

**MEMORANDUM OF SETTLEMENT
OF LOCAL CONDITIONS IN THE
PORT OF NEW YORK AND NEW JERSEY**

This **MEMORANDUM OF SETTLEMENT** entered into this 25th day of September 2018, by and between **NEW YORK SHIPPING ASSOCIATION, INC. (“NYSA”)**, on behalf of its members, and the **INTERNATIONAL LONGSHOREMEN’S ASSOCIATION, AFL-CIO (“ILA”)**, on behalf of itself and its affiliated locals representing longshoremen, clerks, checkers, maintenance workers and all other craft employees in the Port of New York and New Jersey (“PONY-NJ”), settles all local conditions under the NYSA-ILA Collective Bargaining Agreement (“NYSA-ILA CBA”) on the following basis effective, except where otherwise provided herein, on October 1, 2018, and together with the Master Contract between the ILA and the UNITED STATES MARITIME ALLIANCE LIMITED (“USMX”) that will go into effect on October 1, 2018, establishes for the six-year period ending September 30, 2024, the terms and conditions of employment for all craft workers in the PONY-NJ covered by NYSA-ILA Collective Bargaining Agreement:

Effective October 1, 2018, Sections IV, V, VI, VIII, IX, X, XI, XIII, and XIV and Section VII, Subsection C. (except for the first sentence) of the August 28, 2013 Memorandum of Settlement of Local Conditions in the Port of New York and New Jersey are deleted, and the following provisions shall be incorporated in the NYSA-ILA Collective Bargaining Agreement (NYSA-ILA CBA) for the period October 1, 2018 through September 30, 2024:

I. PENSION WINDOWS

Participants who meet the eligibility requirements are entitled to obtain only one of the following two window pensions and special severance benefits.

A. First Pension Window

1. Working pensioners and employees who are at least 58 years of age and have a minimum of 25 years of credited service as of October 1, 2018 and who are actively employed under the NYSA-ILA CBA shall be entitled to receive a special window pension on April 15, 2019 in the amount of One Hundred Eighty (**\$180.00**) dollars per month per year of credited service subject to all the terms and conditions of the current NYSA-ILA Pension Plan provided (a) they give written notification to the NYSA-ILA Pension Trust Fund (PTF) of their election of the special first window pension within 30 days after October 1, 2018 (First Window), (b) they remain actively employed in the longshore industry under the NYSA-ILA CBA until the earlier of April 15, 2019, or the date the window-pension applicants are released from employment by NYSA, and (c) they actually retire and terminate their employment in the longshore industry under the NYSA-ILA CBA.

2. Employees who are entitled to the special first window pension shall receive a special severance benefit in the amount of \$100,000, to be paid in two equal annual installments

of \$50,000 each, the first payable on the date of receipt of the first monthly special first window pension benefit and the second payable one year later on that same date. The severance benefit payments totaling \$100,000 will be paid from the NYSA-ILA Container Royalty Fund, using the automatic container royalty distributions received from the Container Royalty Central Collection Fund. In the event of the death of the Employee, the entire remaining unpaid portion of the severance benefit shall be paid to the representative of the Estate of the deceased Employee as soon as practicable.

B. Second Pension Window

1. Working pensioners and employees who are at least 58 years of age and have a minimum of 25 years of credited service as of October 1, 2021, and who are actively employed under the NYSA-ILA CBA as of October 1, 2021, shall be entitled to receive a special window pension on April 15, 2022, in the amount of One Hundred Ninety (\$190.00) dollars per month per year of credited service subject to all the terms and conditions of the current NYSA-ILA Pension Plan provided (a) they give written notification to PTF of their election of the special second window pension during the period between August 1, 2021, and October 1, 2021 (Second Window), (b) they remain actively employed in the longshore industry under the NYSA-ILA CBA until the earlier of April 15, 2022, or the date the window-pension applicants are released from employment by NYSA, and (c) they actually retire and terminate their employment in the longshore industry under the NYSA-ILA CBA.

2. Employees who are entitled to the special second window pension shall receive a special severance benefit in the amount of \$150,000 to be paid in two equal annual installments of \$75,000 each, the first payable on the date of receipt of the first monthly special second window pension benefit and the second payable one year later on the same date. The severance benefit payments totaling \$150,000 will be paid from the NYSA-ILA Container Royalty Fund, using automatic container royalty distributions received from the Container Royalty Central Collection Fund. In the event of the death of the Employee, the entire remaining unpaid portion of the severance benefit shall be paid to the representative of the Estate of the deceased Employee as soon as practicable.

C. Pension Benefits

After each of the First and Second Windows has closed, the Service Retirement Pension Benefit will revert to the current benefit level of \$140 per month per year of credited service. In addition, during the First and Second Window periods and after each of the First and Second Windows has closed, the Vested Rights Pension Benefit shall be at the current level of \$140 per month per year of credited service.

II. WELFARE BENEFITS

Pensioners who retire at age 60 with 25 years of credited service under the First and Second Windows and their spouses shall receive MILA Premier benefits until the pensioners reach age 62.

III. PRODUCTIVITY IMPROVEMENT PROCESS

A. Overview

1. Each Marine Terminal Operator (MTO) and the ILA mutually establish baseline productivity and individual gang goals.

2. All parties concerned have an initial three-month period to adapt to the agreed upon Productivity Improvement Process in pursuit of agreed upon improvement goals.

