

**2014**

**AMERICAN FISHERIES ACT**

**ANNUAL CATCHER VESSEL INTERCOOP REPORT**

**TO THE**

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**

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## Section 1. Introduction

### 1.1 Purpose of the Catcher Vessel Intercooperative Report

The AFA Catcher Vessel Intercooperative Report is a summary of the eight active catcher vessel cooperative reports required by the American Fisheries Act (AFA) regulations. While the individual coop reports track the annual activities of each cooperative at the vessel level, a summary of AFA catcher vessel harvests in the Bering Sea and Gulf of Alaska fisheries is useful as NMFS allocates the catcher vessel sideboard caps and PSC caps & triggers in the aggregate, not by individual cooperatives. The Catcher Vessel Intercooperative Report provides the North Pacific Fisheries Management Council, and the public, with a simple means of evaluating the AFA catcher vessel fleets' aggregate fishing performance under the AFA regulations. Additionally, this report provides information beyond the required regulatory elements of the individual coop reports to provide a broader understanding of catcher vessel cooperative activities.

### 1.2 The 2014 Catcher Vessel Intercooperative Agreement

The AFA catcher vessel cooperatives rewrote portions of the Intercooperative Agreement in 2013. The changes focused on improving the Bering Sea cod fishery in terms of improved catch efficiency and the reduction of halibut bycatch. To improve catch efficiency the allocation timing mechanisms for halibut PSC were revised in a manner intended to maximize cod harvest timing at the peak CPUE time of the season. Additionally, all AFA vessels in the Bering Sea cod fishery sub-area are required to:

- 1) use a halibut excluder device;
- 2) use a codend with a mesh size no smaller than 7" (phased in over 3 years);
- 3) no night fishing allowed.

The 2014 Agreement continues to emphasize the commitment by all members towards reducing bycatch in each Bering Sea and Gulf of Alaska groundfish fishery in which they participate.

Primary elements of the Intercoop Agreement:

- 1) Allocation, monitoring, and compliance of the BSAI and GOA sideboard limits and PSC caps among the AFA catcher vessel cooperative members;
- 2) Allocation, monitoring, and compliance of BSAI pollock harvest inside the Steller sea lion conservation area;
- 3) Establishment of penalties for coops that exceed pollock and sideboard allocations;

- 4) Provides for the harvest of BSAI pacific cod by the “under 1700 mt” exempt vessels while complying with PSC limits;
- 5) Establishment and monitoring of sideboard species transfers between cooperatives;
- 6) Promotes compliance of the Council’s recommended sideboard measures and PSC limits while allowing for the maximum harvest of AFA pollock and sideboard allocations; and
- 7) Promotes reduction of prohibited species catch (PSC) in the Bering Sea pollock fishery.

A copy of the 2014 Catcher Vessel Intercoop Agreement is found in Appendix I.

### 1.3 AFA Pollock and BSAI/GOA Sideboard Enforcement Actions

One enforcement action took place in 2014. A combination of indirect and direct harvest of CGOA Rex Sole by a member of the Unalaska Fleet Cooperative resulted in an overage of the CGOA AFA Rex Sole sideboard limit. In accordance with the terms of the AFA CV Intercooperative Agreement, the Unalaska Fleet Cooperative’s Board of Directors conducted an investigation and enforcement action against their member vessel, the F/V Vanguard. A fine of \$27,150 was levied and suspended provided the F/V Vanguard does not exceed an AFA sideboard limit over the next 3 years. If the Vanguard does exceed a sideboard limit over the course of its 3 year probation period, both the 2014 fine and that fine would be collected.

## Section 2. Bering Sea Pollock Fishery

### 2.1 Allocations and Harvest

There are a total of 118 AFA qualified catcher vessels that started the 2014 fishing season. The inshore sector has 92 qualified vessels of which all 92 were members of the 6 active inshore cooperatives in 2014. The mothership sector has a total of 19 qualified catcher vessels; all are members of the Mothership Fleet Cooperative. Thirteen are “dual qualified” for both the mothership and inshore sector fisheries. Seven catcher vessels are qualified for the catcher/processor sector and make up the High Seas Catchers’ Cooperative. There was no membership movement between the inshore sector coops in 2014.

The following Table 2.1 provides information about the number of members in each catcher vessel cooperative; each coop’s allocation percentage; each coop’s pollock annual allocation; each coop’s total directed pollock harvest; and the amount of pollock harvest under the annual allocation. No AFA catcher vessel coops exceeded their annual pollock allocations in 2014 or landed any pollock outside the State of Alaska.

Table 2.1

Source: Annual Catcher Vessel Coop Reports & NMFS

| 2014 AFA CATCHER VESSEL COOPERATIVES' ALLOCATIONS AND DIRECTED FISHING HARVESTS |                           |                              |                   |  |                           |
|---|---------------------------|------------------------------|-------------------|--|---------------------------|
| Cooperative   | Number of Vessels in Coop | Annual Allocation Percentage | Annual Allocation | Harvest in Metric Tons   | Over / (Under) Allocation |
| <b>INSHORE CATCHER VESSEL COOPERATIVES</b>                                      |                           |                              |                   |  |                           |
| Akutan Catcher Vessel Assoc.  | 34                        | 32.263%                      | 179,587           | 179,393  | (193.97)                  |
| Arctic Enterprise Assoc.  | 0                         | 0.000%                       | 0                 |  | 0.00                      |
| Northern Victor Fleet Cooperative   | 16                        | 10.695%                      | 59,535            | 59,521   | (13.84)                   |
| Peter Pan Fleet Cooperative   | 9                         | 2.347%                       | 13,066            | 12,462   | (603.64)                  |
| Unalaska Fleet Cooperative  | 10                        | 10.029%                      | 55,824            | 55,601   | (223.20)                  |
| UniSea Fleet Cooperative  | 15                        | 26.483%                      | 147,415           | 147,372  | (42.93)                   |
| Westward Fleet Cooperative  | 8                         | 18.183%                      | 101,213           | 101,165  | (47.75)                   |
| Inshore Coop Totals   | 92                        | 100.00%                      | 556,640           | 555,515  | (1,125)                   |
| Table 2.1 (continued)   |                           |                              |                   |  |                           |
| <b>OFFSHORE CATCHER VESSEL COOPERATIVES</b>                                     |                           |                              |                   |  |                           |
| Mothership Fleet Cooperative  | 19                        | 10.0% of DFA                 | 111,328           | 111,009  | (319)                     |
| High Seas Catchers Cooperative  | 7                         | 3.4% of DFA                  | 39,357            | Details of the HSCC pollock harvest are covered in the joint PCC and HSCC report |                           |

The Coast Guard Act of 2010 provided the opportunity for both replacement and removal (consolidation) of fishing vessels eligible to participate in the BSAI AFA inshore pollock

fishery. Prior to the start of the 2014 pollock seasons a total of six vessels were removed (retired) from the AFA inshore fleet.

Table 2.1b 2010 CG Act Retired Vessels

|   | Retired Vessels   | Coop     |
|---|-------------------|----------|
| 1 | Exodus Explorer   | Akutan   |
| 2 | Intrepid Explorer | Akutan   |
| 3 | Nordic Explorer   | Akutan   |
| 4 | Pacific Monarch   | UniSea   |
| 5 | Alaskan Command   | Westward |
| 6 | Pacific Knight    | Westward |

Additionally, several vessel replacement actions have taken place that resulted in no new vessels in the AFA inshore sector, but rather a re-construction of assigned pollock histories between existing AFA inshore catcher vessels. Those changes in assigned pollock allocations have resulted in revised Chinook Base Cap allocations and Annual Use Limits for the Inshore SSIP in 2014.

## 2.2 Bycatch Reduction Measures

### CHINOOK SALMON

#### 1. Amendment 91 Incentive Plan Agreements

Beginning in 2011 new regulations for reducing Chinook bycatch in the Bering Sea pollock fisheries were implemented under Amendment 91. For the first time a Prohibited Species Catch (PSC) limit for the incidental catch of Chinook salmon by pollock fishers was in place. Reaching the limit (a.k.a. hard cap) would close directed fishing for pollock. Under the provisions of Amendment 91 there are three levels of hard caps based on a vessel's willingness to participate in an Incentive Plan Agreement (IPA). The general intent of an IPA is to reduce Chinook bycatch at all levels of abundance encountered by a fishing fleet as opposed to a traditional hard cap management approach that only alters fishing behavior when there is a danger of reaching the hard cap.

Vessels and/or CDQ groups opting to participate in an IPA would be allotted their portion of a 60,000 Chinook limit. If no vessels or CDQ Groups chose to participate in an IPA each pollock sector would receive its share of a 47,591 hard cap. Vessels and/or CDQ Groups opting out of participating in an IPA when other vessels and/or CDQ had chosen to participate in an IPA would operate under a hard cap based on those vessels share of a 28,496 Chinook limit.

The regulatory conditions of Amendment 91 do not dictate what specific types of incentives an acceptable IPA must include, but rather the outcome the incentives chosen by an IPA group must provide. Pollock fleets must submit, for approval by NMFS, an IPA that meets the following criteria:

- Provide incentives at the individual vessel level
- Incentivize vessels to avoid Chinook bycatch at all levels of abundance in all years
- Reward vessels that successfully avoid Chinook and/or penalize vessels that fail to avoid Chinook
- Incentives must influence fishing decisions at levels below the hard cap
- Hold Bycatch to a performance standard of 47,591 in most years
- The IPA must describe how the IPA ensures each vessel will manage their bycatch to keep total bycatch below the sector level regulatory performance standard

NMFS received, and approved, IPA applications from each of the three AFA sectors; Inshore, Mothership, and C/P. In 2012 all CDQ Groups and AFA vessels participated in an IPA. AFA catcher vessels participated in all three IPAs; all inshore vessels were members of the Inshore Chinook Salmon Savings Incentive Plan Agreement, all Mothership catcher vessels were members of the Mothership Salmon Savings Incentive Plan, and all members of the High Seas Catchers Cooperative joined the Chinook Salmon Bycatch Reduction Plan and Agreement.

Each IPA is required to submit an annual report to the Council by April 1<sup>st</sup> of the following year under a set of reporting requirements provided in the Amendment 91 regulations. The following Table 2.2 provides the Chinook bycatch by catcher vessels in each IPA:

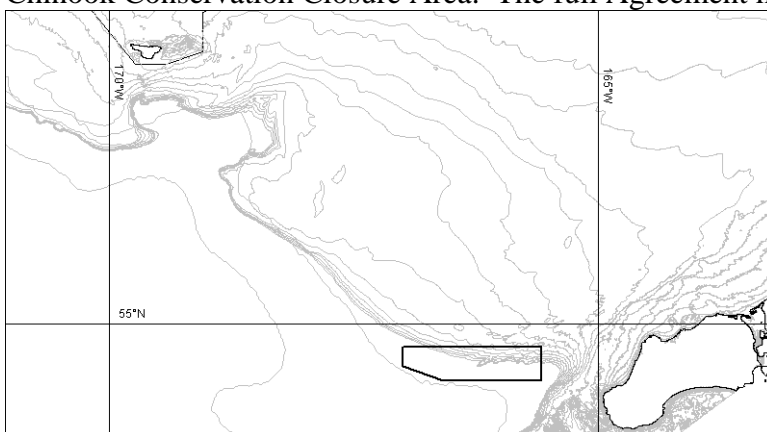
**Table 2.3a**

Source: Annual AFA Coop & IPA Reports

| <b>2014 AFA Catcher Vessel Chinook Bycatch</b>                  |  |
|---|--|
| <b>IPA Group</b>  | <b>2014 CV Chinook Bycatch</b>                       |
| Inshore Chinook Salmon Savings Incentive Plan Agreement         | <b>9,132</b>   |
| Mothership Salmon Savings Incentive Plan                        | <b>643</b>   |
| Chinook Salmon Bycatch Reduction Plan and Agreement (HSCC only) | <b>0</b><br>(No HSCC vessels fished pollock in 2014) |

## 2. Chinook Conservation Closure Area

In 2008 all AFA coops entered into a fixed closure area agreement for reducing Chinook bycatch in the A season. Called the Chinook Conservation Area Agreement, it closes an area located in the southeastern Bering Sea to all pollock fishing during the A season. This area has been identified with a history of consistently high Chinook bycatch during the winter season. With the implementation of Amendment 91 both the Pollock Conservation Cooperative and the High Seas Cooperative incorporated the Chinook Conservation Closure into their IPA and, consequently, have dropped out of the industry wide Agreement. Below is a chart of the Chinook Conservation Closure Area. The full Agreement may be found in Appendix II.



## CHUM SALMON

### 1. Non-Chinook Salmon bycatch Management Agreement

In 2014 all nine AFA cooperatives and all CDQ Groups were members to the Salmon Bycatch Management Agreement as provided for under the Amendment 84 regulations. Also known as the Chum Salmon Rolling Hot Spot (RHS) Intercooperative Agreement (ICA), the Agreement was re-written in 2010 for pollock fishing beginning in 2011 due to implementation of Amendment 91 regulations (as previously described). Prior to Amendment 91, the RHS ICA reduced the bycatch of both Chinook and non-Chinook salmon (chum salmon) via a series of adoptive closures that reduced fishing effort in areas with high salmon bycatch. With the implementation of Amendment 91 all Chinook elements contained in the original Amendment 84 regulations were removed, leaving the RHS ICA as a chum salmon bycatch avoidance program.

Consequently, on December 1, 2010 the industry submitted an “Amended and Restated” RHS Agreement for non-Chinook salmon to the Regional Administrator of the Alaska Region,



NMFS for approval. On December 28, 2010 the industry received approval of the amended ICA. The Amended and Restated Non-Chinook ICA is found in Appendix III.

The Amendment 84 regulations provide an exemption to the regulatory Chum Salmon Savings Area (CSSA) for vessels that operate under an approved RHS ICA. As previously mentioned the RHS ICA utilizes a series of rolling hot spot closures which, twice weekly, identify areas being fished by the Bering Sea pollock fleet with the highest bycatch rates and initiates “Savings Closures” for those areas over a trigger amount. Each week individual coops, based on their member’s recent bycatch performance, are assigned to a “tier level”. Tier 1 for coops with the best bycatch performance, tier 2 for medium performance, and tier 3 for the lowest performance. A coop’s tier level determines the amount of fishing area restriction the coop will operate under for the following week. The agreement also incorporates an element of peer pressure on poor performing vessels via three types of “Dirty Twenty Lists” that are updated and published each week. These lists specifically name the vessels with the highest bycatch rates on: 1) a weekly, 2) a 2 week rolling average, and 3) a seasonal basis. Additionally, the agreement requires tow-by-tow bycatch reporting by all AFA pollock vessels. Sea State, Inc. has been contracted to gather the data, compile it into useful information, determine tier assignments and closure areas, and monitor closure compliance by the fishing vessels.

Results of chum salmon avoidance under the Amendment 84 Rolling Hot Spot program are found in the required Amendment 84 annual report.

## 2. Additional 2014 Chum Salmon Avoidance Measures

In 2011 pollock fleet experienced high levels of chum bycatch very early in the B season. In response the industry (all AFA cooperatives) has since implemented, on an annual basis, additional measures to further reduce chum salmon bycatch. These additional measures are included in the 2014 B Season Supplemental Non-Chinook Protection Agreement which is found in Appendix IV.

In advance of the start of the 2014 B season, in order to prepare for possible early season high chum rates, the Coops agreed that beginning on July 1, 2014 and continuing through August 29<sup>th</sup> the RHS Base Rate would never go up more than 20% from one week to the next. The Base Rate controls both the areas eligible for RHS closure and the Tier level assignment for each of the Coops. Because the weekly Base Rate calculation is the result of a 3 week average bycatch rate, the 20% cap proved to be a very effective tool for controlling bycatch when chum bycatch is trending upwards.

The coops further agreed that each coop would start the B season as a Tier 3 coop, initially closing all hot spots to fishing by all coops. Under the original RHS Agreement all coops begin the season as Tier 1 coops. Once each coops’ bycatch rate was established, each cooperative was assigned to Tier 1, Tier 2, or Tier 3 as normally done under the terms of the RHS Agreement.

Catcher vessel, inshore and mothership, chum salmon bycatch in 2014 was 153,694 chum salmon.

### SQUID BYCATCH AVOIDANCE

During the 2014 B Season squid catch by the pollock fleet was approaching the ABC. Consequently the AFA fishing fleet – all sectors – took immediate action to reduce the incidental catch of squid. A map disclosing the area where squid encounters were the highest was circulated to the fleet and vessels began moving out of the area. A Squid Bycatch Management Agreement was entered into by all pollock harvesting cooperatives and may be found in Appendix V.

