

**OPERATIONS PLAN for FISHING YEAR 2010  
SUSTAINABLE HARVEST SECTOR,**

*Submitted September 1, 2009*

*Revised October 7, 2009*

*Revised November 25, 2009*

*Revised January 27, 2010*

*Revised Feb 3, 2010*

*Revised Feb 11, 2010*

*Revised Feb 18, 2010*

This OPERATIONS PLAN AND AGREEMENT (this “Agreement”) is entered into as of this 28<sup>th</sup> day of August, 2009, and revised as required by the National Marine Fisheries Service (NMFS) on January 26, 2010 for approval by and among the permit owners listed on the signature pages hereto and any other permit owners that are admitted pursuant to the terms of this Agreement (each, a “Member” and, collectively, the “Members”).

**RECITALS**

**WHEREAS**, under Amendments 13 and 16 to the Northeast Multispecies Fishery Management Plan “Plan”), and the regulations promulgated thereunder, a self-selecting co-operative, or “Sector,” of fishermen is authorized to submit to the New England Fishery Management Council (Council) a proposal for the allocation of catch of regulated groundfish species to such Sector;

**WHEREAS**, the Members applied to the Council for authorization of the Sustainable Harvest Sector (Sector) in April 2007, (and again in April 2008), and that in June 2009 the Council did agree to consider the Sector as one of a group of Sector applications to be authorized by Amendment 16 to the Plan,

**WHEREAS**, The Sustainable Harvest is a legal entity incorporated in the state of Maine and as a non profit 501-c-(5) by the IRS, as such it may be held liable for the violations committed by its members,

**WHEREAS**, the Regional Administrator of the National Marine Fisheries Service (NMFS) is authorized under the Plan, Amendments 13 and 16, and the regulations promulgated thereunder to consider and approve a legally binding Operations Plan for the Sector,

**WHEREAS**, the Members desire to form the Sector contemplated by Amendment 16, for the purposes of (i) obtaining an aggregate annual allocation of multispecies stocks from NMFS, as authorized by Amendment 16, and to sub-allocate such aggregate Sector allocation among the Members and/or their permits and vessels and (ii) participating in Special Access Programs (“SAPs”) to the extent that such SAPs are available to the Sector,

**NOW, THEREFORE**, in consideration of the mutual agreements, covenants, rights and obligations set forth in this Agreement, the benefits to be derived therefrom and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

## **ARTICLE I -- REPRESENTATIONS AND WARRANTIES**

As of the date hereof, each of the Members represents and warrants to the other Members and the Sector that:

### **Section 1.1    Eligibility**

Each Member has been issued a limited access multispecies permit, which, if volunteering to join a sector, is allocated a percentage of the annual Total Allowable Catch (TAC) called a 'percent sector contribution' (psc). The psc is based on the permit's landings history for FY 1996 through 2006 under Amendment 16, (May 1, 1996 – April 30, 2007).

Some limited access multispecies permits were previously part of either the Georges Bank (GB) Cod Hook Sector or the GB Cod Fixed Gear Sector. The psc for GB cod for those permits (which were in one of the early GB cod sectors) is based on the permit's landings history from FY 1996 – FY 2001 (May 1, 1996 through April 30, 2002). Each permit that was previously in the GB Cod Hook Sector is listed below such Member's name on the signature pages hereto (each, a "Permit"). There are no such members in the Sustainable Harvest Sector for FY 2010.

Notwithstanding the list of Participating Vessels set forth on the signature pages hereto, for purposes of this Agreement, "Participating Vessel" shall mean the vessel to which a Member's Permit applies at any given time.

### **Section 1.2    Organization and Authority**

Each Member (i) to the extent that it is an entity, is duly organized, validly existing and in good standing in its state of organization and (ii) has all authority, corporate or otherwise, to enter into this Agreement on its own behalf and on behalf of the Participating Vessels and Permits that it represents. This Agreement constitutes a legally valid and binding obligation of each Member, enforceable against such Member in accordance with its terms. Each of the Members represents that its Participating Vessel(s) and Permit(s) have no sanctions or other restrictions against them that would prevent such Participating Vessels and Permits from enrolling in the Sector and/or complying with the terms of this Agreement.

### **Section 1.3    Incorporation as a Legal Entity**

The Sustainable Harvest is a legal entity incorporated in the State of Maine and as a non profit 501-c-(5) by the IRS, as such it may be held liable for the violations committed by its members.

### **Section 1.4    Definition of Sector as Three Entities**

Amendment 16 to the NE multispecies FMP defines a sector as a group of three or more persons, none of whom have an ownership interest in the other two persons in the sector. This criteria has been fulfilled with permit number 410355 under the distinct ownership of Teresa Marie III Inc (Jim Odlin), permit number 330708 under the distinct ownership of Jordan Lynn Inc (Terry Alexander), and permit number 310421 under the distinct ownership of One Son Fishing LLC (Margaret J Raymond).

## Section 1.5    **Fishing Locations**

Sector vessels will fish on the waters of the Gulf of Maine, Georges Bank and Southern New England/Mid Atlantic on sector trips. Sector Trips are defined as trips directed on groundfish, dogfish, skates, and on monkfish when they have not used up their groundfish DAS. On sector trips all groundfish catch counts against the sector's ACE. Trips in exempted fisheries or using exempted gear are excluded from sector trips.

## ARTICLE II -- MEMBERSHIP

### Section 2.1    **Voluntary Membership**

Participation in the Sector is completely voluntary among the Members, their Permits and the related Participating Vessels.

### Section 2.2    **Scope of Membership Obligations**

The obligations of the Members set forth in this Agreement shall only apply to the Permits and Participating Vessels (and not to any other permits or vessels owned by the Members that are not enrolled in the Sector pursuant to the terms hereof) to the extent that such Permits or Participating Vessels are fishing commercially with gear that is capable of harvesting multispecies species managed under the Plan. Notwithstanding the foregoing, the Members acknowledge and agree that the Sector and its Members may, from time to time, be permitted to participate in certain Special Access Programs (each an “SAP”) and that it may be necessary to expand the scope of the membership obligations hereunder, in order to ensure that the Sector and its Members are in compliance with the rules, regulations, and legislative intent relating to each such SAP. Therefore, the Members hereby agree to execute any amendments or supplements to this Agreement, which may reasonably be requested by the Sector or the Sector Manager in order to comply with the rules, regulations, or legislative intent relating to any such SAP, including, without limitation, any amendments or supplements that expand the scope of the membership obligations hereunder to apply to vessels and/or permits that are not enrolled in the Sector.

Pursuant to Section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1881a(b)(1)(F), the undersigned hereby authorizes the release to the Sustainable Harvest Sector of information regarding the catch of various species of fish associated with the limited access Northeast multispecies permit with the Moratorium Right Identifier (MRI) submitted in Exhibit E to the National Marine Fisheries Service in compliance with 50 CFR parts 648.7 and 648.87, that the undersigned has authority to access. This information includes, but is not limited to, vessel trip reports (VTR), dealer reports, and information collected by the Northeast Fishery Observer Program (NEFOP), the sector dockside monitoring program, and (if applicable) the sector at-sea monitoring program. *This information shall be used exclusively by the sector for matters pertaining to sector management, including record retention requirements. Such information may not be released by the Sector to another entity. When information released to the sector by the National Marine Fisheries Service is no longer needed for sector management, it shall be destroyed or returned by the Sector Manager to the undersigned at his or her election. When the undersigned ceases to be a member of the Sector, this authorization shall be deemed null and void.*

### Section 2.3    **Length of Commitment**

Each Member hereby agrees to cause each of its Permits and the related Participating Vessels to remain enrolled in the Sector for the entire fishing year following the date on which such Member enrolled in the Sector (the “Commitment Period”); provided, however, that if NMFS shall not approve the Sector’s Operations Plan and Agreement, as the same may be amended, for any fishing year during a Member’s Commitment Period, then the obligation of such Member

under this Section 2.3 shall terminate on the last day of the last fishing year for which the Sector's Operation Plan and Agreement shall have received approval from NMFS. Each Member acknowledges and agrees that 50 CFR Part 648.87 requires that each of its Permits and the related Participating Vessels must remain in the Sector for the entire fishing year in which such Permits and/or Participating Vessels are enrolled in the Sector, and that each Member's Participating Vessels may not fish outside the Sector under a multispecies DAS program during any fishing year in which its Permits and/or Participating Vessels are enrolled in the Sector.

#### **Section 2.4    New Members**

The owner of a permit that is eligible under the criteria set forth in Section 1.1 hereto, but that is not enrolled as a Member (and/or whose permit is not so enrolled), may apply to the Board for membership in the Sector. Such application shall be made in writing prior to June 1 of the fishing year that precedes the fishing year for which the applicant seeks to be included as a Member, (i.e., the application must be received at least 13 months prior to the fishing year for which the applicant seeks to be included as a member) and shall include evidence of eligibility. The Board shall, in its reasonable discretion, determine whether the applicant shall be admitted as a Member of the Sector and/or its Permit included as a Permit.

Notwithstanding the foregoing, no such admission shall be effective until such new Member has agreed in writing to be bound by, and to cause its Permit and Participating Vessel to comply with the terms of this Agreement, and until the provisions of this Agreement shall have been amended or modified to reflect such additional Member, Permit and/or Participating Vessel.

#### **Section 2.5    Permit and Annual Catch Entitlement Transfers**

Each Member agrees that so long as it is a party to this Agreement, such Member (i) shall not have the authority to sell, lease or transfer the ownership of its Permit or the right to harvest any portion or all of the Permit's Annual Catch Entitlement to a party that is not bound by this Agreement for the remainder of the fishing year in which such sale, lease or transfer is to occur, (ii) shall not transfer, lease or assign any DAS allocated to its Permit by NMFS to any non-Sector permit, and (iii) shall comply with the right of first refusal provisions of Section 2.7 hereof prior to the consummation of any proposed sale, lease or transfer permitted hereunder.

#### **Section 2.6    Membership Dues**

The Sector may, to the extent necessary for the payment of the costs and expenses associated with the administration and management of the Sector (including the payment of the Manager's salary), require the payment by the Members of annual membership dues and/or poundage fees. Such annual membership dues and/or poundage fees shall be fixed by resolution of the Board prior to the commencement of the applicable fishing year or at such other time as the Board may deem necessary or appropriate.

#### **Section 2.7    Right of First Refusal**

In the event that any Member (a "Selling Member") at any time proposes to sell, transfer or lease (a "Sale") its Permit and/or any part of its Annual Catch Entitlement (ACE) to any proposed

Buyer who shall make a good faith, bona fide written offer therefore (a “Bona Fide Offer”), then the Selling Member shall first deliver to the Sector Members a written notice (“First Refusal Notice”) that the Selling Member proposes to make such Sale, transfer, or lease which First Refusal Notice shall (i) state the identity of the prospective Buyer, (ii) state the amount of consideration for the Permit or Annual Catch Entitlement and the material terms and conditions upon which the proposed Sale, transfer or lease is to be made (the date on which the Sector receives the First Refusal Notice being the “First Refusal Notice Date”), (iii) represent that the Bona Fide Offer is an actual Bona Fide Offer, and (iv) include a copy of any written proposal, letter of intent or other agreement relating to the Bona Fide Offer. The Sector Members shall have a period of five (5) calendar days following the First Refusal Notice Date (the “Election Period”) in which to elect to purchase or lease the Permit or the Permit’s Annual Catch Entitlement at the price and subject to the same material terms and conditions set forth in the First Refusal Notice. The Sector Members shall exercise the right to purchase or lease such Permit by delivering a written notice (“Election Notice”) to the Selling Member within the Election Period. In the event that a Sector Member desires to purchase the Permit or Annual Catch Entitlement, then the parties shall schedule a closing for the payment for, and the delivery of, the Permit, which shall be no later than 90 calendar days after the First Refusal Notice Date. If a Sector Member has not elected to purchase the Permit within the Election Period, then the Selling Member is free to sell the Permit to the Buyer; provided that such sale is on the terms and conditions specified in the First Refusal Notice.

