

Draft 9

JOINT VENTURE AGREEMENT

Between

PONTUSOCEAN HOLDINGS CO., LTD.,

("Pontus")

And

CEYLON FISHERIES CORPORATION

("CFC")

in relation to

SAGARA MARINE RESOURCES (PRIVATE) LIMITED

(the "Company")

Draft 9

THIS AGREEMENT is made on this day of [●] 2017

BY AND BETWEEN:

PontusOcean Holdings Co., Ltd., a company duly incorporated in South Korea, having its Registered Office at Centum Leaders Mark #4407, 17 APEC-Ro, Haeundae-Gu, Busan, South Korea (hereinafter called and referred to as "**Pontus**", which term as herein used shall include its successors and assigns);

AND

Ceylon Fisheries Corporation, an Industrial Corporation established under the State Industrial Corporation Act No: 49 of 1957, having its Head Office at No. 15, Rock House Lane, Colombo 15, Sri Lanka (hereinafter called and referred to as the "**CFC**", which term as herein used shall include its successors);

(each a "**Party**" or collectively the "**Parties**")

WITNESSES THAT WHEREAS



- (1) Sagara Marine Resources (Private) Limited (hereinafter referred to as the "**Company**" which term as herein used shall include its successors) is to be incorporated as a private limited liability company, in the manner contemplated by this Agreement;
- (2) The Company is incorporated for the purposes of carrying on commercial finishing operations in Sri Lankan and International waters primarily for the export market (hereinafter referred to as the "**Business**");
- (3) The Company is to further obtain BOI approval to conduct its Business by executing an agreement for this purpose with the BOI (hereinafter referred to as the "**BOI Agreement**") and will thus be subject to the terms and conditions more fully set out therein;
- (4) The Cabinet of Ministers has granted approval to the CFC on the pursuant to the Cabinet Memorandum No. 16/1283/725/019-1 dated 20th July 2016 (hereinafter referred to as "**Cabinet Approval**") to enter into a joint venture with Pontus and hold Shares in the Company in the manner more fully set out hereunder;
- (5) The shareholding of the Parties as approved by the Cabinet of Ministers is as follows:

Name of Shareholder	Number of shares	Percentage
Pontus	490,000	49%
CFC	510,000	51%
Total shares	1,000,000	100%

- (6) The Parties desire to execute this Agreement to protect their respective interests in the Company and establish the basis of their relationship and understanding and to stipulate their respective rights and obligations as Shareholders of the Company and in the management and operation of the Company, which are to be in accordance with the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual undertakings herein and mutual benefits to be derived hereunder, intending to be legally bound, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1. Definitions

In this Agreement, unless it appears otherwise from the context, the following words and expressions shall have the following meanings:

"Accounting Principles"	means the Sri Lanka Accounting Standards promulgated by the Institute of Chartered Accountants of Sri Lanka under the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995;
"Affiliate"	means any corporation, association or other entity which, directly or indirectly, Controls a Party hereto or is Controlled by a Party hereto or is under common Control with a Party hereto or any shareholder, director or agent of any of the foregoing or of any Party hereto whereas;
"Agreement"	means this Joint Venture Agreement and all annexes, schedules, appendices and attachments hereto and incorporated herein for reference;
"Articles"	means the articles of association of the Company;
"Board" or "Board of Directors"	means the Board of Directors of the Company;
"Budget and Business Plan"	means the detailed budget and business plan of the Company for a prospective financial year to be approved by the Board, providing the business plans for the Company's operations and implementation of the Business, as well as the expected income, expected expenses and required finances;

“Chairman”	means the chairman of the Board elected by the Board in accordance with the provisions of this Agreement;
“Companies Act”	means the Companies Act No. 07 of 2007, as amended from time to time;
“Control”	means, in respect of as juristic person (i) holding of shares carrying voting right in an amount exceeding fifty percent (50%) of the total number of the voting rights of such juristic person; or (ii) having control of the majority in the members meeting of such juristic person, whether directly or indirectly; or (iii) having control over the appointment or removal of at least half of all directors;
“Director”	means any member from time to time of the Board;
“Encumbrance”	shall mean any charge, claim, condition, equitable interest, trust, lien, option, mortgage, pledge, security interest, right of first refusal, pre-emptive right or restriction of any kind, including any restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership;
“Law”	means any statute, law, ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order issued or promulgated by any national, supranational, state, provincial, local or municipal government or any administrative or regulatory body with authority therefrom in Sri Lanka;

"Related Party"

shall mean persons with any of the following relationships:

- (i) a person having Control over the Company and in cases of a juristic person, including the board of directors of the said juristic person; or
- (ii) the spouse, parent, a minor child or an adopted minor child of the director, the executive or the person under (i); or
- (iii) a juristic person over which the person under (i) or (ii) has the Control;

"Related Person"

with respect to any person, means any other person who, directly or indirectly, is in Control of, is Controlled by, or is under the common Control with, that first person and including any individual who is a relative, next of kin or family members of that first person;

"Reserved Matters"

means those matters listed in 10.4 hereof, which may be proposed to be considered in any Shareholders' meetings in accordance with the provisions of Law and the approval of which shall be in accordance with the mechanisms set out in this Agreement;

"Rupees" or "LKR"

means the lawful currency of Sri Lanka;

"Share"

means any share in the registered capital of the Company from time to time, having the rights and benefits and being subject to the restrictions and limitations assigned to them in the terms of issue of such shares, in

accordance with the Articles of the Company and this Agreement;

“Shareholder”

means any shareholder of the Company; and

“Subsidiary”

means, as of the relevant date of determination, with respect to any Person, any other Person of which Fifty per cent (50%) or more of the voting power of the outstanding voting equity securities or Fifty per cent (50%) or more of the outstanding economic equity interest is held, directly or indirectly, by such Person and, in respect of the Company.

1.2. Recitals, Schedule, etc.

References to this Agreement include the recitals and schedules which form part of this Agreement for all purposes. References in this Agreement to the recitals, schedules, and clauses are references to the recitals and schedules to and clauses of this Agreement.