As a result of these squid avoidance actions the squid ABC was not reached in 2014.

## Section 3. Sideboard Fishery Management

The American Fisheries Act directed the North Pacific Fisheries Management Council (NPFMC) to provide regulations aimed at protecting non-AFA vessels participating in other groundfish and crab fisheries from adverse impacts that may occur due to the rationalization of Bering Sea pollock fishery. This mandate brought about the development of groundfish, crab, and prohibited species catch (PSC) sideboard limits by the NPFMC for the AFA fleet. Prior to the NPFMC Crab Rationalization Program, implemented in 2005, AFA catcher vessels eligible to participate in the Bristol Bay red king crab fishery were sideboarded to 10.96% of the general fishery guideline harvest level. However, under the Crab Rationalization program the AFA sideboards were lifted, the AFA fleet was issued quota shares, and participated in the program the same as the non-AFA crab fleet.

Vessels with less than 1,700 mt of historic catch in the BSAI pollock fishery and that meet minimum landing requirements in either the BSAI and/or GOA are granted exemptions to the BSAI cod fishery sideboard and/or GOA groundfish and PSC sideboards. Vessels in the Mothership cooperative also become exempt to BSAI cod sideboard limits after March 1. Note that exemptions to BSAI cod sideboards only apply to the directed cod fishery; all AFA BSAI cod catcher vessels are subject to the PSC sideboard limits associated with the fishery.

NMFS restricts the non-exempt AFA catcher vessel fishing by an aggregate sideboard cap for each groundfish species category, and an associated PSC bycatch limit. In turn, the Intercoop Agreement manages the initial distribution, and re-distribution via intercoop transfers, of the aggregate sideboard caps and associated PSC among the nine catcher vessel coops based on their members catch history. In some cases the assigned caps are so small that, without the harvest management and monitoring provided by the Intercoop Agreement, NMFS would not

open those fisheries to directed fishing by the AFA non-exempt catcher vessels. BSAI cod exempt vessels must meet PSC bycatch standards or face losing their exempt status (see section 3.a. and 3.b. of the Catcher Vessel Intercoop Agreement in Appendix 1.)

### 3.1 Groundfish Sideboards

The following tables provide aggregate information regarding the allocation and directed harvest of BSAI and GOA sideboard species by AFA non-exempt catcher vessels.

**Table 3.1a** Harvest data supplied by Annual Coop Reports & Sea State, Inc.

| <b>2014 BSAI AFA CATCHER VESSEL AGGREGATE GROUND FISH SIDEBOARD CATCH</b> |                    |                 |                              |                                |
|---|--------------------|-----------------|------------------------------|--------------------------------|
| Species   | Fishery            | Sideboard Limit | Catch; Directed & Non-Direct | Over / (Under) Sideboard Limit |
| Pacific Cod   | Jig Gear           | 0               | 0                            | 0                              |
|   | Hook & Line        | 0               | 0                            | 0                              |
|   | Pot Gear           | 12              | 0                            | (12)                           |
|   | CV < 60' H&L - Pot | 3               | 0                            | (3)                            |
|   | Trawl Gear CV      | 43,137          | 27,034                       | (16,103)                       |
| Sablefish   | BS Trawl           | 52              | 0                            | (52)                           |
|   | AI Trawl           | 25              | 0                            | (25)                           |
| Atka Mackerel   | Eastern AI&BS      | 62              | 0                            | (62)                           |
|   | Central AI         | 0               | 0                            | 0                              |
|   | Western AI         | 0               | 0                            | 0                              |
| Yellowfin Sole  | BSAI               | *n/a            | 321                          |                                |
| Rock Sole   | BSAI               | 2,588           | 1,228                        | (1,360)                        |
| Greenland Turbot  | BS                 | 91              | 3                            | (88)                           |
|   | AI                 | 8               | 0                            | (8)                            |
| Arrowtooth  | BSAI               | 1,466           | 355                          | (1,111)                        |
| Kamchatka Flounder  | BSAI               | 416             | 11                           | (405)                          |
| Alaska Plaice   | BSAI               | 918             | 15                           | (903)                          |
| Other Flatfish  | BSAI               | 99              | 166                          | 67                             |
| Flathead Sole   | BS                 | 1,105           | 1,022                        | (83)                           |
| POP   | BS                 | 653             | 391                          | (262)                          |
|   | Eastern AI         | 64              | 1                            | (63)                           |
|   | Central AI         | 15              | 0                            | (15)                           |
|   | Western AI         | 0               | 0                            | 0                              |
| Northern rockfish   | BSAI               | 19              | 66                           | 47                             |
| Shortraker  | BSAI               | 1               | 0                            | (1)                            |
| Rougheye  | EBA/EAI            | 1               | 2                            | 1                              |
|   | CAI/WAI            | 1               |                              | (1)                            |
| Other Rockfish  | BS                 | 1               | 9                            | 8                              |
|   | AI                 | 4               | 1                            | (3)                            |

\*no YFS sideboard limit in 2014

**Table 3.1a (cont.)**

| <b>2014 BSAI AFA CATCHER VESSEL AGGREGATE GROUND FISH<br/>SIDEBOARD CATCH</b> |      |       |     |       |
|---|------|-------|-----|-------|
| Squid   | BSAI | 101   | 925 | 824   |
| Skates  | BSAI | 1,196 | 382 | (814) |
| Sharks  | BSAI | 7     | 59  | 52    |
| Octopuses   | BSAI | 12    | 5   | (7)   |
| Sculpins  | BSAI | 264   | 232 | (32)  |

In 2014 the only directed Bering Sea Aleutian sideboard fishery in which AFA catcher vessels participated was the BSAI Pacific Cod fishery. Below Tables 3.1b covers the initial cod sideboard limits, intercooperative transfers of those limits, and each coops cod harvest.

**Table 3.1b. BSAI DIRECTED PCOD SIDEBOARD  
FISHERY**

Season Sideboard cap less bycatch requirements: 41,137

| Coop                    | Coop Sideboard Percentage | A Season Sideboard Allocation (mt) | Sideboard Cap Transfers | Final Sideboard Allocation | Directed Catch | Remaining Sideboard Allocation |
|-------------------------|---------------------------|------------------------------------|-------------------------|----------------------------|----------------|--------------------------------|
| Akutan CV Assoc.        | 29.76%                    | 12,242                             | -1,069.52               | 11,173                     | 4,912          | 6,261                          |
| HSCC                    | 10.57%                    | 4,348                              | 1,669.52                | 6,018                      | 4,558          | 1,460                          |
| MS Fleet Cooperative    | 14.99%                    | 6,166                              |                         | 6,166                      | 4,309          | 1,857                          |
| N. Victor Cooperative   | 15.54%                    | 6,393                              | 2,076.40                | 8,469                      | 6,781          | 1,688                          |
| Peter Pan Coop          | 1.55%                     | 638                                | -326.40                 | 311                        | 55             | 256                            |
| Unalaska Fleet Coop     | 8.08%                     | 3,324                              | -2,350.00               | 974                        | 167            | 807                            |
| UniSea Fleet Coop       | 11.95%                    | 4,916                              |                         | 4,916                      | 3,292          | 1,624                          |
| Westward Fleet Coop     | 7.56%                     | 3,110                              |                         | 3,110                      | 1,791          | 1,319                          |
| <b>Intercoop Totals</b> | <b>100.00%</b>            | <b>41,137</b>                      | <b>0.00</b>             | <b>41,137</b>              | <b>25,865</b>  | <b>15,272</b>                  |

The AFA GOA non-exempt catcher vessels participated in 9 GOA fisheries in 2014. The following Tables 3.1c covers the GOA Sideboarded Fisheries in which there was directed harvest, each participating coops' harvest, aggregate coop harvest, total annual sideboard limit, and whether the AFA non-exempt CVs exceeded their sideboard limit.

**Table 3.1c - 2014 GOA Directed Sideboard Harvests and Limits**

| Fishery                             | Coops with Harvest | Catch | Total AFA Non-Exempt Harvest | 2013 Total AFA CV Sideboard Limit | (Under) / Over Sideboard Limit |
|-------------------------------------|--------------------|-------|------------------------------|-----------------------------------|--------------------------------|
| 610 Pollock                         | Northern Victor    | 805   | 805                          | 21,810                            | (21,005)                       |
| 620 Pollock                         | Akutan             | 2,912 | 6,671                        | 9,544                             | (2,873)                        |
|                                     | Northern Victor    | 2,124 |                              |                                   |                                |
|                                     | Unalaska           | 1,635 |                              |                                   |                                |
| 630 Pollock                         | Akutan             | 1,756 | 4,121                        | 8,062                             | (3,941)                        |
|                                     | Northern Victor    | 1,311 |                              |                                   |                                |
|                                     | Unalaska           | 1,054 |                              |                                   |                                |
| 640 Pollock                         | Unalaska           | 372   | 372                          | 1,657                             | (1,285)                        |
| Western Gulf Cod                    | Northern Victor    | 96    | 96                           | 3,051                             | (2,955)                        |
| Central Gulf Cod                    | Akutan             | 20    | 257                          | 2,756                             | (2,499)                        |
|                                     | Northern Victor    | 13    |                              |                                   |                                |
|                                     | Unalaska           | 224   |                              |                                   |                                |
| Central Gulf Shallow Water Flatfish | Unalaska           | 317   | 317                          | 1,046                             | (729)                          |
| Central Gulf Arrowtooth             | Unalaska           | 471   | 471                          | 2,100                             | (1,629)                        |
| CG Rex Sole                         | Unalaska           | 148   | 148                          | 239                               | (91)                           |

### 3.2 PSC Catch

Tables 3.2a, 3.2b, and 3.2c cover prohibited species bycatch amounts taken by AFA catcher vessels participating in BSAI and GOA groundfish fisheries. Due to reductions in the BSAI halibut cap under Amendment 80, the BSAI AFA CV halibut sideboard now exceeds the total halibut available to non-Amendment 80 trawl fleets. Therefore the BSAI halibut sideboard cap no longer applies. However, the catcher vessel coops continue to allocate halibut PSC limits to each of the catcher vessel cooperatives based on the annual halibut limit for the BSAI cod fishery in an effort to minimize halibut bycatch.

**Table 3.2a** Data supplied by SeaState and Annual Coop Reports

| <b>2014 BSAI AFA CATCHER VESSEL AGGREGATE PSC SIDEBOARD CATCH</b> |  |                 |                         |                                |
|---|--|-----------------|-------------------------|--------------------------------|
| PSC Species   | Target Fishery                             | Sideboard Limit | Aggregate PSC Mortality | Over / (Under) Sideboard Limit |
| Halibut   | Pacific Cod, Trawl                         | 887             | 212                     | (675)                          |
|   | Yellowfin Sole                             | 101             | 0                       | (101)                          |
|   | Pollock/A.Mack/O.Species*                  | 5               | 0                       | (5)                            |
| Red King Crab, Zone 1   | All AFA CV BSAI Fisheries (except pollock) | 25,900          | 57                      | (25,843)                       |
| C.Opilio, COBLZ   | All AFA CV BSAI Fisheries (except pollock) | 1,678,152       | 181                     | (1,677,971)                    |
| C.Bairdi, Zone 1  | All AFA CV BSAI Fisheries (except pollock) | 288,796         | 528                     | (288,268)                      |
| C.Bairdi, Zone 2  | All AFA CV BSAI Fisheries (except pollock) | 493,311         | 1,203                   | (492,108)                      |

\*Does not include MW Pollock - 679.21(e)(3)(iv)(F)

**Table 3.2b**

Data supplied by Annual Coop Reports

| <b>2014 GOA NON-EXEMPT AFA CATCHER VESSEL PSC SIDEBOARD CATCH</b> |  |                 |                     |                                |
|---|--|-----------------|---------------------|--------------------------------|
| PSC Species   | Target Fishery   | Sideboard Limit | Aggregate PSC Catch | Over / (Under) Sideboard Limit |
| Halibut<br>(mortality in metric tons)                             | Trawl, 1st Season Allowance  |                 |                     |                                |
|   | Shallow water Targets  | 151             | 1                   | (150)                          |
|   | Deep water Targets   | 7               | 1                   | (6)                            |
|   | Trawl, 2nd Season Allowance  |                 |                     |                                |
|   | Shallow water Targets  | 34              | 0                   | (34)                           |
|   | Deep water Targets   | 21              | 19                  | (2)                            |
|   | Trawl, 3rd Season Allowance  |                 |                     |                                |
|   | Shallow water Targets  | 67              | 22                  | (45)                           |
|   | Deep water Targets   | 28              | 0                   | (28)                           |
|   | Trawl, 4th Season Allowance  |                 |                     |                                |
|   | Shallow water Targets  | 50              | 2                   | (48)                           |
|   | Deep water Targets   | 0               | 0                   | (0)                            |
|   | Trawl, 5th Season Allowance  |                 |                     |                                |
|   | All Targets  | 61              | 7                   | (54)                           |
| Shallow water Targets   | Pollock, cod, shallow-water flatfish, flathead sole, atka mackerel, and "other species". |                 |                     |                                |
| Deep water Targets  | Sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.             |                 |                     |                                |

**Table 3.2c**

Data supplied by Annual Coop Reports

| <b>2014 GOA AFA CATCHER VESSEL CHINOOK PSC CATCH (Exempt and Non-Exempt)</b> |               |              |
|--|---------------|--------------|
| Area   | Fishery Limit | AFA CV Catch |
| WGOA   | 18,316        | 42           |
| CGOA   | 6,684         | 662          |

**Table 3.2d** Data supplied by Sea State, Inc.

| <b>2014 BSAI AFA CATCHER VESSEL PSC CATCH -<br/>POLLOCK FISHERY</b> |                       |                              |
|---|-----------------------|------------------------------|
| <b>PSC Species</b>  | <b>Target Fishery</b> | <b>Aggregate<br/>Bycatch</b> |
| Herring   | Pollock               | 133                          |
| Halibut   | Pollock               | 56                           |
| Chinook Salmon  | Pollock               | 9,775                        |
| Other Salmon  | Pollock               | 153,694                      |



## **Appendix I**

### 2014 AFA Catcher Vessel Intercooperative Agreement

## 2014 INTERCOOPERATIVE AGREEMENT

This 2014 INTERCOOPERATIVE AGREEMENT is entered into by and among HIGH SEAS CATCHERS COOPERATIVE (“High Seas”), MOTHERSHIP FLEET COOPERATIVE (“MFC”) and the “Inshore Coops”, i.e., AKUTAN CATCHER VESSEL ASSOCIATION, NORTHERN VICTOR FLEET COOPERATIVE, PETER PAN FLEET COOPERATIVE, UNALASKA FLEET COOPERATIVE, UNISEA FLEET COOPERATIVE and WESTWARD FLEET COOPERATIVE, all of which are Washington Fish Marketing Act corporations, as of January 21, 2014, with respect to the following facts:

A. High Seas, MFC, and the Inshore Coops (together, the “Coops”) are composed of certain catcher vessels (the “Vessels”) eligible to harvest Bering Sea (“BS”) pollock under the American Fisheries Act (the “AFA”). High Seas and the MFC are composed of all of the catcher vessels eligible to harvest BS and Aleutian Islands (“AI”) pollock in the “catcher/processor” and “mothership” sectors of such fisheries, respectively. The Inshore Coops have each received an allocation of BS pollock in accordance with Section 210 of the AFA. The members of each of the Coops have allocated among themselves the pollock available to their respective Coop, and have agreed that an over-harvest of its allocation by any member shall subject such member to a penalty.

B. Pursuant to Section 211(c) of the American Fisheries Act (“AFA”), the North Pacific Fishery Management Council (the “Council”) has adopted limits on the amount of groundfish that may be harvested by AFA catcher vessels in certain fisheries other than BS pollock (the “Sideboards”). The Sideboards are catch limits, not catch allocations. However, to promote effective Sideboard management, the members of each of the Coops have allocated the Sideboards among themselves, have agreed that an over-harvest of a Sideboard allocation by a member shall subject that member to a penalty, and have agreed that Sideboard allocations may be transferred among Coops and Coop members.

C. The Council has also adopted limits on the incidental catch of amount of halibut and Bering Sea crab by AFA catcher vessels (the “PSC Limits”). The Coops acknowledge that the PSC Limits for halibut and crab are catch limits, not catch allocations. However, to promote effective PSC Limit management, the Coops have agreed to allocate certain PSC Limits among themselves and/or among the fisheries in which the Vessels participate, and have agreed to adopt certain restrictions on the usage and transfer of those allocations.