3. The Stevedore Foreman and the Marine Superintendent shall agree upon and sign off on the vessel productivity report.

4. Gangs shall maintain records of each vessel's productivity, including specific details about problems encountered.

5. Issues beyond the control of a gang that negatively impact its productivity will not be held against the gang.

6. After the initial three months, gangs that do not meet the Minimum Improvement in Net Productivity Goal, which is defined as a net increase of .5 moves per hour on average over the prior three-month period (or have not met the Terminal Goal), will undergo Level 1 Review.

7. If the Minimum Improvement in Net Productivity Goal is achieved for 90 days at any level, then the gang shall revert to its status prior to Level 1 and continue to work to achieve the Minimum Improvement in Net Productivity Goal for the next 90-day period.

8. Any gang achieving the Terminal Goal or making agreed upon progress toward its goals, or taking appropriate action as agreed by the ILA Local and MTO shall not be subject to Level 3 discipline.

9. A key aspect of the Productivity Improvement Process is the cohesiveness of the gang unit, including the core drivers associated with the gang, working towards the Terminal Goal. (Core drivers will be associated with each gang except in sections where prohibited or based on historical seniority practices)

10. In the event that goals are not met due to chronic on-going terminal issues, the Productivity Improvement Process shall not be enforced until the identified issues are resolved.

B. Establishing Baseline Productivity & Goals

1. The process and information used to calculate productivity shall be shared between the MTO and the corresponding ILA Locals so that they can agree on all the components which need to be considered in establishing the initial productivity baseline.

2. Effective 10/01/18 each MTO will establish a Terminal Baseline Productivity which will be an average of the last 12 months prior to the contract year. This will be done only after review and approval by the MTO and the ILA.

3. One move per hour will be added to the Terminal Baseline Productivity to create the Terminal Goal to be reached by 10/01/19. This will be done only after review and approval by the MTO and the ILA.

4. One move per hour will also be added to the Terminal Goal each subsequent October 1st during the term of this contract. This will be done only after review and approval by the MTO and the ILA.

C. Establishing Gang Goals

1. The MTO and the ILA will review and establish individual gang performance goals at time of implementation using 12 months prior to contract year.

2. Any gang which is achieving the **Terminal Goal** will not be subject to review.

3. Each gang that has not achieved the **Terminal Goal** for that year will have up to 3 months or 90 days to achieve the Minimum Improvement in Net Productivity Goal.

4. Gangs who do not achieve the Minimum Improvement in Net Productivity Goal (or have not met the **Terminal Goal**) will undergo Level 1 Review.

D. Review Process

1. Level 1 Review. The gang in question which is now in Level 1 Review will meet with the MTO and the appropriate ILA Local to discuss productivity and its pursuit of the required Minimum Improvement in Net Productivity Goal. Level 1 is a three-month review period.

- (a) Level 1 Review will be the first step in the Productivity Improvement Process. The gang in question shall meet with the MTO and the ILA to discuss productivity.
- (b) While on Level 1 Review, the hatch boss will be expected to reach goals and/or take measurable steps to improve gang performance and achieve the Minimum Improvement in Net Productivity Goal.
- (c) Also, while on Level 1 Review, the hatch boss will have weekly review meetings and once per month evaluations of the gang's progress with the MTO and the ILA.
- (d) If after 3 months on Level 1 Review, the Terminal Goal or the Minimum Improvement in Net Productivity Goal is not achieved, the gang will undergo Level 2 Review.

2. Level 2 Review. Once placed on Level 2 Review, the gang in question will have its productivity monitored on a monthly basis for a maximum of 3 months. Any appropriate training needs will be identified and provided as necessary.

- (a) While on Level 2 Review, the hatch boss will be expected to achieve goals and/or have taken measurable steps to improve the gang's performance and reach the Minimum Improvement in Net Productivity Goal.
- (b) Also, while on Level 2 Review, the hatch boss will have weekly review meetings and once per month evaluations of the gang's progress with the MTO and the ILA.
- (c) After 3 months on Level 2 Review (which is in total 9 months after the process started), if the Terminal Goal or the Minimum Improvement in Net Productivity Goal is not achieved, the gang will be subject to Level 3 Review.

3. Level 3 Review. Once placed on Level 3 Review the MTO and ILA will be allowed to discipline and/or remove or take a gang or gang member out of rotation. Any discipline must be levied and agreed to jointly by the appropriate ILA Local and the corresponding management members of that MTO.

- (a) The ILA and the MTO will monitor the results of the action taken in Level 3 and jointly determine if progress is being made towards the Minimum Improvement in Net Productivity Goal or if additional measures need to be taken.

E. Oversight Committee

1. The Oversight Committee shall consist of representatives of the affected MTO, NYSA, and the ILA.

2. Any disagreement in the proper approach to address the productivity shortfalls shall be referred to the Oversight Committee to determine proper actions. Such committee shall meet within 10 days of identifying disagreement in the proper approach.

3. During Level 3 Review, any actions of the Oversight Committee that are in dispute and not resolved can ultimately be referred to the NYSA-ILA Contract Board on an expedited basis.

4. At a minimum, the Oversight Committee will meet two times per year after the NYSA-ILA Contract Board meeting in addition to Oversight Committee meetings needed to resolve disagreements concerning Level 3 Review disciplinary actions.

