

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

Jay M. Goffman

Lisa Laukitis

Four Times Square

New York, New York 10036-6522

Telephone: (212) 735-3000

Fax: (212) 735-2000

-and-

Elizabeth M. Downing (admitted *pro hac vice*)

500 Boylston Street

Boston, Massachusetts 02116

Telephone: (617) 573-4800

Fax: (617) 573-4870

*Counsel for William A. Brandt, Jr., Chapter 11 Trustee*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re:**

**CHINA FISHERY GROUP LIMITED (CAYMAN)**

*et al.,*

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 16-11895 (JLG)**

**(Jointly Administered)**

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**In re:**

**CFG Peru Investments Pte. Limited (Singapore),**

**Debtor.**

**Chapter 11**

**Case No. 16-11914 (JLG)**

**(Jointly Administered)**

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<sup>1</sup> The Debtors are China Fishery Group Limited (Cayman), Pacific Andes International Holdings Limited (Bermuda), N.S. Hong Investment (BVI) Limited, South Pacific Shipping Agency Limited (BVI), China Fisheries International Limited (Samoa), CFGI (Singapore) Private Limited, Chanery Investment Inc. (BVI), Champion Maritime Limited (BVI), Growing Management Limited (BVI), Target Shipping Limited (HK), Fortress Agents Limited (BVI), Ocean Expert International Limited (BVI), Protein Trading Limited (Samoa), CFG Peru Investments Pte. Limited (Singapore), Smart Group Limited (Cayman), Super Investment Limited (Cayman), Pacific Andes Resources Development Limited (Bermuda), Nouvelle Foods International Ltd., Golden Target Pacific Limited, Pacific Andes International Holdings (BVI) Limited, Zhonggang Fisheries Limited, Admired Agents Limited, Chiksano Management Limited, Clamford Holding Limited, Excel Concept Limited, Gain Star Management Limited, Grand Success Investment (Singapore) Private Limited, Hill Cosmos International Limited, Loyal Mark Holdings Limited, Metro Island International Limited, Mission Excel International Limited, Natprop Investments Limited, Pioneer Logistics Limited, Sea Capital International Limited, Shine Bright Management Limited, Superb Choice International Limited, and Toyama Holdings Limited (BVI).

**NOTICE OF SALE OF A NON-DEBTOR VESSEL  
IN ACCORDANCE WITH NON-DEBTOR ASSET SALE ORDER**

**PLEASE TAKE NOTICE** that on July 22, 2019, William A. Brandt, Jr., not individually but solely in his capacity as chapter 11 trustee (the “Chapter 11 Trustee”) of CFG Peru Investments Pte. Limited (Singapore) (“CFG Peru Singapore”) in the above-captioned chapter 11 cases, by his attorneys, Skadden, Arps, Slate, Meagher & Flom LLP, provides this *Notice of Sale of a Non-Debtor Vessel in Accordance with Non-Debtor Asset Sale Order* (the “Sale Notice”), in accordance with and pursuant to paragraph 2 of the *Order Granting Chapter 11 Trustee’s Motion for Order Pursuant to Bankruptcy Code Section 105(a), 363(b), 541(a)(1), and 1108 and Bankruptcy Rules 2002, 6004, and 9006 Authorizing and Approving Procedures for (A) The Sale or Transfer of Certain Non-Debtor Assets and (B) Taking All Desirable or Necessary Corporate Governance Actions in Connection Therewith* (the “Non-Debtor Asset Sale Order”) [Dkt. No. 482].

**PLEASE TAKE FURTHER NOTICE** that unless a written objection to the Proposed Transaction, with proof of service, is filed with the Clerk of the Court, and a courtesy copy is delivered to the undersigned counsel and to the Chambers of the Honorable James L. Garrity Jr. so as to be received by August 1, 2019 at 4:00 p.m. (Eastern Time), there will not be a hearing and the Chapter 11 Trustee is authorized to take all corporate governance actions consistent with Peruvian and/or Singaporean law desirable or reasonably necessary or advisable to consummate the proposed transaction set forth in the Notice.

**PLEASE TAKE FURTHER NOTICE** that if a written objection is timely filed and served, the Chapter 11 Trustee will determine, in his business judgment, how best to proceed in accordance with the procedures outlined in the Non-Debtor Asset Sale Order. If the Chapter 11 Trustee determines that a hearing before the Court on the matter (the “Disputed Transaction”)

would be beneficial to the resolution of the objection, the Chapter 11 Trustee will schedule a hearing on the Disputed Transaction and notify the parties receiving the Notice. If a hearing is scheduled, the Chapter 11 Trustee and any objecting parties are required to attend the hearing, and failure to attend in person or by counsel may result in relief being granted or denied upon default.