#### Section 2.8     **Proof of Membership**

Upon approval, each sector vessel will be issued a Letter of Authorization (LOA) specifying the exemptions granted. Vessels must comply with all applicable Federal regulations and laws not specifically exempted in the LOA.

#### Section 2.9     **Joint and Several Liabilities**

Sector members acknowledge and agree that they and the SHS may be held jointly and severally liable for discarding legal sized fish, misreporting, and ACE overages as specified in Federal Regulations.

## **ARTICLE III -- ADMINISTRATION**

### **Section 3.1     Sector Manager**

The Board of Directors (the “Board”) of the Sector shall appoint a manager of the Sector (the “Manager”), which Manager shall have the authority to manage the day-to-day business of the Sector and submit all sector reports as required by NMFS.

The President of the Board shall be the designated agent for service of process.

**Terry Alexander, President  
Sustainable Harvest Sector  
PO Box 356  
South Berwick, ME 03908-0356**

### **Section 3.2     Manager Authority**

The Manager shall have the authority (i) to monitor the fishing, fish offload, and fish sale activities of the Members and the Participating Vessels and to take such other actions as may be necessary to ensure compliance by the Members and their Permits and Participating Vessels with this Agreement and other Sector requirements as may be adopted under the terms of this Agreement or the Sector’s Bylaws, as well as applicable laws, rules and regulations, and (ii) subject to the authority of the Board or a committee delegated thereby pursuant to Section 3.3 of this Agreement, the Sector’s Bylaws or any other agreement relating to the Sector’s internal governance, to enforce this Agreement, including specifically, without limitation, the authority to impose penalties set forth in the Schedule of Penalties (as hereinafter defined). The Manager shall submit required weekly reports using the format and procedure required by NMFS and will also act as the liaison between NMFS and the Sector.

### **Section 3.3     Infractions Committee**

The Board shall appoint an infractions committee (the “Committee”) to ensure fair, consistent and appropriate enforcement of this Agreement as well as other Sector requirements as may be adopted under the terms of this Agreement or the Sector’s Bylaws. The Committee shall annually prepare and recommend to the Board for its approval a schedule of penalties, which shall be in Exhibit A hereto (the “Schedule of Penalties”), for any unauthorized fishing activities (whether under applicable laws, rules and regulations or otherwise) and for violations of this Agreement and other Sector requirements as may be adopted under the terms of this Agreement or the Sector’s Bylaws. The Board shall review and approve any Schedule of Penalties prepared and recommended by the Committee prior to the commencement of the fishing year for which such Schedule of Penalties has been prepared. In addition, the Committee, on its own or at the request of a Manager or Member pursuant to Article VI (Section 6.3) hereof, shall have the authority to take any number of enforcement measures against the Members for the non-payment of membership dues and/or poundage fees. Such enforcement measures may include requesting expulsion of the violating Member under Article 8 (Sections 8.1 and 8.2) and issuing a “stop fishing” order against such Member.

#### Section 3.4     **Procedures for Investigations**

In addition to the Manager's authority to invoke penalties under the Schedule of Penalties pursuant to Section 6.3 hereof, the Manager may, on his own, and shall, at the request of a Member, request that the Committee conduct an investigation of possible infractions of the Agreement, the Harvesting Rules, the Plan, or other Sector requirements as may be adopted under the terms of this Agreement or the Sector's Bylaws, by calling a meeting of the Committee and presenting it with the information that is the basis for the Manager's or Member's opinion that an infraction occurred.

The Committee shall operate as a "blind" committee, such that the identity of the Member, Permit and/or Participating Vessel under consideration shall only be known to the Manager. The Committee shall assign a number of its members, which constitutes no more than 50% of the Committee, to investigate the matter further and to recommend action, if any, to the full Committee.

Such Committee member assignments shall be rotated. If, upon the conclusion of such investigation, the Committee determines by an affirmative vote of a majority (51%) of its members that a violation of this Agreement, the Harvesting Rules, the Plan, or other Sector requirements (as may be adopted under the terms of this Agreement or the Sector's Bylaws) has occurred, it may, and is hereby given the authority to impose any penalties prescribed in the Schedule of Penalties to the Member, its Permits and its Participating Vessels by the Sector, or issue "stop fishing" orders.

The Committee shall exercise all reasonable efforts to ensure that penalties and settlements are commensurate with the nature and extent of the violation, are designed to further the purposes of the Plan, and are uniform with those reached in similar circumstances.

All appeals from such Committee action shall be taken in accordance with Section 7.4 hereof. Each of the Members agrees to cooperate fully with the Manager and the Committee in such investigations and procedures (including cooperation with any requests for information or data that may be made by the Manager or the Committee).

#### Section 3.5     **Annual Report**

The Manager shall prepare and submit to the Council and NMFS an annual year-end report on the fishing activities of its Members, including the harvest levels of all Participating Vessels for all species, any enforcement actions taken against the Members, their Permits or Participating Vessels, and other information necessary to evaluate the Sector's performance as directed by NMFS.



## **ARTICLE IV -- ALLOCATION**

### **Section 4.1     Annual Distribution**

Each Member hereby acknowledges and agrees that the Annual Catch Entitlement (ACE) of multispecies authorized by Amendment 16 and NMFS to the Sector (the “ACE”) shall be harvested in accordance with the Harvesting Rules, which are set forth as Exhibit D hereto.

Sector members will be allocated a portion of the Sector’s total allocation (a ‘share’) based on the proportion of each stock that they contribute to the Sector’s initial ACE. Those members who have more than one vessel enrolled in the Sector may decide to consolidate their fishing effort to one or more vessels. The attached roster **in EXHIBIT B** lists all permits in the Sector and indicates whether the vessel is expected to be active in the groundfish fishery in 2010.

The share allocated to individual Sector members will be monitored through sector-required (as distinct from NMFS-required) daily electronic reporting of all allocated stocks (catch (including discards) by stock area). It is anticipated that through daily electronic reporting of catch by stock area, the sector manager will be able to track the sector’s ACEs on a real time basis.

### **Section 4.2     Reserve**

Each Member agrees that a reserve in the amount of 5% of each allocated stock within the initial ACE will be established to ensure that the Sector remains in compliance with its ACE limit. The amount of the reserve shall be deducted from the ACE before such shares are distributed among the Members, their Permits and their Participating Vessels.

### **Section 4.3     Distribution of Reserve**

If the Board determines that as of **April 1**, the ACE pursuant to Section 4.2 has not been fully harvested by the Participating Vessels, the Board may release and authorize the harvesting of the reserve by the Members, their Permits and their Participating Vessels.

### **Section 4.4     Fishing History in Sector**

The members acknowledge that under Amendment 16, fishing history is frozen at the level determined by their landings of fishing years 1996 – 2006. It is the intent that that any fishing history, which is accumulated or established by a Member’s Permit while it is participating in the Sector (the “Sector History”), shall be attributed to such Member’s Permit, and not to any other permits. Members acknowledge that in Amendment 16, multispecies landings history for all limited access multispecies permits is frozen as of the allocation period (fishing years 1996 – 2006, inclusive).

### **Section 4.5     Non-Prejudicial**

It is the intent of the Members that the fishing history and DAS allocation of any Member’s Permit during the Qualifying Period, as reported to NMFS prior to joining the Sector, shall not be diminished or penalized as a result of participation in the Sector in lieu of participation in the multispecies DAS program.

#### Section 4.6     **Consolidation and Redistribution of ACE**

It is the intent of the Members to harvest the Sector's ACE in accordance with the Harvesting Rules described in Exhibit D. To the extent that any consolidation or redistribution of catch or effort occurs between Members, such consolidation or redistribution will be for the duration of the Agreement or in accordance with the provisions described in Section 4.1

It is expected that the fishing activity in the groundfish fishery of the vessels listed in Exhibit B as active or inactive will not substantively change during the 2010 fishing year.

##### **4.6.1 Consolidation**

In FY 2009, 47 % of the permits which are enrolled in the Sustainable Harvest Sector for FY 2010 are attached to vessels actively fishing for NE Multispecies. For FY 2010, the Sustainable Harvest Sector has 129 permits currently enrolled. Of those permits 44, (34%) are anticipated to actively fish for NE multispecies in FY 2010. While these numbers may change, the Sustainable Harvest Sector expects that compared to FY 2009 there would be no change from the consolidation rate that previously occurred under the DAS Leasing Program or the consolidation rate that may take place in the common pool in FY 2010. The member permits that are not attached to active NE multispecies vessels in FY 2010 are the same permits that leased out their DAS allocations in FY 2009. In most cases, a member who owns multiple permits fished the DAS allocations of all those permits on a single hull and will now continue to fish the ACE contributed by all those permits on the same single hull, resulting in no additional consolidation.

##### **4.6.2 Redirection of Effort**

The Sustainable Harvest Sector anticipates that vessels will not switch fishing efforts into other fisheries. It is the intent of the Members to continue their historical participation in the monkfish, herring, mackerel, skate, dogfish, squid, whiting and shrimp fisheries for which they possess federal or state permits.

#### Section 4.7     **Not Exceeding the Sector's Allocation**

In addition to the **5%** of the ACE of each stock that will be set aside in reserve, the sector will avoid exceeding their ACE for any stock by having daily electronic reporting from all vessels actively fishing to the sector manager of all catch and discards of allocated stocks (see also section 5.2). By keeping close track of the catch all participating vessels, and close accounting of the sector's allocation of each stock, the sector manager will be able to alert all members of the situation if it is necessary for them to stop fishing.

If the daily vessel reporting indicates that sector catch is approaching the reserve, then the sector manager will issue a temporary 'stop fishing order' to all members (to ensure the sector's ACE is not exceeded) until the Sector Manager acquires additional ACE, or until any discrepancies (which may have clouded the calculations of actual catch) are resolved.

The SHS will allow the internal transfer of shares from one member to another, which will be tracked and recorded by the sector manager. These internal share transfers will be critical to

prevent each sector member from exceeding his own share.

At the request of any member, at any time, and before the sector as a whole catches 80% of the ACE of any stock, the sector manager will seek additional shares to lease/trade from other sectors. NMFS will be notified of any transfers between sectors and members acknowledge that no transfer is in effect until it has been approved by NMFS and such notice received by the sector manager.

If the sector exceeds its ACE for any allocated stock, the sector manager will immediately issue a stop fishing order to all participating vessels. If additional ACE is acquired, then the 'stop fishing order' may be suspended.

Finally, instead of authorizing the harvest of the reserve in the final month of the fishing year, the sector may choose to carry forward up to 10% of their ACE as allowed under Amendment 16.

## **ARTICLE V -- CATCH MONITORING, DISCARDS, VERIFICATION, OVERAGES, PORTS and CERTAIN OTHER MEMBERSHIP REQUIREMENTS**

### **Section 5.1    Sector Reporting**

The Sector will submit required weekly and daily reports using the format and procedures prescribed by NMFS.

The Sector Manager will report weekly as required by Amendment 16 by gathering and aggregating data from vessels (Vessel Trip Reports (VTRs)), Dockside Monitors (for 50% of trips) dealers, (including but not limited to the weekly electronic dealer reports to be posted on the NMFS 'sector information management' web portal), daily discard rates as calculated and supplied by NMFS based on the Northeast Fishery Observer Program (NEFOP), and other data sources as they are available. The Manager shall, on a weekly basis, transmit to NMFS such aggregate catch information generated from such reports ("Aggregate Reports").

The reporting due date for the Sector Manager's weekly report will be increased to daily when a threshold of either 80% of any of the Sector's ACE is reached, or when, for two consecutive weekly reporting periods 20% or more of the remaining portion the Sector's ACE is harvested, whichever occurs first. Thus, for the latter trigger point, if a sector in one week harvests 25% of the remaining ACE for Gulf of Maine cod for that sector, and the following week harvests 22% of that ACE, the trigger will have been reached and sector reporting will be changed to daily.

An alternative threshold for increasing reporting frequency may be implemented during FY 2010 if agreed upon by both the sector and NMFS.

The Sector Manager of the SHS will develop and maintain the necessary databases of VTR, dealer, dockside monitoring, at sea monitoring and observer records from all sector vessels for all directed groundfish, skate, monkfish, and dogfish trips.