F. Driver Flexibility

Employers have the right to deploy drivers among gangs in support of vessel operations in order to maximize productivity.

IV. NYSA-ILA ABSENTEE POLICY ADDENDUM

The following addendum shall be added to the existing NYSA-ILA Policy on Absenteeism ((Longshore Craft) dated May 2015:

1. Absentee Policy will now have two components. MTOs will take responsibility for tracking and dealing with absenteeism regarding their own “list” workforce absent from assignments at their terminal. The NYSA-ILA Worker Profile Department will monitor the second component, namely PDO absenteeism, in combination with the list-absentee information provided by the individual MTOs to track overall port absenteeism.

2. As per the current NYSA-ILA Policy on Absenteeism (Longshore Craft), all longshore workers will continue to be allotted up to two absences per calendar month.

3. MTOs will track “list worker” absenteeism at their own terminals on a weekly basis. The MTO and the terminal union representative (shop steward) will monitor absenteeism and advise their list workers of their status with regard to the number of absences they have each month. When a list individual exceeds the allowed number of two absences in a month, the MTO and shop steward will meet with those individuals. The purpose of the meeting is to ascertain the circumstances surrounding the absences and determine whether the individual is in violation of the policy. It is understood that a worker’s primary responsibility is to meet the work obligations of the individual worker’s steady list job. Individuals who take advantage of other work opportunities outside of their steady list position are still obligated to meet their primary work responsibilities. The MTOs shall provide to the NYSA-ILA Worker Profile Department all information with regard to every list individual’s absenteeism.

4. A list worker found to be in violation of the absentee policy as it pertains to the individual’s work history at the list worker’s “home” terminal will be subject to the following progressive disciplinary steps:

- i. First instance of a violation of the absentee policy shall result in a warning issued from the terminal, with a copy to the NYSA-ILA Worker Profile Department, advising that any future violations will result in disciplinary measures.
- ii. Second violation of the policy shall result in relegation to level 4 hiring status for one week.
- iii. Third violation of the policy shall result in the terminal issuing a one week “Do Not Hire” suspension from the individual’s home-list terminal.
- iv. Fourth violation of the policy shall result in the terminal issuing a two week “Do Not Hire” suspension from the individual’s home-list terminal.

- v. Fifth violation of the policy shall result in an NYSA suspension being input into the hiring system. The individual will be scheduled for a meeting with their local, the MTO, and an NYSA representative, at which time the appropriate punishment will be determined which could result in termination.

5. PDO absences are combined with list absences to determine overall compliance with the absentee policy.

- (a) NYSA-ILA Worker Profile Department will track absences outside of an individual's list orders to determine if an employee was excused due to working past midnight the night before, approved intermittent FMLA, short-term disability, etc.
- (b) Individuals in violation of the absentee policy as a result of failure to report as ordered to PDO orders or a combination of absences from PDO orders and list orders shall still be subject to the provisions of the current NYSA-ILA Policy on Absenteeism.

6. Policies Specific to Car Driver (CD) and Baggage Handler (BH) Categories:

- (a) Absences from a CD or BH order are subject to the provisions of the agreed upon port absentee policy.
- (b) Any seniority A-U worker may voluntarily have the worker's CD or BH category removed. The worker may also request to have it restored at any point.
- (c) Any seniority A-U worker may also request to have a specific terminal location blocked for BH work as well, e.g., employee does not want to work at Manhattan Cruise Terminal or Brooklyn Cruise Terminal for instance.
- (d) All V and W seniority workers must maintain their BH and CD categories.
- (e) A senior A-U worker who is routinely absent from BH or CD orders is subject to the ramifications of violating the absentee policy. In addition, the individual shall have a meeting scheduled to discuss the issues surrounding the absenteeism from BH and/or CD orders with the possible outcome being removal of the individual worker's BH or CD categories.

7. Individuals taking advantage of any benefits to which they are entitled under the CBA must follow all of the administrative requirements of such program (FMLA, A&H, etc.).

8. This Addendum Agreement to the existing NYSA-ILA Policy on Absenteeism will go into effect on October 1, 2018.

9. On each October 1st for the term of the contract individuals covered under this policy shall have all the previous year's violations reset to zero unless they were subject to the provisions of the fifth violation under this policy.

10. All parties shall reconvene and review the effectiveness of this policy within one year of its implementation. The parties shall agree to review whether the policy has achieved the desired outcome, which is a substantial reduction in absenteeism. The parties shall review whether the financial burden to the Employers related to the 0800 volunteer hiring delays associated with filling positions created by absenteeism have been mitigated.

V. RECRUITMENT AND HIRING OF LONGSHORE AND CHECKER CRAFTS

A. Recruitment

1. NYSA and ILA shall each recruit and refer applicants for new jobs in the industry. Half of the new hires shall be selected from the NYSA pool and half of the new hires shall be selected from the ILA pool.

2. NYSA and ILA shall each create its pool of applicants from members of NYSA and their employees, including, but not limited to, managerial employees and rank-and-file longshore workers, from the Executive Boards of ILA locals covered by this Agreement, from U.S. military service organizations, from New Jersey and New York Department of Labor employment offices, from other labor unions, from job/career fairs, from vocational and technical schools, from colleges, and from community-based organizations.

B. Screening

1. Every applicant shall be vetted by a tripartite committee ("Employment Screening Committee") consisting of a terminal-operator Employer, a representative selected by the ILA, and an NYSA representative.