**PLEASE TAKE FURTHER NOTICE** that pursuant to the Non-Debtor Asset Sale Order, the Chapter 11 Trustee proposes to enter into the transaction (the “Proposed Transaction”) described below, which involves the private sale or transfer of the “Pacific Hunter”, a non-debtor vessel, to a single buyer or group of related buyers.

- Non-Debtor Asset Being Sold or Transferred: The Chapter 11 Trustee intends to sell the “Pacific Hunter,” a fishing vessel currently anchored in the port of Chimbote, Peru. Originally built by a Norwegian shipbuilder in 1986, the Pacific Hunter (IMO #8519667) is standard-sized commercial trawler vessel measuring 67 meters long and 14 meters wide, and has a hull depth of 8.35 meters. The Pacific Hunter has a net tonnage weight of 778 metric tons and a total cargo hold capacity of 2,890 m<sup>3</sup>. The Pacific Hunter is powered by a single 4,590 BHP Wartsila diesel engine and has a maximum speed of 13 knots.
- Description of Buyer: The Chapter 11 Trustee intends to sell the Pacific Hunter to FM Corporation (China) Limited, a Chinese company with company number 1378595, with address at 9B, Cheong Tai Commercial Building, 66 Wing Lok Street, Sheung Wan, Hong Kong.
- CFG Peru Singapore Subsidiary Involved: Sustainable Fishing Resources S.A.C.
- Consideration: \$1,500,000

**PLEASE TAKE FURTHER NOTICE** that pursuant to the Non-Debtor Asset Sale Order, the Chapter 11 Trustee attaches the sale and purchase agreement of the Pacific Hunter as Exhibit A (the “Sale and Purchase Agreement”).

Dated: July 22, 2019  
New York, New York

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: /s/ Lisa Laukitis  
Jay M. Goffman  
Lisa Laukitis  
Four Times Square  
New York, New York 10036-6522  
Telephone: (212) 735-3000  
Fax: (212) 735-2000

-and-

Elizabeth M. Downing (admitted *pro hac vice*)  
500 Boylston Street  
Boston, Massachusetts 02116  
Telephone: (617) 573-4800  
Fax: (617) 573-4870

*Counsel for William A. Brandt, Jr.  
Chapter 11 Trustee*

**EXHIBIT A**

**Pacific Hunter Sale and Purchase Agreement**

## PURCHASE AND SALE AGREEMENT FOR PACIFIC HUNTER

Dated: [●]

**SUSTAINABLE FISHING RESOURCES S.A.C.**, with Peruvian Tax Registration Number 20521935082, a Peruvian company with company number 12312764 of the Public Registry of Lima, Cal. Francisco Graña 155, La Victoria, Lima, Peru, hereinafter called the “**Seller**” has agreed to sell, and

**FM CORPORATION (CHINA) LIMITED**, a Chinese company with company number 1378595, 9B, Cheong Tai Commercial Building, 66 Wing Lok Street, Sheung Wan, Hong Kong, hereinafter called the “**Buyer**”, has agreed to buy the “**Pacific Hunter**” (hereinafter, the “**Vessel**”) with the following specifications and on the following terms and conditions:

| Name of Vessel                                 | <i>Pacific Hunter</i> |
|--|-----------------------|
| IMO Number                                     | 8519667               |
| Classification Society                         | DNV-GL                |
| Class Notation                                 | Suspended             |
| Year of Build                                  | 1986                  |
| Flag   | Peruvian              |
| Place of Registration                          | Callao                |
| GT/NT  | 2016.32/778.09        |
| Electronic Entry of the Vessel Public Registry | 12510924              |
| Location of the Public Registry                | Lima                  |
| Purchase Price                                 | \$1,500,000           |

### Definitions

“**Banking Day or Banking Days**” is the day or the days, respectively, on which banks are opened in the country of the currency stipulated for the Purchase Price in Clause 1 (Purchase Price), including Peru, Hong Kong and New York.

“**Buyer’s Nominated Flag State**” means the Republic of Panama.

“**Cancelling Date**” is the latest day to comply with the delivery of the vessel as established in Clauses 5(c) and 14, which shall be August 15, 2019.

“**Class**” means the class notation referred to above.

“**Classification Society**” means the Classification Society referred to above.

