Benefit Fund as follows:

- On January through December 2005 earnings - payable starting June 1, 2006.
- On January through December 2006 earnings - payable starting June 1, 2007.
- On January through December 2007 earnings - payable starting June 1, 2008.
- On January through December 2008 earnings - payable starting June 2, 2009.
- On January through December 2009 earnings - payable starting June 1, 2010.
- On January through December 2010 earnings - payable starting June 1, 2011.

Section 3. Eligibility: In order to receive vacation benefits in any year covered by this Agreement, an employee must have worked a minimum of 700 hours in the prior calendar year for one or more of the member contractors.

Section 4. An employee who has been absent from work by reason of disability incurred while employed in the industry for which he has received or continues to receive Worker's Compensation payments and benefits, New Jersey Temporary Disability Benefits or New York Disability Benefits, shall receive a credit for hours not worked during such period of disability up to a maximum of twenty (20) hours per week. Such credit shall be granted for a maximum of three (3) years, which shall include years prior to the effective date of this Agreement.

Section 5. Eligibility and benefits shall be determined by the Trustees of the Metro-ILA Fringe Benefit Fund.

Section 6. Vacation scheduling and the filling of vacancies will be done by the Foremen and Shop Steward in consultation with Management.

ARTICLE XV

PENSION FUND

Section 1. Contributions shall be remitted to the Pension Fund by the Trustees of the Metro-ILA Fringe Benefit Fund pursuant to Article XIII. The contribution rate for each year under this Agreement shall be the amount that is determined by the Pension Fund's enrolled actuary to be required to assure the payment to active employees, at normal retirement age, of benefits specified in Section 2 of this Article.

Section 2. Beginning on January 1, 2005, the Pension benefit for all active, eligible employees will be seventy seven dollars (\$77) per month per credited year of service, with no limit on the years of credited service. For all Plan participants retiring under normal pension with a minimum of 25 years of credited service within the term of this Agreement (January 1, 2005 through December 31, 2010), the Pension benefit will be supplemented by twenty three dollars (\$23) per month, for a total of one hundred dollars (\$100) per month for each credited year of service.

Beginning on January 1, 2005, normal retirement age is reduced from 65 to 62 years of age. For those employees entering the industry after December 31, 1996, and employed by any contributing employer, vesting will start at the date of hire. Credited years of service will start on January 1, 2005 or date of hire, whichever is later. Early retirement remains at age 60 with a minimum of 20 years of credited service.

Non-Medicare eligible retirees between the ages of 62 and 65 with a minimum of 25 years credited service and their eligible spouses shall qualify for welfare benefits as determined by the Fringe Benefit Fund Trustees during those years.

The monthly disability benefit will be increased to seventy seven dollars (\$77) per month per credited year of service.

Section 3. An employee who has been absent from work by reason of disability incurred while employed in the industry for which he has received or continues to receive Worker's

Compensation payments and benefits, New Jersey Temporary Disability Benefits or New York Disability Benefits, shall receive a credit for hours not worked during such period of disability up

to a maximum of twenty (20) hours per week. Such credit shall be granted for a maximum of three (3) years, which shall include years prior to the effective date of this Agreement.

Section 4. All present and future salaried employees of the Union, the Association, any of the trust funds herein, and the member employers shall be eligible for participation in the Pension Plan, provided that equitable contributions shall be made to the Fund monthly or in a manner acceptable to the Trustees of the Pension Fund.

Section 5. Eligibility and benefits for all applicants shall be determined by the Trustees of the Pension Fund.

ARTICLE XVI

INDIVIDUAL ACCOUNT RETIREMENT FUND

All employees covered by this Agreement shall be eligible to participate in the Metro-ILA Individual Account Retirement Fund. There shall be no minimum eligibility requirement to qualify for this benefit.

The member employers agree, each for itself, to remit to the Trustees of the Metro-ILA Individual Account Retirement Fund monthly contributions at the following rates during the term of this Agreement:

- **2005:** Two dollars (\$2.00) per hour worked per employee.
- **2006 through 2010:** Three dollars (\$3.00) per hour worked per employee.

