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13 SSA MARINE, INC.  
(formerly known as STEVEDORING SERVICES OF AMERICA, INC.)

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

18 U.S. EQUAL EMPLOYMENT  
19 OPPORTUNITY COMMISSION,

20 Plaintiff,

21 vs.

22 SSA MARINE, INC., STEVEDORING  
SERVICES OF AMERICA, INC

23 Defendants.

CASE NO. CV 03-7020 PA (PLAx)

**[PROPOSED] CONSENT  
DECREE; ORDER**

DOCKETED ON  
NOV - 2 2004  
BY: [Signature] 005

FILED  
CLERK, U.S. DISTRICT COURT  
OCT 29 2004  
CENTRAL DISTRICT OF CALIFORNIA  
BY [Signature] DEPUTY

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I.

INTRODUCTION

Plaintiff U.S. Equal Employment Opportunity Commission (the "EEOC" or "Commission") and Defendant SSA Marine, Inc. (formerly known as Services of America, Inc., specifically SSA Marine's Pacific Container Terminal located in Long Beach, California ("SSA Marine" or the "Company") hereby stipulate to and agree to be entered into this Consent Decree. The EEOC and SSA Marine are sometimes referred to herein together as the "Parties" or individually as a "Party."

II.

PURPOSE AND SCOPE OF CONSENT DECREE

A. The EEOC brought an action in the U.S. District Court, Central District of California entitled *U.S. Equal Employment Opportunity Commission v. SSA Marine, Inc.*, U.S. District Court Case No. LACV 03-7020 PA, Hon. Percy Anderson presiding ("Action");

B. The EEOC claims that SSA Marine violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII") by not hiring Rita Gartner;

C. SSA Marine claims that the Action has no merit and that the Company was under no obligation to hire Ms. Gartner; and

D. The EEOC and SSA Marine desire to avoid the continued expense and protracted costs incident to this litigation by resolving all differences between them arising out of or in any way concerning, connected with or pertaining to the facts, circumstances and events in the Action by this Consent Decree which shall be binding on and enforceable against the Parties and SSA Marine's officers, directors, agents, predecessors, successors, and assigns;

NOW, THEREFORE, it is hereby agreed by and between the Parties as follows:

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**III.**

**RELEASE OF CLAIMS**

A. This Consent Decree fully and completely forever resolves all issues, claims and allegations by the EEOC against SSA Marine that are raised in the Complaint filed in this action in the United States District Court, Central District of California on September 30, 2003 referred to as the Action.

B. This Consent Decree shall not be construed to preclude the Commission or SSA Marine from bringing suit to enforce this Consent Decree in the event that any Party hereto fails to perform the promises and representations contained herein.

C. This Consent Decree shall not be construed as an admission by the Company of any liability whatsoever, or as an admission by the Company of any violation of Title VII or of the rights of Ms. Gartner, or any violation of any order, law, statute, duty, or contract whatsoever against Ms. Gartner in this Action.

D. This Consent Decree shall not be construed to limit or reduce SSA Marine's obligation to comply fully with Title VII or any other federal employment statute.

E. This Consent Decree in no way affects the EEOC's right to bring, process, investigate or litigate charges unrelated to the Action that may be in existence or may later arise against SSA Marine in accordance with standard EEOC procedures.

**IV.**

**JURISDICTION**

A. The Court has jurisdiction over the Parties and the subject matter of the Action. The EEOC's Complaint asserted claims that, if proven, would authorize the Court to grant the equitable relief set forth in this Consent Decree. The terms and provisions of this Consent Decree are fair, reasonable and just. This Consent Decree conforms with the Federal Rules of Civil Procedure and Title VII

1 and is not in derogation of the rights or privileges of any person.

2 B. The Court shall retain jurisdiction of this Action during the duration  
3 of the Consent Decree for the purposes of entering all orders, judgments and  
4 decrees that may be necessary to implement the relief provided herein.