“**Closing Date**” means the date of delivery of original versions of all the documents executed on the Execution Date including all formalities, as applicable in accordance with this Agreement, (legalizations, certifications, apostille, translations, etc.) stipulated in Clause 8, unless otherwise provided in Clause 8; which date shall be the same as the Delivery Date, and as a consequence of that, will be the date of the effective ownership transfer of the Vessel in favour of the Buyer.

“**Deposit**” means an amount equal to ten percent (10%) of the Purchase Price.

“**Delivery Date**” means the date of physical delivery of the Vessel and all original documents listed in Clause 8, unless otherwise provided in Clause 8, no more than fifteen (15) Banking Days after the Execution Date. The Delivery Date shall be the same day as the Closing Date and as a consequence of that, will be the date of the effective ownership transfer of the Vessel in favour of the Buyer.

“**Delivery Port**” means in or around the port of Chimbote, Peru.

“**Escrow Agent**” means Development Specialists, Inc. which shall hold and release the Deposit and the balance of the Purchase Price (i.e., the Purchase Price minus the Deposit) in accordance with this Agreement.

“**Escrow Agreement**” means the escrow agreement dated [•], 2019 between the Seller, the Buyer and the Escrow Agent setting out the terms and conditions for payment and release of the Deposit. Such escrow agreement being signed by the Seller, the Buyer and the Escrow Agent.

“**Execution Date**” means the date no later than fifteen (15) Banking Days before the Closing Date designated by Buyer) of execution of all documents in the agreed languages as listed in Clause 8, but without the correspondent formalities referred to in the aforementioned definition of Closing Date, related to the transaction as provided in this Agreement and sent by email between the **Parties** (pdf version). The Buyer will be required to send the Seller PDF evidence of an irrevocable wire transfer instruction to the Escrow Agent (no later than 19:00 hours New York, time) for the balance of the Purchase Price (i.e. the Purchase Price minus the Deposit) prior to the Seller releasing any documents via email on the Execution Date.

“**Holdback Period**” means a period of one hundred twenty (120) days from the Delivery Date.

“**Holdback Amount**” is equal to the Deposit.

“**IUU**” means illegal, unreported and unregulated fishing.

“**Notice of Readiness**” means the document executed by Seller confirming that the Vessel is at or around the Delivery Port and physically ready for delivery in accordance with this Agreement.

“**Parties**” means the Seller and the Buyer.

“**Purchase Price**” means the price for the Vessel as stated in Clause 1 (*Purchase Price*).

“**In writing**” or “**written**” means a letter handed over from the Seller to the Buyer or vice versa, a registered letter or e-mail.

## **1. Purchase Price**

The Purchase Price for the Vessel is \$1,500,000.00 (one million five hundred thousand United States Dollars).

**2. Deposit or Holdback Amount**

As security for the correct fulfilment of this Agreement by both Parties, the Buyer shall remit (or shall procure the remittance of) the Deposit to the Escrow Agent, for deposit by the Escrow Agent in an interest bearing account (if any interest obtainable) established for the Parties, within five (5) Banking Days after the later of the date that:

- (a) this Agreement has been signed by the Buyer and provided in original or PDF by e-mail to the Seller; and
- (b) the Escrow Agreement is signed by the Parties in original or by email and the Escrow Agent has confirmed in writing to the Parties that the account has been opened.

The Deposit on placing with the Escrow Agent shall be held by the Escrow Agent in accordance with the Escrow Agreement and shall be released in accordance with the terms of the Escrow Agreement.

Interest on the Deposit, if any, shall be credited to the Buyer. Any fee charged for holding and releasing the Deposit shall be borne equally by the Parties. The Parties shall provide to the Escrow Agent all necessary documentation to open and maintain the account without delay.

**3. Payment**

On the Execution Date, the Buyer shall transfer the balance of the Purchase Price (i.e., the Purchase Price minus the Deposit) to the Escrow Agent. The balance of the Purchase Price (i.e., the Purchase Price minus the Deposit) will be released to the Seller on the Closing Date. The Purchase Price shall be made in full and be free of bank charges.

The Deposit shall be retained by the Escrow Agent for the entirety of the Holdback Period. Upon expiration of the Holdback Period, and in fulfilment of both the Buyer's payment obligations the Seller's representations and warranties made hereunder, the Parties shall cause the Deposit to be paid to the Seller's Account, such payment to be made by means of the Buyer and Seller providing a signed copy of the letter of instruction in the form of Appendix A to the Escrow Agreement jointly instructing the Escrow Agent to release the Deposit or any remaining balance (following the release of any amounts to the Buyer as aforesaid) to the Seller. Each Party shall provide the other Party with bank transfer documents confirming that the relevant payments have been made/required.