Weekly reports will include a section notifying NMFS of outstanding catch records and the results of any investigations into data discrepancies. Any resolutions and / or ongoing internal sector investigations will be noted.

### **Section 5.2    Participating Vessel Catch Reports**

All participating vessels are required to report to NMFS as required by the FMP in addition to reporting to their sector manager.

To enable each Member and the Sector to monitor the Members' compliance with this Agreement, each Member agrees to report each of its Participating Vessels' entire catch from sector trips (including discards) by pounds, by species, by broad groundfish statistical area so the Sector Manager can easily determine which stock of a species was caught on a daily basis, by providing the Manager with an electronic copy of estimates of daily catch and discards via VMS. Sector vessels which do not fish on sector trips agree that the Sector Manager will use VTR and

dealer data as submitted to NMFS to do compile the required annual report.

Additionally, Members will provide a copy of their official Vessel Trip Reports and other reporting documents authorized by NMFS within 24 hours of offloading fish in the form and manner prescribed by the Manager. The Members agree that the Manager shall maintain these records. The Manager shall, upon the request of any Member, provide such Member with the Sector's aggregate catch information that is generated from such records.

Vessel operators may be subject to investigation and/ or penalty by the sector if they do not meet the sector-determined deadlines for submitting their VTRs, dealer and dockside monitoring reports.

Each member acknowledges and agrees that (a) it is responsible for complying with all permitting requirements, recordkeeping, catch reporting, and VMS requirements described in 50 CFR part 648.

### Section 5.3     **Dealer Reporting**

Each Member agrees to (i) sell the catch of its Participating Vessels only to a dealer licensed by NMFS and (ii) provide the Sector Manager with a copy of the official dealer weigh out slip at the end of each trip. If the trip was assigned a Dockside monitor, then the official dealer weigh-out slip will be signed by the dockside monitor. Each Member further acknowledges and agrees that (a) it is responsible for ensuring timely reporting in accordance with the provisions of this Section 5.2 and (b) failure to deliver the reports for a Member's Participating Vessel in accordance with this Section 5.2 shall be deemed a breach of this Agreement by such Member.

### Section 5.4     **Catch Verification**

The Manager (or his designated agent) shall, and each Member (or its designated agent) shall ensure that the Manager does compare, verify and validate each Participating Vessel's catch records with the dealer reports for such Participating Vessel, as well as the Dockside Monitoring reports, on a continuing and frequent basis. If the Manager identifies a discrepancy he shall notify the affected Member and seek to resolve the discrepancy and will also note the discrepancy in the sector's weekly report.

Each Member agrees to cooperate fully with any and all requests for information or data that are made by the Manager or the Committee in an effort to resolve any discrepancy.

### Section 5.5     **Vessel Hails and Dockside Monitoring Requirements**

Each member agrees to comply with the dockside monitoring provisions described in the Harvesting Plan (Exhibit D) and the NMFS Dockside Monitoring Standards as drafted in the August 24, 2009 document "Dockside Monitoring Standards for 2010".

The SHS will contract with one or more NMFS approved monitoring providers from the following list to provide dockside and/or at sea monitoring services before May 1, 2010 and will notify NMFS of its selection. Possible Dockside Monitoring Vendors to be contracted include:

AIS, Inc, Atlantic Catch Data, East-West Technical Services, Saltwater Inc, and MRAG Americas.

If a Dockside Monitoring Company contracted to the Sector loses its certification during the fishing year, the Sector will establish a contract with another approved company and notify NMFS.

Dockside monitors will be deployed in such a way as to achieve 50% coverage of trips that is random and representative of the fishing activities of the sector.

#### Section 5.5.1 **Vessel Hails**

All members agree to hail trip start and trip end via VMS (or satellite phone, cellular phone or NMFS approved vessel reporting software) to the Sector Manager and their selected Dockside monitoring company. Such hails will be forwarded to the NMFS Office of Law Enforcement (OLE) upon confirmation by the Dockside Monitoring company.

Vessels will hail **trip start** to the Sector Manager and the dockside monitoring company prior to leaving port. Hail trip start will include the following: the vessel permit number, trip ID number and estimated trip duration. (The trip ID number is defined as the serial number from the first page of the first VTR filled out for the trip.) The Dockside Monitoring Company is required to send a confirmation to the vessel that it has received the Trip Start Hail within ten minutes. If the vessel operator does not receive the confirmation in the required time, they must contact the Dockside monitoring company by phone.

Vessels will hail **Trip End** to the Sector Manager, their selected Dockside Monitoring Company at least 6 hours in advance of landing to allow a Dockside Monitor (DM) to be present in time to witness offloading. Hail trip end will include the following: permit number, trip ID number, specific offloading location including state, port/harbor and dock for all dealers/ facilities where they intend to offload, estimated time of arrival, estimated time of offloading and length of time for offloading, and estimated weight of each species being landed.

For trips less than 6 hours in length or occurring within 6 hours of port, the estimated time of arrival to port and time of offload will be provided in the trip start hail. The trip end hail will be sent upon completion of the last tow with all required updated information. An alternative timing for the trip end hail may be implemented during FY 2010 if agreed upon by the sector, the monitoring provider, and NMFS OLE.

The dockside monitoring company is required to send a confirmation of receiving the Trip End hail and whether the vessel will have a RM or DM present for offloading OR they will be issued a DM Waiver for the trip. If the vessel operator does not receive a confirmation of the Trip End hail, he must call the Dockside Monitoring Company by phone prior to landing. The dockside monitoring company will also notify the Sector Manager and NMFS Law Enforcement when it sends the confirmation with the complete Hail **Trip End** information and whether the vessel will have a DM / RM present at offloading or not.

If the Vessel is issued a Waiver, the vessel operator will provide the Sector Manager with their VTR and Dealer receipt within 24 hours of offloading.

If the vessel is selected for dockside monitoring, then the vessel will not offload unless a DM or RM is present.

In the event of bad weather or other emergency that results in a participating vessel entering port without being able to give six hour notice prior to landing, the vessel will notify the sector manager and the Dockside monitoring company as soon as it is safe to do so. Such notification will include all required trip end hail information. Upon receiving such notification, the Dockside Monitoring Company will send a confirmation and inform the vessel if it will have a dockside monitor or receive a waiver for the trip, and will also notify NMFS of the unexpected arrival in port. If assigned a Dockside monitor, then all participating vessels agree to not unload fish unless a Dockside Monitor is present. Further, the vessel owner will pay any additional costs for the required DM as may accrue as a result of invoking the landing port exception.

If an SHS vessel decides to offload at more than one facility, they agree to have a DM present during offload at each location.

#### Section 5.5.2                      **Dockside Monitoring Procedures**

Upon meeting the vessel at the offloading site, the DM will:

- 1) take copies of all VTRs for the trip;
- 2) record whether the scales are certified;
- 3) observe and record whether ice and box weights are tared before catch is weighed; and
- 4) ask the captain whether all fish have been offloaded, and whether any are being retained for personal use. The DM will record the captain's estimate of weight of each species being retained for home use or retained on the vessel and record the reason(s).
- 5) The DM or Dealer will record and sign a report of the weight of offloaded fish by species.
- 6) The DM will send the Sector Manager a copy of the VTRs and a copy of the DM report and dealer receipts (if separate from the DM report) electronically and within 24 hours of the end of the offloading event.
- 7) The DM Company will keep an electronic copy of the DM report.

If a vessel is selected for having a DM, and is offloading at a remote port, (meaning their fish will be trucked before it is weighed), the vessel may enter port and tie at safe berth but no offloading can commence until the RM or DM is present. If the truck does not have scales, then members agree to have a RM present when the vessel offloads to the truck and a DM to record weights when the truck is offloaded at the dealer's location. The DM and RM of a trip that is unloaded in a remote location will follow all requirements described for dockside monitoring (above) to ensure all groundfish from the trip are accounted for and accurately reported to the Sector Manager.

If the offload is weighed at the offload site in front of the RM before being loaded into the truck the event must follow the protocol for offload at a dealer. Upon meeting the vessel at the remote offloading site, the RM will:

- 1) take copies of all VTRs;
- 2) record whether or not the scales are certified by the dealer's state; and
- 3) observe and record whether ice and box weights are tared by the dealer before the catch is added.
- 4) Ask the captain whether all fish have been offloaded, and whether any are being retained for personal use. The RM will record the captain's estimate of weight of each species being retained for home use or retained on the vessel and record the reason(s).
- 5) Either the RM or dealer will record the weight of offloaded fish, by species (and market class, if culled), in a report. This report will be signed by the RM and the RM will keep a copy of the signed report.
- 6) The RM will send copies of the VTR(s), the RM's report, and the dealer receipt(s) (if separate from the RM's report), to the Sector Manager within 24 hours of the end of the offloading event.
- 7) The DM Company will keep an electronic copy of the RM report.

If the offload is not weighed at the offload site in front of the RM before being loaded into the truck, then all fish must be weighed in the presence of a DM at the receiving dealer(s) when the truck offloads following the same procedures as a vessel offloading at a dealer, and the RM will:

- 1) take copies of all VTRs, and
- 2) record the number of totes of each species and the captain's estimate of the weight of each species in each tote.
- 3) Ask the captain whether all fish have been offloaded, and whether any are being retained for home use. The RM will record the captain's estimate of weight of any species being retained for home use or retained on the vessel and record the reason(s).
- 4) Record all offloaded fish, by species (and market class, if culled), in a report, unless the driver creates such a report that the RM may use. This report shall be signed by the RM, and the RM shall keep a copy of the signed report.
- 5) Ensure that each tote is tagged with appropriate identifying information, including but not limited to: Serial number of first VTR page filled out for that trip, RM name, tote number, and species.
- 6) The RM will send copies of the VTR(s), the RM report and the driver manifest(s) (if separate from the RM's report) to the Sector Manager within 24 hours of the end of the offloading event.
- 7) The DM Company will keep an electronic copy of the RM report.

## **Section 5.6    Designated Landing Ports**

Members shall agree to offload catch in the following ports:

Boston, MA  
Gloucester, MA  
New Bedford, MA

Provincetown, MA  
Hyannis, MA  
Chatham, MA  
Scituate, MA



Point Judith, RI  
Portland, ME  
Biddeford Pool, ME  
Sebasco Harbor, ME  
Cundy's Harbor, ME

Rockland, ME  
Portsmouth, NH  
Rye, NH  
Newport, RI

#### **5.6.1 Remote Ports (Offloading Fish to a Truck)**

Members may offload their fish onto a truck at the following ports:

Portsmouth State Pier, Portsmouth NH  
Port Authority, Portsmouth, NH  
Woods Hole, MA  
Sebasco Harbor, ME  
Bar Harbor, ME: Bar Harbor Town Dock  
Southwest Harbor ME: Southwest Harbor Town Dock  
Portland ME: Bait Lady Take-out, Scoala's Take out, Maine Wharf, Widgery Wharf  
Gloucester MA: Jodrey Pier, Pier 7 Take-out  
Provincetown, MA: Provincetown Town Pier  
Davisville RI: Davisville Pier  
Point Judith, RI  
Montauk, NY

#### **Section 5.7 Landing Port Exceptions and Safe Harbor Protocol**

To promote safety at sea and ensure the safety of vessel and crew, certain circumstances beyond a vessel operators control may occasionally occur which require SHS vessels to enter port somewhere other than the designated landing ports listed above. If a Sector participating vessel is required to enter port somewhere other than a designated landing port, then the vessel operator will notify the Sector Manager and the Dockside Monitoring Company by appropriate means as soon as it is safe to do so.

Such circumstances include but are not limited to severe weather, mechanical failures, compromised hull integrity, instances of pump failures and danger of sinking, crew injury or life threatening illness and any other emergency situations that may arise.

In the event of bad weather or other emergency that results in a participating vessel entering port without being able to give six hour notice prior to landing, the vessel will notify the sector manager and the Dockside monitoring company as soon as it is safe to do so. Such notification will include all required trip end hail information. Upon receiving such notification, the Dockside Monitoring Company will send the required confirmation and inform the vessel if it will have a dockside monitor or receive a waiver for the trip, and will also notify NMFS of the unexpected arrival in port. If assigned a Dockside monitor, then all participating vessels agree to not unload fish unless a Dockside Monitor is present. Further, the vessel owner will pay any additional costs for the required DM as may accrue as a result of invoking the landing port exception.