2. Applicants shall be interviewed and evaluated by the Employment Screening Committee pursuant to the Candidate Scoring Matrices (CSM) that contain uniform and job-related criteria to be established jointly by NYSA and the ILA based upon the essential functions of longshore or checker work adduced from standard industry job descriptions. Each member of the Employment Screening Committee shall score the applicant for each of the criteria on a scale of 0 to 5. The screeners' scores shall be averaged for each applicant.

C. Pre-employment Processing

1. Applicants approved by the Employment Screening Committee shall be referred for pre-employment drug, physical, and physical-abilities testing. NYSA and ILA shall jointly agree upon a physical-abilities test for longshore craft workers.

2. A designated number of candidates from each referral source who pass a drug test and who have successfully completed the physical and physical-abilities test shall be directed to apply for registration at the government agency authorized to issue

registrations for waterfront employment. Registered candidates shall be brought into the industry on a pro-rata basis from each pool (NYSA & ILA).

VI. PAY DIFFERENTIALS

A. Longshore Craft

1. Effective October 1, 2018, hatch bosses and foremen in the longshore craft associated with vessel operations shall be entitled to a differential to be added to their basic straight-time wage rate equal to one dollar more than the highest skill differential paid to any longshoreman under their supervision.

2. A \$1.50 hourly skill differential shall be added to the basic straight-time wage rate for employees operating an Empty Handler.

B. Checkers

1. Effective October 1, 2018, checkers who are qualified to use and in fact use computers, including hand-held computers, in the course of their job functions shall receive an increase of \$0.25 in the total hourly pay differential applicable to checkers as set forth in Article III, Section 5 of the 2004-2012 NYSA-ILA CBA as amended by Section VII(A) of the August 28, 2013 Memorandum of Settlement of Local Conditions In The Port of New York and New Jersey.

2. Effective October 1, 2021, checkers who are qualified to use and in fact use computers, including hand-held computers, in the course of their job functions shall receive an increase of \$0.25 in the total hourly pay differential applicable to checkers as set forth in paragraph B(1) above.

C. Maintenance Employees

1. Effective October 1, 2018, mechanics and TIR inspectors shall receive an increase of \$0.25 in the total hourly pay differential applicable to mechanics and TIR inspectors as set forth in Article III, Section 5 of the 2004-2012 NYSA-ILA CBA as amended by Section VII(B) of the August 28, 2013 Memorandum of Settlement of Local Conditions In The Port of New York and New Jersey.

2. Effective October 1, 2021, mechanics and TIR inspectors shall receive an increase of \$0.25 in the total hourly pay differential applicable to mechanics and TIR inspectors as set forth in paragraph C(1) above.

D. Foremen

Pay differentials to which foremen are entitled under the terms of the NYSA-ILA CBA shall be included in their basic straight-time wage rate for the purpose of calculating their vacation and holiday benefits.

VII. STAFF POSITIONS AND COMPENSATION

A. The Employer shall assign a work schedule to every Staff Employee. This work schedule shall require the staff employee to be physically present at the terminal a minimum of (40) hours per week excluding holiday weeks. Staff Employees not physically present at work when required shall be subject to docking of pay and suspensions for repeated offenses.

B. The Employer shall set forth in a written job description the work or services required to be performed by every Staff Employee as mutually agreed upon by the local union and the Employer. Such job description shall be countersigned by the Employer, the local union, and the Staff Employee. The job description shall contain a disclaimer, stating that the local union's signature does not impose any obligation upon the local union to enforce the Staff Employee's compliance with the job description. Every Staff Employee shall attend all scheduled safety meetings, accident-review meetings, and production meetings between labor and management if requested by the Employer to do so.

C. A Staff Employee when not physically present on the terminal shall comply with the following terms and conditions:

1. provide the Employer with the home- and cell-phone numbers at which the Staff Employee can be reached at any time; and

2. report to the terminal within a period of time that is reasonably practicable upon being informed of any issue that in the Employer's discretion requires the Staff Employee to be present at the terminal.

D. A Staff Employee shall be compensated as follows:

1. Exempt Staff Employees (not covered by the overtime requirements of the Federal Fair Labor Standards Act (FLSA)):

- (a) Effective October 1, 2018, every exempt Staff Employee shall be placed on a weekly salary, which shall be equivalent to the level of compensation the Staff Employee received in the contract year ending September 30, 2018. The Staff Employee's Employer shall contribute on the employee's behalf to the NYSA-ILA Money Purchase Pension Plan for each week in which the employee is reported on the payroll a weekly amount of contributions based upon the average weekly number of hours for which contributions were paid on the employee's behalf for the contract year ending September 30, 2018.

- (b) An individual who becomes an exempt Staff Employee after October 1, 2018, shall receive a salary and a number of hours for NYSA-ILA Money Purchase Pension Plan contributions in an amount to be negotiated by the Employer and the local union within a range between a 0% and 25% reduction from the predecessor's salary and number of hours for NYSA-ILA Money Purchase Pension Plan contributions. Individuals involved in the cascading of replacements shall also be subject to a similar review and adjustment. Deadlocks shall be referred to a panel arbitrator selected in accordance with section 6 of article XXV of the 2004-2010 NYSA-ILA CBA for a final and binding determination of the appropriate salary within the salary ranges set forth in this subsection. The arbitrator's decision shall not be subject to judicial review.
- (c) A Staff Employee is employed in a bona fide exempt executive capacity under the FLSA if the Staff Employee's primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; customarily and regularly directs the work of two or more other employees; and has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight by the Employer.