Buyer's obligation to pay the Purchase Price is fulfilled upon providing the Escrow Agent with relevant letters of instruction to release the Deposit and the balance of the Purchase Price (i.e., the Purchase Price minus the Deposit). Once the letters of instruction are received by the Escrow Agent from the Buyer, the Sellers will inform the Escrow Agent of the account details and any other information necessary for purposes of transferring the Purchase Price and the Holdback amount to Sellers.

**4. Statement Regarding Inspection**

The Buyer has inspected the Vessel, and accepted the Vessel' classification records on an "as is" basis, subject only to the terms and conditions of this Agreement and in particular to the provisions of Clauses 5(c), 7, 8(a) and 19 below.

**5. Time, Delivery Port and Notice of Readiness**

- (a) The Vessel shall be delivered and taken over at a safe and accessible berth or place within or around the Delivery Port in the Seller's option.
- (b) The Seller shall keep the Buyer well informed of the Vessel's itinerary and shall provide the Buyer with a written Notice of Readiness confirming that the Vessel is at or around the Delivery Port and physically ready for delivery in accordance with this Agreement as soon as the payment of the balance of the Purchase Price occurs at the Execution Date as indicated in Clause 3.
- (c) If the Seller anticipates that, notwithstanding the exercise of due diligence by them, the Vessel will not be ready for delivery by the Cancelling Date they may notify the Buyer in writing stating the date when they anticipate that the Vessel will be ready for delivery and proposing a new Cancelling Date (hereinafter, the New Cancelling Date). Upon receipt of such notification the Buyer shall have the option of either cancelling this Agreement in accordance with Clause 14 (*Seller's Default*) within three (3) Banking Days of receipt of the notice or of accepting the new date as the New Cancelling Date. If the Buyer has not declared their option within three (3) Banking Days of receipt of the Seller's notification or if the Buyer accepts the new date, the date proposed in the Seller's notification shall be deemed to be the New Cancelling Date and shall be substituted for the Cancelling Date stipulated in Clause 5(c). If this Agreement is maintained with the new Cancelling Date, all other terms and conditions hereof including those contained in Clause 5(b) shall remain unaltered and in full force and effect.
- (d) Should it is proved that the Vessel become an actual, constructive or compromised total loss before delivery, the Deposit shall be released immediately to the Buyer, together with any and all interest thereon, and both Parties shall confirm such loss to the Escrow Agent in writing and shall cause the Escrow Agent to release the Deposit to the Buyer, whereupon this Agreement shall be null and void.

**6. [Reserved]**

**7. Other items on board**

The Seller shall deliver the Vessel "as is" to the Buyer with everything belonging to it on board at the time of inspection by the Buyer.

## **8. Documentation**

On the Execution Date, the Parties will exchange PDF versions of the documentation in this Clause 8 (unless otherwise provided), with simple English translations but without formalities except for the Bill of Sale and Commercial Invoice which will be delivered at Closing Date as provided in section 8 herein.

On the Closing Date, originals of all documentation in this Clause 8 (unless otherwise provided) (in English or translated to English) will be delivered in Lima, Peru by the Parties, including executed English original versions of the PSA

If the Buyer is appointing a foreign representative, the same shall obtain the Peruvian immigration authorization for execution of documents prior to Closing Date, including the documents requested in Clause 8 (b)(i) and 8 (b)(ii).

- (a) On the Closing Date, the following documents (in English or translated into English) shall be delivered to the Buyer as provided in this Clause 8 as follows:
- (i) Original Legal Bill of Sale
    - (1) Three (3) duly signed, notarized and apostilled Original Legal Bills of Sale (in English) in a form recordable in the Buyer's Nominated Flag State, duly signed by the Seller, indicating that the transfer of the ownership of the Vessel will occur at the Delivery Date and stating that the Vessel is free from all charters, taxes, claims, mortgages, encumbrances and maritime liens or any other debts;
  - (ii) Original Legal Opinion of Seller's Peruvian Counsel
    - (1) The original English language version of Seller's Peruvian counsel's legal opinion attesting that the Seller's representative is duly authorized to sign this Agreement, any affidavits provided pursuant to this Agreement, the Original Legal Bills of Sale, and any other documents that may be necessary related to this Agreement, duly notarized and apostilled;
  - (iii) Corporate Governance Authority and Power of Attorney
    - (1) Copy of the Spanish and English versions of Seller's Shareholders Minutes stating that all necessary corporate, shareholder and other action have been taken by the Seller to authorize the execution, delivery and performance of this Agreement (including Power of Attorney of the Seller appointing one or more representatives to act on behalf of the Seller in the performance of this Agreement, which shall be contained in the shareholders meeting resolution) and to sign and deliver any documents related to the sale of the Vessel to the Buyer, including the Bills of Sale and the Protocols

of Delivery and Acceptance as per the terms of the this Agreement,  
duly notarized and apostilled;