1.3. Interpretation

In this agreement, any references, expressed or implied, to acts, statutes or statutory provisions, shall be construed as references to those acts, statutes or provisions as respectively amended or re-enacted or as their application is modified from time to time by other provisions (whether before or after the date hereof) and shall include any statutes or provisions of which they are re-enactments (whether with or without modification) and any orders, royal decrees, ministerial regulations, notifications, instruments or other subordinate legislation under the relevant statute or statutory provision.

1.4. In this agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include the other genders;

- (c) obligations (whether actual or contingent) imposed upon or undertaken by two or more persons bind them jointly and each of them severally;
- (d) rights or privileges conferred on two or more persons may be enforced or exercised by them jointly and each of them severally according to their respective interests;
- (e) reference to any statute, ordinance or other law includes all regulation and other instruments made there under and all consolidations, amendments, re-enactments or replacements thereof for the time being in force;
- (f) all headings, bold typing and italics (if any) have been inserted for the convenience of reference only and do not define limit or affect the meaning or interpretation of this Agreement;
- (g) reference to a Recital, Article, Clause, Schedule, Annexure or Exhibit is to a Recital, Article, Clause, Schedule, Annexure or Exhibit of or to this Agreement;
- (h) a reference to any document (including this Agreement) is a reference to that document as amended, supplemented, consolidated, replaced or novated from time to time, disregarding any amendment, supplement, consolidation, replacement or novation made to this Agreement in breach of this Agreement;
- (i) reference to a Party means a Party to this Agreement and includes that Party's successors, legal personal representatives and permitted assigns;
- (j) reference to any agreement shall be to such agreement as amended from time to time;
- (k) the words "includes" and "including" shall be construed without limitation;
- (l) any defined word includes its derivatives (by way of example, "Control" includes "Controlled", "Budget" includes "Budgeted");
- (m) if any action falls to be done or taken or an event is to occur on a day which is not a Business Day, then the stipulated day will be taken to be the next Business Day.

2. EFFECTIVENESS

- a) This Agreement shall become effective on the date of execution hereof (hereinafter referred to as the "**Effective Date**").
- b) Immediately succeeding the Effective Date the Parties shall take all necessary steps to complete the following:
 - i. Obtain the approval of the BOI to incorporate the Company and conduct its Business;
 - ii. Incorporate the Company in the manner more fully agreed herein; and
 - iii. Cause the Company to enter into the BOI Agreement.

3. THE COMPANY

3.1. Articles of the Company

- a) In the event of conflict or inconsistency between the provisions of this Agreement, on the one hand, and the Articles on the other hand, the Parties shall take all steps necessary to amend the Articles to remove such conflict.
- b) Neither Party shall exercise any right, power, entitlement, advantage, privilege or other ability it may have under Articles, if the exercise of such right, power, entitlement, advantage, privilege or other ability is in conflict or inconsistent with the provisions of this Agreement.
- c) For so long as such conflict or inconsistency prevails or if such conflict or inconsistency cannot be removed, the terms of this Agreement shall prevail as between the Parties, to the greatest extent possible under Law, and the Parties shall take all actions necessary to act in accordance with the provisions contained herein.
- d) Without limiting the generality of the foregoing, each Shareholder and the Company shall, at all times, cast their votes and perform all actions as may be necessary to give effect to the provisions of this Agreement.

4. BUSINESS OF THE COMPANY

4.1. Business Operation

The Shareholders agree that their respective rights and obligations in the Company shall be regulated by this Agreement. The Shareholders agree to be bound by and to comply with the provisions of this Agreement that relate to them in good faith and all such provisions will be enforceable by the Shareholders between themselves in whatever capacity. The Shareholders shall in particular:

- (1) use their reasonable efforts and act in good faith to make the Company a viable and profitable enterprise in accordance with the intent and purposes of this Agreement and upon terms that will be feasible and profitable and promote the best interests of the Company;
- (2) ensure that the Company performs and complies with all of its obligations under this Agreement;
- (3) ensure that the Business is conducted in accordance with good and sound business practices and ethical standards and in accordance with annual Budget and Business Plans approved by the Board of Directors pursuant to the terms of this Agreement; and
- (4) permit each Director to visit and inspect and examine the Company's properties and records, and to discuss the affairs of the Company with its management.

4.2. Inspection of Records by Shareholders

The Shareholders or any person authorized in writing by the chairperson of a Shareholder shall have the right to inspect the books and records maintained by the Company, during the working hours of the Company, provided reasonable written notice of such intention to inspect (being in any event not less than 24 hours) was served on the Company.

4.3. Best Interest of the Company

The Shareholders agree, acknowledge and undertake that they shall, in good faith, carry out the Business of the Company without prejudice to the Company's existing or future businesses, and act in and for the best interest of the Company. The Shareholders shall

not act for their own benefit when acting in a capacity as Shareholder or Director, but for the benefit of the Company.

5. CAPITAL STRUCTURE OF THE COMPANY

5.1. Shareholding Structure

5.1.1. On the date of incorporation, the Company shall have a total issued share capital of One Million (1,000,000) ordinary Shares.

5.1.2. Such Shares shall be issued to each Party, in the respective amounts and percentages and for the consideration, as set out below:

Shareholder	Number of shares	Percentage	Investment
Pontus	490,000	49%	US \$ 6,800,000 *** ()
CFC	510,000	51%	The undertaking to provide future services to the Company (including but not limited to knowledge and experience in the local fisheries industry; assistance in obtaining governmental licenses and approvals required for the Business; and assistance with establishing meaningful and productive relationships with local parties in the fisheries industry, without prejudice to any liability)

5.1.3. Subject to the provisions of this Agreement, each Share issued by the Company to the Shareholders shall rank *pari passu* in all respects, unless otherwise specified in the terms of issue of such Shares.