5 V.

6 **EFFECTIVE DATE AND DURATION OF DECREE**

7 A. The provisions and agreements contained herein are effective  
8 immediately upon the date which this Consent Decree is entered by the Court (“the  
9 Effective Date”).

10 B. The duration of this Consent Decree shall be for two years from the  
11 date of entry by the Court. This Court shall retain jurisdiction of this action during  
12 the period of this Consent Decree.

13 VI.

14 **MODIFICATION AND SEVERABILITY**

15 A. This Consent Decree constitutes the complete understanding of the  
16 Parties with respect to the matters contained herein. No waiver, modification or  
17 amendment of any provision of this Consent Decree will be effective unless made  
18 in writing and signed by an authorized representative of each of the Parties.

19 B. If one or more provisions of the Consent Decree are rendered  
20 unlawful or unenforceable, the Parties shall make good faith efforts to agree upon  
21 appropriate amendments to this Consent Decree in order to effectuate the purposes  
22 of the Consent Decree. In any event, the remaining provisions will remain in full  
23 force and effect unless the purposes of the Consent Decree cannot, despite the  
24 Parties’ best efforts, be achieved.

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VII.

COMPLIANCE AND DISPUTE RESOLUTION

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A. The Parties expressly agree that if the Commission has reason to believe that SSA Marine has failed to comply with any provision of this Consent Decree, the Commission may file a motion before this Court to enforce the Consent Decree. Prior to initiating such action, the Commission will notify SSA Marine and its legal counsel of record, in writing, of the nature of the dispute. This notice shall specify the particular provision(s) that the Commission believes has/have been breached. Absent a showing by either Party that the delay will cause irreparable harm, SSA Marine shall have thirty (30) days to attempt to resolve or cure the breach;

B. The Parties agree to cooperate with each other and use their best efforts to resolve any dispute referenced in the EEOC's notice;

C. After thirty days have passed with no resolution or agreement to extend the time further, the Commission may petition this Court for resolution of the dispute, seeking all available relief, including an extension of the term of the Consent Decree for such period of time as SSA Marine is shown to be in breach of the Consent Decree and the Commission's costs incurred in securing compliance with the Consent Decree; and

D. The EEOC may use the enforcement remedy set forth in this section against SSA Marine during the effective operation of this Consent. SSA Marine may use the enforcement remedy set forth in this section against the EEOC during the 60-day probationary period of Rita Gartner's employment with SSA Marine as described fully in section VIII below.

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VIII.

**AGREEMENTS AND OBLIGATIONS BETWEEN**  
**SSA MARINE AND RITA GARTNER**

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4 A. In exchange for the EEOC entering this Consent Decree, SSA Marine  
5 agrees to hire Rita Gartner into a chassis mechanic position and Ms. Gartner agrees  
6 to accept such position as follows: Ms. Gartner will be exclusively performing  
7 chassis mechanic work, but will rotate to perform other duties beyond the chassis  
8 mechanic department like any other and to the extent any other chassis mechanic  
9 employed at SSA Marine performs such duties. Ms. Gartner will be subject to a  
10 60-day probationary period. However, the Parties agree that Ms. Gartner can only  
11 be terminated for cause during the probationary period;

12 B. During the 60-day probationary period, an independent monitor  
13 retained by SSA Marine subject to the reasonable approval of the EEOC that has  
14 demonstrated experience in the area of employment discrimination and  
15 recruitment/hiring issues with the understanding of labor/union issues ("Monitor")  
16 shall objectively monitor Ms. Gartner's progress during the 60-day period. SSA  
17 Marine shall provide the EEOC with a list of up to three suggested candidates for  
18 the position of Monitor. If the EEOC does not reasonably approve any of SSA  
19 Marine's suggested candidates, the EEOC shall provide SSA Marine with a list of  
20 up to five suggested candidates acceptable to the EEOC. SSA Marine shall bear all  
21 costs associated with the selection and retention of the Monitor and the  
22 performance of his/her duties;