- (iv) Evidence of Good Standing
  - (1) An original Spanish version of evidence of the Good Standing Certificate (*Certificado de Vigencia de Persona Jurídica*) issued not earlier than ten (10) Banking Days prior to the Execution Date, duly apostilled;
- (v) Evidence of Non-Encumbrances
  - (1) An original Spanish version of Certified Copy of Transcript of Registry (*Copia Literal de Partida*) issued not earlier than ten (10) Banking Days prior to the Execution Date, duly apostilled;
  - (2) An original Spanish version of the Ownership Certificate and Non-Encumbrances Certificate (*Certificado Negativo de Gravámenes*) which confirms that the Vessel is free from registered encumbrances and mortgages, issued not earlier than ten (10) Banking Days prior to the Execution Date, duly apostilled;
- (vi) Declaration of Class
  - (1) A copy of an English language version of the Declaration of Class or (depending on the Classification Society) a copy of the Class Maintenance Certificate which is **suspended**;
- (vii) Commercial Invoice
  - (1) An original of the Commercial Invoice for the Vessel, giving the Purchase Price and main particulars of the Vessel, in duplicate, as soon as the Seller receives evidence that the order to the Escrow Agent to release the funds has been executed and delivered to the Escrow Agent;
- (viii) Satellite Communications
  - (1) A copy of a Spanish language version of Seller's letter to their satellite communication provider requesting cancellation of the Vessel's communications contract;
- (ix) Black Listing Affidavit and Deletion Certificate
  - (1) An original English language version of the Seller's letter of confirmation that to the best of their knowledge, the Vessel is not black listed by any nation or international organisation, and an

undertaking that the Seller will take reasonably necessary steps to effect deletion from the Vessel's registry forthwith;

- (2) A copy of the Spanish language petition evidencing commencement of the process for obtaining the deletion certificate shall be hand delivered to a representative of the Buyer in Lima, Perú, on the Closing Date;
  - (3) Seller will provide official evidence of deletion to the Buyer promptly following delivery of the Vessel and at the latest within 60 Banking Days following the Execution Date;
- (b) At the Closing Date, the following documents (in English or translated into English), unless otherwise provided in this Clause 8, shall be delivered by the Buyer with all the formalities as follows:
- (i) Power of Attorney of the Buyer, duly notarized and apostilled, in respect of the individual authorized on behalf of the Buyer to execute this Agreement and any Addenda thereto, the Escrow Agreement and any amendments, the Protocol of Delivery and Acceptance, acceptance of the Bill of Sale, execute any release letters or payment instructions or other instructions in connection with the payment of the purchase price, taking delivery of all documents listed in Clause 8 and any other document provided in this Agreement and taking physical delivery of the Vessel;
  - (ii) Minutes of meeting or written resolutions of the sole shareholder of the Buyer approving purchase of the Vessel from the Seller and granting power of attorney to an authorized representative of the Buyer to execute this Agreement, and to sign and deliver any documents related to the purchase of the Vessel by the Buyer including the Bill of Sale and the Protocol of Delivery and Acceptance as per the terms of this Agreement, and evidence of Power of Attorney of the Buyer appointing one or more representatives with faculties to act on behalf of the Buyer in the subscription of the corresponding Purchase and Sale Agreement and any other documents which may be necessary to execute this Agreement before or not (depending the document) before a Public Notary in Lima-Perú, duly notarised, apostilled and with Official English Translation;
  - (iii) Articles of Incorporation notarised and apostilled and with English translation;
  - (iv) Passport copies of authorized persons or persons as Attorneys-in-Fact of the Buyer to execute the transaction with English translation;
  - (v) Evidence of a certification or affidavit of a representative of the Buyer referencing that the grantor of the power is duly authorized in accordance with the bylaws of the Buyer; with such evidence duly notarised, apostilled and with Official English Translation;