ARTICLE XVII

BEREAVEMENT BENEFITS

Section 1. The Trustees of the Metro-ILA Fringe Benefit Fund shall pay directly to each eligible employee covered by this Agreement a sum equal to the employee's straight time wage rate for those days, or any part thereof, that the employee is absent from work because of a death in his immediate family. "Immediate family" shall include the employee's mother, father, spouse

and children. In no event shall said sum exceed three (3) days' pay for each such death at the straight time wage rate for said employee.

Section 2. An employee shall be eligible for benefits under this Article if he worked at least 700 hours in the prior calendar year for one or more of the member contractors.

Section 3. An employee who has been absent from work by reason of disability incurred while employed in the industry for which he has received or continues to receive Worker's Compensation payments and benefits, New Jersey Temporary Disability Benefits or New York Disability Benefits, shall receive a credit for hours not worked during such period of disability up to a maximum of twenty (20) hours per week. Such credit shall be granted for a maximum of three (3) years, which shall include years prior to the effective date of this Agreement.

Section 4. Eligibility and benefits for all applicants shall be determined by the Trustees of the Metro-ILA Fringe Benefit Fund.

ARTICLE XVIII

JURY DUTY BENEFITS

Section 1. The Trustees of the Metro-ILA Fringe Benefit Fund shall pay directly to each eligible employee covered by this Agreement a sum equal to the difference between the employee's straight time wage rate and the amount received by the employee from the Government for service as a juror in any Federal, State or municipal court in the United States. The above sum shall cover all days, or any part thereof, that the employee is absent from work because of jury service.

Section 2. An employee shall be eligible for benefits under this Article if he worked at least 700 hours in the prior calendar year for one or more of the member contractors.

Section 3. An employee who has been absent from work by reason of disability incurred while employed in the industry for which he has received or continues to receive Worker's Compensation payments and benefits, New Jersey Temporary Disability Benefits or New York Disability Benefits, shall receive a credit for hours not worked during such period of disability up

to a maximum of twenty (20) hours per week. Such credit shall be granted for a maximum of three (3) years, which shall include years prior to the effective date of this Agreement.

Section 4. Eligibility and benefits for all applicants shall be determined by the Trustees of the Metro-ILA Fringe Benefit Fund.

ARTICLE XIX

SENIORITY AND HIRING HALL

Section 1. By reason of the experience had by the contractors and the Union, it is desirable that there be located in North Bergen, New Jersey, a Hiring Hall where available employees may assemble and be subject to call for work by the contractors herein, or any other contractors who are signatories to a labor agreement similar to this Agreement and who make the contributions provided herein. The Association is empowered to manage the Hiring Hall account, to designate the persons to be employed in the operation of the Hiring Hall and to determine salary and other conditions of employment of such employees.

Section 2. It is further agreed between the parties that this Hiring Hall arrangement is not an exclusive hiring arrangement. Assignment from the Hiring Hall shall be on the basis of first in, first out. If the Hiring Hall is exhausted the Union has thirty (30) days to submit a name, or names, for application. If the Union fails to comply with the thirty (30)-day requirement, the employer has the right to secure employees from any available source, provided they abide by the Union security arrangement.

Section 3. The parties agree that selection of applications for referral to jobs and referrals shall be on a non-discriminatory basis and shall not be based on or in any way affected by Union membership, by-laws, rules, regulations, constitutional provisions or any other aspect or obligation of Union membership, policies or requirements.

Section 4. A list of employees who have been laid off shall be submitted by each employer to the Hiring Hall, and the employer shall update the list regularly as the need arises.

Section 5. Seniority shall be based on classification and length of service with a particular shop, and in the event of layoff, the employees having such seniority in the company shall be recalled from layoff first in order of their seniority within their classification and shop. The Shop Steward will call all members back to work from layoff according to a seniority list maintained by Management and the Union.

Section 6. With respect to new employees for new business established by a particular company, the employer shall notify the Union of the number and classifications of employees required. It shall be the responsibility of the Union to furnish the necessary employees requested by the employer. In the event that the Union is unable to supply qualified employees within the required time, then the employer may secure the employees from any available source provided they abide by the Union security arrangement.