In addition, the vessel operator may request and be granted a waiver from the Dockside Monitoring Company if either the Coast Guard (“CG”), Environmental Police (“EP”), or NOAA’s Office of Law Enforcement (“OLE”) determine it is necessary for offloading to occur.

## Section 5.8     **Discards**

### 5.8.1     **Discard Rate**

Sector will commence operations (when approved through the federal rule making process) for FY 2010 with discard rates calculated and provided by NMFS and will apply in-season discard rates as provided by NMFS via their “Sector Information Management” web portal.

The members of the Sector agree that discards will be calculated as directed by NMFS, based on At-Sea-Monitoring / Observer coverage conducted by the NMFS. The resulting Sector-specific discard rate will be applied to all Sector trips.

## Section 5.9     **Overages**

### 5.9.1     **Individual exceeding an individual allocation of a stock**

The Sector Manager will issue (and may ask NMFS to enforce) a temporary ‘Stop Fishing Order’ to any participating vessel that has fished 90% of its share for any stock until additional allocation for that stock has been acquired. The vessel owner will be responsible for acquiring additional ACE for that stock, first from within the Sector, and if none is available, then he will notify the Sector Manager to assist him in acquiring additional ACE of that stock from another sector at his own expense.

If the Sector Manager is not able to acquire additional ACE of that stock then the Manager will issue a “stop fishing” order to the individual for that stock area where his vessel has exceeded his share.

### 5.9.2     **Individual exceeding the allocation of a stock for the entire sector**

To prevent an overage, the SHS agrees to set aside 5% of their ACE as a reserve (*see Section. 5.2*). The Sector expects to acquire additional ACE from other sectors as needed during the fishing year to prevent exceeding its ACE of any stock.

If anyone in the Sector causes the Sector’s allocation of any particular stock to be exceeded, the Sector Manager will issue a ‘Stop Fishing Order’ and then attempt to acquire additional ACE for that stock at the expense of the individual whose vessel caused the ACE to be exceeded. If the Sector Manager is not able to acquire additional ACE of that stock, then member vessels will be prohibited from fishing in that stock area on trips directed at groundfish, dogfish, monkfish or skates (because all groundfish caught in those fisheries count against the Sector’s ACE).

The Sector Board will initiate an investigation into how an ACE was exceeded and develop mechanisms to prevent it from happening in the future. Such mechanism may include, but is not limited to, increasing the Sector's reserve percentage (*see infractions procedures, Sections 3.3, 3.4 and 6.2-7.8*).

Each member acknowledges and agrees to account for any overage, and agrees to the overage penalties detailed in Exhibit A.

Each member acknowledges that if the Sector exceeds its ACE, then NMFS will reduce the Sector's allocation of that stock by the appropriate amount in the subsequent fishing year. If there is not enough ACE to subtract from the sector allocation in the second year to cover the overage from the previous year, then those Sector members who leave the Sector for the second year will have their DAS allocations sanctioned by NMFS in proportion to the overage.

Each member acknowledges that if the Sector disbands completely and no Sector exists to cover the overage deduction in the following year, or there is insufficient ACE in year two to cover the year one overage, then, to account for the overharvested fish, each member will be held responsible by having its individual permit's DAS allocation for the following year will be reduced by NMFS.

If active vessels in the Sector depart the Sector (by the end of one fishing year) to participate in the common pool the following year, after causing an overage that is not balanced by an ACE acquisition, those individual permit's DAS allocation for the year will be sanctioned by NMFS.

## **Section 5.10 Area Restrictions**

### **5.10.1 Hotspot Reporting System**

Each member agrees to report to the Sector Manager any areas of high bycatch of any sort, including undersized regulated species, observed spawning areas, and/or any stock for which the Sector is approaching their threshold. Upon receiving a hot spot report, the Sector Manager will send an alert to all member vessels to stay away from those particular areas.

### **5.10.2 Additional Area or Gear Restrictions**

Each member agrees that the Board of Directors may impose seasonal area or gear restrictions to avoid catch (including discards) of species of particular concern (i.e. species for which the Sector ACE is low.)

## Section 5.11   **Exemptions**

### 5.11.1            **Universal Exemptions**

Members shall be exempted from those management measures in the multispecies fisheries management plan determined by NMFS and the Council to be “universal exemptions” for Sectors.

The universal exemptions approved by the Council in June 2009 are expected to be granted for all approved sectors in Amendment 16. They include the following:

1. Exemption from DAS requirements implemented by the NE Multispecies FMP (e.g., reductions and any differential DAS counting areas implemented as an AM).
2. Exemption from trip limits on regulated large mesh multispecies except for the following:
  - a. Halibut: trip limit will continue to be one fish per trip;
  - b. No vessels, whether they are in the common pool or in any sector will be allowed to possess any windowpane flounder, ocean pout, wolffish, or SNE/MA winter flounder on board at any time. When caught, they must be discarded.
3. Exemption from the Georges Bank Seasonal Closure Area in May.
4. Exemption from any additional mortality controls adopted by Amendment 16 (see paragraph below for additional details).
5. Revised GOM Rolling Closure Areas as recommended at the June 2009 Council meeting.<sup>1</sup>
6. Vessels using a haddock separator trawl or the Ruhle trawl to target haddock while minimizing the cod bycatch are exempt from the requirement for 6.5-inch mesh and are authorized to use 6-inch mesh in the codend in the Georges Bank Regulated Mesh Area.

In addition, should Amendment 16 adopt additional mortality controls, such as additional seasonal and year-round closed areas, gear requirements, differential DAS counting, and/or restricted gear areas, sectors would not be required to adhere to these additional measures since mortality by sector vessels is controlled by a hard TAC.

### 5.11.2            **Requested Exemptions**

The Sector requests exemption from the following management measures:

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<sup>1</sup> Many of the GOM Rolling Closure Areas are universally exempt, except for the following: 1.) Blocks 124 and 125 in April; 2.) Blocks 132 and 133 in April-May; 3.) Block 138 in May; 4.) Blocks 139, 140 in May-June; and 5.) Blocks 145, 146, 147, and 152 in June.

1. The 120-day block out of the fishery for gillnet vessels.
2. The limit on the number of gillnets imposed on Day category gillnet vessels, but not to exceed 150 nets per permit.
3. The 20-day spawning block out of the fishery required for all vessels.
4. Length and horsepower restrictions on DAS leasing for only SHS participating vessels and those of any other sector that is granted this exemption.
5. Rolling closure of Block 138 in May

#### Section 5.12      **Operators**

Each Member agrees to ensure that any operators of its Participating Vessels fully comply with the obligations and restrictions set forth in this Agreement. Each Member further agrees to accept responsibility hereunder for the actions of any such operators that result in a violation of this Agreement.

## **ARTICLE VI -- INVESTIGATIONS**

### **Section 6.1      Investigations**

If the Sector Manager discovers, when comparing VTR, DM and dealer reports, a discrepancy of > 15%, then the Sector Manager will notify the Sector member and the vessel operator to learn why there was such a large error in reporting.

If the Sector Manager finds such error is ongoing, the Sector Manager shall inform the Board and open an investigation.

### **Section 6.2      Infractions Committee**

When necessary, the Board shall appoint an infractions committee (the “Committee”) to ensure fair, consistent and appropriate enforcement of this Agreement, the Harvesting Rules, the Plan and other Sector requirements as adopted under the terms of this Agreement and the Sector’s Bylaws.

The Committee will be comprised of three randomly selected Board members, excluding any Board member who may be subject to investigation.

The Committee shall annually prepare and recommend to the Board for its approval a schedule of penalties, which shall be similar in form to Exhibit A (the “Schedule of Penalties”), for any unauthorized fishing activities (whether under applicable laws, rules and regulations or otherwise) and for violations of this Agreement, the Harvesting Rules, the Plan and other Sector requirements as may be adopted under the terms of this Agreement or the Sector’s Bylaws.

The Board shall review and approve any Schedule of Penalties prior to the commencement of the fishing year.

In addition, the Committee shall have the authority to take any number of enforcement measures against the Members for the non-payment of membership dues and/or poundage fees.

Such enforcement measures may include requesting expulsion of the violating Member under Section and issuing a “stop fishing” order against such Member.

If a member has been issued a “stop fishing” order the Sector Manager will notify NMFS immediately.

### **Section 6.3      Procedures for Investigations**

In addition to the Manager’s authority to invoke penalties under the Schedule of Penalties, the Manager may, on his own, and shall, at the request of a Member, request that the Committee conduct an investigation of possible infractions of the Agreement, the Harvesting Rules, the Plan or other Sector requirements by calling a meeting of the Committee and presenting it with the information that is the basis for the Manager’s or Member’s opinion that an infraction occurred.

The Committee shall operate as a “blind” committee, such that the identity of the Member, Permit and/or Participating Vessel under consideration shall only be known to the Manager.

Such Committee member assignments shall be rotated. If, upon the conclusion of such investigation, the Committee determines by an affirmative vote of a majority of its members that a violation of this Agreement, the Harvesting Rules, the Plan or other Sector requirements has occurred, it may, and is hereby given the authority to (in addition to the imposition of any penalties prescribed in the Schedule of Penalties), invoke sanctions, ranging from letters of warning to reductions in ACE to the Member, its Permits and its Participating Vessels by the Sector, or issue “stop fishing” orders.

The Committee shall exercise all reasonable efforts to ensure that penalties and settlements are commensurate with the nature and extent of the violation, are designed to further the purposes of the Plan and are uniform with those reached in similar circumstances.

All appeals from such Committee action shall be taken in accordance with Section 7.4 of the Operations Plan.

Each Member agrees to cooperate fully with the Manager and the Committee in such investigations and procedures (including cooperation with any requests for information or data that may be made by the Manager or the Committee).

## **ARTICLE VII -- OPERATIONS PLAN ENFORCEMENT**

### **Section 7.1     Agreement Enforcement**

Each Member agrees that the Sector, through its representatives, and/or any other Member may enforce this Agreement on behalf of the Sector and/or its Members.

Each Member agrees to take all actions and to execute all documents necessary or convenient to give effect to the enforcement procedures contemplated by this Agreement, the Harvesting Rules and any Schedule of Penalties.

### **Section 7.2     Restrictions on Fishing Activity**

The Members acknowledge they may be held jointly and severally liable for civil penalties to NMFS that result from: 1) any member causing the Sector to exceed its ACE; 2) any member discarding legal sized allocated groundfish; 3) any member or vessel operator misreporting their own catch and discards of allocated groundfish species to NMFS or the Sector Manager; and/ or 4) any deliberate misreporting by the Sector Manager to NMFS

The Members acknowledge that discarding legal sized fish, and/or misreporting of catch (landings and discards) and exceeding the Sector's allocation without acquiring additional ACE from another Sector will subject the Sector and all its Members to joint and several liabilities to NMFS for civil penalties.

The Members further acknowledge and agree that monetary penalties could be inadequate recourse under such circumstances. Therefore, the Members acknowledge and agree that each of them will comply with a "stop fishing" order from the Sector, which shall be issued by the Board, the Manager or the Committee, and each of the Members further agrees that if any Member fails to comply with such order, the Sector shall have the authority to obtain an injunction, restraining order or other equivalent form of equitable relief to give effect to such "stop fishing" order.

### **Section 7.3     Penalties for Violations**

Any penalties that are imposed upon a Member by the Sector pursuant to the terms of this Agreement shall be in addition to, and not in lieu of, any other potential state or federal penalty that may be imposed upon such Member.

### **Section 7.4     Appeal from Committee Decision**

If the Committee has determined, pursuant to the procedures set forth in Section 6.1, that a Member has violated this Agreement or makes any other determination with respect to a Member under this Agreement (including, specifically, without limitation section on catch verification), such violating Member shall have five business days following the date of the Committee's determination to request reconsideration of the enforcement or other action and/or propose an alternative form of penalty.