D. The Coops acknowledge that their participation in BS/AI trawl fisheries other than pollock is constrained by the prohibited species catch allowances (the “PSC Allowances”) for the BS/AI trawl limited access sector (the “TLAS”) as set by the National Marine Fisheries Service (“NMFS”) in connection with the annual harvest specifications for BS/AI groundfish, and that when a PSC Allowance is attained, the Vessels are required to cease fishing in the affected fishery or area, even if the related PSC Limit has not been attained.

*E.* The halibut mortality allowance for the BS/AI TLAS Pacific cod fishery (the “Halibut Mortality Allowance”) is less than the BS/AI halibut PSC Limit, and the Halibut Mortality Allowance is therefore the primary constraint on Coop member halibut bycatch in the BS/AI Pacific cod Sideboard fishery. In the interest of maintaining a meaningful halibut bycatch control program for the BSAI cod trawl fishery, the Coops are allocating the Halibut Mortality Allowance among themselves, rather than the halibut PSC Limit, and are adopting certain management Pacific cod fishery management measures set forth in Section 3, below.

*F.* The red King crab, *C. Opilio* and *C. Bairdi* crab bycatch allowances for the BSAI TLAS Pacific cod fishery (the “Crab Allowances”) are less than the respective crab PSC Limits, and the Crab Allowance is therefore the primary constraint on the Coop member crab bycatch in the BS/AI Pacific cod Sideboard fishery. Therefore, it is appropriate for the Coops to allocate and manage their crab bycatch in the BS/AI Pacific cod Sideboard fishery using the Crab Allowances, rather than the respective crab PSC Limits.

*G.* The Coops are subject to certain time and area limits on their harvest of BS pollock in connection with Steller sea lion protection measures (the “RPAs”). The Coops have agreed to manage their members’ fishing activity to promote compliance with the RPAs, while preserving certain Vessels’ access to the sea lion conservation area (“SCA”).

*H.* The Council has adopted a “trigger amount” of herring (the “Trigger Amount”), which, if attained, causes certain “savings areas” to be closed to trawling for pollock for certain periods of time. Each Coop’s members have agreed to exercise their best efforts to conduct their fishing efforts such that the Coops operate within the Trigger Amount, and to comply with the related management measures.

Now, therefore, the parties agree as follows:

1. Sideboard Limits. Subject to applicable Sideboard exemptions (including the “1700 metric ton” BS/AI cod and Gulf of Alaska (“Gulf”) groundfish Sideboard exemptions and the mothership sector BS/AI cod sideboard exemption), the Coops agree to limit their collective non-exempt members’ Vessels’ aggregate annual harvest of each Sideboard species to the amount that the non-exempt Coop members’ Vessels’ collective catch histories contribute to the annual Sideboard for such species, as calculated by NMFS in accordance with 50 C.F.R. § 679.64(b), and as adjusted in accordance with this Agreement. To give effect to this provision, each Coop shall (i) limit its non-exempt members’ Vessels’ aggregate annual harvest of each Sideboard species to the amount that such Vessels contribute to the aggregate annual Sideboard for such species, as adjusted in accordance with this Agreement; or (ii) in the case of two or more Coops entering into an intercooperative agreement under which the parties have agreed to limit their collective non-exempt members’ Vessels’ aggregate annual harvest of one or more Sideboard species to the amount that such Coops’ members’ Vessels’ collective catch histories contribute to the annual Sideboard for such species, limit its members catch in compliance with such intercooperative agreement, subject to adjustments made in accordance with this Agreement.

2. Sideboard Management. The Coops acknowledge and agree that coordinated Sideboard management is essential to insure compliance with the aggregate Sideboard limits established under the AFA. Therefore, the Coops agree to the procedures set forth in this Section 2. For purposes of this Section, Coop catch data produced by the Monitoring Agent (as identified in Section 8, below) in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate. Vessels having made an observed trip may expedite the accounting of that trip's tow-by-tow data by directly submitting copies of the following NMFS forms, as filled out by the Observer, to the Monitoring Agent: Vessel Haul Form, Observer Haul Form, and Species Composition Form.

a. Sideboard Allocation. The Monitoring Agent will annually allocate the BS/AI Pacific cod Sideboard (the "Cod Sideboard") in accordance with the terms and conditions of that certain Cod Allocation Agreement among the Coops dated as of June 1, 2000 (the "Cod Agreement"). The Monitoring Agent, in consultation with NMFS, will annually allocate all other Sideboards by first reserving an amount of each such Sideboard species necessary to fund the bycatch needs of pollock and other directed groundfish fisheries in which the AFA catcher vessels participate, and then will allocate the remaining BS, AI and Gulf non-exempt vessel Sideboard directed fishery allowances among the Coops pro rata, according to the ratio of their overall limits as set forth in Section 1, above. The allocations will be based on NMFS data and formulas to the extent feasible, and on the best available data otherwise. Each Coop agrees to exercise its best efforts to provide the Monitoring Agent with all catch data that the Monitoring Agent reasonably requests for purposes of calculating such allocations.

b. Sideboard Transfers. A Coop may transfer some or all of its Sideboard allocations to one or more other Coops on such terms as they may agree, provided that no such transfer shall take effect unless and until it is approved by the Intercoop Manager (as identified in Section 10, below).

c. PSC Limit Allocation and Use. The Monitoring Agent shall allocate the Halibut Mortality Allowance and the Crab Allowances in accordance with Section 3, below. Other than as specifically provided in this Agreement, each Coop agrees to exercise its best efforts to manage its Vessels such that the Vessels' aggregate incidental catch of halibut and crab in fisheries other than the Pacific cod Sideboard fishery (as determined by the Monitoring Agent in accordance with NMFS procedures) does not cause the Coops to exceed the related PSC Limits. Each Coop agrees to release to the Monitoring Agent on a timely basis for redistribution at no cost any PSC allocated or apportioned to it that it determines is not necessary to harvest its Sideboard allocations.

d. Gulf of Alaska Groundfish Sideboard Exemption.

(i) The Coops acknowledge that the Council has stipulated that no Vessel shall be exempt from the Gulf of Alaska groundfish Sideboards in any year during which other vessels are permitted to lease any portion of such Vessel's BS or AI pollock

allocations. The Coops acknowledge that the Council's stipulation was intended to prevent a Vessel from using its ability to transfer or license its Coop BS or AI pollock allocation to increase its opportunity to harvest Gulf groundfish in excess of applicable Sideboards. The Coops agree to require that an exempt Vessel that actually exceeds an otherwise applicable Gulf groundfish Sideboard in 2014 shall not have transferred any amount of such Vessel's BS/AI pollock allocation for 2014 to another vessel such that the aggregate amount of such exempt Vessel's annual BS/AI pollock allocation is reduced by such transfer(s). The Coops agree that an exempt Vessel which actually exceeds a Gulf groundfish Sideboard and fails to comply with the BS/AI pollock transfer limitations of this Section shall be deemed to have over-harvested its Sideboard allocation, notwithstanding its exempt status, and shall be subject to the related over-harvest penalties per the enforcement provisions of its Coop's Membership Agreement and this Agreement. For purposes of this provision, a Vessel's pollock allocations shall be calculated net of the amount normally reserved for harvest by a Coop "sweep-up" Vessel for purposes of season and/or area harvest limit compliance.

(ii) The Coops agree that while AFA vessels exempt from Gulf of Alaska Sideboards are restricted as described in Section 2.d.(i), above, the Council has adopted the Gulf of Alaska Rockfish Quota Share Program (RQSP) which recognized a different set of years to define each vessel's historic participation in the Gulf of Alaska rockfish fisheries than the AFA Sideboard years of 1995, 1996, and 1997. Therefore, for purposes of this section, an AFA Gulf exempt Vessel's rockfish Sideboard limits will be equal to their initial RQSP allocations.

### 3. BS/AI Cod Sideboard Fishery Management Measures.

a. Halibut and Crab Allocations. The Halibut Mortality Allowance and the Crab Allowances are each less than their respective PSC Limits, and therefore, the Coops agree to initially allocate halibut and crab bycatch limits for the BS/AI Pacific cod Sideboard fishery to each Coop's exempt members and non-exempt members for 2014 based on the Halibut Mortality Allowance and the Crab Allowances. However, the Coops agree that if and when the Halibut Mortality Allowance is greater than the halibut PSC Limit, such halibut bycatch limits shall be allocated among the Coop's' members based on the halibut PSC Limit, notwithstanding any provision to the contrary herein, and the Coops agree that if and when a Crab Allowance is greater than its respective PSC Limit, such crab bycatch limits shall be allocated among the Coop's' members based on the crab PSC Limit, notwithstanding any provision to the contrary herein. Subject to the foregoing, upon implementation of the Halibut Mortality Allowance and the Crab Allowance, the Monitoring Agent will allocate transferable halibut and crab bycatch limits to each Coop's exempt and non-exempt Vessels as follows:

(i) each Coop shall receive a Halibut Mortality Allowance and a Crab Allowance for each of its Vessels operating without exemptions proportionate to such Coop's related Sideboard cod allocation, provided that each Coop's initial halibut and crab allocations shall be reduced by five percent (5%) to fund the "traditional time and area" buffer (the "Buffer") provided to the exempt Vessels pursuant to (ii), below; and

(ii) each Coop shall receive separate Halibut Mortality Allowance and Crab Allowance allocations for each of its Vessels operating on an exempt basis, proportionate to such Vessels' contribution to the related NMFS reserve, provided that each Coop's initial "1700 mt" exempt vessel BS/AI halibut and crab allocations shall be adjusted upward by a pro rata amount of the Buffer. In cases where an exempt Vessel contributes less than 500 metric tons ("mt") to the BS/AI cod exempt vessel reserve, the initial allocation of halibut and crab relative to that Vessel shall be based on a presumed contribution of 500 mt.

For purposes of this Section 3, the mothership sector Vessels shall be considered "non-exempt" prior to March 1, and their initial Coop Sideboard and halibut and crab bycatch allocations shall be made accordingly. The mothership sector Vessels shall become "exempt" as of March 1, and thereupon shall become eligible for a reallocation of halibut and crab pursuant to Subsection b., below, if as a group they have harvested their initial BS/AI cod Sideboard allocation without exceeding their initial allocation of halibut and crab.

b. BS/AI Halibut and Crab Reallocation. The Monitoring Agent will track the aggregate BS/AI cod catch and the halibut and crab bycatch of each Coop's exempt Vessels. Upon the Monitoring Agent determining that a Coop's exempt Vessels (as a group) have harvested their initial or subsequent allocation(s) of cod in the BS/AI without exceeding the Coop's related allocation of exempt Vessel halibut and crab (as adjusted by intra or inter Coop transfers) (such Coop being a "Complying Coop"), the Monitoring Agent will reduce each Coop's (including the Complying Coop's) remaining allocation of *non-exempt* halibut and crab for such cod fishery (if any) pro rata, according to the proportion of its initial non-exempt allocation of such halibut and crab vis-a-vis the other Coops, such that the sum of the reductions is the lesser of (i) the amount of halibut and crab necessary for each exempt Vessel in the Complying Coop to harvest an additional 300 mt of cod at the pre-Buffer non-exempt cod/halibut and cod/crab ratios, or (ii) the proportionate amounts of such halibut and crab that the Monitoring Agent deems necessary for the Complying Coop's exempt Vessels to operate at such ratio until such fishery is closed to catcher vessel trawling; provided that the sum of such reductions under (i) or (ii) above shall in no case exceed that amount of halibut or crab calculated to harvest 1500 mt at the pre-Buffer non-exempt cod/halibut and cod/crab ratios. The Monitoring Agent will then increase the relevant Coop's exempt Vessel cod-related halibut and crab allocations for such fishery by the sum of such reductions. On the other hand, if a Coop's exempt Vessels harvest their initial or subsequent cod-related halibut or crab allocation for the BS/AI cod fishery (as adjusted by inter or intra Coop transfers) before having harvested the Coop's cod allocations made available therewith, the Monitoring Agent will not increase such Coop's exempt Vessel allocations, and such Coop shall require such Vessels to cease their directed fishing in that cod fishery, notwithstanding their exemption. If the Monitoring Agent determines that a halibut or crab reallocation under this Section has provided a Coop with halibut or crab in excess of the amount necessary to fish until fishery closure, the Monitoring Agent will have the authority to release an amount of the surplus that the Monitoring Agent deems reasonable back to the contributing Coops.

c. BS/AI Cod Harvest Timing. To facilitate harvest of the full amount of the BS/AI cod Sideboard, each inshore Coop agrees to manage its non-exempt Vessels' BS/AI cod directed fishing harvest such that no more than eighty five percent (85%) of the related initial halibut allocation is harvested prior to March 1, and the MFC shall manage its non-exempt Vessels' BS/AI cod directed fishing harvest such that no more than ninety percent (90%) of the related initial halibut allocation is harvested prior to March 1.

d. Better Practices Protocols. The Coops agree that the BS cod trawl limited access fishery would benefit from certain better fishing practices that address issues unique to the fishery. Therefore, Coop member Vessels participating in the BS cod trawl fishery are required to adhere to the following better fishing practice protocols. (The following protocols do not apply in connection with cod trawl operations in the Aleutian Islands fishery management area or sub-areas.)

(i) Halibut Excluder. Each Coop member Vessel shall use a halibut excluder bycatch reduction device (BRD) on every cod trawl tow. The halibut BRD used must, at a minimum, be constructed and installed in a manner similar to halibut BRD devices that are generally recognized by Coop members as effective for reducing halibut bycatch. However, this provision is not intended to prohibit or restrict the development and implementation of new halibut BRDs, provided that there is a reasonable expectation of increased halibut bycatch reduction through their use. Notwithstanding the foregoing, Coop member Vessels that are in compliance with this protocol as of the beginning of a cod fishery season, and who subsequently suffer irreparable damage to their BRD, shall be relieved of their obligation to comply with this protocol on the condition that they notify their Coop's Board of Directors as of the next delivery following such damage that they are claiming this exemption.

(ii) No Night Fishing. Coop member Vessels shall not fish for cod during the period of the night beginning two (2) hours after sunset and ending two (2) hours prior to sunrise. "Not fishing" is defined as having trawl doors aboard the Vessel. Sunset and sunrise times shall be determined with reference to the U.S. Naval Observatory website, and calculated using Akutan, Alaska as the reference location. A table showing the 2014 sunset and sunrise times at Akutan, Alaska is attached as Exhibit A.

(iii) Minimum Codend Mesh Size. For the 2014 season, the Coops shall recommend that their member Vessels use codends in the BS cod fishery constructed of mesh no smaller than 7 inches, as determined by between-knot measure. The Coops expect and intend to require their member Vessels to use such codends in the BS cod fishery as of the 2015 A season. Notwithstanding the foregoing, Coop member Vessels that are in compliance with this protocol as of the beginning of a cod fishery season, and who subsequently suffer irreparable damage to their fishing gear, shall be relieved of their obligation to comply with this protocol on the condition that they notify their Coop's Board of Directors as of the next delivery following such gear damage that they are claiming this exemption.

e. Enforcement of Better Practices Protocols and Damages for Breach.

Each Coop's Board of Directors shall have exclusive authority to determine whether its member Vessels are operating in compliance with the protocols established under Section 3.d., above. In the event that a Coop Board of Directors determines that one of its member Vessels has failed to comply with one or more of the protocols set forth above, the Board of Directors may assess liquidated damages in an amount not to exceed Five Thousand Dollars (\$5,000.00) for each violation. Such liquidated damages shall be the sole and exclusive remedy for a breach of Section 3.d., and the Coops hereby waive, on behalf of themselves and their members, all claims to any other type of damages for a breach of Section 3.d., including but not limited to actual, consequential, or punitive damages.