Section 7. The employer shall have the right to determine the competency and qualifications of the employees referred. Nothing contained herein shall be in derogation of the rights enumerated under Article VII.

Section 8. The Association shall maintain its present Hiring Hall, and whenever employees are laid off, they shall be placed on the list at the Hiring Hall in order of layoff and be available as employment shall occur, except that any employer shall have the right to recall its own employees on the basis of seniority. All new work requiring more than the present employer complement of employees shall be obtained from the Hiring Hall in the manner set forth above. The Union shall supply the Hiring Hall with a list of the employees available for work in that week.

In the event that an employee relinquishes his job and desires to remain in the industry, his name shall be added to the list at the Hiring Hall in the order in which it is received.

Section 9. In order to defray the expenses of rent, telephone and other utilities and suitable furnishings and the salaries of necessary employees for the maintenance of such Hiring Hall, the member contractors agree each for itself to pay monthly during the term of this Agreement to MMMCA a sum necessary to maintain the facilities.

ARTICLE XX

PAYMENTS TO FUNDS

Section 1. The contractors shall file monthly reports showing all the amounts due under this Agreement no later than the fifteenth (15th) day following the month in which the reported hours were worked. All payments required by this Agreement shall be made on a monthly basis and not later than the forty-fifth (45th) day following the month in which the hours were worked.

Section 2. In order that the Union may protect the interests of the employees, it is agreed that the Association will supply the Union, upon request, not later than fifty (50) days following the close of each month, with a list of employers who are delinquent in any payments to the Fund for that month.

Section 3. Failure of any contractor to file all required monthly reports within fifteen (15) days following the close of each month or failure of any contractor to make full payment of all sums required by this Agreement within forty-five (45) days following the close of each month shall constitute a breach of this Agreement by said contractor, and the Union reserves the right to declare the contractor non-Union and to no longer supply employees to the contractor.

Section 4. In the event that an employer shall fail to make any payments required by this Agreement, and in the event proceedings are instituted to recover the amounts so due, the Trustees, the Association, the Union or anyone else authorized to institute such suit shall be entitled to recover, in addition to the amounts due, the reasonable cost of instituting and prosecuting such litigation. This latter amount shall include interest, costs, reasonable counsel fees and other expenses which may be incurred in obtaining or recovering on a judgment. Such costs shall also include any proceedings instituted in connection with an arbitration award pursuant to Article X of this Agreement.

Nothing contained herein shall deprive any party or the Trustees of a right which they may otherwise have in the event of a default or failure to make proper payment.

Section 5. The Association and each employer herein agree to be bound by all the terms and conditions of the Agreements and Declarations of Trust establishing the Metro-ILA Fringe

Benefit Fund, the Metro-ILA Pension Fund and the Metro-ILA Individual Account Retirement Fund, as they may be amended from time to time.

ARTICLE XXI

NO STRIKES - NO LOCKOUTS

During the term of this Agreement, there shall be no strike, lockout, stoppage of work, sit-down or slowdown or other interference affecting operations of the employers, nor shall any members of the Union collectively or individually leave the work of any of the employers nor collectively or individually picket any place of business of any of the employers during the term of this Agreement.

During the term of this Agreement, the employers agree not to lock out any employee or group of employees covered by this Agreement.

ARTICLE XXII

MINIMUM STANDARDS IN INDUSTRY

It is the intention of the parties hereto, in order to prevent a disruption of work of any nature and to provide for steady and continuous employment and peace and harmony in the industry, that all employers covered by this Agreement working in the Port of New York and New Jersey shall have fair competition with regard to rates of pay, hours of work and other terms and conditions of employment. The parties recognize the fact that special benefits obtained by one employer over another with regard to any terms and conditions of employment lead generally to unrest and dissatisfaction on the part of the employees and general disruption of work in the area. In order to avoid such conditions, any employer covered by this Agreement who does not live up to the terms of this Agreement shall be declared and considered by reason thereof to be non-Union, and the Union shall have the right to publish to the other employers and to the industry generally such facts. The Union agrees that should it by contract, course of action or otherwise, agree with any employer to more favorable terms than those contained in any provision(s) of this Agreement, the

Union will be bound to give the benefit of the more favorable contract provision(s) to all employers covered by this Agreement.