5.2. Future Capital Increase – Pre-emptive rights

5.2.1. If the Company proposes to issue any new Shares (the “Relevant New Shares”), it shall first offer the Relevant New Shares to the Shareholders, pro

rata to their respective Shareholdings at such time. The offer (a “**New Subscription Offer**”) shall be made in writing and shall include (i) the number of Relevant New Shares proposed to be issued, (ii) the number of Relevant New Shares for which each Shareholder is entitled to subscribe pursuant to this Clause, (iii) the terms of the proposed issuance, including the subscription price, and (iv) the expected completion date of the issuance.

- 5.2.2. Each Shareholder shall have fourteen (14) days from the date of receipt of a New Subscription Offer to give the Company binding notice as to whether it wishes to acquire the number of Relevant New Shares it was offered, or such other number of the Relevant New Shares as such Shareholder may specify. The failure of any Shareholder to give timely written notice as provided above shall be deemed to be a rejection of the New Subscription Offer and shall constitute a waiver of its right to subscribe for the Relevant New Shares.
- 5.2.3. The Company shall thereupon, to the extent possible, allocate the Relevant New Shares among the Shareholders in accordance with their instructions; provided that a Shareholder shall be entitled to acquire more than its *pro rata* portion of the Relevant New Shares only to the extent the requested number of Shares is available after all Shareholders have responded (or are deemed to have responded) to the New Subscription Offer. The Company’s final allocation of the Relevant New Shares as determined by the Board shall be conclusive and binding on all Shareholders, in the absence of manifest error.
- 5.2.4. The Company shall give each Shareholder that has elected to subscribe for the Relevant New Shares not less than seven (07) days’ prior written notice of the completion date for the purchase of the Relevant New Shares. Such notice shall bind all such Shareholders to complete the purchase. At completion, payment shall be made as provided in such notice, and all parties to the transaction shall execute such documents as are customary and appropriate.
- 5.2.5. In the event that, after the Company’s final allocation of the Relevant New Shares as provided in Clause 6.2.3, if any Relevant New Shares are unallocated, the Company may issue the unallocated Shares to a buyer deemed suitable by the Board; provided that such issuance shall (i) be completed not later than ninety (90) days after the Company’s final allocation is announced, (ii) be on terms not more favourable to the buyer than those

specified in the New Subscription Offer, and (iii) be expressly conditional upon such buyer entering into a Deed of Adherence to be bound by the terms of this Agreement.

6. FUNDING AND FINANCING MATTERS

- 6.1. The Parties acknowledge and agree that the Company may require additional funds to enable it to carry on its operations and to successfully carry on its Business. Pontus shall at its sole discretion determine the total amount of funding required and the appropriate form and source of such additional funding.
- 6.2. Any additional funding provided by Pontus may, at the election of Pontus, be in the form of Shareholder loans, which shall bear interest at commercial rates prevailing at the time in non-bank financial institutions.

7. REPRESENTATIONS AND WARRANTIES

Each of the Parties hereby represents and warrants to the other Party that:

- (i) it has full legal right, power and authority to enter into this Agreement and to perform its obligations pursuant to this Agreement;
- (ii) their execution and delivery of this Agreement and the performance hereof will not contravene or constitute a default under its constitution, by-laws or any other agreement, instrument or other form of commitment to which that Party is also bound;
- (iii) all approvals, consents, exemptions, waivers, and corporate actions which are required for the execution and delivery of this Agreement and the performance hereof under its articles of association or any other similar corporate documents, or under applicable law, rules, and regulations for the execution of this Agreement have been satisfied or obtained; and
- (iv) that the execution of this Agreement by each Party will not violate, infringe or breach any rule, judgment, injunction, order, decree, applicable laws or regulation.

8. RESPONSIBILITIES OF EACH PARTY

8.1. Special Responsibilities of CFC in respect of the Company

8.1.1. CFC shall, in good faith:

- a) cooperate with Pontus in promoting and expanding the Business of the Company;
- b) render all reasonable assistance to Pontus for the operation of the Company and the Business in accordance with the provisions of the Agreement;
- c) render all reasonable assistance to the Company to obtain all governmental approvals required for the operation and expansion of the Business and activities of the Company, provided the Company has satisfied all applicable and legitimate conditions for the grant of such governmental approvals;
- d) share with the Company, knowledge and experience in the local fisheries industry to enable the Company carry out the Business; and
- e) assist the Company in establishing meaningful and productive relationships with local parties in the fisheries industry.

8.2. Special Responsibilities of Pontus in respect of the Company

8.2.1. Pontus shall provide the necessary expertise for the day to day operation and management of the Company and the Business. Accordingly, Pontus shall in good faith provide expertise for:

- a) the management of the Company and the Business of the Company, including the accounting, legal, secretarial and administration activities and matters of the Company;
- b) the formulation of overall policies with respect to operational controls and financial management of the Business;
- c) actively identifying potential areas of business opportunities that may be exploited by Company within and outside Sri Lanka;

- d) employing key management employees, who include the Chief Executive Officer, Chief Financial Officer and the Chief Operating Officer;
- e) employing competent personnel on behalf of the Company, as and when required, for the operation and management of the Business of the Company;
- f) and be responsible for all Company employees, including the timely payment of salaries, Employees Provident Fund and Employees Trust Fund contributions, taxes and other statutory payments (as applicable);
- g) identifying all technical and infrastructural requirements of the Business and facilitate the satisfaction of the same on behalf of Company;
- h) procuring all necessary renewals and replacements of equipment and supplies necessary for the carrying on of the Business;
- i) initiating and defending, with the prior approval of the Board, any legal actions which in the opinion of Pontus relates to the Company or the Business.
- j) negotiating and executing leases, licenses and agreements on behalf of Company in respect of the operation of the Business;
- k) all procurement, sales and marketing operations of the Business; and
- l) the arrangement of the timely payment and settlement of all amounts properly due from the Company, including expenses properly incurred and taxes arising from the Business.