23 C. The Parties agree that the role of the Monitor will include, but is not  
24 limited to the following:

- 25 1. Ensure that Ms. Gartner is provided equal employment  
26 opportunity as a chassis mechanic to perform her duties as required of other chassis  
27 mechanics at SSA Marine. The Monitor may consider the chassis repair tariff  
28 standards to the extent that the Monitor determines that other probationary chassis

1 mechanics employed at SSA Marine held to such standards attached hereto as  
2 Exhibit 1;

3 2. Ensure that Ms. Gartner is held to the same standard as her  
4 peers at SSA Marine during the probationary status which may include performing  
5 in accordance with the chassis repair tariff standards attached hereto as Exhibit 1  
6 and that Ms. Gartner is afforded the same support as other SSA Marine mechanics  
7 during their probationary periods;

8 3. Communicate with SSA Marine and Ms. Gartner on a weekly  
9 basis or more frequently, as necessary, to address and assess any problems that  
10 may arise in connection Ms. Gartner's performance at SSA Marine and SSA  
11 Marine's compliance with holding Ms. Gartner to the same standard as its other  
12 chassis mechanics during the 60-day probationary period;

13 4. Attempt to resolve any disputes or problems that arise between  
14 Ms. Gartner and SSA Marine during the probationary period;

15 5. In the event that SSA Marine attempts to terminate Ms. Gartner  
16 during the probationary period, the Monitor will make an independent  
17 determination as to whether the proposed termination is for cause and valid. The  
18 Monitor will examine whether the proposed termination of Ms. Gartner is based  
19 upon the same standards that other chassis mechanics are held to at SSA Marine  
20 and in accordance with the Monitor's resource to consider the chassis repair tariff  
21 standards as described in subsection C.1 of this Section. During the determination  
22 period, Ms. Gartner will remain employed until a determination is made by the  
23 Monitor. The Monitor shall make his/her determination within a reasonable time  
24 but not greater than fourteen calendar days upon written notice by SSA Marine to  
25 the Monitor of the proposed termination;

26 6. Upon request, SSA Marine agrees to provide necessary  
27 documents and to provide access to individuals that may need to be interviewed to  
28 allow the Monitor to make an assessment on the termination;



1           7.     If the Monitor determines that the proposed termination of Ms.  
2 Gartner is for cause, upon written determination of such finding by the Monitor,  
3 Ms. Gartner's termination shall become effective immediately;

4           8.     If the Monitor determines that the termination was not for  
5 cause, then Ms. Gartner will be entitled to remain in her position and will  
6 automatically receive \$50,000.00 payable to her within fourteen days of the  
7 Monitor's determination. A copy of the check shall be mailed c/o of the Regional  
8 Attorney Anna Park, 255 E Temple Street 4<sup>th</sup> Floor, LA, CA 90012;

9           9.     If the Monitor finds that SSA Marine's termination of Ms.  
10 Gartner was for cause but extraordinary circumstances within the knowledge and  
11 control of SSA Marine surrounding Ms. Gartner's employment undermined Ms.  
12 Gartner's ability to satisfactorily perform her job, the Monitor will in his/her  
13 discretion award Ms. Gartner an amount from \$0 up to \$50,000.00 upon her  
14 termination. Extraordinary circumstances is defined as circumstances beyond Ms.  
15 Gartner's control that the employer failed to correct despite having notice of the  
16 conditions, such that it said conditions undermined Ms. Gartner's ability to  
17 perform her work. While not exclusive, an example of an extraordinary  
18 circumstance would be a constructive discharge situation where the working  
19 conditions become so intolerable that a reasonable person in the employee's  
20 position would have felt compelled to resign; and

21           10.    In the event the Monitor is not able to resolve the dispute  
22 between Ms. Gartner and SSA Marine, the Monitor shall generate a report  
23 informing SSA Marine, the EEOC, and the above-captioned Court of the impasse  
24 that is at issue.