4. Over-harvest Prevention Measures.

a. Harvest Limits. The Coops agree to exercise their best efforts to prevent any of their members from exceeding their pollock allocation and Sideboard limits. In cases where a member has done so, the Coops agree to exercise their best efforts to prevent such over-harvest from affecting non-members and/or resulting in a violation of fishery regulations. To that end, the Coops agree to facilitate pollock allocation and Sideboard limit transfers among members when practicable, agree to transfer PSC Limit or PSC Allowance apportionments among Coops when practicable, and to issue "stop fishing" orders as appropriate when such transfers are not practicable. The Coops also agree to encourage their members to mitigate the effects of inadvertent over-harvests by making directed fishing and PSC Limit and PSC Allowance allocations available to other Coop members on reasonable terms and conditions. However, other than as provided in Section 4.f.(ii), below, nothing in this Section 4 shall constitute an affirmative obligation on the part of any Coop or its members to transfer an allocation at the request of another Coop or other members.

b. Pollock Allocation and Sideboard Penalties. The Coops acknowledge that notwithstanding the provisions of Section 4.a, above, adopting and enforcing appropriate penalties is necessary to create over-harvest disincentives. The Inshore Coops therefore each agrees to adopt the uniform penalty for an Inshore Coop member exceeding its BS, AI or Gulf pollock directed fishing allocation amount or area or season proportion of one hundred fifty percent (150%) of the total ex-vessel value of such over-harvest. For purposes of this Subsection 4.b and Subsection 4.c, below, provision, ex-vessel value shall be deemed to be the ex-vessel price paid by the processor(s) to which the over-harvesting member delivered for the over-harvested species during the season(s) in which the over-harvest takes place, and shall include all consideration paid for the over-harvested allocation, including but not limited to all bonuses and post season adjustments. The Coops each agree to adopt the uniform penalty amount of One Thousand Dollars (\$1,000.00) per metric ton for over-harvests in the directed BS, AI and Gulf Pacific cod fisheries, and the amount of Three Hundred Dollars (\$300.00) per metric ton for over-harvests in all other BS, AI and Gulf directed groundfish fisheries. Over-harvests shall be determined on the basis of the best available data. Harvest reports developed by the Monitoring Agent shall be presumed accurate in the absence of demonstrable error.



c. PSC Allocation Enforcement. Upon a Coop receiving written notice from the Monitoring Agent that it does not have an adequate PSC Limit, Halibut Allowance or Crab Allowance allocation to support further fishing activity by its members' vessels, such Coop shall immediately cause its members' vessels to cease fishing in the relevant directed fisheries. The Coops hereby adopt as a uniform penalty for each landing following such notice that includes a PSC species harvested in excess of a Coop's PSC Limit or Allowance allocation an amount equal to twice the ex-vessel value of all commercially harvestable species delivered in such landing. For purposes of this Subsection, Coop catch data produced by the Monitoring Agent in conformance with NMFS catch accounting and bycatch estimation procedures will be presumed accurate. The Coops agree to take all actions and execute all documents reasonably necessary to give effect to this provision.

d. Liquidated Damages. The Coops acknowledge that the financial impact associated with over-harvesting an allocation or exceeding a Sideboard limit, PSC Limit, Halibut Allowance or Crab Allowance are difficult to estimate, and that penalty amounts are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Therefore, the Coops agree that the penalty amounts established under 4.b. and 4.c., above are liquidated damages, the payment of which (together with reasonable costs of collection) shall satisfy a member's obligation with respect to any harvest in excess of a Sideboard, PSC Limit, Halibut Allowance or Crab Allowance allocation. The Coops hereby waive any and all claims to direct, indirect or consequential damages related to such over-harvest.

e. Rights of Action. Each Coop agrees that the members of all other Coops shall have rights to initiate penalty actions and to be paid overharvest forfeitures and related costs of collection equivalent to such Coop's own members' rights. Each Coop agrees to take all corporate action necessary to give effect to this provision.

f. Indemnification.

(i) Each Coop (an "Indemnifying Coop") hereby agrees to indemnify, defend and hold harmless all other Coops and their members (the "Indemnitees") against all third party claims, legal actions and proceedings of any type whatsoever (the "Actions"), and against all third party damages, including but not limited to all liabilities, obligations, judgments, penalties, fines, forfeitures, costs of defense and reasonable attorneys' fees (including fees incurred enforcing this indemnification) (together, the "Damages") that the Indemnitees incur as a result of an overharvest of a pollock, Sideboard, PSC Limit, Halibut Allowance or Crab Allowance allocation by a member of the Indemnifying Coop.

(ii) For purposes of this provision, in cases where an over-harvest by a member is (a) not willful or repeated; (b) is capable of being corrected by other members (of the same or other Coops) restraining their harvest(s), and timely written notice is provided to such members' Coop(s); and (c) for which the appropriate amount of liquidated damages is tendered by the originally over-harvesting member to a qualified third party escrow

agent in readily available funds, the obligation of indemnification for third party claims related to the original over-harvest shall shift to the Coop(s) receiving notice and the tender of liquidated damages.

#### 6. Steller Sea Lion-Related Management Measures.

a. Non-Exempt Vessels. Other than as necessary to give effect to exemptions for which its members qualify, each Inshore Coop agrees to limit the aggregate annual pollock harvest of its members per season and per area (as determined in accordance with NMFS accounting procedures related to such harvests) to the percentage of the annual inshore pollock directed fishing allowance generally permitted to be harvested during such season and/or in such area.

b. SCA Exemption for Vessels Equal to or Less than 99' in Overall Length. The Coops acknowledge that under the current Steller sea lion-related management measures, vessels equal to or less than 99 feet in length are eligible to harvest all of their BS pollock A season allocations inside the SCA. So long as this exemption remains in effect, the Coops agree that the Monitoring Agent in consultation with NMFS will calculate and reserve from the Coops' aggregate pollock allocations an amount of quota inside the SCA adequate to fund the total seasonal directed harvest of all members' Vessels equal to or less than 99 feet (the "99' Reserve"). The Monitoring Agent will then allocate the 99' Reserve among the Coops pro rata, according to the relative catch histories of their Vessels under 99'. Each Coop shall in turn allocate its share of the 99' Reserve among its members operating Vessels under 99' in length, prior to establishing the inside SCA allocations for its members' Vessels over 99' in length. The Coops agree to require that any license or transfer of pollock quota from a Vessel equal to or less than 99' to a Vessel over 99' shall be subject to generally applicable regulations concerning spatial and temporal distribution of catch, including but not limited to proportions which may be harvested inside the SCA, notwithstanding the exemption extended to vessels less than or equal to 99'.

7. Herring Trigger Amount Management. The Coops agree to exercise all reasonable efforts to reduce their herring bycatch to the lowest commercially practical levels, and specifically agree to coordinate their members' fishing activities with the goal of achieving the lowest practicable bycatch rates. For purposes of this Section, Coop catch data produced by the Monitoring Agent (as identified in Section 8.a, below) in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate.

#### 8. Data Reporting.

a. Appointment of Monitoring Agent. The Coops acknowledge that it will not be possible to obtain the benefits associated with cooperative harvesting activity unless catch data is reported on a timely basis to a centralized monitoring and reporting agent (the "Monitoring Agent"). The Coops agree to independently contract with Sea State, Inc. as their agent for that purpose.

b. Data Gathering. Each Coop agrees to take all commercially reasonable actions to obtain catch data and other information that may be necessary for effective fishery management from its members as soon as reasonably possible, and to provide such data to the Monitoring Agent as soon as reasonably possible after receiving such data. Data produced for the Coops by the Monitoring Agent shall be presumed accurate, which presumption shall only be rebuttable upon clearly demonstrating inaccuracy.

c. Data Release. Each Coop shall arrange to have each of their members' Vessels' bycatch data (to the fullest extent available, with tow-by-tow data being considered optimal) released directly from the NMFS Observer Program to the Monitoring Agent and the Intercoop Manager (as identified in Section 10, below). The Monitoring Agent and the Intercoop Manager are hereby authorized to release all such data in forms and to parties as they reasonably deem appropriate to promote bycatch reduction.

9. Vessel Pre-registration. The Coops acknowledge that it may be necessary for their members to provide advance notice of their intent to employ Vessels in certain fisheries, to provide NMFS and the Coops with the ability to project catch rates and amounts. Each Coop agrees to obtain such elections from its members and report them to the Monitoring Agent on a timely basis.

10. Intercooperative Management. The Coops acknowledge that resolving issues related to cooperative harvesting operations will be a continuing process. Each Coop agrees to appoint a person to represent it in intercooperative matters. The Coops further agree to retain United Catcher Boats ("UCB") to provide ongoing intercooperative coordination services and an intercooperative manager (the "Intercoop Manager") through December 31, 2014. The Coops agree such services shall not include representing the Coops or any of them in political or general policy matters, other than as authorized by all Coops in advance. All Coops agree to provide a copy of their annual Coop Report as required under 50 CFR 679.61(f) to the Intercoop Manager not less than 15 days prior to the required NMFS submission date.

11. Term. This Agreement shall take effect upon execution by all of the Coops. This Agreement shall expire on November 30, 2014. The Coops agree to meet in good faith negotiations concerning modification of this Agreement and extension of its term not later than October 1, 2014, with the express intent of replacing or extending this Agreement prior to November 30, 2014.

12. Miscellaneous.

a. No amendment to this Agreement shall be effective against a party hereto unless in writing and duly executed by such party. The parties agree to amend this Agreement as reasonably necessary to comply with changes in law, and policies and regulations implementing the AFA.

b. This Agreement shall be governed by and construed in accordance with applicable federal law and the laws of the State of Washington.

c. This Agreement may be executed in counterparts which, when taken together, shall have the same effect as a fully executed original. Delivery of a signed copy of this Agreement by telefacsimile shall have the same effect as delivering a signed original.

d. The parties agree to execute any documents necessary or convenient to give effect to intents and purposes of this Agreement.

e. All notices required to be given under this Agreement shall be deemed given five (5) days following deposit in certified first class U.S. mail, postage prepaid, with the correct address, or upon the first business day following confirmed telefacsimile transmission to the recipient. Each Coop agrees to provide the name, postal address, telefacsimile number and e-mail address (if any) of its representative for purposes of receiving notices under this Agreement within three (3) days of executing this Agreement.

f. In the event that any provision of this Agreement is held to be invalid or unenforceable, such provision shall be deemed to be severed from this Agreement, and such holding shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

g. Each Coop agrees to use its best efforts to resolve any disputes arising under this Agreement through direct negotiations. Other than disputes related to overharvest of pollock, Sideboard limits or PSC Limit or PSC Allowance apportionments in connection with which one or more Coops or their members seek an injunction, a restraining order or some other form of equitable relief, all disputes not resolved through direct negotiation and/or dispute resolution will be submitted to arbitration in Seattle, Washington upon the request of any party to this Agreement. The party's written request will include the name of the arbitrator selected by the party requesting arbitration. The other party will have ten (10) days to provide written notice of the name of the arbitrator it has selected, if any. If the other party timely selects a second arbitrator, the two arbitrators will select a third arbitrator within ten (10) days. If the other party does not timely select the second arbitrator, there shall be only the one arbitrator. The single arbitrator or the three (3) arbitrators so selected will schedule the arbitration hearing as soon as possible thereafter. Every arbitrator, however chosen, must have no material ties to any Coop or Coop member. The decision of the arbitrator (or in the case of a three (3) arbitrator panel, the decision of the majority) will be final and binding. The arbitration will be conducted under the rules of (but not by) the American Arbitration Association. The parties will be entitled to limited discovery as determined by the arbitrator(s) in its or their sole discretion. The arbitrator(s) will also determine the "prevailing party" and that party will be entitled to its reasonable costs, fees and expenses, including attorneys' and arbitrator fees, incurred in the action by said party. In no event will arbitration be available

pursuant to this paragraph after the date when commencement of such legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.

## Exhibit A

Location: W165 46, N54 08

AKUTAN, ALASKA  
 Rise and Set for the Sun for 2014  
 Alaska Standard Time

Astronomical Applications Dept.  
 U. S. Naval Observatory  
 Washington, DC 20392-5420

| Day | Jan. |      | Feb. |      | Mar. |      | Apr. |      | May  |      | June |      | July |      | Aug. |      | Sept. |      | Oct. |      | Nov. |      | Dec. |      |
|-----|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|-------|------|------|------|------|------|------|------|
|     | Rise | Set  | Rise | Set  | Rise | Set  | Rise | Set  | Rise | Set  | Rise | Set  | Rise | Set  | Rise | Set  | Rise  | Set  | Rise | Set  | Rise | Set  | Rise | Set  |
| 01  | 1023 | 1751 | 0950 | 1844 | 0851 | 1941 | 0735 | 2040 | 0626 | 2136 | 0537 | 2226 | 0535 | 2239 | 0616 | 2201 | 0712  | 2053 | 0806 | 1939 | 0905 | 1828 | 1000 | 1744 |
| 02  | 1022 | 1752 | 0948 | 1846 | 0849 | 1943 | 0733 | 2042 | 0624 | 2138 | 0536 | 2227 | 0536 | 2238 | 0618 | 2159 | 0713  | 2051 | 0807 | 1936 | 0907 | 1826 | 1001 | 1744 |
| 03  | 1022 | 1754 | 0946 | 1848 | 0846 | 1945 | 0730 | 2044 | 0622 | 2140 | 0535 | 2228 | 0537 | 2238 | 0620 | 2157 | 0715  | 2048 | 0809 | 1934 | 0909 | 1824 | 1003 | 1743 |
| 04  | 1022 | 1755 | 0945 | 1850 | 0844 | 1947 | 0728 | 2045 | 0620 | 2141 | 0534 | 2229 | 0537 | 2237 | 0622 | 2156 | 0717  | 2046 | 0811 | 1931 | 0911 | 1822 | 1004 | 1742 |
| 05  | 1021 | 1756 | 0943 | 1852 | 0842 | 1948 | 0725 | 2047 | 0618 | 2143 | 0534 | 2230 | 0538 | 2237 | 0623 | 2154 | 0719  | 2043 | 0813 | 1929 | 0913 | 1820 | 1006 | 1742 |
| 06  | 1021 | 1758 | 0941 | 1854 | 0839 | 1950 | 0723 | 2049 | 0616 | 2145 | 0533 | 2231 | 0539 | 2236 | 0625 | 2152 | 0721  | 2041 | 0815 | 1926 | 0914 | 1818 | 1007 | 1741 |
| 07  | 1020 | 1759 | 0939 | 1856 | 0837 | 1952 | 0720 | 2051 | 0614 | 2147 | 0532 | 2232 | 0540 | 2235 | 0627 | 2150 | 0722  | 2038 | 0817 | 1924 | 0916 | 1816 | 1008 | 1741 |
| 08  | 1020 | 1801 | 0937 | 1858 | 0834 | 1954 | 0718 | 2053 | 0612 | 2149 | 0532 | 2233 | 0541 | 2234 | 0629 | 2148 | 0724  | 2036 | 0818 | 1922 | 0918 | 1815 | 1009 | 1741 |
| 09  | 1019 | 1802 | 0935 | 1900 | 0832 | 1956 | 0716 | 2055 | 0610 | 2150 | 0531 | 2234 | 0543 | 2234 | 0630 | 2146 | 0726  | 2033 | 0820 | 1919 | 0920 | 1813 | 1011 | 1740 |
| 10  | 1018 | 1804 | 0933 | 1902 | 0829 | 1958 | 0713 | 2057 | 0608 | 2152 | 0531 | 2235 | 0544 | 2233 | 0632 | 2143 | 0728  | 2031 | 0822 | 1917 | 0922 | 1811 | 1012 | 1740 |
| 11  | 1018 | 1805 | 0931 | 1904 | 0827 | 2000 | 0711 | 2058 | 0606 | 2154 | 0530 | 2236 | 0545 | 2232 | 0634 | 2141 | 0729  | 2029 | 0824 | 1914 | 0924 | 1809 | 1013 | 1740 |
| 12  | 1017 | 1807 | 0929 | 1907 | 0825 | 2002 | 0708 | 2100 | 0604 | 2156 | 0530 | 2236 | 0546 | 2231 | 0636 | 2139 | 0731  | 2026 | 0826 | 1912 | 0926 | 1808 | 1014 | 1740 |
| 13  | 1016 | 1808 | 0927 | 1909 | 0822 | 2004 | 0706 | 2102 | 0603 | 2157 | 0530 | 2237 | 0547 | 2230 | 0638 | 2137 | 0733  | 2024 | 0828 | 1910 | 0928 | 1806 | 1015 | 1740 |
| 14  | 1015 | 1810 | 0925 | 1911 | 0820 | 2006 | 0704 | 2104 | 0601 | 2159 | 0530 | 2238 | 0549 | 2229 | 0639 | 2135 | 0735  | 2021 | 0830 | 1907 | 0930 | 1804 | 1016 | 1740 |
| 15  | 1014 | 1812 | 0923 | 1913 | 0817 | 2008 | 0701 | 2106 | 0559 | 2201 | 0529 | 2238 | 0550 | 2227 | 0641 | 2133 | 0737  | 2019 | 0832 | 1905 | 0932 | 1803 | 1017 | 1740 |
| 16  | 1013 | 1814 | 0920 | 1915 | 0815 | 2010 | 0659 | 2108 | 0558 | 2202 | 0529 | 2239 | 0551 | 2226 | 0643 | 2130 | 0738  | 2016 | 0834 | 1903 | 0934 | 1801 | 1018 | 1740 |
| 17  | 1012 | 1815 | 0918 | 1917 | 0812 | 2011 | 0657 | 2110 | 0556 | 2204 | 0529 | 2239 | 0553 | 2225 | 0645 | 2128 | 0740  | 2014 | 0836 | 1900 | 0936 | 1800 | 1018 | 1740 |
| 18  | 1011 | 1817 | 0916 | 1919 | 0810 | 2013 | 0654 | 2112 | 0554 | 2206 | 0529 | 2239 | 0554 | 2224 | 0646 | 2126 | 0742  | 2011 | 0837 | 1858 | 0938 | 1759 | 1019 | 1741 |
| 19  | 1009 | 1819 | 0914 | 1921 | 0807 | 2015 | 0652 | 2113 | 0553 | 2207 | 0529 | 2240 | 0556 | 2222 | 0648 | 2124 | 0744  | 2008 | 0839 | 1856 | 0939 | 1757 | 1020 | 1741 |
| 20  | 1008 | 1821 | 0912 | 1923 | 0805 | 2017 | 0650 | 2115 | 0551 | 2209 | 0530 | 2240 | 0557 | 2221 | 0650 | 2121 | 0746  | 2006 | 0841 | 1853 | 0941 | 1756 | 1020 | 1741 |
| 21  | 1007 | 1823 | 0909 | 1925 | 0802 | 2019 | 0647 | 2117 | 0550 | 2210 | 0530 | 2240 | 0559 | 2219 | 0652 | 2119 | 0747  | 2004 | 0843 | 1851 | 0943 | 1755 | 1021 | 1742 |
| 22  | 1006 | 1825 | 0907 | 1927 | 0800 | 2021 | 0645 | 2119 | 0549 | 2212 | 0530 | 2240 | 0600 | 2218 | 0654 | 2117 | 0749  | 2001 | 0845 | 1849 | 0945 | 1753 | 1021 | 1742 |
| 23  | 1004 | 1826 | 0905 | 1929 | 0757 | 2023 | 0643 | 2121 | 0547 | 2214 | 0530 | 2240 | 0602 | 2216 | 0655 | 2115 | 0751  | 1959 | 0847 | 1847 | 0947 | 1752 | 1022 | 1743 |
| 24  | 1003 | 1828 | 0903 | 1931 | 0755 | 2025 | 0641 | 2123 | 0546 | 2215 | 0531 | 2240 | 0603 | 2215 | 0657 | 2112 | 0753  | 1956 | 0849 | 1845 | 0948 | 1751 | 1022 | 1744 |
| 25  | 1001 | 1830 | 0900 | 1933 | 0752 | 2027 | 0639 | 2125 | 0545 | 2216 | 0531 | 2240 | 0605 | 2213 | 0659 | 2110 | 0755  | 1954 | 0851 | 1842 | 0950 | 1750 | 1022 | 1744 |
| 26  | 1000 | 1832 | 0858 | 1935 | 0750 | 2028 | 0636 | 2127 | 0543 | 2218 | 0532 | 2240 | 0606 | 2212 | 0701 | 2108 | 0756  | 1951 | 0853 | 1840 | 0952 | 1749 | 1023 | 1745 |
| 27  | 0958 | 1834 | 0856 | 1937 | 0747 | 2030 | 0634 | 2128 | 0542 | 2219 | 0532 | 2240 | 0608 | 2210 | 0703 | 2105 | 0758  | 1949 | 0855 | 1838 | 0953 | 1748 | 1023 | 1746 |
| 28  | 0957 | 1836 | 0853 | 1939 | 0745 | 2032 | 0632 | 2130 | 0541 | 2221 | 0533 | 2240 | 0610 | 2208 | 0704 | 2103 | 0800  | 1946 | 0857 | 1836 | 0955 | 1747 | 1023 | 1747 |
| 29  | 0955 | 1838 |      |      | 0743 | 2034 | 0630 | 2132 | 0540 | 2222 | 0533 | 2240 | 0611 | 2207 | 0706 | 2100 | 0802  | 1944 | 0859 | 1834 | 0957 | 1746 | 1023 | 1748 |
| 30  | 0953 | 1840 |      |      | 0740 | 2036 | 0628 | 2134 | 0539 | 2223 | 0534 | 2239 | 0613 | 2205 | 0708 | 2058 | 0804  | 1941 | 0901 | 1832 | 0958 | 1745 | 1023 | 1749 |
| 31  | 0952 | 1842 |      |      | 0738 | 2038 |      |      | 0538 | 2225 |      |      | 0615 | 2203 | 0710 | 2056 |       |      | 0903 | 1830 |      |      | 1023 | 1750 |