- 8.2.2. Pontus shall be responsible to procure licenses and approvals for the Company and its vessels from all regulators, including but not limited to the Department of Fisheries and the Ceylon Fisheries Harbour Corporation.
- 8.2.3. Pontus shall be responsible to ensure the maintenance of the class and survey and the flagging of any vessels used by the Company.
- 8.2.4. Pontus shall ensure that the Government of Sri Lanka is not exposed to any liability arising from the vessels of or used by the Company, including but not limited to liabilities arising from arrests of or accidents involving such vessels and shall keep the Government of Sri Lanka indemnified and held harmless in respect of any such liability.

9. MANAGEMENT OF THE COMPANY

9.1. Composition of the Board of Directors

9.1.1. The Board shall consist of Nine (9) Directors with Four (4) Directors nominated and appointed in writing by Pontus (hereinafter each referred to as a "Pontus Director") and Three (3) Directors nominated and appointed in writing by CFC (hereinafter each referred to as a "**CFC Voting Director**"). Additionally, there shall be Two (02) non-executive directors of the Board nominated and appointed in writing by CFC (hereinafter each referred to as a "**CFC Non-Executive Director**"). The rights of such CFC Non-Executive Directors shall be determined by the Articles of Association.

9.1.2. Each Party shall vote its Shares to cause the appointment of persons nominated as Directors, in accordance with this Agreement. The right to appointment conferred to the Parties herein shall include the right to remove from office and replace the persons so appointed at any time. A Director of the Company shall not be required to be a Shareholder of the Company.

9.1.3. Each Party shall ensure that its Director(s) shall comply with its obligations under this Agreement.

9.2. Chairman

The Board shall appoint a Chairman of the Board who shall preside over meetings of the Board and of the Shareholders (as the case may be). The Chairman shall not have a casting vote.

9.3. Board of Directors

The Board shall have all powers necessary to manage, direct and supervise the Company and the Business of the Company, in accordance with this Agreement, the Articles and applicable Law.

9.4. Authorized Directors

The authorized Directors and authorized bank signatories of the Company shall be appointed by the Board from time to time.

9.5. Board of Directors' Meetings

9.5.1. Board Meetings:

- (a) The Board shall convene Board meetings at least on a monthly basis, at such location as the Board deems fit.
- (b) A Director may, by written notice to the Chairman and the Company Secretary, requisition a meeting of the Board. Such notice shall set out the specific purpose for which the meeting is requisitioned and no matters other than the specific purpose for which the meeting is requisitioned may be discussed or decided upon at such meeting.
- (c) The Parties may participate in a meeting of the Board of Directors by means of conference telephone or similar communications equipment whereby they can actively participate in the meeting.

9.5.2. Notice of Board meetings

- (a) At least seven (7) days' notice of every meeting of the Board shall be given in writing to every Director of the Board. Such notice shall contain the date, time and place of the meeting and the agenda for the meeting and be given in writing by post, facsimile or electronic mail. Such notice to any Director may be waived in writing by the director and shall be deemed waived by his presence at the meeting.
- (b) In case of emergency the existence of which is agreed by the Parties or Board, a meeting of the Board may be called by giving three (3) days' notice of the meeting, in writing to every Director of the Board.

9.5.3. Quorum and Reconvened Meeting:

- a) The quorum for a meeting of the Board shall be Three (03) Directors, consisting of at least two (02) Pontus Directors and one (01) CFC Voting Director (being present in person or through an Alternate Director duly appointed).
- b) If within thirty (30) minutes from the time appointed for the meeting of the Board the quorum is not present, the meeting of the Board shall stand adjourned and another meeting of the Board shall be deemed to

have been summoned on the seventh (7th) day thereafter, at the same time and place as the meeting adjourned for the lack of quorum. At such adjourned meeting the Directors present shall constitute a quorum.

9.5.4. Alternate Directors:

All Directors shall have the right to appoint alternate directors to act for them in the event of their inability to attend meetings.

9.5.5. Voting:

- * ||
- a) All decisions of the Board shall be by a simple majority of the Directors for the time being entitled to vote at a meeting.
 - b) Each Director, other than the CFC Non-Executive Directors shall have One (1) vote on the Board.

9.5.6. Circular Resolutions of the Board:

A resolution in writing, signed by all the Directors for the time being entitled to vote at a meeting is as valid and effectual as it had been passed by a duly convened meeting. More than one document may be circulated for signature, electronically if necessary, provided that each document accurately states the terms of the resolution. The date of a resolution shall be the date on which it is signed by the last Director to sign.

9.6. **Sub Committees**

The Board shall have the ability to appoint sub-committees as it considers necessary consisting of such members of the Board as it thinks fit.

9.7. **Budget and Business Plan**

The Chief Executive Officer and the Chief Financial Officer shall be responsible for the preparation of the Budget and Business Plan of the Company. The Budget and Business Plan shall be prepared on an annual basis in accordance with the Company's financial year and shall set forth, *inter alia*, the detailed business development and budgeting plans of the Company, including acquisitions, sales strategies, marketing, pricing, projections and forecasts.

The Budget and Business Plan shall be submitted for approval by the Board of Directors of the Company at the meeting of the Board of Directors. Once the Budget and Business Plan of the Company has been approved, the Budget and Business Plan shall be implemented in the operations of the Company in the Company's ordinary course of business.

9.8. Vacancies and Retirement

- 9.8.1. Any vacancy occurring in the board may be filled up by the relevant Shareholder to ensure that the composition of the board set out in Clause 10.1 above, is retained at all times.
- 9.8.2. The Provisions relating to retirement by rotation shall not apply to the directors appointed by Pontus and CFC, respectively, in terms of this agreement.

10. SHAREHOLDERS' ACTION

10.1. Shareholders Meeting

- 10.1.1. All meetings of the Shareholders shall be held in accordance with the Companies Act and the Articles.
- 10.1.2. The meeting shall be chaired by the Chairman of the Company or in his absence by the next senior most Director present or in the absence of any Director by a Shareholder present at the meeting and elected by Shareholders present.
- 10.1.3. The Parties may participate in a meeting of the Shareholders by means of conference telephone or similar communications equipment whereby they can actively participate in the meeting.