25           D.     Ms. Gartner and SSA Marine have entered into a separate agreement  
26 attached hereto as Exhibit 2.

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IX.

**GENERAL INJUNCTIVE RELIEF**

A. SSA Marine's Representations

In exchange for the EEOC entering this Consent Decree, SSA Marine shall be enjoined at its Long Beach location from engaging in sex discrimination with regard to recruiting, interviewing, rejecting, selecting, and/or hiring individuals to fill mechanic positions;

B. Affirmative Obligations

SSA Marine shall take the following affirmative steps to promote and maintain a nondiscriminatory and harassment-free work environment at its Long Beach location. SSA Marine shall take affirmative steps to promote and maintain a nondiscriminatory hiring procedure including the following:

- 1. Developing procedures in recruiting, screening, interviewing, selecting, rejecting and/or hiring individuals in compliance with Title VII;
- 2. Creating, applying and implementing its new objective hiring criteria and procedure to more effectively carry out SSA Marine's obligations under this Consent Decree;
- 3. Providing training to managerial/supervisory staff of their responsibilities with respect to recruiting and hiring under Title VII;

A. Within 60 days after the Effective Date or 30 days after hiring the Monitor, whichever is later, all of SSA Marine's managerial/supervisory employees at its Long Beach location shall be required to attend a mandatory training session with respect to their responsibilities under Title VII in recruiting and hiring;

B. All steady/permanent employees during the 60-day probationary period shall be required to attend a mandatory training session which shall include coverage of subjects of equal employment opportunity rights and responsibilities, including but not limited to Title VII's prohibitions against

1 discrimination on the basis of sex and reaffirms SSA Marine's commitment to  
2 nondiscriminatory hiring at the Long Beach facility;

3 C. During the term of the Consent Decree, all new  
4 steady/permanent employees and all employees recently promoted from a  
5 staff/hourly position to a managerial position shall receive the Company's  
6 respective training session described above; and

7 D. All managerial and steady/permanent employees shall  
8 receive the training at least annually thereafter for the remainder of the term of this  
9 Consent Decree.

10 4. Revising its written policy on discrimination and  
11 recruitment/hiring including a clear objective hiring criteria which prohibits hiring  
12 decisions on the basis of race, color, national origin, sex, age, disability, creed, and  
13 retaliation;

14 A. Should the policy be revised, it shall immediately be  
15 distributed to all of SSA Marine's employees at its Long Beach location, including  
16 management and/or supervisory staff, and shall be included in any relevant policy  
17 or employee manuals distributed to employees by SSA Marine. SSA Marine shall  
18 collect acknowledgements from each employee who receives any revised policy;

19 B. During the term of this Consent Decree, SSA Marine  
20 shall provide the EEOC with written notice in the event that it revises its  
21 nondiscriminatory hiring criteria within ten days after implementation of any such  
22 revisions by SSA Marine; and

23 C. Throughout the term of this Consent Decree, SSA Marine  
24 shall also immediately post any revised policy in a place that is conspicuous and  
25 accessible to all employees at its Long Beach location in a legible font that is a  
26 minimum of 15 points in size.

27 5. SSA Marine shall develop and maintain, as practical, job  
28 descriptions for the Company's available mechanic positions. SSA Marine shall

1 make available to applicants, upon request, the opportunity to read a copy of the  
2 job description for the position for which the applicant applies.

3 C. Third-Party Consultant

4 SSA Marine shall retain a third-party consultant designated from its  
5 attorneys of record, Gordon & Rees LLP, with demonstrated experience in the area  
6 of employment discrimination and recruitment/hiring issues and labor/union issues  
7 to implement and monitor SSA Marine's compliance with Title VII and the  
8 provisions of this Consent Decree ("Consultant"). SSA Marine shall bear its own  
9 costs associated with the selection and retention of the Consultant and the  
10 performance of his/her duties; and

11 D. Nothing in this section shall be construed as generally creating an  
12 affirmative action obligation on SSA Marine.