Such request shall be made in writing and shall be addressed to the Board.

The Board may, in its sole discretion, grant or deny any request for reconsideration and may, in its sole discretion, approve or disapprove any alternative form of penalty; provided, that the Board shall exercise all reasonable efforts to ensure that penalties and settlements are commensurate with the nature and extent of the violation, are designed to further the purposes of the Plan and Amendment 16 and are uniform with those reached in similar circumstances.

#### **Section 7.5 Penalties and Attorneys' Fees**

Penalties for any violations of this Agreement shall, be limited to the amounts set forth on the Schedule of Penalties plus all costs, fees and expenses, including attorneys fees, incurred by the Sector or, in a case in which the Sector does not take enforcement action, by the Members bringing such action, in enforcing the provisions of this Agreement.

To the extent the Schedule of Penalties addresses such matter, the Members and the Sector hereby waive any claims to actual, direct, or indirect damages, and instead agree that payment of the amounts set forth on the Schedule of Penalties and costs of enforcement shall be their sole remedy for breaches of this Agreement.

In connection with any legal proceeding related to this Agreement, the non-prevailing party shall pay the prevailing party's reasonable costs and attorney's fees associated with the proceeding.

#### **Section 7.6 Application of Penalties, Fines and Damages**

All penalties, fines and/or other damages paid to the Sector shall, first, be applied to the cost of enforcement of such violations and, second, any remaining amounts shall be applied to the costs and expenses of the administration, management and preservation of the Sector.

Any funds remaining after the application of the foregoing sentence shall be used to further research into efficient management of groundfish stocks for the benefit of the resource and those that harvest the resource.

#### **Section 7.7 Dispute Procedures**

Prior to instituting any litigation or other dispute resolution, the parties shall follow any applicable procedures set forth in this Agreement, including specifically Sections 6.3, 7.4, and 7.8, for the resolution of such dispute.

Any appeals taken with respect to any dispute that arises in connection with this Agreement shall be taken in the federal district court in Portland Maine or, if said court does not have jurisdiction, in such courts in the State of Maine that do have jurisdiction.

#### **Section 7.8 Specific Performance**

Each of the Members and the Sector shall have the right to have any provision of this Agreement specifically enforced, through injunction, restraining order or other form of equitable relief.

#### Section 7.9     **Indemnification**

Each party that violates this Agreement (the “Indemnitor”) hereby severally agrees to indemnify, defend and hold harmless the other parties hereto (each, an “Indemnatee”) in respect of their respective Losses; provided that such losses result or arise from a third party claim or governmental proceeding brought against or involving the Indemnatee, which is based on or relates to this Agreement violation of applicable laws, rules or federal fishery regulations or breach of any covenant, agreement or obligation contained in this Agreement, the Harvesting Rules or other Sector requirements as may be adopted under the terms of this Agreement or the Sector’s Bylaws.

The indemnification obligations of the parties shall be several and not joint and several.

For the purposes of this Section, “Losses” shall mean any and all claims, liabilities, obligations, judgments, liens, injunctions, charges, orders, decrees, rulings, damages, dues, assessments, taxes, losses, fines, penalties, expenses, fees, costs, amounts paid in settlement (including reasonable attorneys’ and witness fees and disbursements in connection with investigating, defending or settling any action or threatened action) arising out of any claim, complaint, demand, cause of action, action, suit or other proceeding asserted or initiated or otherwise existing.

The obligations under this Section shall survive the termination of this Agreement and the expulsion of any Member pursuant to Article VIII.

## **ARTICLE VIII -- EXPULSION OF MEMBERS**

### **Section 8.1                      Cause**

The Members agree that any Member may be expelled from the Sector if the actions of such Member and/or its Participating Vessels (or the Participating Vessels' operators) seriously undermine and threaten the existence of the Sector, the actions of such Member and/or its Participating Vessels (or the Participating Vessels' operators) have exposed other Members of the Sector to monetary penalties and/or legal actions, such Member has been convicted of a serious crime, or such Member has not paid its membership dues and/or poundage fees as required by the bylaws.

### **Section 8.2                      Procedure**

Any Member, the Committee or the Manager may submit to the Board a request to have a Member, its Permits and/or its Participating Vessels expelled from the Sector (the "Expulsion Request").

Such Expulsion Request shall be in writing and shall include an explanation of the basis for expulsion.

The Board shall vote on such Expulsion Request within fourteen (14) days of receipt of such Expulsion Request.

The affirmative vote of three-fourths (75%) of the members of the Board shall be required in order to expel a Member, its Permits and/or its Participating Vessels.

Expulsion shall be effective immediately upon the receipt of the requisite vote by the Board. Board members cannot vote on the expulsion of one or more of his own vessels.

As required by 50 CFR Part 648.87 or any substitute or successor provision, a Member, its Permits and/or its Participating Vessels expelled during any fishing year may not fish outside of the Sector under a multispecies DAS program during the remainder of such fishing year.

Upon expulsion of any Member, its Permits and/or its Participating Vessels, the Manager shall immediately notify NMFS that the Member's Permits and/or Participating Vessels are no longer included in the Sector.

## **ARTICLE IX            EXPECTATION OF NMFS ENFORCEABILITY**

### Section 9.1

The following sections of this Operations Plan **will not be enforced by NMFS**, but are administrative to Sector Operations.

#### Article II

- Sections 2.1, through 2.7;

#### Article III

- Sections 3.3 and 3.4;

#### Article IV

- Sections 4.1, 4.2, 4.3, 4.4, 4.5, 4.6;
- Section 4.7 paragraphs 1, 2, 3, and 5

#### Article V

- Sections 5.1 only paragraphs 2 and 6;
- Sections 5.2 paragraph 2,
- Section 5.3, 5.4, 5.6, 5.7, and 5.8;
- Section 5.9.1 and 5.9.2, paragraphs 1, 3, 4, 6
- Section 5.10.1 and 5.10.2
- Section 5.11.3

#### Article VI

- All Sections of Article VI are internal sector business and will not be enforced by NMFS

#### Article VII

- Sections 7.1, 7.2 paragraphs 1 and 2 only, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, and 7.9

#### Article VIII

- Sections 8.1 and 8.2 except the last paragraph (7) in section 8.2

### Section 9.2

The following sections **will be enforced by NMFS** as they are required by federal regulations.

#### Article I

- Sections 1.1 through 1.4

#### Article II

- Sections 2.8 and 2.9

### Article III

- Sections 3.1, 3.2 and 3.5

### Article IV

- Section 4.7 paragraph 4 only.

### Article V

- Sections 5.1 paragraphs 1,3,4 and 5
- Sections 5.2 paragraphs 1 and 3
- Sections 5.5
- Section 5.9.1 (paragraph 2 only), and 5.9.2 paragraphs 2, 5, 7, 9, 10 and 11;
- Sections 5.11.1 and 5.11.2

### Article VII

- Section 7.2 paragraph 3 only

### Article VIII

- Section 8.2 – Paragraph 7 - Expulsion will be enforced by NMFS

## EXHIBIT A -- ALLOCATION AND PENALTY SCHEDULE

Penalty Schedule			
VIOLATION	FIRST	SECOND	THIRD
<b>VIOLATIONS REGARDING PERMITS, REPORTING, DOCUMENTATION, EXEMPTION PERMIT REQUIREMENTS</b>			
All Violations including but not limited to: providing false statements or supporting documentation on applications or reports to the Sector; late or non-reporting; failure to comply with a permit condition/ restriction/ letter of authorization or exemption issued by the Sector; providing false statements or failing to comply with VMS/DAS requirements (technical and minor violations may result in a letter of warning); Exceeding ACE and not acquiring additional ACE to replace it.	Up to \$5,000 (and/or stop fishing order) plus the cost of the sector acquiring additional ACE, and all legal and administration fees	\$5,000-\$10,000 (and/or stop fishing order) plus the cost of the sector acquiring additional ACE, and all legal and administration fees	\$10,000 + (and/or stop fishing order) plus the cost of the sector acquiring additional ACE, and all legal and administration fees
<b>VIOLATIONS REGARDING TIME AND AREA RESTRICTIONS</b>			
All violations including, but not limited to: exemption areas, closed fisheries, closed seasons, restricted gear/management areas and Days at Sea violations.	\$2,000-\$50,000 (stop fishing order for 30 days) and all legal and administration fees	\$10,000-\$100,000 (unable to fish for the remainder of the fishing year) and all legal and administration fees	Expulsion and all legal and administration fees
<b>VIOLATIONS THAT PLACE THE SECTOR AGREEMENT AT RISK</b>			
All violations including but not limited to a violation of a stop order, entering a closed area, transfer of fish from a non-Sector vessel to a Sector vessel, subverting the reporting requirements (misappropriating landings) or any other action which could cause the Authorized SECTOR to be in violation of its agreement.	Up to \$50,000 (loss of fishing rights for 365 days) and all legal and administration fees	Expulsion and all legal and administration fees	
<b>VIOLATIONS REGARDING MEMBERSHIP COMMITMENT</b>			
Failing to remain in the Sector for the Commitment Period (i.e., breach of Section 2.03 of the Agreement).	\$10,000 and all legal and administration fees	N/A	N/A

**EXHIBIT B -- ROSTER WITH EXPECTED ACTIVITY FOR FY 2010**

<b>Count</b>	<b>MRI</b>	<b>Current Vessel Permit Number</b>	<b>Vessel Name</b>	<b>Active in SHS in 2010?</b>
1	16	149643	Chaperral	no
2	59	147114	Hard Merchandise	yes
3	120	230151	Barbara & Lyn renamed "Determined"	no
4	141	230248	Donna Lynn (again)	no
5	231	149649	Crestliner	no
6	241	150423	Hunky Dory	no
7	247	240195	Virginia Sue	no
8	321	150060	Oliver	no
9	326	150578	Toni Ann	no
10	338	131009	Mr. Baxter	no
11	346	222469	Gannet	no
12	353	149492	Pointer	no
13	377	250716	Nicole Leigh	yes
14	390	250428	Jesse	yes
15	396	250466	Trisha Marie	no
16	401	250483	Bethany Jean	no
17	407	250512	De Dee Mae II	yes
18	412	242536	Shannon and Kristine	yes
19	413	250547	Robert Michael	yes
20	415	149544	Tori T	no
21	417	321079	Angela Michelle	yes
22	422	250603	Blue Water III	yes

<b>Count</b>	<b>MRI</b>	<b>Current Vessel Permit Number</b>	<b>Vessel Name</b>	<b>Active in SHS in 2010?</b>
23	424	250631	Lori Ann	no
24	436	150537	Nutmeg	no
25	438	150442	Donna May	no
26	441	146819	Lori B	yes
27	442	150276	Lucky Duck	no
28	455	251364	Deborah Ann	yes
29	472	149454	Unnamed	no
30	478	149567	Starcraft	no
31	493	149133	Buster B	no
32	497	149341	Viking Rose	no
33	499	310289	Cavalier	yes
34	517	310421	Flight 1	yes
35	518	310422	Jerry and Joe	yes
36	519	149683	Unnamed	no
37	526	150118	Danny Boy III	no
38	530	149504	Phyllis	no
39	531	149858	Casey Jones	no
40	532	310504	Kirsten Lee	yes
41	534	310510	Christina Carol	yes
42	548	149998	Scott Nathan	no
43	551	149718	Crestliner	no
44	557	330708	Jocka	yes
45	559	330774	Titan	yes
46	564	310992	Elizabeth	no



<b>Count</b>	<b>MRI</b>	<b>Current Vessel Permit Number</b>	<b>Vessel Name</b>	<b>Active in SHS in 2010?</b>
47	567	310980	Kailey Ann	no
48	569	150350	F/V Joly	no
49	572	320541	Lydia & Maya	yes
50	574	150391	Rienell	no
51	601	150843	Crestliner	no
52	619	223598	Miss Priss	no
53	628	410537	Teresa Marie IV	yes
54	631	320470	Dianne Lynn II	yes
55	650	150766	Unnamed	no
56	653	250830	Pamet	yes
57	659	150083	Unnamed	no
58	670	320699	Elizabeth	no
59	671	320712	Paulo Marc	yes
60	685	320903	Jamie & Ashley	no
61	688	320944	Theresa & Allyson	yes
62	709	149890	1975 Sea Nymph	no
63	718	149844	Moxie Fun	no
64	745	330194	Mt Sinai	no
65	747	330196	Jesse James	no
66	765	330251	Almahrosa	yes
67	766	149975	Cape Cod	no
68	804	149560	Sea Nymph	no
69	808	149755	Adam & Joseph	no
70	814	149515	Unnamed	no