10.2. Quorum and Reconvened Meeting

- 10.2.1. A quorum for a meeting of Shareholders shall require the presence in person or by proxy of Shareholders holding Shares in the Company representing not less than sixty per centum (60%) of the total issued Shares of the Company.
- 10.2.2. If within an hour from the time appointed for the meeting of the Shareholders the quorum is not present, the meeting of the Shareholders shall be dissolved and another meeting of the Shareholders shall be summoned within fourteen (14) days and at such meeting no quorum shall be necessary.

10.3. Voting Rights

10.3.1. Subject to Sub-Clause 11.4 below, save as otherwise provided herein and as required by the laws of Sri Lanka, all actions and resolutions of the general meetings of the Shareholders shall be adopted by the affirmative vote of the Shareholders representing more than Sixty per centum (60%) of the total voting rights on issued Shares of the Company at a duly convened meeting of Shareholders.

10.3.2. The Chairman (in his capacity as the Chairman) shall not have a casting vote at a general meeting of the Company.

10.4. Reserved Matters

Other than with the approval of a special resolution adopted by the affirmative vote of Shareholders representing more than seventy five per centum (75%) of the total voting rights on issued Shares of the Company at a duly convened meeting of Shareholders, the Company (including the Board) shall not implement the following matters relating to the Company:

- (a) Any change to the Articles of Association;
- (b) Any change of name of the Company;
- (c) The dissolution, liquidation or any change to the legal form of the Company;
- (d) Entering into of any major transaction (as defined in the Companies Act No. 07 of 2007) by the Company;
- (e) Commence or invest in any line of business that is unrelated to the Business or make any material change to the Business;
- (f) Any consolidation or amalgamation of the Company with any other company or the subsequent de-merger or termination of any such arrangement;
- (g) Obtain a listing on any stock exchange or issue shares of the Company to the public;
- (h) Vary the rights attaching to any Shares of the Company;
- (i) Amend, modify or vary the dividend policy;

- (j) Reduce the Company's stated capital, redeem or repurchase Shares (or agree to do so) or otherwise make any change in the Company's capital structure; or
- (k) Change the Auditors or the Company Secretary.

11. BOOKS, ACCOUNTS AND RECORDS

11.1. Accounts and Record Keeping

The Shareholders agree that the Company's books, accounts and records shall be maintained according to applicable laws and Accounting Principles. For the avoidance of doubt, the following documents shall be maintained in the English language - monthly management accounts, annual budgets, annual audited financial statements/audit reports, and documents to be proposed to any meeting of the Board, Shareholders or any other committee established pursuant to this Agreement.

11.2. Accounts

The Board shall cause true and complete accounts to be kept:

- (1) of the sums received and expended by the Company and of the matters in respect of which each receipt or expenditure takes place; and
- (2) of the assets and liabilities of the Company.

11.3. Balance Sheet

The Board shall cause a balance sheet to be made at least once in every twelve (12) months, as of the end of the financial year of the Company. The balance sheet must contain a summary of the assets and liabilities of the Company and a profit and loss account for the financial year of the Company.

11.4. Minutes and Resolution of the Meetings

The Board shall cause minutes of all proceedings and resolutions of all meetings of Shareholders and the Board to be recorded and duly entered in the minute book(s) which shall be kept at the registered office of the Company. Any such minutes signed by the Chairman of that meeting or of the succeeding meeting, shall be presumed correct evidence of the matters contained therein and all resolutions and proceedings of which minutes have been so made shall be presumed to have been duly passed.

11.5. Auditors

The Company's auditor shall be elected upon the nomination of the Board and his remuneration fixed every year at an annual general meeting of the Shareholders. The Auditors shall be select from among KPMG Sri Lanka, Ernst and Young Sri Lanka, PwC Sri Lanka or such other reputed auditors agreed by the Shareholders. A retiring auditor is eligible for re-election.

11.6. Financial Year

The financial year of the Company, unless otherwise determined by a meeting of the Shareholders, will commence on 1st of April in any year and end on 31st March of the subsequent year.

12. DIVIDEND POLICY

The Company shall observe a policy of maximizing the dividends payable to Shareholders and eliminating the necessity for the payment of deemed dividend taxes. To observe such policy, subject to the approval of the Shareholders at a general meeting, each of the Parties shall procure that substantially all of the profits of the Company available for distribution, after considering the future capital, cash flow and prudent reserve requirements of the Company, in respect of each financial year during the term of this Agreement are distributed by the Company to Shareholders by way of final dividends within six (06) months after the end of such financial year and the Board may declare and pay such interim dividends, as may be determined by it from time to time, during any financial year.

13. RESTRICTION OF TRANSFER OF SHARES

13.1. Prohibition on transfer and Encumbrance of Shares

Neither Party shall, without the consent of the other Party or other than in accordance with clauses 14.2 and 14.3 below, transfer title to or create any Encumbrance over any of its Shares; provided however that nothing in this Clause shall be construed as prohibiting the mere grant of a proxy to any person to attend, speak and / or vote at any general meeting of the Company, without any accompanying transfer of legal or

equitable title to such Shares. The transfer of title to or the creation of any Encumbrance over any Shares in violation of this Clause shall be absolutely void and shall not be recognized by the Company or any Shareholder.

