

# PREAMBLE

THIS COLLECTIVE AGREEMENT made this 19th day of February, 2008.

BETWEEN:

BRITISH COLUMBIA MARITIME  
EMPLOYERS ASSOCIATION on its own  
behalf and on behalf of its Members  
*(hereinafter called the "Association")*

of the First Part

AND:

INTERNATIONAL LONGSHORE  
AND WAREHOUSE UNION - Canada  
*(hereinafter called the "Union")*

of the Second Part

## **ARTICLE 1 – SCOPE-RECOGNITION**

1.01 The Association recognizes the Union as the sole collective bargaining agent for all members of each local of the Union and all other employees, employed by members of the Association and despatched pursuant to the terms of this Agreement.

1.02 The Union recognizes the Association as the Employers' organization which represents all Employers who are members of the Association or who during the term of this Agreement become members of the Association. The Association will not unreasonably deny membership to Employers wishing to join the Association.

1.03 This Agreement shall apply to all such persons employed and despatched pursuant to the terms of this Agreement for the performance of work in connection with the movement of inbound or outbound cargo from the time it enters or leaves the dock, or with the movement of cargo from the stow to release from conventional or other ship's gear or vice versa, and so long as it remains at a dock and under the control of a member of the Association covered by this Agreement. Work in connection with the movement of such outbound and inbound cargo shall include the operation of stationary and mobile cargo handling devices and equipment; to or from railroad cars, trucks, trailers, other vehicles, barges or scows when any or all of the foregoing are alongside within reach of conventional or other ship's gear and comes under the control of a member of the Association covered by this Agreement up to the point at which it is stowed in or discharged from a deepsea or coastwise vessel.

1.04 This Agreement shall apply to all members of the Association who employ and have despatched, pursuant to the terms of this Agreement, members of the Union or other persons for whom the Union is or for whom, during the term of this Agreement, the Union becomes, bargaining agent.

1.05 This Agreement shall not apply to foremen nor to supervisory, office or clerical personnel, who are employed by members of the Association.

1.06 It is the intent and responsibility of the Parties that each will police the terms and conditions of this Agreement in accordance with its spirit and intent.

The Parties agree that there will be no agreements made by any person bound by the terms of this Agreement which are contrary to its terms and conditions or its spirit and intent.

1.07 With respect to the operation of leased mobile cranes it is agreed that the existing practices will continue in effect unless changed by the Parties.

## **ARTICLE 2 – CO-OPERATION**

2.01 To be eligible for employment under this Agreement, by members of the Association, any individual must have been jointly registered in a Port Area by the Parties.

2.02 The Association undertakes that preferential employment will be given to Union members to ensure full work opportunities with due regard to the competence, fitness and ratings of the employees concerned, the safety of the operation and the avoidance of onerous individual work burden and individual speed-up.

2.03 When a sufficient number of qualified Union members covered by this Agreement are not available for employment, it is jointly agreed that other persons may be employed on a casual basis as may be required from time to time, PROVIDED, however, that such employees shall be governed by the terms and conditions of this Agreement and shall be despatched in accordance with this Agreement. Such casual employees shall be released when qualified Union members become available, and may be de-registered by either Party if their performance or conduct is unsatisfactory.

Welfare Plan Casuals may be de-registered by joint agreement of the Parties.

2.04 The Union undertakes that its members, employed by members of the Association, will be capable of doing a fair day's work and that it will at all times co-operate in dispensing with the services of inefficient employees. The Association will make every effort to provide employees disabled as a result of service in the Industry with appropriate work.

2.05 The Union undertakes to co-operate fully and expeditiously in the supplying of a sufficient work force, from time to time, to meet the needs of the Industry.

#### 2.06 MEDICALS:

1. Registered persons will not be advanced from their current despatch board or become a Welfare Paying Casual unless they have passed the required medical examination. Persons failing to pass the medical examination will be de-registered.
2. A person who fails the medical examination given by the medical examiner jointly appointed by the Parties may approach the Secretary of the Local to indicate a desire to appeal. If the Secretary of the Local agrees that there is a valid reason to appeal, the case may be referred to an Appeal Board consisting of one representative of the Association and one representative of the Union.
3. The Appeal Board may make a final determination based solely on the medical evidence presented to it, or may, at its discretion, approve as medically fit any person whose service to the Industry and individual circumstance so warrants.
4. If the Appeal Board is unable to agree on the disposition of an appeal it shall seek a further opinion from an independent medical specialist whose opinion respecting the subject case shall govern the disposition of same.