ARTICLE XXIII

COVERED EMPLOYMENT

- A. It is understood and agreed by all the parties hereto that the jurisdiction of the Union includes the maintenance and repair of equipment (including containers and chassis) at waterfront facilities in the Port of New York and New Jersey by employees covered by this Agreement. The provisions of the USMX-ILA Master Contract and the NYSA-ILA Containerization Agreement are incorporated herein by reference with respect to same.
- B. Tire repairs, refurbishment and modification as well as sandblasting of containers and chassis shall come under the jurisdiction of this Agreement and be performed by ILA employees covered by this Agreement.
- C. The plugging and unplugging of reefer containers on board ship shall come under the jurisdiction of this Agreement and be performed by ILA employees covered by this Agreement.
- D. All steam cleaning conducted on-terminal and off-terminal shall be performed by employees covered by this Agreement.
- E. In connection with the introduction of new equipment that affects operations (e.g., scanners, camera lenses, printers, ticket machines and similar devices), the maintenance and repair of such equipment shall be performed by employees covered by this Agreement. All such work will be offered to the ILA-affiliated employees affected by such changes to the extent that they are able to perform such work with reasonable training.
- F. In connection with Major Damage Criteria, as specified by the USMX-ILA Master Contract and this Agreement, it is recognized, for purposes of definition, that the following is applicable:
 - Brakes: Proper pushrod adjustment and checking of the brake drums.
 - Springs: Repair or replace any leaf that is missing or broken.

ARTICLE XXIV

MAINTENANCE OF LEASED CONTAINERS

Section 1. MASTER CONTRACT AGREEMENT

It is agreed by all the parties hereto that the Master Contract and the NYSA-ILA provision on "Maintenance Work Covered by the Agreements" is paramount, as supplemented by the determinations of the Management-ILA Emergency Hearing Panel. Such Master Contract provision is to be applied with the assistance of the following clarifications:

- A. No damaged equipment shall be loaded aboard ship for export except as provided in the Master Contract Agreement.
- B. No employer or carrier shall permit damaged equipment to leave the compound except as provided in the Master Contract Agreement.
- C. The employers and carriers shall not enter into any leasing agreement that circumvents the work jurisdiction of the ILA covered under this Agreement and other ILA Agreements.
- D. These provisions as well as all other provisions of the above-mentioned agreements dealing with ILA maintenance jurisdiction shall be subject to speedy resolution under the grievance procedures provided in said agreements, and, failing same, to speedy resolution by the Management-ILA Emergency Hearing Panel.

Section 2. PORT OF DISCOVERY PROGRAM

It is agreed by all parties hereto that the Memorandum of Settlement between the NYSA and ILA on the Port of Discovery Program is paramount. Among other provisions, the Port of Discovery Program calls for the updating of repair work performed on Major Damage equipment by carriers, or their designated representatives, through electronic notification at the web site www.ILA-PORTS.com. The signatories to this Agreement agree to abide by the terms of the Port of Discovery Program.

ARTICLE XXV

DRUG AND ALCOHOL PROGRAM

Section 1. The parties agree that the implementation of a program to deal with the problem of drug and alcohol abuse is in the best interests of all parties and their employees, as well as the entire maritime industry in the Port of New York and New Jersey. It is therefore agreed that the Joint Committee composed of an equal number of representatives from management and from the Union that was established under prior collective bargaining agreements for the purpose of establishing and implementing a drug and alcohol abuse program shall continue throughout the term of this Agreement. It is further agreed that the program established and as amended by the Joint Committee shall be binding upon all employers hereto and their employees. If the members of the Joint Committee are unable to reach agreement on any issue that comes before the Committee, that issue shall be submitted for arbitration pursuant to the Grievance and Arbitration provisions of this Agreement.