Add one hour for daylight time, if and when in use.

## **Appendix II**

### **Chinook Conservation Area Agreement**

## CHINOOK SALMON CONSERVATION AREA AGREEMENT

This CHINOOK SALMON CONSERVATION AREA AGREEMENT is entered into by and among ~~POLLOCK CONSERVATION COOPERATIVE (“PCC”)~~, ~~the HIGH SEAS CATCHERS COOPERATIVE (“High Seas”)~~, MOTHERSHIP FLEET COOPERATIVE (“MFC”), the “Inshore Coops”, i.e., AKUTAN CATCHER VESSEL ASSOCIATION, ARCTIC ENTERPRISE ASSOCIATION, NORTHERN VICTOR FLEET COOPERATIVE, PETER PAN FLEET COOPERATIVE, UNALASKA FLEET COOPERATIVE, UNISEA FLEET COOPERATIVE and WESTWARD FLEET COOPERATIVE, and SEA STATE, INC. (“Sea State”) and UNITED CATCHER BOATS ASSOCIATION (“UCB”) as of \_\_\_\_\_, 2008. ~~PCC, High Seas~~, MFC and the Inshore Coops are hereafter collectively referred to as the “Coops”. This Agreement is entered into with respect to the following facts:

### RECITALS

The Coops are parties to that certain Amended and Restated Bering Sea Pollock Fishery Rolling Hot Spot Closure Salmon Bycatch Management Agreement dated December 1, 2007 (the “Salmon Bycatch Agreement”). The Coops believe that the effectiveness of the Salmon Bycatch Agreement may be enhanced by closing a certain area of the Bering Sea to pollock fishing by Coop member vessels during the Bering Sea pollock “A” season unless and until a determination is made that salmon bycatch rates within such closed area are not problematic.

Now, therefore, the parties agree as follows:

### AGREEMENT

1. Purpose of Agreement. The purpose of this Agreement is to implement a Chinook salmon conservation area closure that enhances the effectiveness of the Salmon Bycatch Agreement. Each party to this Agreement agrees exercise all commercially reasonable efforts to achieve that purpose.

2. Monitoring and Management. The Coops shall retain Sea State to provide the data gathering, analysis, fleet monitoring and reporting services necessary to implement the Chinook salmon conservation area closure contemplated under this Agreement. The Coops shall retain UCB to provide day-to-day management of inter-cooperative matters related to the performance of this Agreement.

3. Definitions. All capitalized terms not otherwise defined in this Agreement shall have the meaning given to them in the Salmon Bycatch Agreement.

4. Chinook Salmon Conservation Area Closure. The area described on the attached Exhibit A (the “Chinook Conservation Area”) shall be closed to all pollock fishing by Coop member vessels, including but not limited to fishing for Community Development Quota pollock, from the opening of each Bering Sea pollock fishery “A” season until the earlier of (i) such time as Sea State authorizes pollock fishing to take place in the Chinook Conservation Area in accordance with this Agreement, and then only on the terms and conditions established by Sea State, or (ii) closure of the Bering Sea pollock fishery “A” season.

a. If Sea State determines in its sole discretion that it is reasonable to conduct test fishing within the Chinook Conservation Area, Sea State may establish a protocol under which Coop member vessels may conduct pollock fishing operations in such Area. The terms and conditions of such protocol shall have the same force and effect as the Chinook Conservation Area closure implemented under this Agreement, any violation of such terms shall constitute a breach of this Agreement, and the terms of Section 5, below shall apply to any violation of terms and conditions of such protocol.

b. If based on the results of test fishing activity within the Chinook Conservation Area Sea State determines in its sole discretion that Chinook salmon bycatch rates in the directed pollock fishery could be reduced by permitting pollock fishing to take place within the Chinook Conservation Area, Sea State may open the Chinook Conservation Area to pollock fishing, subject to the restrictions imposed under the Salmon Bycatch Agreement and any additional terms and conditions as Sea State may impose in its sole discretion.

5. Chinook Conservation Area Enforcement.

a. Sea State shall monitor the fishing activities of all Coops’ members’ vessels, and shall promptly report all apparent Chinook Conservation Area violations to all Coops. For purposes of this Agreement, “fishing” shall mean all activity of a vessel between the time of initial gear deployment and final gear retrieval. For purposes of this Section 5.a., “gear deployment” and “gear retrieval” shall have the meanings given them in 50 C.F.R. 679.2 or its successor, as the same may be amended from time to time. Initial gear deployment shall mean setting trawl gear with an empty codend, and final gear retrieval shall mean retrieving trawl gear to either pull a codend aboard the vessel or to deliver the codend to another vessel.

b. Upon receiving notice of an apparent violation from Sea State, the Board of Directors of the Coop to which the vessel belongs shall have one hundred and eighty (180) days to take action in connection with the apparent violation, and to provide a report of the action taken and a copy of the record supporting that action to all other Coops. When the Board of Directors of the Coop to which the vessel belongs provides its report, or if the Coop Board of Directors fails to provide its report within such 180 day period, then Sea State and/or UCB



shall distribute the Coop's report (if provided) and the record developed by Sea State in connection with the apparent violation to all other Coops, and each Coop shall have standing to pursue Chinook Conservation Area enforcement actions equivalent to such Coop's own rights with respect to its members.

c. The Coops hereby adopt a uniform assessment for a skipper's first annual violation of a Chinook Conservation Area closure of Ten Thousand Dollars (\$10,000.00), a uniform assessment for a skipper's second annual violation of a Chinook Conservation Area closure of Fifteen Thousand Dollars (\$15,000.00), and a uniform assessment of Twenty Thousand Dollars (\$20,000.00) for a skipper's third and subsequent annual violations. The Coops acknowledge that the damages resulting from violating a Chinook Conservation Area closure are difficult to estimate, and that the foregoing assessment amounts are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Therefore, the Coops agree that the assessment amounts established under this Subsection 5.c are liquidated damages, the payment of which (together with reasonable costs of collection) shall satisfy a Coop's and its members' obligations related to a Chinook Conservation Area closure violation. The Coops hereby waive any and all claims to direct, indirect or consequential damages related to such violation.

d. The Coops agree that any funds collected in connection with a violation of this agreement, in excess of those necessary to reimburse the prevailing party for its costs and attorneys fees, shall be used to support research concerning the stocks of origin of salmon taken incidentally in the Bering Sea pollock fishery.

e. For purposes of this Section 5, State and Federal landing reports, observer data, VMS tracking data, vessel log books and plotter data and Coop catch data produced by the Sea State in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate and sufficient for determining whether a vessel violated a Chinook Conservation Area closure, absent a clear and compelling demonstration of manifest error. The Coops agree to take all actions and execute all documents necessary to give effect to this provision.

f. The Coops agree to require their members to obtain and maintain an operational VMS unit approved by Sea State on their vessels, provided that such units are available on a commercially reasonable basis. The Coops agree to cause their members to release their VMS tracking data to Sea State. Sea State agrees not to disclose any such information, other than as specifically authorized under this Agreement, as necessary to fulfill the intents and purposes of this Agreement, or with prior consent from the affected vessel owner. The Coops agree that the damages resulting from vessels operating in non-compliance with this subsection are difficult to estimate, and the Coops therefore hereby adopt a uniform assessment of One Thousand Dollars (\$1,000.00) per day for each consecutive day over thirty (30) consecutive days that a Coop member's vessel is employed in the Fishery without an operational VMS unit approved by Sea State, provided such unit is available on a commercially reasonable basis.

6. Release and Waiver of All Claims Against Sea State and United Catcher Boats; Indemnification and Hold Harmless. The parties acknowledge that the effectiveness of this Agreement depends to a significant extent on Sea State's and UCB's discretion and judgment. The parties further acknowledge that if Sea State or UCB were potentially liable for simple negligence in connection with such actions, it would be necessary for Sea State and UCB to charge a substantially larger fee for the services they provide in connection with this Agreement, to offset that potential liability. It is therefore in the parties' interest to reduce Sea State's and UCB's potential liability under this Agreement. Therefore, the Coops hereby waive and release any and all claims against Sea State and UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB. Further, the Coops jointly and severally agree to indemnify, defend and hold Sea State and UCB harmless against any third party claims asserted against Sea State or UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB.

7. Coop Membership Agreement Amendments. To give effect to this Agreement, the Coops agree to cause each of their Membership Agreements to be amended to include the following provisions.

a. Each Coop member shall acknowledge that its vessel's operations are governed by this Agreement, and shall agree to comply with its terms.

b. Each Coop member shall authorize its Coop's Board of Directors to take all actions and execute all documents necessary to give effect to this Agreement.

c. Each Coop member shall authorize its Coop Board of Directors to enforce this Agreement, and each member shall authorize the other Coops to individually or collectively enforce this Agreement upon the passage of one hundred eighty (180) days from the date such Board receives notice from Sea State that a Coop member may have failed to comply with the Agreement.

d. Each Coop member shall release to Sea State its State and Federal landing reports, observer data, VMS tracking data, and vessel log books and plotter data for purposes of determining its compliance with this Agreement, and agrees that in the event Sea State concludes that its vessel may have violated a Chinook Conservation Area closure, Sea State may release such data as Sea State in its sole discretion determines appropriate to facilitate enforcement of this Agreement.

e. Each Coop member shall agree that the information contained in the records identified in d., above, shall be presumed accurate absent a clear and compelling demonstration of manifest error, and shall be presumed sufficient to determine its compliance with this Agreement.

f. Each Coop member shall agree that the damages resulting from violating a Chinook Conservation Area closure are difficult to estimate, and that the assessment amounts provided under this Agreement are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Each Coop member shall agree that its Coop Board of Directors may modify Chinook Conservation Area violation assessment amounts from time to time, as necessary to maintain an effective deterrent to Chinook Conservation Area violations. Each Coop member shall agree that each trawl tow during which the member's vessel fishes in a Chinook Conservation Area in violation of this Agreement shall constitute a separate violation for purposes of assessment calculation. Each Coop member shall agree that damages for violating this Agreement shall apply on a strict liability basis, regardless of a member's lack of knowledge of the violation or intent to violate the agreement. Each Coop member shall agree that actual damages for violating this Agreement would be difficult to calculate, and shall therefore agree to pay the assessment amounts established under this Agreement, as amended from time to time, as liquidated damages. Each Coop member shall agree to modify its skipper contracts to make its skipper(s) fully responsible for the assessments levied in connection with a breach of the agreement. Further, each Coop member shall agree that in the event a skipper fails to assume such assignment of liability, or in the event such assumption of liability is deemed invalid, the member shall be liable for the full amount of such assessment, and all related costs and attorneys' fees.

g. Each Coop member shall agree that in connection with any action taken to enforce this Agreement, the prevailing party shall be entitled to the costs and fees it incurs in connection with such action, including attorneys' fees.

h. Each Coop member shall agree that in addition to legal remedies, the Board of Directors of each cooperative shall be entitled to injunctive relief in connection with the second and subsequent violations of this Agreement.

i. Each Coop member shall agree to waive and release any and all claims against Sea State and UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB.

8. Term. This Agreement shall take effect as of January 20, 2008. The initial term of this Agreement shall extend through November 1, 2008. The term of this Agreement shall be automatically extended for an additional year as of September 15 each year it remains in effect, i.e., as of September 15, 2008, the new expiration date of this Agreement shall be November 1, 2009, and so on. A party to this Agreement may terminate its status as a party by providing written notice to all other parties to this Agreement to that effect, provided that the effective date of such party's termination shall be the expiration date of this Agreement in effect at the time the termination notice is delivered. For example, if a Coop provides termination notice on August 15, 2008, its termination shall not be effective until November 1, 2008. If a Coop provides termination notice on October 1, 2008, its termination shall not be

effective until November 1, 2009. Notwithstanding any party's termination of its participation in this Agreement or the expiration of its term, the enforcement provisions of Section 5, above, shall survive with full force and effect.