2. Non-Exempt Staff (Covered by the overtime requirements of the FLSA):

For every non-exempt Staff Employee, each Employer shall negotiate with the local union to determine an appropriate non-salaried hourly compensation package that the Staff Employee shall receive. Contributions to the NYSA-ILA Money Purchase Pension Plan shall be paid based upon the number of hours set forth in the compensation package.

VIII. SHOP STEWARDS

Article II, section 4 of the 2004-2012 NYSA-ILA Collective Bargaining Agreement (2004-2012 CBA) and Article IX of the Memorandum of Settlement of Local Conditions in the Port of New York and New Jersey dated August 28, 2013 are amended in their entirety as follows:

A. Selection of Shop Stewards

Each Employer recognizes the right, of employees in the longshore, checker, and maintenance crafts employed at the Employer's premises to select without interference from the Employer an employee of their own choosing to act as their representative and spokesperson under the Grievance Procedure of this Agreement in presenting their grievances to the Employer and in attempting to resolve them satisfactorily. Such a representative is to be known as the Shop Steward.

B. Types of Shop Stewards

There are three types of Shop Stewards: (1) a part-time Shop Steward who has a full-time bargaining-unit job primarily at a cruise terminal, an auto terminal, or an open berth and who acts as a Shop Steward on an "as needed" basis whenever a grievance or dispute may arise; (2) a full-time Shop Steward whose principal function is to represent employees primarily at a container terminal in connection with their rights under this Agreement; and (3) a Master Foreman/Part-Time Shop Steward working at a container terminal who is primarily involved in operational functions for the Employer and also acts as a part-time Shop Steward. No later than November 1, 2018, each terminal shall meet with each of the local unions representing the terminal's employees to agree on the shop steward category to which each shop steward should be assigned. The Employer shall prepare for each shop steward a written job description as mutually agreed upon by the local union and the Employer setting forth the work functions assigned to the shop steward. This job description shall be countersigned by the shop steward, the local union, and the Employer.

C. Part-Time Shop Steward

A part-time Shop Steward (PTSS), who shall be physically present at the work site and required to work in the PTSS's bargaining-unit job, is compensated on an hourly basis in accordance with the wage provisions of this Agreement. Work hours for a PTSS shall be those required by the Employer. The PTSS shall be permitted to attend to his Shop Steward duties during work hours without loss of wages or benefits.

D. Full-Time Shop Steward

1. A full-time Shop Steward (FTSS) shall be required to be physically present at the terminals at least eight (8) hours per day, Monday through Friday, and at such other times day or night as the FTSS's Employer shall require, including on weekends and holidays, to perform assigned duties. During these hours an FTSS has the right to travel to the union offices or other off-terminal locations to attend union or Employer meetings or to perform the FTSS's work functions delineated in subsection D(2) of this section, provided the FTSS notifies the Employer in advance of these off-terminal activities and obtains the Employer's approval.

2. In addition to participating in the administration of this Collective Bargaining Agreement and the resolution of all labor issues involving craft employees for whom the FTSS serves as a shop steward, an FTSS shall perform the work or services assigned by the FTSS's Employer, such as recording and tracking the equalization of gang hours; coordinating vacation and time-off requests; recording and maintaining all labor vacations to ensure they adhere to company guidelines; working with management to ensure all company safety policies and procedures are adhered to by labor; furthering workplace safety practices; participating as a member of the terminal's ILA/Management Safety Committee; attending all scheduled safety meetings and accident-review meetings, if requested by the Employer to do so; attending all production meetings between labor and management; participating in labor-training programs;

participating in discussions relating to disciplinary actions; attending pier-level-grievance meetings at the terminal and, when requested by the local union, attending Labor Relations Committee or Contract Board meetings relating to a grievance; handling labor take outs to ensure that they meet management's requirements; and working on other issues that may arise between labor and management.

3. An FTSS shall not receive any preferential or privileged treatment, and in all respects shall be subject to all the terms and conditions of this Agreement, except that an FTSS shall not be required by the Employer to be a member of a gang or required to perform maintenance work, operate equipment, or perform clerking or checker work in conjunction with vessel or terminal activities.

4. An FTSS shall when not actually on the premises comply with the following terms and conditions:

- (a) provide the Employer with the home- and cell-phone numbers at which the FTSS can be reached at any time to handle any of the FTSS's duties; and
- (b) report to the terminal within a period of time that is reasonably practicable upon being informed of any issue that in the Employer's discretion requires the FTSS to be present at the terminal.

5. An FTSS who engages in an unexcused failure to comply with subsections D(1), D(2), and D(4) of this section shall be penalized as follows:

- (a) first and second offense: loss of pay for the day of the infraction;
- (b) third offense: suspension for one week without pay;
- (c) fourth offense: suspension for one month without pay;
- (d) fifth offense: termination from any further employment as a shop steward under this Agreement.