- (vi) A copy of English written instruction to the Escrow Agent directing the Escrow Agent to release the Deposit and balance of the Purchase Price (i.e., the Purchase Price minus the Deposit) to the Seller as of the Closing Date; and
  - (vii) Three (03) identical Purchase and Sale Agreement of the Vessel duly signed by a representative of the Buyer, whose signature jointly with the signatures of the Seller, are simultaneously legalised before a Public Notary in Lima-Perú.
- (c) The Seller and the Buyer shall sign and deliver to each other two (2) Spanish and English language versions of the Protocol of Delivery and Acceptance of the Vessel, respectively, whose signatures are simultaneously legalised before a Public Notary in Lima-Perú, confirming the date and time of delivery of the Vessel from the Seller to the Buyer including that, as a result of the delivery of the Vessel has occurred the transfer of ownership of the Vessel from the Seller to the Buyer.
- (d) The Seller will be in charge of obtaining a Certificate of Continuing Registration for the Buyer in Hong Kong (equivalent to a Certificate of Good Standing), duly notarised, and apostilled with Official English Translation, covering that all necessary corporate, shareholder and other action has been taken by the Buyer to authorise the execution of this Agreement and any other document related to the Vessel purchase, and that the Buyer is in good standing issued not earlier than ten (10) days prior to the Execution Date.

## 9. Encumbrances

- a. The Sellers hereby represent and warrant that the Vessel, at the time of delivery, is free from any and all charters, encumbrances, mortgages, maritime claims and maritime liens or any other debts whatsoever, and is not subject to Port State or other administrative detentions or fines or penalties including under the relevant IUU regulations, and any costs associated with the Vessel being laid up, have been paid in full up to the time of delivery.

For the avoidance of doubt, the Buyer acknowledges that the sale of the Vessel is “as is” in accordance with Clause 7, and that the Class of the Vessel is “Suspended.” The Buyer acknowledges that the Seller will not pay any survey costs or any expenses related to recovering the Class of the Vessel, which costs shall be borne solely by the Buyer.

- b. Subsequent to the delivery of the Vessel, the Sellers shall indemnify and hold the Buyers harmless from and against any claim, demand, action, proceeding, judgment, award, fine, liability, loss, cost, tax and expense, including reasonable attorneys’ fees (collectively, “Losses” and individually, a “Loss”) that is made or brought against the Buyers or the Vessel, or that the Buyers or the Vessel suffer, duly proven and/or evidenced, as a result of (x) any breach or inaccuracy of the representations and warranties in Clause 9(a) and (y) any liability or loss in connection with any other claims

or maritime liens that arose or accrued prior to delivery of the Vessel that are asserted against the Vessel, provided that, the Sellers are only obligated to indemnify the Buyers for Losses that are asserted by the representative of the Buyer within one (1) year of delivery of the Vessel, that means counted from the execution of the Protocol of Delivery and Acceptance of the Vessel mentioned in item (c) of the Clause 8 above, up to a maximum amount of USD \$ 150,000.00. For the avoidance of doubt, any such claim of Loss that is first asserted within one (1) year of delivery shall be subject to indemnity under this Clause 9 regardless of whether it is liquidated thereafter.

- i. In the event that the Buyers intend to make a claim under Clause 9(b)(x) to be indemnified by the Sellers hereunder that does not involve a Third Party Claim (as defined below), the Buyers shall promptly send to the Sellers a written notice specifying the nature of such claim or demand, to the extent it is known, and the amount or estimated amount (which estimate shall not be conclusive of the final amount of such claim and demand) of such claim or demand, together with copies of the relevant documents in their possession (a “**Claim Notice**”), provided, however, that any failure to furnish such **Claim Notice** shall not relieve the Sellers from any liability or obligation hereunder.
  - ii. In the event of a **Claim Notice**, the amount of which (x) is undisputed by the Buyers, (y) was disputed but as to which (A) a final nonappealable decision has been rendered or (B) an agreement has been reached between the Buyers and the Sellers, such amount shall, subject to the terms and conditions of this Clause 9, conclusively be deemed a liability of the Sellers hereunder.
- c. The obligations and liabilities of the Buyers with respect to Losses resulting from the assertion of liability by third parties (each such obligation and liability, a (“**Third Party Claim**”)) shall be subject to the following terms and conditions:
  - i. The Buyers shall give written notice, no later than a preclusive period of 48 business hours, to the Sellers of any Third Party Claim that might give rise to any Loss by the Buyers, stating the nature and basis of such Third Party Claim, and the amount thereof to the extent known. Such notice shall be accompanied by copies of all relevant material documentation in the possession of the Buyers with respect to such Third Party Claim, including any summons, complaint or other pleading that may have been served, any written demand or any other material document or instrument, provided, however, that any failure to furnish notice of such Third Party Claim shall not relieve the Sellers from any liability or obligation hereunder.
  - ii. From and after receipt of notice of a Third Party Claim pursuant to Clause 9( c)(i), the Sellers shall have the right to assume and conduct, at the Sellers' own expense, the defense against the Third Party Claim in the Sellers' own name or in the name of the Buyers with counsel reasonably and acceptable to the Buyers. Buyers shall have the right to employ separate counsel in any such Third Party Claim or to participate in the defense thereof, but the fees and expenses of such counsel shall not be included as part of any Loss incurred by the Buyers and shall not be payable by the Sellers; provided, however, that if the representation of the Buyers