9. Miscellaneous.

a. No amendment to this Agreement shall be effective against a party hereto unless in writing and duly executed by such party. The parties agree to amend this Agreement as reasonably necessary to conform with changes in law or circumstances.

b. This Agreement shall be governed by and construed in accordance with applicable federal law and the laws of the State of Washington.

c. This Agreement may be executed in counterparts which, when taken together, shall have the same effect as a fully executed original. Delivery of a signed copy of this Agreement by telefacsimile shall have the same effect as delivering a signed original.

d. The parties agree to execute any documents necessary or convenient to give effect to the intents and purposes of this Agreement.

e. All notices required to be given under this Agreement shall be deemed given five (5) days following deposit in certified first class U.S. mail, postage prepaid, with the correct address, or upon the first business day following confirmed telefacsimile or e-mail transmission to the recipient. Each party to this Agreement agrees to provide the name, postal address, telefacsimile number and e-mail address of its duly authorized representative(s) for purposes of receiving notices under this Agreement within three (3) days of executing this Agreement.

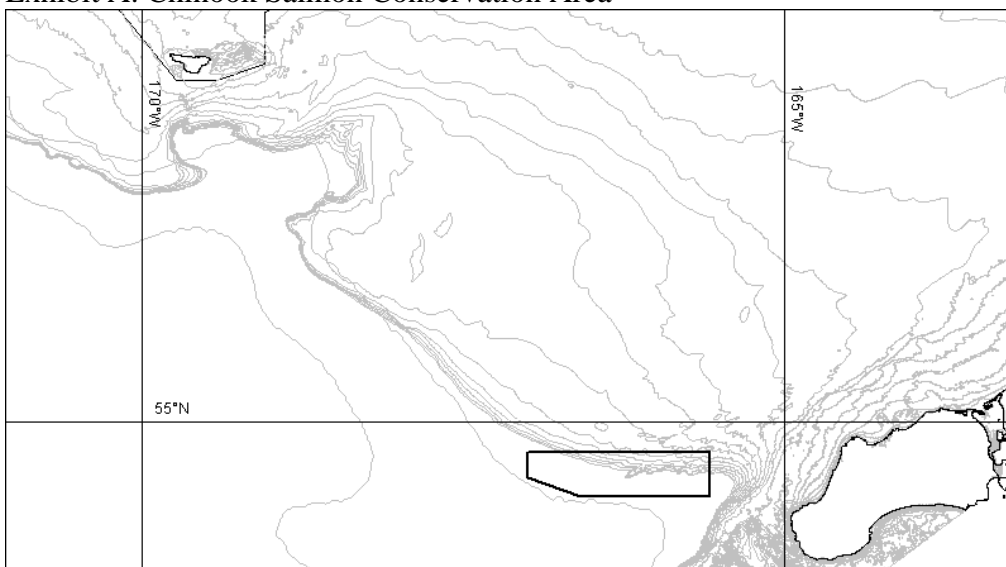
f. In the event that any provision of this Agreement is held to be invalid or unenforceable, such provision shall be deemed to be severed from this Agreement, and such holding shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

g. Each Coop agrees to use its best efforts to resolve any disputes arising under this Agreement through direct negotiations. Breaches of this Agreement for which a party seeks a remedy other than injunctive relief that are not resolved through direct negotiation shall be submitted to arbitration in Seattle, Washington upon the request of any party to this Agreement. The party's written request will include the name of the arbitrator selected by the party requesting arbitration. The other party will have ten (10) days to provide written notice of the name of the arbitrator it has selected, if any. If the other party timely selects a second arbitrator, the two arbitrators will select a third arbitrator within ten (10) days. If the other party does not timely select the second arbitrator, there shall be only the one arbitrator. The single arbitrator or the three (3) arbitrators so selected will schedule the arbitration hearing as soon as possible thereafter. Every arbitrator, however chosen, must have no material ties to any

Coop or Coop member. The decision of the arbitrator (or in the case of a three (3) arbitrator panel, the decision of the majority) will be final and binding. The arbitration will be conducted under the rules of (but not by) the American Arbitration Association. The parties will be entitled to limited discovery as determined by the arbitrator(s) in its or their sole discretion. The arbitrator(s) will also determine the “prevailing party” and that party will be entitled to its reasonable costs, fees and expenses, including attorneys’ and arbitrator fees, incurred in the action by said party. In no event will arbitration be available pursuant to this paragraph after the date when commencement of such legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.

Entered into as of the date first set forth above.

Exhibit A. Chinook Salmon Conservation Area



Corner Coordinates:

| Latitude |    | Longitude |    |
|----------|----|-----------|----|
| 54       | 40 | 165       | 35 |
| 54       | 40 | 166       | 35 |
| 54       | 45 | 167       | 0  |
| 54       | 52 | 167       | 0  |
| 54       | 52 | 165       | 35 |

## **Appendix III**

### Amendment 84 Rolling Hot Spot Closure Agreement For Non-Chinook Salmon Bycatch As Amended and Restated for 2011

AMENDED AND RESTATED  
BERING SEA POLLOCK FISHERY ROLLING HOT SPOT CLOSURE  
NON-CHINOOK SALMON BYCATCH MANAGEMENT AGREEMENT

This AMENDED AND RESTATED BERING SEA POLLOCK FISHERY ROLLING HOT SPOT CLOSURE NON-CHINOOK SALMON BYCATCH MANAGEMENT AGREEMENT is entered into by and among POLLOCK CONSERVATION COOPERATIVE (“PCC”), the HIGH SEAS CATCHERS COOPERATIVE (“High Seas”), MOTHERSHIP FLEET COOPERATIVE (“MFC”), the “Inshore Coops”, i.e., AKUTAN CATCHER VESSEL ASSOCIATION, NORTHERN VICTOR FLEET COOPERATIVE, PETER PAN FLEET COOPERATIVE, UNALASKA FLEET COOPERATIVE, UNISEA FLEET COOPERATIVE and WESTWARD FLEET COOPERATIVE, and the “CDQ Groups”, i.e., ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION, BRISTOL BAY ECONOMIC DEVELOPMENT CORPORATION, CENTRAL BERING SEA FISHERMEN’S ASSOCIATION, COASTAL VILLAGES REGION FUND, NORTON SOUND ECONOMIC DEVELOPMENT CORPORATION and YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION, and SEA STATE, INC. (“Sea State”) and UNITED CATCHER BOATS ASSOCIATION (“UCB”) as of \_\_\_\_\_, 2010. PCC, High Seas, MFC, and the Inshore Coops are hereafter collectively referred to as the “Coops”.

This Agreement is entered into with respect to the following facts:

RECITALS

Western Alaskans have expressed conservation and allocation concerns regarding the incidental catch of non-Chinook salmon in the Bering Sea pollock fishery. While such bycatch is regulated by the North Pacific Fishery Management Council (the “Council”) and the National Marine Fisheries Service (“NMFS”), the Coops desire to address this issue by inter-cooperative agreement, out of respect for the concerns of Western Alaskans, to avoid unnecessary incidental catch of non-Chinook salmon and to obviate the need for regulatory salmon savings areas.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## AGREEMENT

1. Purpose of Agreement. This Amended and Restated Non-Chinook Salmon Bycatch Management Agreement amends and supersedes that certain Salmon Bycatch Management Agreement entered into among the parties set forth above as of December 1, 2007. The purpose of this Agreement is to implement a private, contractual inter-cooperative program to reduce non-Chinook salmon bycatch in the Bering Sea directed pollock fishery, inclusive of both the Community Development Quota (“CDQ”) and non-CDQ allocations (the “Fishery”). Each party to this Agreement agrees exercise all commercially reasonable efforts to achieve that purpose.

2. Monitoring and Management. The Coops shall retain Sea State to facilitate vessel bycatch avoidance behavior, information sharing, data gathering, analysis, and fleet monitoring necessary to implement the bycatch management program contemplated under this Agreement. The Coops shall retain United Catcher Boats (UCB) as the ICA representative. UCB will provide day-to-day management of inter-cooperative matters related to the performance of this Agreement.

3. Bycatch Management. The parties agree that because the bycatch of non-Chinook salmon is typically very low during the Fishery “A” season, the bycatch management of non-Chinook salmon by this Agreement will occur during the Fishery “B” season. Therefore, non-Chinook salmon bycatch in the Fishery “B” season shall be managed on an inter-cooperative basis as follows. Sea State shall use a bycatch rate (the “Base Rate”) as a trigger for identifying areas to be closed to pollock fishing by certain Coops (“Chum Salmon Savings Areas”), and as a basis for determining each Coop’s tier status, which in turn shall govern whether, and if so, when, each Coop’s members may harvest pollock inside of a Savings Area. During “B” seasons, Sea State shall monitor non-Chinook salmon bycatch, and may announce Chum Salmon Savings Areas for non-Chinook salmon, and Sea State shall assign each Coop a bycatch tier status. In addition, Sea State shall have the authority to declare up to two Chum Salmon Savings Areas in the Bering Sea region east of 168 degrees West longitude (the “East Region”) and up to two Chum Salmon Savings Areas in the Bering Sea/Aleutian Islands region west of 168 degrees West longitude (the “West Region”). The non-Chinook salmon Base Rate shall be adjusted during each “B” season in response to non-Chinook bycatch rates, to take into account fluctuations in non-Chinook salmon encounters.

a. Initial non-Chinook Base Rate. The initial “B” season non-Chinook salmon Base Rate shall be 0.19 non-Chinook salmon per metric ton of pollock.

b. Non-Chinook Base Rate In-Season Adjustment. Commencing on July 1 of each year that this Agreement is in effect, and on each Thursday through the duration of each “B” season thereafter, Sea State shall recalculate the “B” season non-Chinook salmon Base Rate. The recalculated Base Rate shall be the three week rolling average of the Fishery “B” season non-Chinook bycatch rate for the then-current year. The recalculated Base Rate shall be



the governing non-Chinook salmon Base Rate for purposes of each “Thursday Announcement” of a “Friday Closure” (as defined below) following recalculation.

c. Implementation of Salmon Savings Measures. Sea State shall use Fishery “B” season bycatch data from fishing activity after June 10 of each year to provide Coops with preliminary information regarding the location and concentration of non-Chinook salmon, and to determine initial Chum Salmon Savings Area closures and Coop Tier assignments (as defined below). Sea State shall implement Chum Salmon Savings Area closures as appropriate upon non-Chinook bycatch rates exceeding the Base Rate, and thereafter through the balance of each Fishery “B” season.

d. Cooperative Tier Assignments. Rate calculations for purposes of tier assignments shall be based on each Coop’s pollock catch in the Fishery for the prior two weeks (the denominator) and the aggregate amount of associated bycatch of non-Chinook salmon taken by its members (the numerator). For purposes of this Section, a Coop’s non-Chinook salmon bycatch amount shall be based on observer data.

- Coops with non-Chinook salmon bycatch rates of less than 75% of the applicable Base Rate shall be assigned to “Tier 1.”
- Coops with non-Chinook salmon bycatch rates equal to or greater than 75% of the applicable Base Rate but equal to or less than 125% of the Base Rate shall be assigned to “Tier 2”.
- Coops with non-Chinook salmon bycatch rates greater than 125% of the applicable Base Rate shall be assigned to “Tier 3”.

e. Bycatch Hot Zone Identification. When the Fishery “B” season is open to any of the inshore, catcher/processor or mothership components, on an ongoing basis Sea State shall calculate the non-Chinook bycatch rates for each Alaska Department of Fish and Game (“ADF&G”) statistical area for which Sea State receives a non-Chinook salmon bycatch report, and when feasible, for each lateral half of each such statistical area. Bycatch rates shall be recalculated and updated every four (4) or seven (7) days during the season, immediately preceding the closure announcements described in Section 4.g., below, as Sea State determines appropriate given the quality of data available for the area. The non-Chinook bycatch rates shall be calculated on the basis of reports Sea State determines to be adequately accurate, including reliable tow-by-tow estimates from the fishing grounds. In every case, rates calculated on the basis of the actual number of salmon observed per tow shall be given priority over rates based on sampling and extrapolation.

f. Chum Salmon Savings Areas. On each Thursday and on each Monday following June 10, for the duration of the Fishery “B” season, Sea State shall, subject to the criteria set forth below, provide notice to the Coops identifying one or more areas designated as

“Chum Salmon Savings Areas”, within which pollock fishing shall be restricted on the basis of each Coop’s Tier status.

(i) Savings Area Designation Criteria. To qualify as a Chum Salmon Savings Area, (a) an amount of pollock that Sea State in its sole discretion determines to be substantial must have been taken in the Savings Area during the period on which its designation as a Savings Area is based, or the area must have been designated a Savings Area for the prior notification period and there must be evidence satisfactory to Sea State in its sole discretion that suggests that non-Chinook salmon bycatch rates in the area are not likely to have changed, and (b) the salmon bycatch rate in the area for the period on which its definition as a Chum Salmon Savings Area is based must exceed the Base Rate. For purposes of (a), above, Sea State shall consider a pollock harvest of two percent (2%) of the total amount of pollock harvested in the Fishery during the period on which a Chum Salmon Savings Area designation is based to be indicative of, but not dispositive of, whether a substantial amount of pollock has been harvested in an area.

(ii) Savings Area Boundaries and Limitations. Subject to the limits set forth in this Section, Savings Areas shall be defined by a series of latitude/longitude coordinates as Sea State determines appropriate to address salmon bycatch. Notwithstanding the foregoing, the following limits shall apply to designations of “B” season Savings Areas: (i) Chum Salmon Savings Area closures in the East Region may not exceed three thousand (3,000) square miles in total area during any single closure period; (ii) Chum Salmon Savings Areas in the West Region may not exceed one thousand (1,000) square miles in total area during any single closure period; (iii) there may be up to two (2) Savings Areas per Region per closure period.

g. Savings Area Closure Announcements. Fishery “B” season Savings Area closures announced on Thursdays (the “Thursday Announcement” of the “Friday Closures”) shall be effective from 6:00 pm the following Friday through 6:00 pm the following Tuesday, and Savings Area closures announced on Mondays (the “Monday Announcement” of “Tuesday Closures”) shall be effective from 6:00 pm the following Tuesday through 6:00 pm the following Friday. Upon a Chum Salmon Savings Area closure taking effect, fishing by Coop vessels participating in the Fishery shall be restricted pursuant to Subsection 4.i., below. Each Thursday Announcement shall include the following information: (i) season update on pollock harvest and non-Chinook salmon bycatch by pollock fishery sector and in total; (ii) each Coop’s updated rolling two week non-Chinook salmon bycatch rate, associated Tier status, and Savings Area closure dates, times and days; (iii) the coordinates describing each Chum Salmon Savings Area, and a map of the Area; (iv) non-Chinook salmon bycatch rates for each Alaska Department of Fish and Game statistical area in which there was directed pollock fishing during the previous week; and (v) updated vessel performance lists, as defined in 4.j., below. Each Monday Announcement shall include the information described in clauses (i), (iii), (iv), and a reminder to each Coop of its chum bycatch Tier status.

h. Savings Area Implementation. During the Fishery “B” seasons, Savings Area closures shall apply to Coop member vessels as follows. Chum Salmon Savings Areas announced as Friday Closures and as updated by Tuesday Closures shall be closed to fishing by Tier 3 Coop vessels for seven days. Chum Salmon Savings Areas announced as Friday Closures shall be closed to fishing by Tier 2 Coop vessels through 6:00 pm the following Tuesday. Tier 1 Coop vessels may fish in Chum Salmon Savings Areas closed to the Tier 2 and Tier 3 Coop vessels.

i. Vessel Performance Lists. On a weekly basis, Sea State shall provide salmon bycatch performance lists to the Coops calculated on the basis of non-Chinook bycatch.

i. A list of the 20 vessels with the highest non-Chinook bycatch rates for the previous 2 weeks in excess of the Base Rate.

ii. A list of the 20 vessels with the highest non-Chinook bycatch rates for the previous week in excess of the Base Rate.

j. Throughout the Fishery “B” season, Sea State shall provide salmon “hot spot” advisory notices concerning areas of high non-Chinook salmon bycatch that do not fall within Savings Area closures.