6. An FTSS shall be compensated as follows:

- (a) By October 1, 2018, every FTSS must be placed on a weekly salary that shall provide the FTSS with the total wages the FTSS received from the FTSS's Employer in the contract year ending September 30, 2018. Effective October 1, 2018, that salary shall not be increased during the term of this Agreement for any FTSS earning \$375,000 or more per year except for the equivalent of the \$1.00 per hour raise effective October 1, 2023 that is set forth in the USMX-ILA Master Contract for the six-year period ending September 30, 2024. Any FTSS earning less than \$375,000 per year shall be entitled to receive the equivalent of all four \$1.00 per hour raises set forth in the USMX-ILA Master Contract for the six-year period ending September 30, 2024. The FTSS is employed in a bona fide administrative capacity performing non-manual, labor-relations work requiring the exercise of

discretion and independent judgment and is thus not entitled to any additional overtime pay under this Agreement or otherwise.

- (b) An FTSS who is first employed as an FTSS after October 1, 2018 shall receive a salary in an amount less than the FTSS's predecessor's salary to be negotiated by the Employer and the local union within a range between a 5% and 25% reduction. Deadlocks shall be referred to a panel arbitrator selected in accordance with Section 6 of Article XXV of the 2004-2012 CBA for a final and binding determination of the appropriate salary within the salary ranges set forth in this subsection. The arbitrator's decision shall not be subject to judicial review. Since the FTSS is employed in a bona fide administrative capacity performing non-manual labor-relations work requiring the exercise of discretion and independent judgment, the FTSS is not entitled to any additional overtime pay under this Agreement or otherwise.
- (c) An FTSS shall be eligible for all employee benefits under this Agreement. When an FTSS, other than (i) an FTSS for the checker/clerk craft and (ii) an FTSS for the longshore craft working at a container terminal in Section 12 (Newark and Elizabeth, New Jersey), is on holiday or vacation time-off, the FTSS shall not be replaced by any temporary shop steward, and any grievance or dispute that may arise in the FTSS's absence shall be handled by a delegate from the FTSS's local union. Effective October 1, 2018, the number of hours for contributions to the NYSA-ILA Money Purchase Pension Plan shall not exceed 5,000 hours and the number of hours for credited service for employee benefits for an FTSS under this Agreement shall be 2,080 hours per contract year, except that during the term of this Agreement, any FTSS first employed prior to October 1, 2012 shall have paid on his behalf to the NYSA-ILA Money Purchase Pension Plan contributions based upon the same amount of hours for which contributions were paid for the contract year ending September 30, 2012.

E. Master Foreman/PTSS

1. The Master Foreman/PTSS is primarily involved in operational and supervisory functions at a marine terminal and engages in shop steward duties on a part-time basis. In performing these operational and supervisory functions, the Master Foreman/PTSS may be required to oversee and supervise work in conjunction with vessel or terminal activities. The Master Foreman/PTSS shall not replace another foreman or perform another foreman's duties and responsibilities. A Master Foreman/PTSS shall be required to be physically present at the terminal at least eight (8) hours per day, Monday through Friday, and at such other times required by the Employer as set forth in subsection E(3).

2. The Master Foreman/PTSS performs a variety of operational and supervisory functions for the Employer, including, but not limited to, overseeing and monitoring services performed by outside vendors at the marine terminal, supervising the implementation of new technology at the terminal, coordinating programs relating to the refurbishment of heavy

equipment, attending all production meetings between management and labor, and participating in the development and implementation of labor training programs. In addition, the Master Foreman/PTSS is responsible for various administrative functions, including working with management to ensure all company safety policies and procedures are adhered to by labor; furthering workplace safety practices; participating as a member of the terminal's ILA/Management Safety Committee; attending all scheduled safety meetings and accident-review meetings, if requested by the Employer to do so; coordinating vacation and time-off requests to ensure they adhere to company guidelines; overseeing the equalization of overtime list/hours; handling labor take outs to ensure that they meet management's requirements; and working on other issues that may arise between labor and management. The Master Foreman/PTSS shall be available to field questions relating to the collective bargaining agreement and, if unresolved, refer grievances to the local union for processing and resolution.

3. A Master Foreman/PTSS shall when not actually on the premises comply with the following terms and conditions:

- (a) provide the Employer with the home- and cell-phone numbers at which the Master Foreman/PTSS can be reached at any time to handle any of the Master Foreman/PTSS's duties; and
- (b) report to the terminal within a period of time that is reasonably practicable upon being informed of any issue that in the Employer's discretion requires the Master Foreman/PTSS to be present at the terminal.

4. A Master Foreman/PTSS who engages in an unexcused failure to comply with subsections E(1), E(2), and E(3) of this section shall be subject to docking of pay and suspensions for repeated offenses.

5. A Master Foreman/PTSS shall be compensated as follows:

- (a) Effective October 1, 2018, an individual who becomes a Master Foreman/PTSS must be placed on a weekly salary that shall provide the individual with the total wages the individual received from the Employer in the contract year ending September 30, 2018. A Master Foreman/PTSS shall be entitled to receive the equivalent of only the first three of the four \$1.00 per hour raises set forth in the USMX-ILA Master Contract for the six-year period ending September 30, 2024. Since the Master Foreman/PTSS is employed in a bona fide executive capacity whose primary duty involves supervision at the marine terminal, who customarily and regularly directs the work of two or more other employees, and whose suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change in status of other employees are given particular weight by the Employer, the Master Foreman/PTSS is thus not entitled to any additional overtime pay under this Agreement or otherwise.
- (b) An individual who replaces a deceased, disabled, or retired Master Foreman/PTSS during the term of this Agreement shall receive (i) a salary

in an amount less than the predecessor's salary and (ii) a reduction in the predecessor's number of hours for which contributions are to be paid to the NYSA-ILA Money Purchase Pension Plan. Both the salary and the number of hours for Money Purchase Plan contributions are to be negotiated by the Employer and the local union within a range between a 5% and 25% reduction. Deadlocks shall be referred to a panel arbitrator selected in accordance with Section 6 of Article XXV of the NYSA-ILA CBA for a final and binding determination. The arbitrator's decision shall not be subject to judicial review.