5. Where new operations become part of the bargaining unit, the new members of the Union work force from such operation will not be required to pass such an examination, but must take the examination in order to determine the extent of any disability.
6. Tradespeople brought from outside the Industry to fulfil duties requiring special skills shall be required to pass a medical examination after a 90 day period, in order to continue employment under this Agreement.

*Note:* Any registered person wishing to take the medical may do so upon request subject to the foregoing rules.

## **ARTICLE 3 – COMMITTEES**

### **3.01 PORT LABOUR RELATIONS COMMITTEE:**

There shall be established a Port Labour Relations Committee in each Local Area. Such Committees may be composed of not more than three (3) members designated by the Association and not more than three (3) members designated by the Union. The Parties shall have equal representation. Such Committees shall meet within three (3) days (exclusive of Saturdays, Sundays or Recognized Holidays) at the request of either Party. The Parties each pledge, in good faith, to deal with the matters referred to the Port Labour Relations Committee.

*Duties and Responsibilities:*

- (a) To investigate and adjudicate all grievances and disputes in compliance with the grievance procedure;
- (b) To investigate and adjudicate any complaint respecting the conduct of any employee on the job, or in the despatching hall;
- (c) To deal with matters of discipline when referred to it and appropriate penalties;
- (d) To deal with questions involving the occupational classification and ratings of employees;
- (e) To deal with matters involving health and safety;
- (f) To carry out such other functions as are assigned to it herein or by the Parties;
- (g) All decisions of the Committee must be consistent with the terms of this Agreement.

**3.02 JOINT INDUSTRY LABOUR RELATIONS COMMITTEE:**

There shall be established a Joint Industry Labour Relations Committee composed of four (4) representatives of the Union and four (4) representatives of the Association.

*Duties and Responsibilities:*

- (a) To deal with a grievance referred to it, which is still unresolved after having been properly processed through the grievance procedure as provided for in this Agreement;
- (b) To deal with a re-hearing of a Summary Disposition which has been properly referred to it, as provided for in Article 6 hereof;
- (c) To deal with any other matter which specifically relates to this Agreement.

### 3.03 JOINT SAFETY COMMITTEE:

There shall be established a Joint Safety Committee on which the Union and the Association respectively shall have equal representation.

Safety Committee meetings between the Union and the Association shall be convened within fifteen (15) days after notice given by either Party and the Joint Safety Committee to meet regularly at least once every three (3) months.

#### *Duties and Responsibilities:*

- (a) All matters connected with safe working practices and the Safety Regulations;
- (b) Accidents and accident prevention;
- (c) Reports and complaints regarding unsafe working conditions and working practices;
- (d) To deal with matters involving health and safety that have been referred from a local Port Labour Relations Committee meeting;
- (e) Compensation cases which, in the opinion of either Party, merit special investigation and consideration;
- (f) The expediting of Compensation cases when and if necessary.

Unless otherwise mutually agreed between the Parties concerned, questions of Safety on Deepsea Ship operations shall be guided by the Tackle Regulations set out in the Canada Shipping Act, the Marine Occupational Safety and Health Regulations and the BCMEA/ILWU Safety Regulations; and Dock and Bulk Terminal Operations shall be guided by the Canada Occupational Safety and Health Regulations.

### 3.04 VANCOUVER ISLAND COMMITTEE:

There shall be established a Vancouver Island Committee composed of four (4) representatives from the Vancouver Island Local of the Union and one (1) representative from the Union (ILWU - Canada), on the one hand, and a similar number of representatives from the Association, on the other. The Vancouver Island Committee shall meet without delay at the request of either Party.

#### *Duties and Responsibilities:*

To discuss and where possible resolve problems within the framework of this Agreement in respect of operations at Vancouver Island, and to make recommendations to the Joint Industry Labour Relations Committee where required.