13 X.

14 **RECORD-KEEPING AND REPORTING**

15 A. Record-Keeping

16 To the extent required by law, SSA Marine shall submit annual EEO-  
17 1 reports, maintain supporting documentation, and maintain employment  
18 applications and resumes pursuant to applicable law.

19 B. Reporting

20 1. SSA Marine shall submit a letter to the EEOC via U.S. mail or  
21 facsimile indicating when SSA Marine has completed the posting and job  
22 description requirements as set forth in section IX within 90 days of the Effective  
23 Date;

24 2. The Consultant shall submit a letter to the EEOC via  
25 U.S. mail or facsimile indicating when SSA Marine has completed the affirmative  
26 steps outlined in section IX of this Consent Decree. In the event that no revisions  
27 are necessary to SSA Marine's discrimination and recruitment/hiring written  
28 policy, the Consultant shall indicate same in his/her reporting letter;

1           3.     The Consultant shall also submit training materials including a  
2 description of the training to be provided and an outline of the curriculum  
3 developed for the trainees via U.S. mail or facsimile of his/her training materials to  
4 be administered to SSA Marine's employees to the EEOC prior to the  
5 administration of such training; and

6           4.     Upon completion of SSA Marine's agreements set forth in this  
7 Consent Decree, SSA Marine shall submit a final letter to the EEOC via  
8 U.S. mail or facsimile indicating same at the end of the term of the Consent  
9 Decree.

10          C.     The EEOC shall conduct an audit of SSA Marine's hiring procedures  
11 semi-annually during the term of this Consent Decree from the effective date and  
12 only as described below. The EEOC shall a minimum of 14 days notice to Bob  
13 Kelly or someone in his similar position. SSA Marine shall make documents and  
14 individuals available for questioning relating to the hiring practices during the term  
15 of this Consent Decree. SSA Marine shall maintain records only to the extent so as  
16 to facilitate the discretionary audit as described below. SSA Marine shall make the  
17 following information available to the EEOC upon notice and within the duration  
18 of this Consent Decree:

19           1.     All female applicants who applied for a vacant, mechanic  
20 position at the Long Beach facility;

21           2.     Applicants who were hired for any mechanic positions at the  
22 Long Beach facility instead of a female applicant;

23           3.     Identity of individuals who were offered any mechanic  
24 positions at the Long Beach facility instead of a female applicant, but declined the  
25 employment offer;

26           4.     A copy of the application of all female applicants during the  
27 term of the Consent Decree as well as the applications of individual(s) hired for the  
28 position if the female applicant who applied was not selected; and

1 5. An explanation, if applicable, of why a female applicant was  
2 not hired for a vacant mechanic position.

3 **XI.**

4 **COSTS OF ADMINISTRATION AND IMPLEMENTATION**  
5 **OF CONSENT DECREE**

6 SSA Marine shall bear its own costs associated with the administration and  
7 implementation of its obligations under this Consent Decree.

8 **XII.**

9 **COSTS AND ATTORNEYS' FEES**

10 Each Party shall bear its own costs of suit and attorneys' fees.

11 **XIII.**

12 **MISCELLANEOUS PROVISIONS**

13 A. During the term of this Consent Decree, SSA Marine shall provide  
14 any potential successor-in-interest with a copy of this Consent Decree within a  
15 reasonable time of not less than thirty days prior to the execution of any agreement  
16 for acquisition or assumption of control of any or all of SSA Marine's Long Beach  
17 operations, or any other material change in corporate structure, and shall  
18 simultaneously inform the EEOC of same.