13.2. Right of First Refusal

- a) Each Party grants to the other Party, a right of first refusal with respect to the Shares held by it.
- b) If a Party (the "**Selling Shareholder**") wishes to transfer the Shares it holds, such Party shall give written notice (a "**Sale Notice**") to the Company specifying the number and details of the Shares (the "**Relevant Sale Shares**") it holds and the price other terms upon which they are proposed to be transferred. The Sale Notice shall appoint the Company as the Selling Shareholder's agent for the purpose of the Transfer.
- c) Upon receiving a Sale Notice, the Company shall, on the Selling Shareholder's behalf, offer the Relevant Sale Shares to the other Party (the "**Offeree Shareholder**") and the Offeree Shareholder shall have fourteen (14) days from the date of receipt of a Sale Notice to give the Company written binding notice as to whether it wishes to acquire the Relevant Sale Shares it was offered.
- d) The failure of the Offeree Shareholder to give timely written notice as provided in Clause 14.2 (c) above shall be deemed to be a rejection of the offer made to it and shall constitute a waiver of its right of first refusal to the Relevant Sale Shares.
- e) In the event of an acceptance of the offer by the Offeree Shareholder within the period stated in Clause 14.2 (c) to the Company, completion shall take place as soon as practicable within seven (07) days of the date of acceptance. At completion, payment shall be made as provided in such notice, and all parties to the transaction shall execute such documents as are customary and appropriate.
- f) In the event, the Relevant Sale Shares remain unaccepted, the Selling Shareholder's may Transfer the unaccepted Relevant Sale Shares to a third party; provided that such transfer shall (i) be completed not later than ninety (90) days after the expiry of the Sale Notice period; (ii) at a Share price and other terms no more favourable to the buyer than stated in the Sale Notice.

13.3. Change of Control of CFC

In the event;

- a) CFC ceases to be Controlled by the Government of Sri Lanka; or
- b) becomes insolvent, ceases operations or is liquidated;

the Shares held by CFC in the Company shall *ipso facto* be deemed to be transferred to the Secretary to the Ministry of the Minister in charge of the subject of Fisheries or any other Government Authority nominated in writing by such Secretary, the Company Secretary shall immediately record such deemed transfer in the relevant records and such transferee shall be deemed to be a party to this Agreement.

14. RELATED PARTY TRANSACTIONS AND RELATED AGREEMENTS

- a) The Parties agree that a Related Party shall be entitled to provide goods and services to the Company under sound, fair and normal business practices and on an arm's length basis.
- b) The Parties agree that any sale of fish catch to a Related Party shall be on a 'cost-plus' basis.

15. INDEMNIFICATION

Each of the Party shall indemnify the other Party and its directors, officers, employees and agents and hold them harmless from and against all losses, liabilities (including tax liabilities), damages, costs, claims (including tax claims), expenses (including, but not limited to, legal fees, all costs, charges and expenses actually paid and reasonably incurred in disputing or defending any of the foregoing) which any of them may incur or suffer as a consequence of or in relation to the other Party's exercising its right under, performance or enforcement of this Agreement due to the Party's breach of the provisions hereof or any material inaccuracy in or any material breach of any representation, warranty, covenant or agreement of the Party contained in this Agreement.

16. NON-SOLICITATION AND NON-COMPETITION

16.1. CFC, in consideration of the Shares allotted and issued to it under this Agreement, agrees and undertakes that as long as CFC (or its transferee in accordance with this Agreement) remains a Shareholder and for a period of three (3) years from the date that they cease to be a Shareholder, they shall not either directly or indirectly through third parties:

- a) solicit any clients of the Company or entice Business away from the Company;
- b) employ, contract, sub-contract or use the services of or make any offers of employment or contract or sub-contract to, the employees of the Company or any person employed by the Company within six (06) months prior to the making of such offer; and
- c) engage in any business, directly or indirectly, that is in competition with the Business of the Company.

16.2. For the avoidance of doubt it is acknowledged that CFC (or its transferee in accordance with this Agreement) shall be deemed to be in violation of this Clause if they, inter alia, engage in the aforementioned activities directly or indirectly (including, through its shareholders, employees or directors or close relatives of the same).

16.3. Any exceptions to the terms of this Clause will require the unanimous consent of the Parties.

16.4. The Parties acknowledge that the Parties knowingly and willingly entered into it as a part of their commercial bargain and the terms of this Clause 17 are considered fair and reasonable as between the parties.

16.5. The provisions of this Clause shall survive the termination of this Agreement.

17. CONFIDENTIALITY

17.1. Non-Disclosure by Parties

Each Party agrees to treat as secret and confidential all documents, formula, processes, trade secrets and any other materials concerning technical, financial, economic or marketing information or any other information disclosed or obtained as related to the

operations of the Company or the business of the other Party during any communications preceding or after the execution of this Agreement except:

- (1) in compliance with the directives and/or regulations of governmental authorities or agencies or as required by law,
- (2) to the financial advisors, legal advisors, or other advisors of the respective Shareholders;
- (3) to the employees, the subsidiaries or Related Persons provided that such a recipient maintain the confidentiality of the information and not to use the information other than for the purposes of the duties delegated to him or for the purpose of this Agreement; and
- (4) with the express prior written consent of the other Parties.

17.2. Exclusion of the Confidentiality Obligation

This confidentiality obligation shall not include:

- (1) such information which at the time of disclosure is or has become public knowledge or generally available to the public other than as a result of a disclosure by the recipient in violation of this Agreement;
- (2) information which the recipient can reasonably demonstrate was known to it prior to its receipt from the disclosing person;
- (3) information which becomes available to the recipient on a non-confidential basis from a source other than the disclosing person, provided that such source is not subject to any prohibition against transmitting such information; or
- (4) information available to the public from a source other than the Company or any of the Parties.

17.3. Non-Disclosure by Relevant Persons

The Shareholders shall cause the Company to treat all such information as confidential and ensure that officers, executives, Directors and employees of the Company as well as any third party given access to such information treat it as confidential so as to ensure that such information will not be made available to any unauthorized third party.

17.4. Use of Information

Neither Party shall use any such information for any purposes except as permitted by the disclosing Party or the Company for the operations of the Company in accordance with this Agreement.

17.5. Public Announcement

Each Party agrees that neither it nor its employees shall, unless required by law or with the prior consent of the other Party or the Company, make any reference, comment or statement which may become publicly available if relating to:

- (1) any matter which might harm the relations of the Company or the other Party with any government or its agencies;
- (2) this Agreement; or
- (3) the operations of the Company or the other Party.