### 3.05 LOWER MAINLAND COMMITTEE:

There shall be established a Lower Mainland Committee composed of two (2) representatives from each Lower Mainland local of the Union covered by this Agreement and one (1) representative from the Union (ILWU - Canada) on the one hand, and a similar number of representatives from the Association on the other.

The Lower Mainland Committee shall meet without delay at the request of either Party.

### *Duties and Responsibilities:*

To discuss and where possible resolve problems within the framework of this Agreement in respect of operations on the Lower Mainland, and to make recommendations to the Joint Industry Labour Relations Committee where required.

#### 3.06 OTHER COMMITTEES:

In addition to the foregoing Committees there shall be established from time to time such other Committees as the Parties may deem necessary.

## **ARTICLE 4 – DISCIPLINE**

4.01 The Union recognizes that it is the exclusive right of the Employer or Employer representative, such as managers, superintendents, supercargoes and foremen, and/or the Association:

1. To maintain order, discipline and efficiency;
2. To hire, suspend or discharge for proper cause, such as incompetence, insobriety, pilferage, absence from the job without permission or failure to perform work in a manner satisfactory to the Employer;
3. To make or alter from time to time rules and regulations not inconsistent with the terms of this Agreement to be complied with by employees employed under this Agreement.

This Section 4.01 shall be consistent with the terms of this Agreement.

4.02 An employee who is ordered for work or ordered back to work who fails to do so at the time designated by the Employer will be subject to discharge.

4.03 When an employee is fired for just cause or leaves the job for reasons such as accident or sickness, the remainder of the employees will continue to work as directed by the Employer.

4.04 In any case where the employee is discharged for more than the remainder of the day, and the Employer or the Association desires to impose any further penalty, they must so notify the Union in writing within two (2) days (exclusive of Saturdays, Sundays or Recognized Holidays) following initial discharge of the employee.

4.05 In the case of a dispute involving an alleged unjust suspension or discharge of an employee, the matter shall be submitted in writing and dealt with by a representative of the Employer and a representative of the Union.

4.06 Should these representatives fail to agree, the matter may be processed through the Grievance Procedure under this Agreement.

4.07 The Association may, at any time, impose a penalty of suspension from all work or from certain work, a disciplinary layoff or outright dismissal. The decision of the Association will be communicated to the Union in writing together with the reason for any penalty which may be imposed.

4.08 Any grievance involving a claim that by decision of the Association, an employee has been suspended, disciplined or dismissed without just cause or that the penalty is too severe, must be submitted in writing by the Union within three (3) days (exclusive of Saturdays, Sundays and Recognized Holidays) following receipt by the Union of the decision of the Association or the penalty will be deemed to be accepted without protest. Any such grievance will be dealt with at Step 3 of the Grievance Procedure.

4.09 Any employee convicted of pilferage, or of being in possession of pilfered goods contrary to The Canada Customs Act, will, at the sole discretion of the Employer or the Association be subject to an automatic suspension for the first offence and outright dismissal for the second offence.

#### 4.10 AUTOMATIC PENALTIES:

1. The following penalties shall automatically be imposed on employees with respect to assault, pilferage, impairment by substance abuse:

Assault –

First offence – Minimum, 1 year’s suspension.

Second offence – dismissal.

Pilferage or Possession of Pilfered Goods

Contrary to The Canada Customs Act –

First offence – Minimum, 60 days’ suspension.

Second offence – dismissal.

Impairment by substance abuse –

First offence – Minimum, 15 days’ suspension.

Second offence – Minimum, 30 days’  
suspension.

Succeeding offences – Minimum, 60 days’  
suspension.  
Maximum, dismissal.

Penalties for all other offences shall be imposed and dealt with as provided for in this Article 4.

2. *Definitions:*

Discharge – discharged from a particular job.

Dismissal – outright dismissal from all work under this Agreement.

Suspension – suspension for a specific period of time from all work under this Agreement.

Assault – to be defined as meaning an action to commit physical harm to or by a person(s) while on the site or while working under this Agreement.

4.11 Pending disposition of a dispute involving any of the above actions by an Employer, whereby an employee is discharged or suspended for any offence set forth in this Article, the employee shall be allowed to work for all Employers other than the Employer bringing action or causing discharge.