- (c) A Master Foreman/PTSS shall be eligible for all employee benefits under this Agreement. The number of hours for credited service for employee benefits under this Agreement shall be 2,080 hours per contract year, except that a Master Foreman/PTSS (except individuals who replace deceased, disabled, or retired Master Foremen/PTSS during the term of this Agreement) shall have paid on his behalf to the NYSA-ILA Money Purchase Pension Plan contributions based upon the same amount of hours for which contributions were paid for the contract year ending September 30, 2018.

IX. WEEKEND HIRING AND CANCELLATIONS/SETBACKS

A. Weekend Hiring

1. On or about October 1, 2018, employees covered by the NYSA-ILA Collective Bargaining Agreement shall be ordered for work six days a week from Monday to Saturday. Hiring on Friday shall be for work to be performed on Saturday, and hiring on Saturday shall be for work to be performed on Sunday and Monday. During the term of this Agreement, the parties shall confer at the NYSA-ILA Contract Board for the purpose of implementing hiring on Sunday for work to be performed on Monday. However, effective October 1, 2019, hiring for Tuesdays following the five holidays to be agreed upon by the parties prior to the effective date (hereinafter "Five Fixed Monday Holidays") shall take place on Sunday, and for all other Tuesdays following a Monday holiday, ordering will occur on Saturday.

2. Staff employees (other than staff employees in the maintenance craft) who are required to be present on a weekend day in order to implement next day hiring (Saturday for Sunday and Monday or Sunday for Monday and Tuesday) and who are not otherwise compensated for that weekend day either through including that day as part of the calculation of their annual salary or through being hired on that day for another operation at the terminal shall be entitled to be paid for eight overtime hours and one meal hour. Compensation for mechanics required to be present on a weekend day in order to implement next day hiring shall be negotiated by the mechanic's local union directly with their Employers.

B. Cancellations/Setbacks for Longshoremen

1. For Mondays

Effective October 1, 2018, a Direct Employer is entitled to set back 0800 orders for Monday that were issued on Saturday to the 1300 start time or cancel those orders completely by notification no later than 6:00 A.M. that Monday. Checkers and Clerks ordered for the ship shall be employed as directed by the Direct Employer. Any longshoreman who receives a 0800 PDO work order for Monday which is cancelled or set back shall be entitled to the payment of a two-hour guarantee at the longshoreman's straight-time wage rate and is automatically made available in the 8:00 A.M. volunteer pool. However, any longshoreman who is a list member of a gang that received the 0800 work order shall not be entitled to the two-hour guarantee. 0700 orders cannot be set back or cancelled and remain subject to the provisions in the 2004-2012 NYSA-ILA CBA.

2. For Tuesdays Following Holidays Other Than the Five Fixed Monday Holidays (Hiring on Saturday)

Effective October 1, 2018, a Direct Employer is entitled to set back 0800 orders for Tuesdays following holidays other than the Five Fixed Monday Holidays to the 1300 start time or cancel those orders completely by notification no later than 6:00 A.M. that Tuesday. Checkers and Clerks ordered for the ship shall be employed as directed by the Direct Employer. Any longshoreman who receives a 0800 PDO work order for Tuesday which is cancelled or set back shall be entitled to the payment of a two-hour guarantee at the longshoreman's straight-time wage rate and is automatically made available in the 8:00 A.M. volunteer pool. However, any longshoreman who is a list member of a gang that received the 0800 work order shall not be entitled to the two-hour guarantee. 0700 orders cannot be set back or cancelled and remain subject to the provisions in the 2004-2012 NYSA-ILA CBA.

3. For Tuesdays Following the Five Fixed Monday Holidays (Hiring on Sunday)

Effective October 1, 2019, a Direct Employer is entitled to set back 0800 orders for Tuesdays following the Five Fixed Monday Holidays to the 1300 start time or cancel those orders completely by notification no later than 6:00 A.M. that Tuesday. Checkers and Clerks ordered for the ship shall be employed as directed by the Direct Employer. Any longshoreman who receives a 0800 PDO work order for a Tuesday following a Fixed Monday Holiday which is cancelled or set back shall be entitled to the payment of a four-hour guarantee at the longshoreman's straight-time wage rate. However, any longshoreman who is a list member of a gang that received the 0800 work order shall not be entitled to the four-hour guarantee. 0700 orders cannot be set back or cancelled and remain subject to the provisions in the 2004-2012 NYSA-ILA CBA.

X. CESSATION OF WORK ON NON-WORKING HOLIDAYS

Work on non-working holidays shall cease at 6:00 A.M. on the day of the holiday unless on the prior day all involved local unions and the Employer agree that the work to complete a berthed vessel shall continue to 9:00 A.M. and the workers retained beyond 6:00 A.M. are guaranteed three hours at triple the basic straight time wage rate.