Section 2. All new employees must pass a substance abuse test before commencing work. The cost of such tests shall be borne by the Association on behalf of its member employers.

ARTICLE XXVI

SAFETY PROGRAM

The parties agree that the establishment of a program to help insure a safe workplace is in the best interests of all parties and their employees, as well as the entire maritime industry in the Port of New York and New Jersey. The parties therefore agree to appoint a Joint Committee composed of an equal number of representatives from management and from the Union to establish and implement a safety program that shall continue throughout the term of this Agreement. The members of the Joint Committee may establish rules and procedures to effectuate the purposes of this Article. It is further agreed that the safety program established hereunder and the rules and procedures of the Joint Committee shall be binding upon all

employers hereto and their employees. If the members of the Joint Committee are unable to reach agreement on any issue

that comes before the Committee, that issue shall be submitted for arbitration pursuant to the Grievance and Arbitration provisions of this Agreement.

ARTICLE XXVII

DISCIPLINARY PROCEDURES

Any employee who fails to report to work as ordered or fails to remain at work for the duration of his assignment, shall suffer the following penalties:

- | | |
|------------------------|--|
| First Offense: | Written warning from employer. |
| Second Offense: | One (1) week's suspension from employment in the industry. |
| Third Offense: | Two (2) weeks' suspension from employment in the industry. |
| Fourth Offense: | Three (3) weeks' suspension from employment in the industry. |
| Fifth Offense: | Permanent loss of employment. |

ARTICLE XXVIII

AMENDMENT

This Agreement may be amended only by a writing signed by the parties to this Agreement. The Association is hereby authorized to sign such amendments on behalf of its member employers after the members have duly ratified same.

ARTICLE XXIX

SEVERABILITY CLAUSE

In the event that any provision of this Agreement shall be determined to be illegal, invalid or unenforceable by any court or administrative body of competent jurisdiction, such determination shall not affect any other provision which can be given effect without the illegal, invalid or unenforceable provision, and to that end the provisions of this Agreement are intended to be and

shall be deemed severable, and the remainder of this Agreement shall continue in full force and effect.

ARTICLE XXX

LAW GOVERNING

To the extent not preempted by Federal law, this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, in which this Agreement is deemed to have been executed.

ARTICLE XXXI

DURATION/EFFECTIVE DATES

Section 1. This Agreement shall be binding upon the parties hereto, their successors and assigns. This Agreement shall remain in full force and effect from January 1, 2005 through December 31, 2010.

Section 2. Regardless of the date on which this Agreement shall be signed, it shall be effective as of January 1, 2005, with the same force and effect as if it had actually been signed on that date.

ARTICLE XXXII

COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO

By: _____

Local 1814, ILA

By: _____

Local 1804-1, ILA

METROPOLITAN MARINE MAINTENANCE CONTRACTORS' ASSOCIATION, INC.

By: _____

President

AMERICAN MARITIME SERVICES OF NEW YORK, INC.

By: _____

APEXEL CORPORATION

By: _____

BAY CONTAINER REPAIRS OF NEW JERSEY, INC.

By: _____

COLUMBIA CONTAINER SERVICES, LLC

By: _____

CONTAINER SERVICES OF NEW JERSEY, INC.

By: _____

EAST COAST CRANES & ELECTRICAL CONTRACTING, INC.

By: _____

FLEET DISTRIBUTION SERVICE CO., INC.

By: _____

FLEXI-VAN LEASING, INC.

By: _____

F&S TIRE CORP.

By: _____

FOUR SEASONS POWER WASHING

By: _____

FREEDOM INDUSTRIES, LLC

By: _____

INTERPORT MAINTENANCE CO., INC.

By: _____

IRONBOUND INTERMODAL INDUSTRIES, INC.

By: _____

ISLAND SECURING & MAINTENANCE, INC.

By: _____

MDT TIRE CO.

By: _____

PORT NEWARK MAINTENANCE & REPAIR, LLC

By: _____

PORT SECURING & MAINTENANCE OF NEW JERSEY, INC.

By: _____

USA/TIP TOP, INC.

By: _____