by the same counsel as the Sellers would be inappropriate under applicable standards of professional conduct, the Buyers shall be entitled to appoint one separate counsel for such claims and defenses, at the reasonable cost and expense of the Sellers. The party or parties conducting the defense of any Third Party Claim shall keep the other parties apprised of all significant developments with respect thereto and shall not enter into any settlement, compromise or consent to judgment with respect to such Third Party Claim without the prior consent of the other parties thereto, such consent not to be unreasonably withheld, delayed or conditioned; provided, however, that the Sellers shall be entitled to settle, compromise or consent to a judgment without the consent of the Buyers with respect to a Third Party Claim that only imposes monetary obligations and in circumstances where the Buyers and the Vessel are furnished a full and unconditional release. The Buyers shall make available all information and assistance for the defense of the Third Party Claim as the Sellers may reasonably request and shall cooperate reasonably with the Sellers in such defense.

- d. Except in connection with Third Party Claims, the Buyers waive any right to recover indirect, consequential, special, exemplary or punitive damages and the Buyers agree that such damages are not included in the definition of "Losses".
- e. The Buyers shall use commercially reasonable efforts to mitigate all Losses upon becoming aware of any event or circumstance that could reasonably be expected to give rise to any Losses that are indemnifiable under this Clause 9.
- f. Without limiting the Sellers' indemnity obligations hereunder, it is hereby agreed that the Escrow Agent shall continue to hold and maintain the Deposit for the Holdback Period as security for such indemnity obligations hereunder. If no claims have been asserted during the Holdback Period, the Deposit shall be released to the Sellers upon expiration thereof. If any undisputed claims are asserted (as aforesaid) during the Holdback Period, the undisputed amount claimed shall be released by the Escrow Agent to the Buyers to enable payment, reimbursement or settlement of the same. The balance of the Holdback Amount, less any amounts released to the Buyers as aforesaid, shall be released by the Escrow Agent to the Sellers upon expiration of the Holdback Period. Further, if any monies released to the Buyers to cover any claims are not required to meet those claims then such monies shall be paid by the Buyers to the Sellers as soon as it is clear they are not required. The Buyers and Sellers hereby irrevocably and unconditionally agree to sign and deliver to the Escrow Agent any joint instruction letters as may be required to give effect to the provisions of this clause.

**10. Taxes, fees and expenses**

All taxes, fees and expenses in connection with the purchase and registration in the Buyer's Nominated Flag State shall be for the Buyer's account, whereas similar charges in connection with the closing of the Seller's register shall be for the Seller's account.

**11. Condition on Delivery Date**

The Vessel with everything belonging to her shall be at the Seller's risk and expense, only but not later, until the Vessel is delivered to the Buyer, but subject to the terms and conditions of this Agreement, the Vessel shall be delivered and taken over as she was at the time of inspection, fair wear and tear excepted. The Vessel shall be delivered free of cargo and free of stowaways with her Class maintained, and valid "inspection" in this Clause 11, shall mean the date of this Agreement.

**12. Name/markings**

Upon delivery the Buyer undertakes to change the name of the Vessel and alter funnel markings.

**13. Buyer's default**

Should the Deposit not be lodged in accordance with Clause 2 (*Deposit or Holdback Amount*), the Seller has the right to cancel this Agreement, and it shall be entitled to claim compensation for its losses and for all expenses incurred together with interest. Should the Purchase Price not be paid in accordance with Clause 3 (*Payment*), the Seller has the right to cancel the Agreement, in which case the Deposit together with interest earned, if any, shall be released to the Seller. If the Deposit does not cover its loss, the Seller shall be entitled to claim further compensation for their proven losses and for all expenses incurred together with interest.