XI. FLEXTIME GUARANTEE

Employees in all crafts hired for a Flexitime shift starting at 6:00 A.M. shall receive a guarantee of nine (9) hours' pay at the Flexitime rates set forth in Article V of the 2004-2012 NYSA-ILA CBA.

XII. ACT OF GOD CLAUSE

Providing that there is adequate notification to the employees by telephone, electronic messages, text messages through the hiring system when available, or website postings (minimum of two (2) hours prior to start time) on days when no vessel or cargo-handling operations can be conducted due to: (a) severe weather conditions which in the judgment of the Employers requires closure of the Port or (b) other catastrophic events (act of war, government mandated shutdown, etc.) which result in the closure of the Port, no employee shall be entitled to pay unless that employee has been specifically ordered onto the worksite by the Employer to assist with cleanup or to participate in other activities, including snow removal, as directed or authorized by the Employer. If any of the events in subparagraphs (a) or (b) above occurs after the employee has commenced work, then the employee shall be entitled to receive whatever minimum guarantee (including that provided to 40-hour guarantee employees) the employee is entitled to pursuant to the terms of the NYSA-ILA CBA.

XIII. PAID SICK LEAVE STATUTES AND ORDINANCES

Since paid time-off benefits provided to employees covered by the NYSA-ILA CBA are comparable to those provided under every relevant municipal and state paid-sick-leave ordinance and statute in New Jersey and New York, the NYSA and ILA agree to waive in their entirety the benefits and rights provided to employees covered by the NYSA-ILA CBA by every paid-sick-leave ordinance and statute which are now in effect in New Jersey and New York, including the New Jersey Paid Sick Leave Act, N.J.S.A. §§ 34:11D-1 through 10; Newark Sick Leave For Private Employees Ordinance No.13-2010; Jersey City Earned Sick Leave Law, Jersey City Municipal Code Chapter 4; Paid Sick Leave For Workers in Elizabeth, N.J., Ordinance No.4617; and N.Y. City Admin. Code, Title 20, Chapter 8, §§ 20-911-20-924, and which may later be enacted in New York and New Jersey during the term of this Agreement.

XIV. POST-CONTRACT COMMITTEES

A. Drug & Alcohol Abuse Program

Prior to January 1, 2019 the parties shall empanel an Advisory Task Force, consisting of representatives of NYSA and ILA, who shall have the authority to retain expert consultants, to engage in a comprehensive review and revision of the NYSA-ILA Port of New York and New Jersey Plan for Implementation of the Master Contract Drug and Alcohol Abuse Program, as last amended and restated in December 2007, which is appended to the 2004-2012 NYSA-ILA CBA as Annex F.

B. Safety Code

Prior to January 1, 2019 the NYSA-ILA Joint Safety Committee shall engage in a comprehensive review and update of the industry's safety code. The parties authorize the Safety Committee to utilize the services of qualified safety experts to assist the Committee in this endeavor.

C. Training and Certifications

Prior to January 1, 2019 the parties shall form a joint NYSA-ILA Training and Certifications Committee to review existing industry training and certifications programs and prepare a report setting forth the Committee's recommendations to the parties.

D. Contract Review

Prior to January 1, 2019 the parties shall form a committee to perform a comprehensive review of the language for the longshore, checker/clerk, and maintenance crafts contained in the 2004-2012 NYSA-ILA CBA and amendments thereto. The purpose of this review is to issue a new bound CBA booklet updating and correcting any language that does not conform to the terms of the 2004-2012 NYSA-ILA CBA as amended by the August 28, 2013 Memorandum of Settlement of Local Conditions in the Port of New York and New Jersey, by amendments enacted by the NYSA-ILA Contract Board since 2012, and by the contractual agreements reached during these 2018 local NYSA-ILA CBA negotiations and to memorialize any customs, practices, or agreements relating to those crafts that have been previously excluded.

XV. EXISTING NYSA-ILA AGREEMENTS

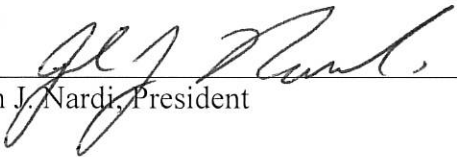
All the terms and conditions of the existing 2004-2012 NYSA-ILA CBA as amended by the August 8, 2013, Memorandum of Settlement of Local Conditions in the Port of New York and New Jersey, as well as all decisions and determinations of the various NYSA-ILA Committees and Boards, including the NYSA-ILA Labor Relations Committee and the NYSA-ILA Contract Board, shall remain in full force and effect during the entire term of this Agreement from October 1, 2018, of and including

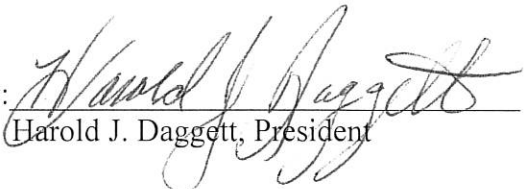
September 30, 2024, except as modified by the terms of this Memorandum of Settlement. This Memorandum of Settlement, when ratified by the parties, settles all issues between the parties relating to all crafts and shall go into full force and effect on October 1, 2018, except as otherwise provided in this Memorandum of Settlement.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Settlement on the day and year first above written.

NEW YORK SHIPPING ASSOCIATION, INC.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO

By: 
John J. Nardi, President

By: 
Harold J. Daggett, President

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