19 B. During the term of this Consent Decree, SSA Marine and its  
20 successors shall assure that each of its officers, managers and supervisors is aware  
21 of any term in this Consent Decree that relates to his/her job duties.

22 C. Each of the undersigned knowingly and voluntarily agrees to the  
23 terms set forth in this Consent Decree.

24 D. Each of the undersigned has carefully read and fully understands all of  
25 the provisions of this Consent Decree. Each of the undersigned knowingly and  
26 voluntarily agrees to all of the terms set forth in this agreement. Each knowingly  
27 and voluntarily intends to be legally bound by the same.

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1 E. This Consent Decree may be executed in counterparts and has the  
2 same force and effect as if all signatures were obtained in one document.

3 D. Each of the undersigned agrees to entry of this Consent Decree.

4 **[PROPOSED] ORDER**

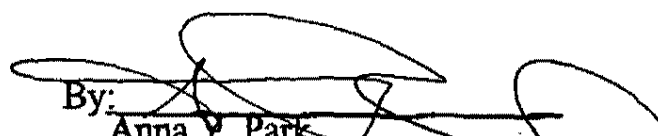
5 The provisions of the foregoing Consent Decree are hereby approved and  
6 compliance with all provisions thereof is **HEREBY ORDERED.**

7  
8 Date: 10/28/04

  
9 HONORABLE PERCY ANDERSON  
United States District Judge

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13 **EQUAL EMPLOYMENT  
14 OPPORTUNITY COMMISSION**

15  
16 Date: 10/27/04

17  
18 By:   
19 Anna Y. Park  
20 Peter Laura  
21 Dana Johnson  
22 Attorneys for Plaintiff EQUAL  
23 EMPLOYMENT OPPORTUNITY  
24 COMMISSION

25  
26  
27 Date: Oct 25, 2004


28 By:   
Rita Gartner

(signatures continued on next page)

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Date: 10/26/04

GORDON & REES LLP

By:   
James J. McMullen, Jr.  
Truth Fisher  
Attorneys For Defendant  
SSA MARINE, INC.  
(formerly known as  
STEVEDORING SERVICES OF  
AMERICA, INC.)

SCANNED

Date: 10-25-04

By:   
Authorized Representative of SSA  
Marine, Inc.



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**LETTER OF UNDERSTANDING**

- I. In connection with the resolution of the U.S. Equal Employment Opportunity Commission's ("EEOC" or "Commission") complaint filed against SSA Marine, Inc. ("SSA Marine") on behalf of Rita Gartner in the United States District Court, Central District of California entitled U.S. Equal Employment Opportunity Commission v. SSA Marine, Inc., U.S. District Court Case No. LACV 03-7020 PA, Hon. Percy Anderson presiding ("Action"), SSA Marine and Rita Gartner agree to the following:
- II. SSA Marine agrees to hire Rita Gartner into a chassis mechanic position in accordance with the terms and conditions exclusively set forth in the Consent Decree agreed to by SSA Marine and Rita Gartner in the Action and filed with the above-described Court under separate cover ("Decree"). During Rita Gartner's 60-day probationary period of employment as described in the Decree, Rita Gartner agrees to irrevocably and unconditionally release and discharge SSA Marine and each of and all of its predecessors, successors, assigns, partners, representatives, parents, subsidiaries, divisions, affiliates, employees, supervisors, attorneys, agents, officers, directors, shareholders, and all persons acting by, through, under or in concert with any of them from any and all charges, complaints, claims, and liabilities with respect to alleged Title VII violations relating to sex or gender, known or unknown, suspected or unsuspected ("claim" or "claims") which she at any time during the 60-day period heretofore had or claimed to have or which she may have or claim to have regarding events that have occurred as of the date of the Decree. Provided Rita Gartner is terminated for cause as determined by the independent monitor retained by SSA Marine whose role is exclusively and specifically described in the Decree, the agreements contained herein shall extend and obligate Rita Gartner's abidance by forever.
- IV. SSA Marine and Rita Gartner expressly understand and agree that:
- A. Each has carefully read and fully understands all of the provisions of this agreement;
- B. Each knowingly and voluntarily agrees to all of the terms set forth in this agreement;
- C. Each knowingly and voluntarily intends to be legally bound by the same; and
- D. Each was advised and hereby is advised in writing to consider the terms of this agreement and consult with an attorney of their choice prior to executing this agreement.
- V. SSA Marine and Rita Gartner hereto represent and acknowledge that in executing this agreement they do not rely and have not relied upon any representation or statement made by one another or by any of their agents, attorneys, or representatives with regard to the subject matter, basis, or effect of this agreement or otherwise, other than those specifically stated in this written agreement.