4. Data Gathering and Reporting. The Coops acknowledge that the effectiveness of the bycatch management program being implemented under this Agreement depends on rapidly gathering, analyzing and disseminating accurate data concerning non-Chinook salmon bycatch in the Fishery. The Coops therefore agree as follows.

a. Each Coop shall require its members to take all actions necessary to release their vessels’ NMFS observer reports and official landing records to Sea State as soon as commercially practicable after such documents are completed. Each Coop shall request its members’ vessels to exercise commercially reasonable efforts to report to Sea State within 24 hours the location of, estimated pollock tonnage of and estimated number of non-Chinook salmon in each trawl tow. PCC may satisfy its obligation under this section 6.a. by arranging to have its members’ vessels’ observer reports concerning non-Chinook salmon bycatch transmitted to Sea State. MFC and High Seas may satisfy their obligations under this Section by arranging to have the pollock amounts and non-Chinook salmon counts for their members’ vessels reported to Sea State by the observers on the processing vessels to which their members’ vessels deliver. The Inshore Coops shall arrange for their vessels to report the crew’s best estimate of the amount of pollock and the number of non-Chinook salmon in the tow when reporting its location. Each Inshore Coop shall develop its own methods and means to accurately calculate (when feasible) or estimate the amount of pollock and the number of salmon contained in each tow by its members’ vessels, and to rapidly and accurately report that information to Sea State.

b. Sea State shall from time to time announce a non-Chinook bycatch rate that shall trigger an incident reporting requirement. Each Coop shall require its members' vessels to notify their coop manager (if applicable), the intercooperative manager and, if feasible, Sea State as soon as possible of any tow with a non-Chinook salmon bycatch rate that the crew estimates to be equal to or greater than the incident reporting rate threshold.

5. Savings Area Closure Enforcement. Upon a Coop receiving a Savings Area closure notice which has the effect of closing one or more Savings Areas to fishing by its members' vessels under this Agreement, the Coop shall timely notify its members. Each Coop agrees to take enforcement action with respect to any violation of a Savings Area closure notice, and to collect the assessments set forth below in cases where a vessel is found to have violated a closure.

a. Sea State shall monitor the fishing activities of all Coops' members' vessels, and shall promptly report all apparent Savings Area violations to all Coops. For purposes of this Agreement, "fishing" shall mean all activity of a vessel between the time of initial gear deployment and final gear retrieval. For purposes of this Section 5.a., "gear deployment" and "gear retrieval" shall have the meanings given them in 50 C.F.R. 679.2 or its successor, as the same may be amended from time to time. Initial gear deployment shall mean setting trawl gear with an empty codend, and final gear retrieval shall mean retrieving trawl gear to either pull a codend aboard the vessel or to deliver the codend to another vessel.

b. Upon receiving notice of an apparent violation from Sea State, the Board of Directors of the Coop to which the vessel belongs shall have one hundred and eighty (180) days to take action in connection with the apparent violation, and to provide a report of the action taken and a copy of the record supporting that action to all other Coops. When the Board of Directors to which the vessel belongs provides its report, or if the Coop Board of Directors fails to provide its report within such 180 day period, then Sea State and/or UCB shall provide each other Coop, the CDQ Groups, the Association of Village Council Presidents ("AVCP"), Bering Sea Fishermen's Association ("BSFA"), Tanana Chiefs' Conference ("TCC") and Yukon River Drainage Fishermen's Association ("YRDFFA") with the Coop's report (if provided) and the record developed by Sea State in connection with the apparent violation, and each of such parties shall have standing to pursue Savings Area closure enforcement actions equivalent to such Coop's own rights with respect to its members.

c. The Coops hereby adopt a uniform assessment for a skipper's first annual violation of a Savings Area closure of Ten Thousand Dollars (\$10,000.00), a uniform assessment for a skipper's second annual violation of a Savings Area closure of Fifteen Thousand Dollars (\$15,000.00), and a uniform assessment of Twenty Thousand Dollars (\$20,000.00) for a skipper's third and subsequent violations in a year. The Coops acknowledge that the damages resulting from violating a Savings Area closure are difficult to estimate, and that the foregoing assessment amounts are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Therefore, the Coops agree that the assessment amounts established under this Subsection 5.c are liquidated damages, the payment of which

(together with reasonable costs of collection) shall satisfy a Coop's and its members' obligations related to a Savings Area closure violation. The Coops hereby waive any and all claims to direct, indirect or consequential damages related to such violation.

d. The Coops agree that any funds collected in connection with a violation of this agreement, in excess of those necessary to reimburse the prevailing party for its costs and attorneys fees, shall be used to support research concerning salmon taken incidentally in the Fishery. The Coops agree to consult with the CDQ Groups, AVCP, BSFA, TCC and YRDFFA regarding the most appropriate use of such funds.

e. For purposes of this Section 5, State and Federal landing reports, observer data, VMS tracking data, vessel log books and plotter data and Coop catch data produced by the Sea State in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate and sufficient for determining whether a vessel violated a Savings Area closure, absent a clear and compelling demonstration of manifest error. The Coops agree to take all actions and execute all documents necessary to give effect to this provision.

f. The Coops agree to require their members to obtain and maintain an operational VMS unit approved by Sea State on their vessels, provided that such units are available on a commercially reasonable basis. The Coops agree to cause their members to release their VMS tracking data to Sea State. Sea State agrees not to disclose any such information, other than as specifically authorized under this Agreement, as necessary to fulfill the intents and purposes of this Agreement, or with prior consent from the affected vessel owner. The Coops agree that the damages resulting from vessels operating in non-compliance with this subsection are difficult to estimate, and the Coops therefore hereby adopt a uniform assessment of One Thousand Dollars (\$1,000.00) per day for each consecutive day over thirty (30) consecutive days that a Coop member's vessel is employed in the Fishery without an operational VMS unit approved by Sea State, provided such unit is available on a commercially reasonable basis.

6. Release and Waiver of All Claims Against SeaState and United Catcher Boats; Indemnification and Hold Harmless. The parties acknowledge that the effectiveness of this Agreement depends to a significant extent on Sea State's and UCB's discretion and judgment in designating and defining Savings Areas, determining each Coop's Tier status, monitoring compliance with Savings Area closures, and initiating and supporting enforcement actions under circumstances where a Coop member appears to have violated this Agreement. The parties further acknowledge that if Sea State or UCB were potentially liable for simple negligence in connection with such actions, it would be necessary for Sea State and UCB to charge a substantially larger fee for the services they provide in connection with this Agreement, to offset that potential liability. It is therefore in the parties' interest to reduce Sea State's and UCB's potential liability under this Agreement. Therefore, the Coops and the CDQ Groups hereby waive and release any and all claims against Sea State and UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB. Further, the Coops

jointly and severally agree to indemnify, defend and hold Sea State and UCB harmless against any third party claims asserted against Sea State or UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB.

7. ICA Representative contact information:

United Catcher Boats  
4005 20<sup>th</sup> Ave. West, Suite 116  
Seattle, WA 98199  
Phone: 206-282-2599  
Fax: 206-282-2414  
E-mail: penguin@ucba.org

8. Coop Membership Agreement Amendments. To give effect to this Agreement, the Coops agree to cause each of their Membership Agreements to include the following provisions.

a. Each member shall acknowledge that its vessel's operations are governed by this Agreement, and shall agree to comply with its terms.

b. Each member shall authorize its Coop's Board of Directors to take all actions and execute all documents necessary to give effect to this Agreement.

c. Each member shall authorize its Coop Board of Directors to enforce this Agreement, and if the Board fails to do so within one hundred eighty (180) days of receiving notice from Sea State that a cooperative member may have failed to comply with the Agreement, each member shall authorize each other Coop, each of the CDQ groups, AVCP, BSFA, TCC and YRDFA to individually or collectively enforce this Agreement.

d. Each member shall agree to maintain an operational VMS unit approved by Sea State on its vessel at all times that its vessel is participating in the Fishery, provided such VMS unit is available on a commercially reasonable basis, and shall agree to cause its vessel's VMS tracking data to be released to Sea State on a basis that permits Sea State to determine whether the member's vessel has operated in compliance with this Agreement. Each Coop member shall release to Sea State its State and Federal landing reports, observer data, VMS tracking data, and vessel log books and plotter data for purposes of determining its compliance with this Agreement, and agrees that in the event Sea State concludes that its vessel may have violated a hot spot closure, Sea State may release such data as Sea State in its sole discretion determines appropriate to facilitate enforcement of this Agreement.

e. Each member shall agree that the information contained in the records identified in d., above, shall be presumed accurate absent a clear and compelling demonstration of manifest error, and shall be presumed sufficient to determine its compliance with this Agreement.

f. Each member shall agree that the damages resulting from violating a Savings Area closure are difficult to estimate, and that the assessment amounts provided under this Agreement are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Each member shall agree that its Coop Board of Directors may modify Savings Area violation assessment amounts from time to time, as necessary to maintain an effective deterrent to Savings Area violations. Each member shall agree that each trawl tow during which the member's vessel fishes in a Savings Area in violation of this Agreement shall constitute a separate violation for purposes of assessment calculation. Each member shall agree that damages for violating this Agreement shall apply on a strict liability basis, regardless of a member's lack of knowledge of the violation or intent to violate the agreement. Each member shall agree that actual damages for violating this Agreement would be difficult to calculate, and shall therefore agree to pay the assessment amounts established under this Agreement, as amended from time to time, as liquidated damages. Each member agrees to modify its skipper contracts to make its skipper(s) fully responsible for the assessments levied in connection with a breach of the agreement. Further, each member agrees that in the event a skipper fails to assume such assignment of liability, or in the event such assumption of liability is deemed invalid, the member shall be liable for the full amount of such assessment, and all related costs and attorneys' fees.

g. Each member shall agree that in connection with any action taken to enforce this Agreement, the prevailing party shall be entitled to the costs and fees it incurs in connection with such action, including attorneys' fees.

h. Each member shall agree that in addition to legal remedies, the Board of Directors of each cooperative, each of the CDQ groups, BSFA and YRDFA shall be entitled to injunctive relief in connection with the second and subsequent violations of this Agreement.

i. Each member shall agree to waive and release any and all claims against Sea State and UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB.

j. Each member shall acknowledge that, notwithstanding the definition of "fishing" used in this Agreement (which is the consistent with the definition used by NMFS for logbook entries and observer reporting purposes), it is the Coops' policy that no member's vessel will be present in a Savings Area that is closed to fishing by such Coops' members' vessels unless and until such vessel's trawl doors have been fully retrieved or stored. Further, each member shall agree that, absent extenuating circumstances, such member exercise its best efforts to comply with this policy.

9. Term. This Agreement shall take effect as of November 30, 2010. The initial term of this Agreement shall extend through November 1, 2013. The term of this Agreement shall be automatically extended for an additional year as of September 15 each year it remains in

effect, i.e., as of September 15, 2011, the new expiration date of this Agreement shall be November 1, 2014, and so on. A party to this Agreement may terminate its status as a party by providing written notice to all other parties to this Agreement to that effect, provided that the effective date of such party's termination shall be the expiration date of this Agreement in effect at the time the termination notice is delivered. For example, if a Coop provides termination notice on August 15, 2011, its termination shall not be effective until November 1, 2013. If a Coop provides termination notice on October 1, 2011, its termination shall not be effective until November 1, 2014. Notwithstanding any party's termination of its participation in this Agreement or the expiration of its term, the enforcement provisions of Section 7, above, shall survive with full force and effect.

10. Breach and Termination of Exemption. Each Coop acknowledges that, as of the opening of the 2011 "B" season Fishery, NMFS is expected to issue an annual exemption to the regulatory salmon savings closures (the "Exemptions") to each Coop that is a party to and complies with this Agreement. Further, each Coop acknowledges that a Coop's material breach of this Agreement that is not timely cured shall result in forfeiture of such Coop's right to retain its Exemption. The following shall constitute material breaches of this Agreement:

(i) a Coop failing to take enforcement action within one hundred eighty (180) days of being notified by Sea State of an apparent violation of a Savings Area closure by one or more of its members, as provided in Section 5.b, above;

(ii) a Coop failing to collect and/or disburse an assessment in compliance with this Agreement within one hundred eighty (180) days of a determination that its member(s) violated a Savings Area closure, as provided in Sections 5.c and 5.d, above;

(iii) a Coop failing to collect and/or disburse an assessment in compliance with this Agreement within one hundred eighty (180) days of a determination that a member of the Coop failed to maintain an available, operational VMS unit approved by Sea State on its vessel as provided in Section 5.f of this Agreement and/or failed to cause such vessel(s) to release their VMS tracking data to Sea State as provided in Section 5.f of this Agreement.

In the event of a material breach of this Agreement by a Coop that is not cured within thirty (30) days of such Coop's authorized representative receiving written notice of such breach from one or more other Coop(s), a CDQ Group, AVCP, BSFA, TCC or YRDFA, any one of such parties may demand that the breaching Coop tender its Exemption to NMFS, and such Coop shall do so within ten (10) days. If a Coop fails to timely tender its Exemption, any of such parties may seek injunctive relief requiring such Coop to tender its Exemption.

11. Annual Compliance Audit. The Coops shall annually retain an entity that is not a party to this Agreement (the "Compliance Auditor") to review and prepare a report concerning Sea State's performance of its monitoring and notification obligations under this Agreement and actions taken by the Coops in response to all notifications from Sea State to the Coops regarding potential violations of this Agreement. All parties to this Agreement will be



provided an opportunity to participate in selecting the non-party Compliance Auditor. Sea State and the Coops shall cooperate fully with the Compliance Auditor, and shall provide any information the Compliance Auditor requires to complete its review and report. If the Compliance Auditor identifies a failure to comply with this Agreement as part of its review, the Compliance Auditor shall notify all parties to this Agreement of the failure to comply, shall distribute to all parties to this Agreement the information used to identify the failure to comply, and shall provide notice of any such failures in the Compliance Auditor's final report.

12. Miscellaneous.

a. No amendment to this Agreement shall be effective against a party hereto unless in writing and duly executed by such party. The parties agree to amend this Agreement as reasonably necessary to conform with changes in law or circumstances.

b. This Agreement shall be governed by and construed in accordance with applicable federal law and the laws of the State of Washington.

c. This Agreement may be executed in counterparts which, when taken together, shall have the same effect as a fully executed original. Delivery of a signed copy of this Agreement by telefacsimile shall have the same effect as delivering a signed original.

d. The parties agree to execute any documents necessary or convenient to give effect to the intents and purposes of this Agreement.

e. All notices required to be given under this Agreement shall be deemed given five (5) days following deposit in certified first class U.S. mail, postage prepaid, with the correct address, or upon the first business day following confirmed telefacsimile or e-mail transmission to the recipient. Each party to this Agreement agrees to provide the name, postal address, telefacsimile number and e-mail address of its duly authorized representative(s) for purposes of receiving notices under this Agreement within three (3) days of executing this Agreement.

f. In the event that any provision of this Agreement is held to be invalid or unenforceable, such provision shall be deemed to be severed from this Agreement, and such holding shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

g. Each Coop agrees to use its best efforts to resolve any disputes arising under this Agreement through direct negotiations. Breaches of this Agreement for which a party seeks a remedy other than injunctive relief that are not resolved through direct negotiation shall be submitted to arbitration in Seattle, Washington upon the request of any party to this Agreement. The party's written request will include the name of the arbitrator selected by the party requesting arbitration. The other party will have ten (10) days to provide written notice of the name of the arbitrator it has selected, if any. If the other party timely selects a second

arbitrator, the two arbitrators will select a third arbitrator within ten (10) days. If the other party does not timely select the second arbitrator, there shall be only the one arbitrator. The single arbitrator or the three (3) arbitrators so selected will schedule the arbitration hearing as soon as possible thereafter. Every arbitrator, however chosen, must have no material ties to any Coop or Coop member. The decision of the arbitrator (or in the case of a three (3) arbitrator panel, the decision of the majority) will be final and binding. The arbitration will be conducted under the rules of (but not by) the American Arbitration Association. The parties will be entitled to limited discovery as determined by the arbitrator(s) in its or their sole discretion. The arbitrator(s) will also determine the “prevailing party” and that party will be entitled to its reasonable costs, fees and expenses, including attorneys’ and arbitrator fees, incurred in the action by said party. In no event will arbitration be available pursuant to this paragraph after the date when commencement of such legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.