**14. Seller's default**

Should the Seller fail to give Notice of Readiness in accordance with Clause 5(b) or fail to be ready to validly complete a legal transfer by the Cancelling Date or if Notice of Readiness is given and the Seller is not in a position to deliver within three (3) Banking Days of such Notice of Readiness including the documentation required in Clause 8 from the Seller, the Buyer shall have the option of cancelling this Agreement. If after Notice of Readiness has been given but before the Buyer has taken delivery, the Vessel ceases to be physically ready for delivery and is not made physically ready again by the New Cancelling Date in accordance with Clause 5(c), the Buyer shall retain their option to cancel. In the event that the Buyer elects to cancel this Agreement, the Deposit and the balance of the Purchase price together with interest earned, if any, shall be released to them immediately, and for the avoidance of doubt, the return of the Deposit and the balance of the Purchase price shall be the Buyer's exclusive remedy in the event of the Seller's default. The impossibility of delivering the vessel on the Cancelling Date or on the New Cancelling Date, respectively, will cause the termination of this agreement with no liability of the Buyer to the Seller, or of the Seller to the Buyer.

15. **[Reserved]**

16. **Law**

This Agreement and any non-contractual obligations arising out of or in connection with it is governed by and construed in accordance with New York law.

Any dispute arising out of or in connection with this Agreement shall be referred to arbitration in New York, NY by 1 (one) arbitrator. The arbitrator shall be mutually agreed, failing Parties' agreement, the arbitrator shall be appointed by the Society of Maritime Arbitrators; the arbitral award shall be final, and for the purposes of enforcing any award, judgment may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.

In cases where neither the claim nor any counterclaim exceeds the sum of US\$100,000 the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc.

The cost of the arbitration proceeding and any proceeding in court to confirm or to vacate any arbitration award, as applicable (including, without limitation, reasonable attorneys' fees and costs), shall be borne by the unsuccessful party, as determined by the arbitrator, and shall be awarded as part of the arbitrator's award.

17. **Notices**

All notices to be provided under this Agreement shall be in writing.

Contact details for recipients of notices are as follows:

For the Buyer: **sasklyar@gmail.com**

For the Seller: **fpaniagua@copeinca.com.pe**

18. **Entire Agreement**

The written terms of this Agreement including those under Clause 19 through 20 hereunder and any appendices hereto comprise the entire agreement between the Buyer and the Seller in relation to the sale and purchase of the Vessel and supersede all previous agreements whether oral or written between the Parties in relation thereto. This Agreement can be amended, modified or supplemented only in a writing executed by duly authorized representatives of the Buyer and Seller, respectively.

Each of the Parties acknowledges that in entering into this Agreement it has not relied on and shall have no right or remedy in respect of any statement, representation, assurance or warranty (whether or not made negligently) other than as is expressly set out in this Agreement. Any terms implied into this Agreement by any applicable statute or law are

hereby excluded to the extent that such exclusion can legally be made. Nothing in this Clause shall limit or exclude any liability for fraud.

*Clauses 19 through Clause 22 form an integrated part of this Agreement.*

**19. Conditions**

- (a) The sale as agreed in this Agreement is subject to, including the obligations of the Seller conditioned on this Agreement, Seller's approval to be agreed on at a shareholders meeting. This condition must be lifted soonest possible, but no later than August 15, 2019, unless otherwise agreed to by the Parties. Upon their signing of the Agreement, the Seller shall make prompt application to the relevant governmental authorities for the issuance of a Certificate of Deletion for the Vessel.
- (b) Notwithstanding any other provision of this Agreement, the Buyer shall be entitled to reject the Vessel at any time prior to delivery if she is discovered to have been involved in any illegal, unreported and unregulated fishing activity or is in contravention of CCAMLR, NEFAC, NAFO, FAO, ICCAT, IOTC, NASCO or similar regulations in respect of the same.

**20. Class Certificates**

- (a) The Buyer is aware of the Vessel's class status is Suspended.
- (b) The Buyer has been given a class status report and is aware of other class surveys being due or overdue.

**21. Languages of the Agreement**

- (a) This Agreement is made in English. Any documents the Buyer is required to deliver to the Seller under this Agreement shall be made in English or be accompanied with an Official English translation.
- (b) All documents between the Parties, including all documents in Clause 8 of this Agreement, shall be made in accordance with the language and formalities agreed in this Agreement.

**22. Execution of the Agreement**

- (a) Signature pages of this Agreement shall be executed by the Parties and exchanged in PDF format to the e-mail addresses listed in Clause 17 of this Agreement one Banking Day prior to the Execution Date (no later than 19:00 hours New York time).
- (b) The Parties shall also exchange original executed copies of this Agreement in person on the Closing Date in Lima, Peru with formalities as provided in Clause 8.