CONFIDENTIAL

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- VI. This agreement shall be binding upon SSA Marine and Rita Gartner hereto and upon their heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of said SSA Marine and Rita Gartner and each of them and to their heirs, administrators, representatives, executors, successors, and assigns. Rita Gartner expressly warrants that she has not transferred to any person or entity any rights, causes of action, or claims released in this agreement.
- VII. Should any provision of this agreement be declared or be determined by any court of competent jurisdiction to be wholly or partially illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, or provisions shall not be affected thereby, and said illegal, unenforceable, or invalid part, term, or provision shall be deemed not to be a part of this agreement.
- VIII. This agreement sets forth the entire agreement between SSA Marine and Rita Gartner hereto and fully supersedes any and all prior agreements or understandings, written or oral, between the parties hereto pertaining to the subject matter hereof. This section of the Letter of Understanding in no way is intended to affect or release the BEOC or SSA Marine from their agreements and covenants contained within the Decree executed under separate agreement.
- IX. This agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto.
- X. It is further understood and agreed that if, at any time, a violation of any term of this agreement is asserted by any party hereto, that party shall have the right to seek specific performance of that term and/or any other necessary and proper relief, including but not limited to damages, from any court of competent jurisdiction, and the prevailing party shall be entitled to recover its reasonable costs and attorney fees.
- XI. This agreement may be executed in counterparts and has the same force and effect as if all the signatures were obtained in one document.

DATED: Oct 25, 2004 Rita Gartner  
Rita Gartner

DATED: \_\_\_\_\_ SSA MARINE, INC.  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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- VI. This agreement shall be binding upon SSA Marine and Rita Gartner hereto and upon their heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of said SSA Marine and Rita Gartner and each of them and to their heirs, administrators, representatives, executors, successors, and assigns. Rita Gartner expressly warrants that she has not transferred to any person or entity any rights, causes of action, or claims released in this agreement.
- VII. Should any provision of this agreement be declared or be determined by any court of competent jurisdiction to be wholly or partially illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, or provisions shall not be affected thereby, and said illegal, unenforceable, or invalid part, term, or provision shall be deemed not to be a part of this agreement.
- VIII. This agreement sets forth the entire agreement between SSA Marine and Rita Gartner hereto and fully supersedes any and all prior agreements or understandings, written or oral, between the parties hereto pertaining to the subject matter hereof. This section of the Letter of Understanding in no way is intended to affect or release the EEOC or SSA Marine from their agreements and covenants contained within the Decree executed under separate agreement.
- IX. This agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto.
- X. It is further understood and agreed that if, at any time, a violation of any term of this agreement is asserted by any party hereto, that party shall have the right to seek specific performance of that term and/or any other necessary and proper relief, including but not limited to damages, from any court of competent jurisdiction, and the prevailing party shall be entitled to recover its reasonable costs and attorney fees.
- XI. This agreement may be executed in counterparts and has the same force and effect as if all the signatures were obtained in one document.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Rita Gartner

DATED: 10-25-04

SSA MARINE, INC.

By:  \_\_\_\_\_

Name: Bob Kelly

Title: Authorized Representative of SSA Marine, Inc.