17.6. Survival

The obligations in this Clause 18 shall survive the termination of this Agreement, liquidation of the Company or the cessation of the Business for any reason whatsoever for a period of two years.

18. DEFAULT

18.1. Events of Default

Any of the following events incurred by or in connection with any of the Parties (the "**Defaulting Party**") shall be regarded as an event of default ("**Event of Default**") by that Defaulting Party:

- (1) the Defaulting Party commits a material breach of this Agreement (or is alleged thereof) and fails to remedy such material breach within a period of thirty (30) days following the receipt of a written notice requiring it to do so given by any of the other Parties (the "**Non-Defaulting Parties**"), provided that if (i) such material breach is unlikely to be remedied within a period of thirty (30) days due to the condition(s) of such material breach or of the remedy and (ii) the Defaulting Party takes or has taken necessary and

reasonable action to remedy within the said thirty (30) day period, the said thirty (30) day period shall be extended (and not constitute an Event of Default) as long as the Defaulting Party continues such remedy until such breach has been remedied to the reasonable satisfaction of the Non-Defaulting Parties; or

- (2) the Defaulting Party becomes insolvent or bankrupt, is voluntarily or involuntarily liquidated, enters into any composition or arrangement with any party or commences reorganization proceedings or any other similar proceedings, or is the subject of proceedings for liquidation, dissolution, reorganization or rehabilitation, or substantially ceases to carry on its business or operations.

18.2. Consequences of Default

18.2.1. Upon the occurrence of an Event of Default, the Non Defaulting Party shall have the right (but not the obligation) (the "Put-Option") during the Put Option Period, to require the Defaulting Party to purchase all, and not some, of its Shares (the "Put-Option Shares") of the Non Defaulting Party, at the Put-Option Price.

18.2.2. The Non Defaulting Party shall exercise the Put Option by providing Sixty (60) days written notice ("Put - Option Notice") to the Defaulting Party, which shall clearly state the relevant date of the Put - Option Execution Date in the Put - Option Notice.

18.2.3. On the Put - Option Execution Date, the Defaulting Party shall sell, free of Encumbrances and the Non Defaulting Party shall purchase, the Put - Option Shares at the relevant Put Option Price as provided below and the Parties shall complete the transfer of the Put - Option Shares and the Company shall record the Non Defaulting Party as the owner of such Put-Option Shares in the share register of the Company.

18.2.4. In this Clause;

Put - Option Execution Date: means the date occurring Sixty (60) days after the date of the Put - Option Notice and expressly stated in the Put - Option Notice.

Put - Option Period: means the period commencing on the date of the Event of Default and ending one (01) year thereafter;

Put - Option Price: shall be one hundred and twenty five percent (125%) of the market value of such Shares, as determined by the Auditors of the Company.

19. TERM OF AGREEMENT AND TERMINATION

19.1. Termination of the Agreement

This Agreement shall become effective in accordance with Clause 3 (a) above and shall continue in effect unless earlier terminated as provided in this Agreement subject to this Clause 20.

19.2. Right to Terminate

The Parties hereto shall have the right to terminate this Agreement as follows:

- (1) by the Non-Defaulting Parties in respect of the Defaulting Party, upon the occurrence of an Event of Default pursuant to Clause 19 above;
- (2) at any time upon the mutual written agreement of the Parties; or
- (3) at any time in the event that the Company becomes (i) insolvent, (ii) applies for, consents to, or acquiesces in the appointment of a receiver for the Company or any of their property, (iii) admits in writing that it is unable to pay its debts, (iv) files a petition in bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law, or any dissolution liquidation proceeding or (v) a resolution is passed for the winding up of the Company.

19.3. Cessation of the Effectiveness

Subject to Clauses 20.4, 20.5 and 20.6, upon the Agreement being terminated in respect of any Party, this Agreement shall cease to have effect upon such Party and such Party shall have no further rights and obligations contemplated by this Agreement unless otherwise specified herein, including but not limited to the rights to appoint the Directors, save for the rights to receive dividend pursuant to the provisions hereof.

19.4. Cooperation of the Defaulting Party

Notwithstanding the cessation of rights and obligations of the Defaulting Party pursuant to Clause 20.3 above, the Defaulting Party shall give full cooperation to the other Parties and/or the Company, in order to affect the consequences after the termination of this Agreement on the part of the Defaulting Parties, which will include cooperation on the following matters:

- (1) the amendment of the Articles of Association the Company; and
- (2) the meeting of the Shareholders or Directors to consider and approve the above matter.

19.5. Survival Clauses

Clauses intended by their intent to remain effective after termination shall remain in full force and effect notwithstanding the termination or cessation of this Agreement, unless agreed otherwise by the Parties in writing.

19.6. Liability upon Termination

The termination of this Agreement for any reason shall not release any Party from any liability, which at the time of termination has already accrued, or which thereafter may accrue.

20. SPECIFIC PERFORMANCE

20.1. Further Assurance

The Parties hereby agree that notwithstanding anything to the contrary contained in the Articles of Association of the Company either now or in the future, the provisions of this Agreement shall be binding upon the Parties and they agree to exercise their respective voting rights in such a manner as may be necessary to ensure that the provisions contained herein prevail.

20.2. Remedy for Non-Compliance

In the event that a Party fails to abide by the provisions of this Agreement, the other Parties may commence an action against such Party to obtain any legal remedy

available, including but not limited to an award of contractual damage and/or specific performance.

21. MISCELLANEOUS

21.1. Nothing in this Agreement to affect the Regulatory Authority of the Government

For the avoidance of doubt, it is hereby clarified and agreed by the Parties that nothing in this Agreement shall override any regulations or conditions imposed by the Government or any governmental authority of Sri Lanka, including but not limited to the licensing conditions of vessels, the limits of catch, the nature of catch, the methods of fishing, landing rights of vessels, landing rights of fish, inspections on board vessels or the processing of fish.