## **Appendix IV**

2014 B Season Supplemental Non-Chinook Salmon

Protection Agreement

BERING SEA POLLOCK HARVESTING COOPERATIVES  
2014 B SEASON  
SUPPLEMENTAL NON-CHINOOK SALMON PROTECTION AGREEMENT

This BERING SEA POLLOCK HARVESTING COOPERATIVES 2014 B SEASON SUPPLEMENTAL NON-CHINOOK SALMON PROTECTION AGREEMENT (the “Agreement”) is entered into by and among POLLOCK CONSERVATION COOPERATIVE (“PCC”), the HIGH SEAS CATCHERS COOPERATIVE (“High Seas”), MOTHERSHIP FLEET COOPERATIVE (“MFC”), the “Inshore Coops”, i.e., AKUTAN CATCHER VESSEL ASSOCIATION, NORTHERN VICTOR FLEET COOPERATIVE, PETER PAN FLEET COOPERATIVE, UNALASKA FLEET COOPERATIVE, UNISEA FLEET COOPERATIVE and WESTWARD FLEET COOPERATIVE, and SEA STATE, INC. (“Sea State”) and UNITED CATCHER BOATS ASSOCIATION (“UCB”) as of June \_\_\_\_\_, 2014. PCC, High Seas, MFC, and the Inshore Coops are hereafter collectively referred to as the “Coops.” PCC, High Seas, MFC, the Inshore Coops, Sea State and UCB are collectively referred to as the “Parties.”

This Agreement is entered into with respect to the following facts:

RECITALS

The Parties and other entities previously entered into that certain Amended and Restated Bering Sea Pollock Fishery Rolling Hot Spot Closure Non-Chinook Salmon Bycatch Management Agreement dated as of December 1, 2010 (the “RHS Agreement”). Under the RHS Agreement, Sea State is authorized to designate portions of the Bering Sea as Chum Salmon Savings Areas, access to which is restricted to certain Tiers of Coop vessels. Sea State’s designation of Savings Areas and access to them under Tier assignments are based on a Base Rate of non-Chinook salmon bycatch that Sea State calculates on a weekly basis during the Bering Sea directed pollock fishery “B” season (the “B season”). In an effort to further reduce bycatch of Western Alaska origin non-Chinook salmon during the 2014 B season, the Parties will instruct Sea State to limit the increase in the Base Rate to not more than 20% per week up to the end of August and to designate Savings Areas and determine Tier assignments based on that more conservative Base Rate calculation. The Coops have determined that suspending the 20% limitation at the end of August will best balance protection measures for both Western Alaskan origin non-Chinook salmon bycatch that predominately occurs early in the B season and Western Alaskan Chinook salmon bycatch that does not generally occur until later in the B season.

Additionally, the Coops agree to abide by a more restrictive initial Tier assignment, Tier 3, than would otherwise apply under the RHS Agreement. This initial restrictive Tier assignment will prevent vessels from accessing areas of higher salmon bycatch until they have qualified for lower Tier assignments.

## AGREEMENT

1. Base Rate. From July 1, 2014, until August 29, 2014, Sea State shall not increase the Base Rate by more than 20% per week. This limit on the weekly increase of the Base Rate will be effective beginning with the Base Rate announced on July 1, 2014, which shall not be more than 20% greater than the initial Base Rate, and will extend up to but not include, the August 29<sup>th</sup> “Closure Announcement” of the 2014 B season. The limit on the weekly increase of the Base Rate will apply for all purposes under this Agreement and the RHS Agreement, including without limitation Chum Salmon Savings Area designations and Tier assignments. The Coops agree to cause their member vessels to abide by these more restrictive Tier assignments, even if entry into Savings Areas would otherwise be allowed under the more lenient Tier assignments of the RHS Agreement.

2. Initial Tier Assignment. During the 2014 B season, Sea State shall initially assign each Coop to Tier 3. To qualify for a Tier assignment other than Tier 3 a Coop must meet the relevant requirements of the RHS Agreement and Section 1 (above) of this Agreement based on landings data from each of the two consecutive weeks preceding the date of an updated assignment.

3. Termination. This Agreement will terminate automatically at the end of the 2014 B season, unless terminated beforehand by a majority vote of Coops at a meeting called to consider termination of this Agreement.

4. Performance Subject to RHS Agreement. The Parties’ performance of this Agreement is subject to and governed by all the terms and conditions of the RHS Agreement, including without limitation the Savings Area Closure Enforcement provisions and the limitations on the number and size of Chum Salmon Savings Areas.

5. Definitions. Terms used in this Agreement that are defined in the RHS Agreement have the same meaning as provided in the RHS Agreement.

## **Appendix V**

### **2014 Squid Bycatch Management Agreement**

## SQUID BYCATCH MANAGEMENT AGREEMENT OF 2014

This SQUID BYCATCH MANAGEMENT AGREEMENT OF 2014 is entered into by and among POLLOCK CONSERVATION COOPERATIVE (“PCC”); the HIGH SEAS CATCHERS COOPERATIVE (“High Seas”); MOTHERSHIP FLEET COOPERATIVE (“MFC”); AKUTAN CATCHER VESSEL ASSOCIATION, NORTHERN VICTOR FLEET COOPERATIVE, PETER PAN FLEET COOPERATIVE, UNALASKA FLEET COOPERATIVE, UNISEA FLEET 1 COOPERATIVE and WESTWARD FLEET COOPERATIVE (together, the “Inshore Cooperatives”); SEA STATE, INC. (“Sea State”); and UNITED CATCHER BOATS ASSOCIATION (“UCB”) as of \_\_\_\_\_, 2014. PCC, High Seas, MFC and the Inshore Coops are hereafter collectively referred to as the “Coops”.

This Agreement is entered into with respect to the following facts:

### RECITALS

A. The National Marine Fisheries Service (“NMFS”) has determined that squid bycatch in the Bering Sea/Aleutian Islands (“BSAI”) management area is approaching the squid total allowable catch for 2014. If NMFS determines that fishing for pollock in the BSAI management area may cause the BSAI squid Acceptable Biological Catch (“SABC”) of 1,970 metric tons (“MT”) or the BSAI squid Overfishing Limit (“SOFL”) of 2,620 MT to be reached, NMFS may impose limitations or prohibitions on the Bering Sea directed pollock fishery designed to prevent overfishing of squid.

B. The Coops and their member vessels together harvest 100% of the pollock subject to directed fishing in the Bering Sea. The Coops wish to take action that reduces the risk that the SABC and SOFL will be reached, such that it will be unnecessary for NMFS to impose limitations or prohibitions on the Bering Sea directed pollock fishery for that purpose.

Now, therefore, the parties agree as follows:

### AGREEMENT

1. Initial Squid Savings Area Closure. The Coops agree to take all actions necessary to cause their members’ vessels to conduct no directed pollock fishing in the “Initial Squid Savings Area”, as defined and illustrated on Exhibit A, while that area is closed pursuant to the terms of this Agreement. The Coops agree that the Initial Squid Savings Area will close to directed pollock fishing by their members’ vessels upon Sea State’s notice to the Coops of its

determination that squid bycatch in the BSAI is anticipated to reach 1,770 MT within three (3) calendar days. The Initial Squid Savings Area will remain closed to directed pollock fishing by the Coops' members' vessels until the earlier of (i) closure of the 2014 Bering Sea directed pollock fishery, or (ii) a decision by the Coops to rescind the Initial Squid Savings Area closure made pursuant to Section 1.1, below.

1.1 Coop Meeting. The Coops agree to hold a meeting of Coop representatives on or about September 15, 2014 to consider rescinding the Initial Squid Savings Area closure and/or any additional area closures implemented pursuant to Section 3, below. The Coops agree that if at such meeting (as recessed and reconvened from time to time by unanimous vote of authorized Coop representatives) their authorized representatives conclude, after consulting with appropriate NMFS staff, that reopening the Initial Squid Savings Area and/or any additional area closures to directed pollock fishing will not increase the risk that the SABC or SOFL will be reached before the 2014 Bering Sea directed pollock fishery closes, the Coop's authorized representatives may by unanimous vote rescind the Initial Squid Savings Area closure and/or any additional area closures. Following such a vote, the Coops' members' vessels may resume directed pollock fishing within the Initial Squid Savings Area and/or any additional area closures.

1.2 Monitoring and Management. The Coops shall retain Sea State to facilitate vessel bycatch avoidance behavior, information sharing, data gathering, analysis, and fleet monitoring necessary to implement the squid bycatch management program contemplated under this Agreement. The Coops shall retain UCB to provide day-to-day management of inter-cooperative matters related to the performance of this Agreement.

2. Squid Bycatch Reporting. The Coops agree to cause their members to report their squid bycatch to Sea State on a tow-by-tow basis to the extent practicable, and in any event on a trip-by-trip basis. The Coops acknowledge that their members have authorized release of their fishery observer data to Sea State, and agree to confirm with their members that such release extends to all observer data concerning squid bycatch. The Coops agree to require their members to obtain and maintain an operational VMS unit approved by Sea State on their vessels, provided that such units are available on a commercially reasonable basis. The Coops agree to cause their members to release their VMS tracking data to Sea State. Sea State agrees not to disclose any such information, other than as specifically authorized under this Agreement, as necessary to fulfill the intents and purposes of this Agreement, or with prior consent from the affected vessel owner.

3. Additional Squid Bycatch Management Measures. Sea State agrees to monitor BSAI squid bycatch, and to notify the Coops if Sea State anticipates that within three (3) calendar days such bycatch may reach 1,820 MT and each additional 50 MT increment thereafter (1,820 MT and each additional 50 MT increment, a "Trigger Amount"). Each time Sea State gives notice of its anticipation that a Trigger Amount may be reached, the Coops' authorized representatives shall meet as soon after as reasonably possible and, after consulting with appropriate NMFS staff, shall consider adopting additional squid savings area closures as



appropriate to reduce the risk of reaching the SABC or SOFL. The Coops' authorized representatives may by unanimous vote adopt such additional squid savings area closures. The Coops authorize Sea State to define and announce interim squid savings areas to be closed to directed pollock fishing from the time Sea State gives notice of its anticipation that a Trigger Amount may be reached until such time as the Coops' authorized representatives make a determination whether such interim savings area closures should be adopted by the Coops, if Sea State in its sole discretion determines that such interim closures are necessary to reduce the risk that BSAI squid bycatch will reach the SABC or SOFL before the Coops' authorized representatives are able to make such determination. The Coops agree to take all actions necessary to cause their members' vessels to conduct no directed pollock fishing in squid savings areas closed by Sea State or the Coops' authorized representatives under this Section 3.

4. Term. This Agreement shall take effect as of the date it is fully executed by all of the parties, and shall remain in effect until NMFS closes the 2014 Bering Sea directed pollock fishery.

5. Squid Savings Area Enforcement. Upon a Coop receiving a squid savings area closure notice, the Coop shall timely notify its members. Each Coop agrees to take enforcement action with respect to any violation of a squid savings area closed pursuant to Sections 1 or 3, above (each a "Savings Area"), and to collect the assessments set forth below in cases where a vessel is found to have violated a closure.

a. Sea State shall monitor the fishing activities of all Coops' members' vessels, and shall promptly report all tows with an apparent Savings Area violation to all Coops. Apparent Savings Area violations are determined on a tow-by-tow basis with a maximum of 1 violation per tow. To constitute an apparent Savings Area violation, a vessel must be recorded towing within a Savings Area through at least two (2) consecutive VMS data points. Upon receiving notice of an apparent Savings Area violation from Sea State, the Board of Directors of the Coop to which the vessel belongs shall have one hundred eight (180) days to take action in connection with the apparent violation, and to provide a report of the action taken and a copy of the record supporting that action to all other Coops. If the vessel's Coop Board of Directors fails to take action that is consistent with the terms and conditions of this Agreement within such 180 day time period, or fails to provide a report of the action taken and the supporting record to all other Coops within such 180 day period, then Sea State and/or UCB shall provide each other Coop with notice to that effect, and each Coop shall have standing to pursue Savings Area closure enforcement or penalty actions equivalent to such Coop's own rights with respect to its members.

b. The Coops hereby adopt a uniform assessment for a member's first violation of a Savings Area closure of One Thousand Dollars (\$1,000.00), a uniform assessment for a member's second violation of a Savings Area closure of Five Thousand Dollars (\$5,000.00), and a uniform assessment of Ten Thousand Dollars (\$10,000.00) for a member's third and subsequent violations during this Agreement's term. Each Savings Area incursion – as recorded through at least 2 consecutive VMS data points – shall constitute a separate violation.

The Coops acknowledge that the damages resulting from violating a Savings Area closure are difficult to estimate, and that the foregoing assessment amounts are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Therefore, the Coops agree that the assessment amounts established under this Subsection 5.b are liquidated damages, the payment of which (together with reasonable costs of collection) shall satisfy a Coop's and its members' obligations related to a Savings Area closure violation. The Coops hereby waive any and all claims to direct, indirect or consequential damages related to such violation.

c. Each Coop agrees to cause its members to be fully responsible for the assessments levied in connection with a Savings Area violation. Further, each Coop agrees that in the event that a member fails to assume such assignment of liability, the Coop to which the vessel involved belongs shall be liable for the full amount of such assessment, and all related costs and attorneys' fees. The Coops agree that any funds collected in connection with a violation of this agreement, in excess of those necessary to reimburse the prevailing party for its costs and attorneys fees, shall be donated to the North Pacific Fisheries Research Foundation.

d. For purposes of this Section 5, State and Federal landing reports, observer data, VMS tracking data, vessel log books and plotter data and Coop catch data produced by Sea State in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate and sufficient for determining whether a vessel violated a Savings Area closure, absent a clear and compelling demonstration of manifest error. The Coops agree to take all actions and execute all documents necessary to give effect to this provision.

6. Release and Waiver of All Claims Against Sea State and UCB; Indemnification and Hold Harmless. The parties acknowledge that the effectiveness of this Agreement depends to a significant extent on Sea State's and UCB's discretion and judgment in designating and defining Savings Areas, monitoring compliance with Savings Area closures, and initiating and supporting enforcement actions under circumstances where a Coop member appears to have violated this Agreement. The parties further acknowledge that if Sea State or UCB were potentially liable for simple negligence in connection with such actions, it would be necessary for Sea State and UCB to charge a substantially larger fee for the services they provide in connection with this Agreement, to offset that potential liability. It is therefore in the parties' interest to reduce Sea State's and UCB's potential liability under this Agreement. Therefore, the Coops hereby waive and release any and all claims against Sea State and UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB. Further, the Coops jointly and severally agree to indemnify, defend and hold Sea State and UCB harmless against any third party claims asserted against Sea State or UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB.

7. Miscellaneous.

a. No amendment to this Agreement shall be effective against a party hereto unless in writing and duly executed by such party. The parties agree to amend this Agreement as reasonably necessary to conform with changes in law or circumstances.

b. This Agreement shall be governed by and construed in accordance with applicable federal law and the laws of the State of Washington , without regard to that state's conflict of laws provisions.

c. This Agreement may be executed in counterparts which, when taken together, shall have the same effect as a fully executed original. Delivery of a signed copy of this Agreement by e-mail or telefacsimile shall have the same effect as delivering a signed original.

d. The parties agree to execute any documents necessary or convenient to give effect to the intents and purposes of this Agreement.

e. All notices required to be given under this Agreement shall be deemed given five (5) days following deposit in certified first class U.S. mail, postage prepaid, with the correct address, or upon confirmed telefacsimile or e-mail transmission to the recipient. Each party to this Agreement agrees to provide the name, postal address, telefacsimile number and e-mail address of its duly authorized representative(s) for purposes of receiving notices under this Agreement within three (3) days of executing this Agreement.

f. In the event that any provision of this Agreement is held to be invalid or unenforceable, such provision shall be deemed to be severed from this Agreement, and such holding shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

g. Each Coop agrees to use its best efforts to resolve any disputes arising under this Agreement through direct negotiations. Breaches of this Agreement for which a party seeks a remedy other than injunctive relief that are not resolved through direct negotiation shall be submitted to arbitration in Seattle, Washington upon the request of any party to this Agreement. The party's written request will include the name of the arbitrator selected by the party requesting arbitration. The other party will have ten (10) days to provide written notice of the name of the arbitrator it has selected, if any. If the other party timely selects a second arbitrator, the two arbitrators will select a third arbitrator within ten (10) days. If the other party does not timely select the second arbitrator, there shall be only the one arbitrator. The single arbitrator or the three (3) arbitrators so selected will schedule the arbitration hearing as soon as possible thereafter. Every arbitrator, however chosen, must have no material ties to any Coop or Coop member. The decision of the arbitrator (or in the case of a three (3) arbitrator panel, the decision of the majority) will be final and binding. The arbitration will be conducted under the rules of (but not by) the American Arbitration Association. The parties will be

entitled to limited discovery as determined by the arbitrator(s) in its or their sole discretion. The arbitrator(s) will also determine the “prevailing party” and that party will be entitled to its reasonable costs, fees and expenses, including attorneys’ and arbitrator fees, incurred in the action by said party. In no event will arbitration be available pursuant to this paragraph after the date when commencement of such legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.