4.12 Where a penalty is imposed by the Association and the Union grieves such penalty, an employee shall be allowed to work pending disposition of such grievance, but not for the Employer, if any, bringing the complaint which resulted in the imposition of the penalty.

4.13 Sections 4.11 and 4.12 do not apply to:

- (a) Any employee who has been dismissed outright from all work under the Collective Agreement for either assault or serious pilferage as provided for in Section 4.10.
- (b) Any employee who is issued a letter of warning by the Association, for misconduct (excluding letters of warning issued due to complaints regarding rating competency) and who has no discipline on record.

4.14 In determining penalties, neither the Parties nor the Arbitrators shall consider offences which pre-date by two (2) years or more the date of current offence.

## **ARTICLE 5 – GRIEVANCE PROCEDURE**

5.01 Any question as to the interpretation, application, administration or alleged violation of this Agreement may be taken up by either Party as a grievance. Any grievance lodged by an employee, the Union, an Employer, or the Association shall be in writing.

5.02 Pending the investigation and settlement of any grievance, work shall continue to be performed as provided in Article 7 hereof.

5.03 **PROCEDURE:**

*Step No. 1(a):*

Any employee who has a grievance shall first refer it to a Business Agent who may then submit the grievance in writing to the Employer. If a decision of the Employer, acceptable to the Union, is not made within three (3) days (exclusive of Saturdays, Sundays or Recognized Holidays) the matter may be referred to Step No. 2.

*Step No. 1(b):*

Either the Union or the Association may lodge a grievance in writing to the other. Failing a settlement by a committee composed of two (2) members designated by the Association and two (2) members designated by the Union within eight (8) days (exclusive of Saturdays, Sundays or Recognized Holidays) the matter may be referred to Step No. 3, or by agreement to Step No. 4 within a further thirty (30) days.

*Step No. 2:*

Where any grievance has been referred pursuant to the provisions of Step No. 1(a) the matter shall be dealt with by discussion by a committee of a representative of the Employer and a representative of the Union. Failing a settlement by this Committee within five (5) days (exclusive of Saturdays, Sundays or Recognized Holidays) the matter may be referred to Step No. 3.

*Step No. 3: Port Labour Relations Committee:*

Where any grievance has been referred pursuant to the provisions of Step No. 1(b) or Step No. 2, the matter shall be dealt with by the Port Labour Relations Committee upon referral by either Party in writing. The Port Labour Relations Committee will meet as soon as is practicable, but in any case within three (3) days (exclusive of Saturdays, Sundays or Recognized Holidays) after receipt of the written request for a meeting of the Committee.

*Step No. 4:*

If a grievance is not settled as provided for in Step No. 3, it may be referred within a further five (5) days (exclusive of Saturdays, Sundays or Recognized Holidays) to the Joint Industry Labour Relations Committee which shall deal with the grievance within five (5) days (exclusive of Saturdays, Sundays or Recognized Holidays) from the time such grievance is referred to it.

*Step No. 5:*

If a grievance is not settled by the Joint Industry Labour Relations Committee, it may be referred to arbitration by either Party giving the other written notice within a further ten (10) days, (exclusive of Saturdays, Sundays or Recognized Holidays) of its desire to have the matter arbitrated by the Industry Arbitrator as provided in Article 6 hereof, who shall, at the same time, be furnished with a copy of such written notice.

5.04 The Industry Arbitrator shall deal with the matter and render a decision as soon as practicable after the grievance has been referred.

5.05 Save and except as specifically provided in Article 6 of this Agreement, the Industry Arbitrator shall not be authorized to make any decision inconsistent with the provisions of this Agreement, nor, to alter, modify or amend any part of this Agreement. The decision of the Industry Arbitrator shall be final and binding on the Parties hereto.