<b>Count</b>	<b>MRI</b>	<b>Current Vessel Permit Number</b>	<b>Vessel Name</b>	<b>Active in SHS in 2010?</b>
71	821	150773	Seabreeze Too	no
72	829	150179	148TG	no
73	834	150371	Willy V	no
74	842	330392	Black Beauty	yes
75	851	330448	Jennifer & Emily	yes
76	853	330452	Mt Vernon	no
77	876	330504	Linda	yes
78	877	330508	Capt'n Mark	yes
79	880	330519	Capt'n Jake	yes
80	883	150277	Maggie J	no
81	895	330552	Tripolina	no
82	913	150599	2007 Johnson	no
83	921	330652	Jaime Mae	no
84	962	150046	137CB	no
85	965	410106	Capt Mano	yes
86	993	149462	Reichle 12	no
87	1021	410212	Sammy Jo	yes
88	1028	410574	Ruth and Pat	yes
89	1054	149805	Abby	no
90	1077	410457	Harmony	yes
91	1091	149549	Triumph	no
92	1102	410354	Evening Star	no
93	1103	410355	Teresa Marie III	yes
94	1104	410357	Capt. Sam II	no

<b>Count</b>	<b>MRI</b>	<b>Current Vessel Permit Number</b>	<b>Vessel Name</b>	<b>Active in SHS in 2010?</b>
95	1110	410369	Olympia	yes
96	1113	410381	Erin Renee	no
97	1114	410384	Thunder Bay	no
98	1115	149842	134FM	no
99	1122	410401	Maria Jo-Ann	yes
100	1130	410419	Brittany Eryn	no
101	1139	149839	134FL	no
102	1140	149872	Special K	no
103	1144	410452	Nobska	yes
104	1150	410538	Moragh K	yes
105	1156	150287	1975 Silver Lane	no
106	1164	149925	Unnamed	no
107	1171	410522	Morue	yes
108	1257	149637	Cole & Katherine	no
109	1363	330516	Aaron & Melissa II	yes
110	1423	149593	Next Generation	no
111	1513	223630	Miss Lexie	yes
112	1536	321025	Caitlin & Mairead	no
113	1539	150635	Wild Willy	no
114	1579	146646	Rhiannon Rae II	yes
115	1592	150604	Jessica K	no
116	1696	150309	2007 Tracker	no
117	1763	149495	Sea Nymph	no
118	1849	149859	Reichle/Low 2004 Open	no

<b>Count</b>	<b>MRI</b>	<b>Current Vessel Permit Number</b>	<b>Vessel Name</b>	<b>Active in SHS in 2010?</b>
119	1881	232006	Katie & Sarah	no
120	1894	150235	Unnamed	no
121	1952	410527	Mary K	yes
122	1977	240770	Donna Jean II	yes
123	1993	149545	Carolina Skiff	no
124	2116	310187	Donna Lynn	no
125	2219	149556	Melanee	no
126	2315	149430	Leisure Life	no
127	2453	118724	Rachel T	no
128	2461	150495	Capt. Crabby	no
129	48003	149701	Nathan D	no

## **EXHIBIT C -- MEMBERS' FEDERAL AND STATE PERMITS**

**Please see attached pages.**

**EXHIBIT D -- HARVESTING RULES FY 2010**  
**(Revised) February 18, 2010**

**Quota Management**

**ACE and Annual Distribution**

1. Each Member agrees that the ACE of multispecies authorized by Amendment 16 and NMFS to the Sector (the "ACE") shall be harvested in accordance with the Harvesting Rules, which are set forth below.
2. Sector members will be allocated a portion of the Sector's total allocation based on the proportion of each stock that they contribute to the Sector's initial ACE. Those members who have more than one vessel enrolled in the Sector may decide to consolidate their fishing effort to one or more vessels.

**Reserve**

1. Each Member agrees that a reserve in the amount of 5% of each stock within the initial ACE will be established to ensure that the Sector remains in compliance with its ACE limit. The reserve shall be deducted from the ACE before such ACE is distributed among the Members, their Permits and their Participating Vessels.
2. Distribution of Reserve - If the Board determines that as of April 1, the ACE pursuant to Section 4.2 has not been fully harvested by the Participating Vessels, the Board may release and authorize the harvesting of the reserve by the Members, their Permits and their Participating Vessels provided all vessels report to the sector manager daily.

**Full Retention of Legal Sized Fish**

1. SHS vessels will retain all legal sized groundfish of those stocks for which they have an allocation.
2. SHS vessels will be required to discard SNE Winter flounder, Atlantic Wolfish, and both stocks of Windowpane flounder.
3. SHS vessels will be allowed to keep one legal sized halibut per trip.

**Stock Area Declaration**

1. When they send the Hail trip start, and when they report (daily) to the sector manager, SHS vessel operators will indicate which broad stock area they will be fishing in for the next 24 hours and which they have been fishing in during the previous 24 hours..
2. This will allow the sector manager to attribute catch appropriately and anticipate whether the sector is running low on a particular stock.

**Vessels Fishing Multiple Stock Areas**

- SHS participating vessels fishing in multiple stock areas will report daily to the Sector Manager and in so-doing will indicate an estimate of their catch (including discards) from each stock area.

**Fishing in US/Canada Areas**

1. SHS participating vessels intend to fish in the both the Eastern and Western US/Canada Areas.
2. When reporting their daily catch to the Sector Manager, the operators of all SHS member vessels will specify the volume of catch and discard from each area.
3. Members electing to enter the Eastern US/CA area are still obligated to comply with the observer notification requirements. All requirements (observer notification, reporting and VMS) are maintained.

#### Closed Areas

- SHS participating vessels will access the Closed Areas as authorized under the Multispecies FMP as revised by Amendment 16.

#### Catch Reports

1. SHS member vessels will report via VMS (or other electronic means such as satellite phone, cellular phone, or NMFS approved reporting software) to the Sector Manager at least once in every 24 period that they are away from dock.
2. Daily reports will consist of permit number, vessel name, and operator's estimate of catch and discards of each allocated stocks, by stock and broad fishing area.

#### Vessel Logbooks

1. Operators of all SHS participating vessels will turn one copy of their VTRs over to the Dockside Monitor (if one is assigned) at the time of offloading.
2. If there is no Dockside or Roving Monitor assigned to the offload, all participating vessel operators agree to send the Sector Manager one copy of their VTRs and a copy of their offload receipt to the Sector Manager within **24** hours of arriving in port.

#### Sector Reporting

1. The SHS will report weekly to NMFS as required using data collected from vessels, VTRs, (and eVTRs when authorized), dealer reports, dockside monitoring reports and observer reports.
2. The reporting due date for the sector manager's weekly report will be increased to daily when either 80% of any of the sector's ACEs is reached, or when, for two consecutive weekly reporting periods 20% or more of the remaining portion any ACE is harvested, whichever occurs first.
3. An alternative threshold for increasing reporting frequency may be implemented during FY 2010 if agreed upon by the sector and NMFS.
4. The SHS will submit required reports using the format and procedures prescribed by NMFS.

#### Data Reconciliation

- The Sector manager will reconcile the data from vessels, VTRs, (and eVTRs when authorized), the dealers' report, the observer's report and the Dockside Monitor's report on an ongoing basis to closely track the sector's ACE.

#### Discard Rate

- The SHS Sector Manager will apply a sector specific assumed discard rate to all trips as calculated by NMFS based on NMFS' expected observer coverage.

#### Hot Spot Reporting (areas of high bycatch of allocated species)

1. Each member agrees to report to the Sector Manager any and all areas of high bycatch of any sort, including undersized regulated species, observed spawning areas and/or any stock for which the Sector is approaching their threshold.
2. Upon receiving a hot spot report, the Sector Manager will send an alert to all member vessels to avoid those particular areas.

#### Additional Measures to Prevent ACE overages

1. See daily catch reports (above)
2. The Board reserves the right to prohibit other fishing activities by Members if it determines that those activities undermine or compromise the Sector Plan and the Sector or otherwise conflict with the standards and ethics described in the bylaws and guiding principles.
3. When the Board imposes additional restrictions, they may also direct the Sector Manager to try to lease/buy or trade additional ACE of any stocks of concern by contacting other sector managers.
4. The Sector Manager will issue (and ask NMFS to enforce) a 'Stop Fishing Order' to any member vessels that are endangering the operations of the sector by ignoring internal reporting requirements and fishing in such a manner to achieve the sector's TAC for any allocated stock.
5. The reporting due date for the sector manager's weekly report will be increased to daily when either 80% of any of the sector's ACEs is reached, or when, for two consecutive weekly reporting periods 20% or more of the remaining portion any ACE is harvested, whichever occurs first.
6. An alternative threshold for increasing reporting frequency may be implemented during FY 2010 if agreed upon by the sector and NMFS.
7. The SHS will submit required reports using the format and procedures prescribed by NMFS.

#### ACE Transfers

- The SHS Sector Manager will track all ACE transfers between sector members and with other sectors.

#### **Administrative**

##### Days at Sea

1. The vessels of the SHS will use DAS solely for the purpose of meeting the requirements of the Monkfish FMP.
2. SHS participating vessels expect to lease DAS from within the sector, from vessels in the common pool and from vessels in other sectors.

#### Annual Report



- The SHS will report on the Sector's performance within 60 days after the end of the fishing year as required by NMFS.

#### Data Management

- The Sector will develop and maintain the necessary databases to track and maintain all relevant catch data.

#### Proof of Sector Membership

- Sector Vessels will carry on board at all times a Letter of Authorization from the Regional Administrator as proof of their membership in the sector. Vessels must comply with all applicable Federal regulations and laws not specifically exempted in the LOA.

#### **Gear Restrictions**

##### Haul gillnets once every 7 days

- The owners and operators of the gillnet vessels in the SHS will haul their nets at least once every seven days that they are set.

##### Seasonal or Area Gear Restrictions

- The SHS Board may institute spatial or temporal gear restrictions to slow down the catch rate of certain allocated stocks.

#### **Monitoring**

- Start Trip Hail and End Trip Hail

##### Daily Reporting to the Sector Manager

- Each Member agrees that all participating vessels will report to the Sector Manager via VMS (or other electronic means such as satellite phone, cellular phone, or NMFS approved reporting software if approved by NMFS) on a daily basis when at sea. The daily report shall consist of an accounting of the vessel's entire catch of allocated groundfish (including discards) by pounds, by species, by broad groundfish statistical area. This will enable the Sector Manager to determine which stocks are being caught on a daily basis, and more closely monitor sector fishing.

#### Dockside Monitoring

1. All members agree to hail trip start and trip end via VMS (or satellite phone, cellular phone, or NMFS approved vessel reporting software) to the Sector Manager and their selected Dockside monitoring company.
2. Vessels will hail trip start to the Sector Manager and the dockside monitoring company when they leave port. The Dockside Monitoring Company will forward the Hail Trip Start to NMFS. Hail trip start will include the following: the permit number, trip ID number and estimated trip duration. The trip ID number is defined as the serial number from the first page of the first VTR filled out for the trip. Vessels are required to wait for a confirmation from the Dockside Monitoring Company. The Dockside Monitoring Company is required to send a confirmation within 10 minutes. IF the vessel operator does not receive the confirmation in the required time frame, then they are required to call in by phone to the Dockside Monitoring Company's backup system.