21.2. Perfection of Transactions and Further Assurance

Either Party shall at any time at the request of the other Party, promptly sign, seal, execute and deliver all instruments, notices and documents, and do all acts and steps as in each case may be necessary or advisable for the purpose of performance of, maintaining, or perfecting all the transactions and/or obligations to be performed by or on the part of the non-requesting Party contemplated by or pursuant to this Agreement or for facilitating the enforcement thereof. Without prejudice to the generality of the foregoing, such instruments, notices and documents shall be in such form as the requesting Party shall reasonably require and may contain provisions such as are herein contained or provisions to the like effect and/or such other provisions of whatsoever kind as the requesting Party shall consider reasonably necessary for the performance of, maintenance or perfection of all the transactions and/or obligations to be performed by or on the part of the non-requesting Party contemplated by or pursuant to this Agreement.

21.3. Expenses

Except as otherwise provided herein, each Party shall be responsible for its own legal, accountancy and other costs, charges and expenses incurred in connection with the negotiation, preparation, execution and implementation by it of this Agreement and any document referred to in it including, but not limited to, the fees and expenses of their respective counsel and financial advisers.

21.4. Notices

Any notices or other communications among the Parties required or permitted hereunder shall be made in English and shall be sufficiently given if delivered in person or sent by registered or certified mail, postage prepaid, or via facsimile confirmed within a week by registered or certified mail and addressed as follows:

(i) if to the Pontus:

Attention: [•]

Address: [•]

Fax Number: [•]

(ii) if to CFC:

Attention: [•]

Address: [•]

Email: [•]

or such other address as shall be furnished in writing by any such Party, and such notice or communication, if not actually delivered earlier, shall be deemed to have been delivered as of the date so delivered in person, the date of transmission by facsimile, whether or not legibly received confirmed by letter sent by registered or certified mail, or within Seven (7) days after dispatch, if dispatched by registered or certified mail.

21.5. Parties in Interest

Unless otherwise agreed by the Parties, this Agreement may not be transferred, assigned or pledged by any Party hereto, other than by operation of law.

21.6. Severability

If at any time any one or more of the provisions hereunder become void, illegal, invalid or unenforceable in any respect under the applicable law of any jurisdiction, the remaining provisions hereunder shall continue to be legal, valid and enforceable under the relevant applicable law without being affected or impaired by the voidness, illegality, invalidity or unenforceability of the relevant provisions.

21.7. Waiver

No failure to exercise and no delay in exercising any right, power or privilege hereunder by any Party shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

A waiver by a Party of a provision or of a right under this Agreement is binding on the other Parties only if it is given in writing and is signed by the Party or an authorized representative of the Party granting the waiver.

21.8. Survival of Representations, Warranties, Covenants and Undertakings

The representations, Warranties, covenants and undertakings contained herein shall continue to survive for so long as may be necessary for the purpose of giving effect to each and every Clause hereof in accordance with the terms hereof.

21.9. Time of the Essence

Time shall be of the essence of this Agreement, both as regards times, dates and periods specified in the agreement and as to any times, dates or periods that may by agreement between the parties be substituted for any of them.

21.10. No Partnership or Agency

No provision of this Agreement creates a partnership between the parties or makes a Party the agent of the other Party for any purpose. A Party has no authority to bind, to contract in the name of or to create a liability for the other Party in any way or for any purpose and no Party shall hold itself out as having authority to do the same.

21.11. Third Party Beneficiaries

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the Parties hereto and their respective successors and assignees.

21.12. Headings

The descriptive headings or clause heading contained in this Agreement are for convenience of reference only, and shall not affect in any way the meaning or interpretation of this Agreement.

21.13. Entire Agreement

This Agreement, including the other documents referred to herein which form a part hereof, contains the entire understanding of the Parties hereto with respect to the subject matter contained herein and therein. This Agreement supersedes all prior representations, negotiations, agreements and understandings between the Parties with respect to such subject matter.

21.14. Amendments

The Parties to this Agreement may, by mutual consent or agreement in writing, agree to terminate this Agreement or to amend any of the operative clauses of this Agreement.

21.15. Language

This Agreement has been executed in English and the Parties agree that English will prevail.

21.16. Counterparts

This Agreement may be executed in any number of counterparts and by the Parties to it on separate counterparts and each such counterpart shall constitute an original of this Agreement but all of which together constitute one and the same instrument. This Agreement shall not be effective until each Party has executed at least one counterpart.

21.17. Governing Law

This Agreement and the rights and obligations of the Parties hereunder shall be governed by and construed in accordance with the laws of Sri Lanka.

21.18. Dispute Resolution

21.18.1. Where any Dispute arises, either Party may notify the other party in writing of such Dispute in reasonable detail and, unless the Parties agree to immediately proceed to arbitration in accordance with Clause 22.18.2 below, the respective Chairpersons of each of the Parties (or senior individuals with full authority to act and compromise on behalf of such Party specially nominated for such purpose in writing by such Chairpersons) shall endeavour to meet during a period of thirty (30) days (or such further period agreed to in writing by such Chairpersons) following the date of such notice, to seek an amicable resolution of such Dispute.

21.18.2. Where any Dispute is not resolved in accordance with Clause 22.18.1 above either Party may refer such Dispute for final resolution by arbitration in accordance with the Rules of the Arbitration Centre of the Institute for the Development of Commercial Law and Practice. The place of the arbitration shall be Colombo, Sri Lanka. The language of the arbitration proceedings shall be English.

IN WITNESS WHEREOF the Parties have affixed their respective seals hereunto and to another of the same tenor and date as these presents at the place and on the date abovementioned.

The Common Seal of
**PONTUSOCEAN HOLDINGS CO.,
LTD.** was affixed hereto in the presence
of two Directors of the company who do
hereby attest the Sealing hereof.

WITNESSES

- 1.
- 2.

The Common Seal of **CEYLON
FISHERIES CORPORATION** was

affixed hereto in the presence of two
Directors of the company who do
hereby attest the Sealing hereof.

WITNESSES

1.

2.