## **ARTICLE 6 – ARBITRATION**

### **6.01 APPOINTMENT, REMUNERATION, REPLACEMENT:**

- (a) The Parties shall immediately following the execution of this Agreement reappoint the existing Job Arbitrator, failing which they shall select, from a panel of 3 names submitted by the Union and 3 names submitted by the Association and appoint in writing a person to be the Job Arbitrator to have the powers, duties and jurisdiction as hereinafter provided. The 6 names submitted by the two Parties shall be of persons with practical waterfront experience. Should the Parties fail to agree to select and appoint such Job Arbitrator within 30 days following the execution of this Agreement, either Party may request the Federal Minister of Labour to appoint a person to act as the Job Arbitrator, whose powers, duties and jurisdiction shall be as provided for herein. Similarly, the Parties shall, immediately following the execution of this Agreement, reappoint the existing Alternate Job Arbitrator, failing which they shall at the same time and in the same manner as set out in this Sub-section (a), select an Alternate Job Arbitrator who shall be appointed in writing to be the Job Arbitrator when and in the event the first person selected ceases, for any reason, to act as Job Arbitrator. This alternate person shall be known as the Alternate Job Arbitrator.
- (b) The Parties shall immediately following the execution of this Agreement reappoint the existing Industry Arbitrator, failing which they shall select from a panel of 3 names submitted by the Union and 3 names submitted by the Association and appoint in writing a person to be the Industry Arbitrator to have the powers, duties and jurisdiction as hereinafter provided. The 6 names submitted by the two Parties shall be of persons of the type of a retired judge. Should the Parties fail to

agree to select the name of and appoint such Industry Arbitrator within 30 days following the execution of this Agreement, either Party may request the Federal Minister of Labour to appoint a person to act as the Industry Arbitrator, whose powers, duties and jurisdiction shall be as provided for herein.

- (c) The Job Arbitrator shall devote such time as is necessary to discharge those assigned duties and responsibilities and shall be paid remuneration at a rate and upon a basis to be agreed upon between the Job Arbitrator and the Parties. The Job Arbitrator's remuneration shall be paid one-half by the Union and one-half by the Association.
- (d) The Industry Arbitrator shall devote such time as is necessary to discharge all assigned duties and responsibilities and shall be paid remuneration on an Arbitration case by Arbitration case basis at a rate agreed upon between the Industry Arbitrator and the Parties. The Industry Arbitrator's remuneration for each Award shall be paid by the Party which seeks such Award. However, in cases of discipline, should the Arbitrator determine that the penalty imposed cannot be sustained as imposed, the Arbitrator's fee shall be borne equally by the Parties.
- (e) If the Job Arbitrator shall resign or be incapable of acting or if either Party shall by notice in writing to the Job Arbitrator and to the other Party terminate the services of the Job Arbitrator, the Parties shall forthwith appoint the Alternate Job Arbitrator, as provided for in Sub-section (a) herein, as the new Job Arbitrator. The provisions of this Article shall apply with respect to the Job Arbitrator's powers, duties, jurisdiction, remuneration and replacement. The Parties shall within 15 days following the appointment of the new Job Arbitrator select, in the manner provided for in Sub-section (a) herein, the name of a person who shall then become the

new Alternate Job Arbitrator. This procedure of having a Job Arbitrator and an Alternate Job Arbitrator shall continue throughout the term of this Agreement.

- (f) If the Industry Arbitrator shall resign or be incapable of acting or if either Party shall by notice in writing to the Industry Arbitrator and to the other Party terminate the services of the Industry Arbitrator, a new Industry Arbitrator shall be appointed in the manner provided for in Sub-section (b) herein, but within 15 days. The provisions of this Article shall apply with respect to the Industry Arbitrator's powers, duties, jurisdiction, remuneration and replacement.
- (g) The services of either Arbitrator may not be terminated until all duties in respect of any particular dispute referred to the Arbitrator have been discharged and a decision has been rendered respecting it. In addition, the services of the Job Arbitrator may not be terminated until an Alternate Job Arbitrator has been selected and the Alternate Job Arbitrator is in a position to be appointed forthwith as the new Job Arbitrator.