3. Vessels will Hail Trip End at least 6 hours prior to landing to allow a DM to be present in time to witness offloading. Hail trip end will include the following: permit number, trip ID number, specific offloading location(s) for all dealers including state, port/harbor and dock, estimated time of arrival, estimated time of offloading and length of time for offloading, and estimated weight of each species being landed.
4. For trips less than 6 hours in length or occurring within 6 hours of port, the estimated time of arrival to port and estimated time of off load will be provided in the trip start hail. The trip end hail will be sent upon completion of the last tow with required updated information.
5. The vessel will be notified by the dockside monitoring company when the company sends their confirmation whether they will have a RM or DM present for offloading OR they will be issued a DM Waiver for the trip. The dockside monitoring company will also immediately notify the Sector Manager and NMFS Law Enforcement with the complete Hail Trip End information (including a breakdown of species to be landed and estimated weight of each species on board) and whether the vessel will have a DM / RM present at offloading or not.
6. If the Vessel is issued a Waiver, the vessel operator will provide the Sector Manager with their VTR and Dealer receipt within 24 hours of offloading.
7. If the vessel is selected for dockside monitoring, then the vessel will not offload unless a DM or RM is present.
8. If an SHS vessel decides to offload at more than one facility, and that trip has been selected for having a Dockside Monitor, then they agree to have a DM present during offload at each location.

Upon meeting the vessel at the offloading site, the DM will:

- 1) take copies of all VTRs for the trip;
- 2) record whether the scales are certified;
- 3) observe and record whether ice and box weights are tared before catch is weighed;  
and
- 4) ask the captain whether all fish have been offloaded, and whether any are being retained for personal use. The DM will record the captain's estimate of weight of each species being retained for home use or retained on the vessel and record the reason(s).
- 5) The DM or Dealer will record and sign a report of the weight of offloaded fish by species.
- 6) The DM will send the Sector Manager a copy of the VTRs and a copy of the DM report and dealer receipts (if separate from the DM report) electronically and within 24 hours of the end of the offloading event.
- 7) The DM Company will keep an electronic copy of the DM report.

If a vessel is selected for having a DM, and is offloading at a remote port, (meaning their fish will be trucked before it is weighed), the vessel may enter port and tie at safe berth but no offloading can commence until the RM or DM is present. If the truck does not have scales, then members agree to have a RM present when the vessel offloads to the truck and a DM to record weights when the truck is offloaded at the dealer's location. The DM and RM of a trip that is unloaded in a remote location will follow all requirements described for dockside monitoring (above) to ensure all groundfish from the trip are accounted for and accurately reported to the Sector Manager.

If the offload is weighed at the offload site in front of the RM before being loaded into the truck the event must follow the protocol for offload at a dealer. Upon meeting the vessel at the remote offloading site, the RM will:

- 1) take copies of all VTRs;
- 2) record whether or not the scales are certified by the dealer's state; and
- 3) Observe and record whether ice and box weights are tared by the dealer before the catch is added.
- 4) Ask the captain whether all fish have been offloaded, and whether any are being retained for personal use. The RM will record the captain's estimate of weight of each species being retained for home use or retained on the vessel and record the reason(s).
- 5) Either the RM or dealer will record the weight of offloaded fish, by species (and market class, if culled), in a report. This report will be signed by the RM and the RM will keep a copy of the signed report.
- 6) The RM will send copies of the VTR(s), the RM's report, and the dealer receipt(s) (if separate from the RM's report), to the Sector Manager within 24 hours of the end of the offloading event.
- 7) The DM Company will keep an electronic copy of the RM report.

If the offload is not weighed at the offload site in front of the RM before being loaded into the truck, then all fish must be weighed in the presence of a DM at the receiving dealer(s) when the truck offloads following the same procedures as a vessel offloading at a dealer, and the RM will:

- 1) take copies of all VTRs, and
- 2) Record the number of totes of each species and the captain's estimate of the weight of each species in each tote.
- 3) Ask the captain whether all fish have been offloaded, and whether any are being retained for home use. The RM will record the captain's estimate of weight of any species being retained for home use or retained on the vessel and record the reason(s).
- 4) Record all offloaded fish, by species (and market class, if culled), in a report, unless the driver creates such a report that the RM may use. This report shall be signed by the RM, and the RM shall keep a copy of the signed report.
- 5) Ensure that each tote is tagged with appropriate identifying information, including but not limited to: Serial number of first VTR page filled out for that trip, RM name, tote number, and species.
- 6) The RM will send copies of the VTR(s), the RM report and the driver manifest(s) (if separate from the RM's report) to the Sector Manager within 24 hours of the end of the offloading event.

7) The DM Company will keep an electronic copy of the RM report.

#### Designated Landing Ports

- SHS Members agree to offload catch in the following ports:
  - Boston, MA
  - Gloucester, MA
  - New Bedford, MA
  - Provincetown, MA
  - Hyannis, MA
  - Chatham, MA
  - Scituate, MA
  - Point Judith, RI
  - Portland, ME
  - Biddeford Pool, ME
  - Sebasco Harbor, ME
  - Cundy's Harbor, ME
  - Rockland, ME
  - Portsmouth, NH
  - Rye, NH
  - Newport, RI

#### Offloading Fish to a Truck

- Members may offload their fish onto a truck at the following ports:
  - Portsmouth State Pier,  
Portsmouth NH
  - Port Authority, Portsmouth,  
NH
  - Woods Hole, MA
  - Sebasco Harbor, ME
  - Bar Harbor, ME: Bar Harbor  
Town Dock
  - Southwest Harbor ME:  
Southwest Harbor Town  
Dock
  - Portland ME: Bait Lady  
Take-out, Scoala's Take out,  
Maine Wharf, Widgery  
Wharf
  - Gloucester MA: Jodrey Pier,  
Pier 7 Take-out
  - Provincetown, MA:  
Provincetown Town Pier
  - Davisville RI: Davisville  
Pier
  - Point Judith, RI
  - Montauk, NY

#### Landing Port Exceptions and Safe Harbor Protocol

1. To promote safety at sea and ensure the safety of vessel and crew, certain circumstances beyond a vessel operators control may occasionally occur which require SHS vessels to enter port somewhere other than the designated landing ports listed above.
2. If a SHS participating vessel is required to enter port somewhere other than a designated landing port, then the vessel operator will notify the Sector Manager and the Dockside Monitoring Company by appropriate means as soon as it is safe to do so.
3. Such circumstances include but are not limited to severe weather, mechanical failures, compromised hull integrity, instances of pump failures and danger of sinking, crew injury or life threatening illness and any other emergency situations that may arise.
4. In these circumstances, the vessel agree to not offload fish until a dockside monitor is present, and members will (a) notify the Sector Manager, NMFS and the DM in accordance with the procedures described in the Harvesting Plan (Exhibit D), and (b) pay any additional costs for the required DM as may accrue as a result of invoking the landing port exception.

## **EXHIBIT E -- CONTRACT WITH SIGNATURES**

**We the undersigned agree to abide by all terms in the attached Agreement for the 2010 fishing year:**

Pursuant to section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1881a(b)(1)(F), the undersigned hereby authorizes the release to the Sector Manager of the Sustainable Harvest Sector of information regarding the catch of various species of fish associated with the limited access Northeast multispecies permit with the Moratorium Right Identifiers (MRI) listed on the attached pages submitted to the National Marine Fisheries Service in compliance with 50 CFR 648.7 and § 648.87 that the undersigned has authority to access. This information includes, but is not limited to, vessel trip reports (VTR), dealer reports, and information collected by the Northeast Fishery Observer Program (NEFOP), the sector dockside monitoring program, and (if applicable) the sector at-sea monitoring program. *This information shall be used exclusively by the sector for matters pertaining to sector management, including record retention requirements. Such information may not be released by the sector to another entity. When information released to the sector by the National Marine Fisheries Service is no longer needed for sector management, it shall be destroyed or returned by the sector manager to the undersigned at his or her election. When the undersigned ceases to be a member of the sector, this authorization shall be deemed null and void.*

**Please see attached pages, one contract from each permit holder in the SHS.**

**EXHIBIT F -- Monitoring Plan and Certification Documents from A.I.S**

Please the attached documents.

**EXHIBIT G -- Monitoring Plan and Certification Documents from East-West**

Please the attached documents.

**EXHIBIT H -- Monitoring Plan and Certification Documents from MRAG Americas**

Please the attached documents.

**EXHIBIT I -- Monitoring Plan and Certification Documents from Saltwater, Inc**

Please the attached documents.

**EXHIBIT J -- Monitoring Plan and Certification Documents from Atlantic Catch Data**

Please the attached documents.

**ADDENDUM**  
**AMENDMENT 1 TO**  
**SUSTAINABLE HARVEST SECTOR**  
**FY 2010**  
**OPERATIONS PLAN**

## **AMENDMENT 1 TO THE SUSTAINABLE HARVEST SECTOR OPERATIONS PLAN**

APPROVED BY THE NATIONAL MARINE FISHERIES SERVICE ON MAY 7, 2010

EFFECTIVE MAY 1, 2010, THROUGH APRIL 30, 2011 - THE 2010 FISHING YEAR

### Section 5.6 Designated Landing Ports

Members shall agree to offload catch in the following ports:

Boston, MA	Biddeford Pool, ME
Gloucester, MA	Sebasco Harbor, ME
New Bedford, MA	Cundy's Harbor, ME
Provincetown, MA	Rockland, ME
Hyannis, MA	Portsmouth, NH
Chatham, MA	Rye, NH
Scituate, MA	Newport, RI
Point Judith, RI	Chincoteague, VA*
Portland, ME	

### Section 5.6.1 Remote Ports (Offloading Fish to a Truck)

Members may offload their fish onto a truck at the following ports:

Portsmouth State Pier, Portsmouth NH	Gloucester MA: Jodrey Pier, Pier 7 Take-out
Port Authority, Portsmouth, NH	
Woods Hole, MA	Provincetown, MA: Provincetown Town Pier
Sebasco Harbor, ME	
Bar Harbor, ME: Bar Harbor Town Dock	Davisville RI: Davisville Pier
Southwest Harbor ME: Southwest Harbor Town Dock	Point Judith, RI
Portland ME: Bait Lady Take-out, Scoala's	Montauk, NY
Take out, Maine Wharf, Widgery Wharf	

\*Please note the addition of Chincoteague, VA as a designated landing port. This port was not included in the original operations plan.



**AMENDMENT 2 TO THE SUSTAINABLE HARVEST SECTOR  
OPERATIONS PLAN**

APPROVED BY THE NATIONAL MARINE FISHERIES SERVICE MAY 6, 2010

EFFECTIVE MAY 1, 2010, FOR THE 2010 FISHING YEAR

This amendment officially recognizes MRAG Americas, Saltwater Inc., and Atlantic Catch Data as authorized dockside monitoring service providers for the Sustainable Harvest Sector for fishing year 2010. Specific contact information for these providers is:

MRAG Americas  
65 Eastern Ave.  
Unit B2C  
Essex, MA 01929  
Phone (978) 768-3880  
Fax (978) 768-3878

Saltwater Inc.  
733 N. Street  
Anchorage, AK 99501  
Phone (907) 276-3241  
Fax (907) 258-5999

Atlantic Catch Data Ltd.  
99 Wyse Road, Suite 815  
Dartmouth, Nova Scotia  
CANADA, B3A 4S5  
Phone 1+(902) 422-4745  
Fax 1+(902) 422-9780

This amendment also officially recognizes Hank Soule as the Sector Manager for the Sustainable Harvest Sector. Specific contact information for Mr. Soule is:

Hank Soule, Manager  
Sustainable Harvest Sector  
PO Box 356  
South Berwick, ME 03908  
207-956-8497  
[shsector@gmail.com](mailto:shsector@gmail.com)

# **AMENDMENT 3 TO THE SUSTAINABLE HARVEST SECTOR OPERATIONS PLAN**

APPROVED BY THE NATIONAL MARINE FISHERIES SERVICE MAY 17, 2010

EFFECTIVE MAY 1, 2010, THROUGH APRIL 30, 2011 - THE 2010 FISHING YEAR

This amendment officially recognizes the final fishing year (FY) 2010 Sustainable Harvest Sector membership based on the final sector roster, submitted on April 30, 2010. The final roster is summarized below:

COUNT	OWNER	PERMIT	MRI	VESSEL NAME
1	Terry Alexander	149643	16	CHAPARRAL
2	David Marciano	147114	59	HARD MERCHANDISE
3	ONE SON FISHING LLC	150908	120	DETERMINED
4	CHRISTOPHER M ODLIN INC	149649	231	CRESTLINER
5	Terry Alexander	150423	241	HUNKY DORY
6	JORDAN & JORDAN LLC	150060	321	OLIVER
7	FV PAULO MARC LLC	150578	326	TONI ANNE
8	MARGARET F INC	131009	338	MR BAXTER
9	Marshall Alexander	149492	353	POINTER
10	Dana Hammond	250716	377	NICOLE LEIGH
11	Douglas Mayo	250428	390	Jesse
12	MAD FISH INC	250483	401	BETHANY JEAN
13	DE DEE MAE II INC	250512	407	DE DEE MAE II
14	CELTIC PRIDE INC	242536	412	SHANNON KRISTINE
15	ROBERT MICHAEL INC	250547	413	ROBERT MICHAEL
16	Christopher Yattaw	149544	415	TORI T
17	CARTER FISHERIES INC	321079	417	ANGELA MICHELLE
18	F/V BLUE WATER III INC	250603	422	BLUE WATER III
19	F/V LORI ANN INC	250631	424	LORI ANN
20	OCEAN FISHERIES INC	150537	436	NUTMEG
21	Michael Leary	146819	441	LORI B
22	CELTIC PRIDE INC	150276	442	LUCKY DUCK
23	F/V DEBORAH ANN INC	251364	455	DEBORAH ANN
24	Willard Viola	149454	472	UNNAMED
25	F/V PAULO MARC INC	149567	478	STARCRAFT
26	Frances Mayo-Ttee	149133	493	Buster B
27	CAVALIER INC	310289	499	CAVALIER
28	ONE SON FISHING LLC	310421	517	FLIGHT 1
29	OSIER SEAFOOD INC	310422	518	JERRY & JOE
30	T/R FISH INC	149683	519	UNNAMED
31	OCEAN FISHERIES INC	150118	526	DANNY BOY III
32	MARGARET F INC	149504	530	PHILLIS
33	Brenda Leeman	149858	531	CASEY JONES
34	PISCATAQUA MGT GROUP INC	310504	532	KIRSTEN LEE
35	F/V CHRISTINA CAROL LLC	310510	534	CHRISTINA CAROL

COUNT	OWNER	PERMIT	MRI	VESSEL NAME
36	T/R FISH INC	149718	551	CRESTLINER
37	JORDAN LYNN INC	330708	557	THE JOCKA
38	LOVE FISHERIES INC	149890	559	TITAN
39	CAPE COD FISHING COMPANY	310992	564	Elizabeth
40	Terry Alexander	150350	569	JOLY
41	F/V LYDIA & MAYA INC	320541	572	LYDIA & MAYA
42	CAPE COD FISHING COMPANY	150391	574	Rienell
43	JORDAN & JORDAN LLC	150843	601	CRESTLINER
44	ADVENTURESS INC	223598	619	Miss Priss
45	TERESA MARIE IV INC	410537	628	TERESA MARIE IV
46	BAMD INC	320470	631	Dianne Lynn II
47	LYNN & WILLIAM INC	150766	650	Unnamed
48	Michael Leary	250830	653	PAMET
49	CAPE COD FISHING COMPANY	150083	659	Unnamed
50	MARGARET F INC	330448	670	ELIZABETH
51	F/V PAULO MARC LLC	320712	671	PAULO MARC
52	JORDAN MARINE INC	320903	685	JAMIE & ASHLEY
53	JORDAN MARITIME INDUSTRIES LTD	320944	688	THERESA & ALLYSON
54	LOVES FISHERIES INC	330774	709	1975 SEA NYMPH
55	LOVE FISHERIES INC	149844	718	MOXIE FUN
56	ONE SON FISHING LLC	330196	747	Jesse James
57	ALMAHROSA FISHING INC	330251	765	ALMAHROSA
58	CAPE COD FISHING COMPANY	149975	766	Cape Cod
59	F/V LYDIA & MAYA INC	149560	804	F/V SEA NYMPH
60	SALMON FALLS TRAWLER INC	149755	808	ADAM & JOSEPH
61	UNIGEAR LLC	149515	814	UNNAMED
62	FV SEA BREEZE LLC	150773	821	SEA BREEZE TOO
63	TERESA MARIE III INC	150179	829	148TG
64	BLACK BEAUTY INC	150371	834	WILLIE V
65	BLACK BEAUTY INC	330392	842	BLACK BEAUTY
66	MARGARET F INC	128672	851	JENNIFER & EMILY
67	MNT VERNON LLC	330452	853	MT VERNON
68	BOAT SANTA RITA II INC	330504	876	LINDA
69	F/V CAPTN MARK LLC	330508	877	CAPT'N MARK
70	F/V CAPTN JAKE LLC	330519	880	CAPT'N JAKE
71	JAM FISHERIES LLC	150277	883	MAGGIE J
72	FV TRIPOLINA INC	330552	895	TRIPOLINA
73	JORDAN LYNN, INC.	150599	913	2007 JOHNSON
74	F A J LLC	150046	962	137CB
75	BAY STAR FISHERIES INC	410106	965	CAPT MANO
76	CAPE CLAM INC	149462	993	REICHLE 12
77	SAMMY JO FISHING LLC	410212	1021	SAMMY JO
78	MARGARET F INC	410574	1028	RUTH & PAT
79	BOAT AARON & MELLISA INC	149805	1054	Abby
80	F A J LLC	410457	1077	HARMONY
81	F A J INC	149549	1091	TRIUMPH
82	TERESA MARIE III INC	410355	1103	TERESA MARIE III

COUNT	OWNER	PERMIT	MRI	VESSEL NAME
83	BRAMANTE FISHERIES INC	410357	1104	CAPTAIN SAM II
84	SALMON FALLS TRAWLER INC	410369	1110	OLYMPIA
85	FV ERIN RENEE LLC	410381	1113	Erin Renee
86	FV ADRIANNA LLC	410384	1114	Thunder Bay
87	THERESA MARIE IV INC	149842	1115	134FM
88	BOAT SANTA RITA III INC	410401	1122	MARIA/JO-ANN
89	BLUE SEAS VENTURES LLC	410419	1130	BRITTANY ERYN
90	A J LLC	149839	1139	134FL
91	K & K FISHING CORP	149872	1140	SPECIAL K
92	NEW ENGLAND TRAWLERS INC	410452	1144	NOBSKA
93	K & K FISHING CORP	410538	1150	MORAGH K
94	TACS COMPANY LLC	150287	1156	1975 SILVERLINE
95	NEW ENGLAND TRAWLERS INC	149925	1164	UNNAMED
96	NEW ENGLAND TRAWLERS INC	410522	1171	MORUE
97	Matthew Carter	149637	1257	COLE & KATHERINE
98	BOAT AARON & MELISSA INC	330516	1363	Aaron & Melissa II
99	Mark Freeman	149593	1423	NEXT GENERATION
100	David Aripotch	321025	1536	CAITLIN & MAIREAD
101	OCEAN FISHERIES INC	150635	1539	WILD WILLY
102	Anthony Fernandes	146646	1579	RHIANNON RAE II
103	CELTIC PRIDE INC	150604	1592	JESSICA K
104	Matthew Carter	150309	1696	2007 TRACKER
105	UNIGEAR LLC	149495	1763	SEA NYMPH
106	DOROTHY MAY LLC	149859	1849	REICHLE/LOW 2004 OPEN
107	Robert Eugley	232006	1881	KATIE & SARAH
108	MAD FISH INC	150235	1894	UNNAMED
1090	K & K FISHING CORP	410527	1952	MARY K
110	VAFIDES FISHERIES INC	240770	1977	DONNA JEAN II
111	Terry Alexander	149545	1993	CAROLINA SKIFF
112	F/V BLUE WATER III INC	149556	2219	MELANEE D
113	BUBBA INC	149430	2315	2003 LEISURE LIFE
114	JORDAN LYNN INC	118724	2453	RACHEL T
115	David Aripotch	150495	2461	CAPT CRABBY
116	Jeremy Davis	149701	48003	Nathan D

**AMENDMENT #4 TO THE SUSTAINABLE HARVEST SECTOR  
FISHING YEAR (FY) 2010 SECTOR OPERATIONS PLAN**

APPROVED BY THE NATIONAL MARINE FISHERIES SERVICE  
DECEMBER 23, 2010

EFFECTIVE DECEMBER 23, 2010, THROUGH APRIL 30, 2011

This amendment officially recognizes that the Sustainable Harvest Sector FY2010 Operations Plan has been amended to include the following additional exemptions from regulations of the Northeast (NE) Multispecies Fishery Management Plan, made effective through a final rule published December 23, 2010 (75 FR 80720).

**Vessels participating in the Sustainable Harvest Sector are granted the following additional exemptions (as described in 75 FR 80720):**

1. 120-Day Block Requirement Out of the Fishery for Day Gillnet Vessels: Exemption from the declaration of time out of the gillnet fishery, specified in § 648.82(j)(1)(ii);
2. 20-Day Spawning Block: Exemption from the declaration of 20 days out of the fishery for the spawning season, specified in § 648.82(g);
3. Limitation on the Number of Gillnets for Day Gillnet Vessels: Exemption from the limit on the number of sink gillnets that a Day gillnet vessel may fish in any of the Regulated Mesh Areas, specified in §§ 648.80(a)(3)(iv)(B)(2), (a)(4)(iv)(B)(1), (b)(2)(iv)(B)(1), and (c)(2)(v)(B)(1), and the requirement for two gillnet tags per roundfish net specified in §§ 648.80(a)(3)(iv)(B)(4), (a)(4)(iv)(B)(3), (b)(2)(iv)(B)(3), and (c)(2)(v)(B)(3), with the caveat that a sector vessel may fish up to 150 roundfish or flatfish nets in any of the RMAs, not to exceed 150 nets total, and must tag both roundfish and flatfish nets with one tag per net;
4. Prohibition on a Vessel Hauling Another Vessel's Gillnet Gear: Exemption from the tagging requirements specified in §§ 648.14(k)(6)(ii)(A) and 648.84(a), such that a sector vessel may fish gillnets marked and tagged by another vessel, provided the gear is tagged with each sector vessel's gillnet tags consistent with §§ 648.80(a)(3)(iv)(B)(4), 648.80(a)(4)(iv)(B)(3), 648.80(b)(2)(iv)(B)(3), and 648.80(c)(2)(v)(B)(3) or exemption 3 above, and all gear is marked consistent with § 648.84(a);
5. Limitation on the Number of Gillnets that May Be Hauled on Georges Bank (GB) When Fishing Under a Groundfish/Monkfish Day-at-sea (DAS): Exemption from the limit on the number of gillnets that may be hauled on GB specified in § 648.80(a)(4)(iv)(B)(1), provided the vessel is fishing under concurrent NE multispecies and monkfish DAS and does not haul more than 150 nets total;
6. Limitation on the Number of Hooks that May Be Fished: Exemption from the limit on the number of hooks that may be fished in any of the RMAs, specified in §§ 648.80(a)(3)(v), 648.80(a)(4)(v), 648.80(b)(2)(v), and 648.80(c)(2)(iv);
7. Length and Horsepower Restrictions of the DAS Leasing Program: Exemption from the restriction on the length and horsepower of a Lessee vessel, specified for the DAS Leasing Program in § 648.82(k)(4)(ix); and
8. GOM Sink Gillnet Mesh Exemption: Exemption from the minimum mesh size for a

sink gillnet in the Gulf of Maine (GOM) RMA, specified at § 648.80(a)(3)(iv)(A)(I) and (B)(I), when fishing in the GOM RMA with roundfish nets January 1, 2011, through April 30, 2011, provided the vessel uses minimum 6" mesh roundfish nets. The sector vessel may not fish with, haul, possess, or deploy flatfish nets in the GOM RMA during this period, but may transit the area with flatfish nets, provided they are properly stowed and not available for immediate use in accordance with one of the methods specified at § 648.23(b).