## 6.02 JURISDICTION OF JOB ARBITRATOR:

The Job Arbitrator shall have jurisdiction, on direct application of either Party, to deal with:

- (a) Questions relating to Safety on the job;
- (b) Disputes relating to the handling of cargo which is damaged and in an offensive condition as are referred directly to the Job Arbitrator under the Damaged Cargo Article;
- (c) Disputes relating to any matter under Strikes, Lockouts, Manning or Despatch Articles, as are referred by either Party to the Job Arbitrator;
- (d) Any situation where a slowdown or work stoppage is in effect;

- (e) Disputes relating to pay claims;
- (f) Powers of the Job Arbitrator shall be limited strictly to the application and interpretation of this Agreement as written. The Job Arbitrator shall have jurisdiction to decide any and all disputes arising under this Agreement including cases dealing with the resumption or continuation of work.

### 6.03 JURISDICTION OF INDUSTRY ARBITRATOR:

The Industry Arbitrator shall have jurisdiction in respect of:

- (a) Such Grievances as are referred to the Industry Arbitrator under the Grievance Procedure Section;
- (b) Such matters as are referred to the Industry Arbitrator by the Joint Industry Labour Relations Committee, in accordance with the Joint Industry Labour Relations Committee Section;
- (c) To re-hear Summary Dispositions referred to the Industry Arbitrator by either Party in accordance with Section 6.04, Sub-section (a), herein;
- (d) Such other matters concerning the application or interpretation of this Agreement that, having been before the Joint Industry Labour Relations Committee and are still unresolved, may be referred to the Industry Arbitrator by either Party.

### 6.04 POWERS AND PROCEDURE:

- (a) *Job Arbitrator*
  - (i) With respect to matters referred by either Party to the Job Arbitrator concerning which the Arbitrator has jurisdiction, a Summary decision, direction or order (herein called a "Summary Disposition") shall be issued. A Summary Disposition shall be effective from the time of oral pronouncement but

shall as soon as practicable be confirmed in writing by the Job Arbitrator. All Summary Dispositions shall be final and binding upon the Parties unless and until revoked or varied by the Joint Industry Labour Relations Committee or by the Industry Arbitrator upon re-hearing. Before making a Summary Disposition the Job Arbitrator may as deemed necessary or expedient, investigate, or act upon personal knowledge and experience, or upon information furnished by either or both of the Parties or by other persons believed by the Arbitrator to be qualified to give such information. If either Party shall, within five days (excluding Saturdays, Sundays and Recognized Holidays) of confirmation of the Summary Disposition by the Job Arbitrator, give notice in writing to the other Party of its desire to have the matter re-heard by the Joint Industry Labour Relations Committee, the Joint Industry Labour Relations Committee shall proceed to re-hear the matter and to attempt to render a decision satisfactory to both Parties. Any such decision of the Joint Industry Labour Relations Committee shall be deemed to be the Joint Industry Labour Relations Committee Award, which shall be final and binding upon the Parties hereto.

If the Joint Industry Labour Relations Committee fails to make a decision satisfactory to both Parties within a further five (5) days (exclusive of Saturdays, Sundays or Recognized Holidays) from the time such notice was given, the matter may be referred to the Industry Arbitrator by either Party giving, within a further five (5) days, (exclusive of Saturdays, Sundays or Recognized Holidays) written notice to the Industry Arbitrator and to the other Party of its desire to have the matter re-heard by the Industry Arbitrator. The Industry Arbitrator shall proceed with all dispatch to re-hear the matter and to publish an Award.

- (ii) In the event no such notice shall be given as herein provided, the Summary Disposition shall be deemed to be the Arbitration Award, which shall be final and binding upon the Parties hereto.
- (b) *Industry Arbitrator*
  - (i) With respect to matters referred by either Party to the Industry Arbitrator concerning which the Arbitrator has jurisdiction, as soon as practicable a hearing shall be conducted and a written Award issued. The Award of the Industry Arbitrator shall be final and binding upon the Parties hereto.

#### 6.05 REQUIREMENTS:

- (a) The Arbitrators shall be bound by the rules, laws and procedures from time to time in force and effect with respect to arbitrations, except in respect of proceedings concerning the making of a Summary Disposition by the Job Arbitrator, and be bound by the specific applicable terms of this Agreement.
- (b) Save and except as specifically provided herein, the Arbitrators shall not be authorized to make any decision inconsistent with the provisions of this Agreement, nor to alter, modify or amend any part of this Agreement.















































































































































