

## **AMENDMENT NUMBER 3 TO THE PROTOCOL GOVERNING THE 34th AMERICA'S CUP**

1. **The Golden Gate Yacht Club**
2. **Club Nautico di Roma**

### **BACKGROUND**

- A. The parties are signatories to the Protocol Governing the 34th America's Cup dated 13 September 2010 ("Protocol") made in accordance with the terms of a Deed of Gift dated 24 October 1887.
- B. The parties have agreed to amend the Protocol in accordance with Article 14.1 of the Protocol as set forth in this document.

### **AGREED**

#### **1. Article 9.1(c)**

**Existing language:**

"by 30 April 2011, a performance bond of US\$1,500,000 to assure a Competitor's participation in the Event, and compliance with this Protocol;"

**to be replaced by:**

"by 30 April 2011, a performance bond of US\$200,000 to assure a Competitor's participation in the Event, and compliance with this Protocol;"

#### **2. Article 9.1(d)**

**Existing language:**

"by 31 July 2011 or earlier if required by Article 11.4(c), an additional performance bond of US\$1,500,000 to assure a Competitor's participation in the Event and compliance with this Protocol; and"

**to be replaced by:**

by 31 December 2011 or earlier if required by Article 11.4(c), an additional performance bond of US\$800,000 to assure a Competitor's participation in the Event and compliance with this Protocol. For the avoidance of doubt, if not so paid the bond paid by the respective Competitor pursuant to Article 9.1 (c) shall be forfeited; and

#### **3. Article 9.1(e)**

**Existing language:**

"by 30 April 2012, an entry fee of €1,000,000 payable to the Event Authority, except that Competitors which have had issued to them by WSTA fully-paid preference shares to at least the value of €1,000,000, and continue to hold them, shall not be required to pay this entry fee."

**to be replaced by:**

"by 1 June 2011, an entry fee of US\$100,000 payable to the Event Authority, and a Competitor entering after 31 March 2011 as permitted by Article 7.1 shall pay a late fee of US\$200,000 to the Event Authority ."

**4. Article 11.4(d)**

**Existing language:**

“If a total of US\$3,000,000 is forfeited, the Competitor shall cease to be eligible for the Event and for entitlements under Articles 5, 27 and 41.”

**to be replaced by:**

“If the total of the Performance Bonds paid by a Competitor pursuant to Article 9.1 are forfeited, the Competitor shall cease to be eligible for the Event and for entitlements under Articles 5, 27 and 41.”

**5. Article 15.1(a)(iv)**

**Existing language:**

“Replacement Jury members shall be appointed by unanimous vote of the remaining Jury and in consultation with ISAF and ACRM.”

**to be replaced by:**

“Replacement Jury members shall be appointed by ISAF after the unanimous approval of the remaining Jury and in consultation with ACRM.”

**6. Article 18.5**

**Existing language:**

“GGYC, the Event Authority, ACRM, Challenger of Record, and any of their directors, officers, employees, agents or contractors shall not be liable for any losses, damages, injury, loss of profits, loss of prospective profits, consequential damages, penalties or inconvenience, whether direct or indirect, however arising, as a result of the postponement or cancellation of the Event or part thereof due to any event, occurrence or circumstances beyond the reasonable control of GGYC, the Event Authority, ACRM, Challenger of Record including but not limited to acts of God, terrorism, war, government intervention or regulation, public health, environmental conditions, strikes, lock-outs, other industrial acts, lack of funding or Venue support, or any other *force majeure* circumstance.”

**to be replaced by:**

“GGYC, the Event Authority, ACRM, any Official, Challenger of Record, and any of their directors, officers, employees, agents or contractors shall not be liable for any losses, damages, injury, loss of profits, loss of prospective profits, consequential damages, penalties or inconvenience, whether direct or indirect, however arising, as a result of the postponement or cancellation of the Event or part thereof due to any event, occurrence or circumstances including but not limited to acts of God, terrorism, war, government intervention or regulation, public health, environmental conditions, strikes, lock-outs, other industrial acts, lack of funding or Venue support, or any other *force majeure* circumstance.”

**7. Article 21.2**

**Existing language:**

Unless the Regatta Director is satisfied on reasonable grounds that a failure to race was due to unintended damage or circumstances beyond the reasonable control of the Competitor:

- (i) for a first failure to attend a regatta, the Competitor shall forfeit US\$1,500,000 of their Performance Bond;
- (ii) for a second failure to attend a regatta the Competitor shall forfeit the balance of their Performance Bond and shall cease to be eligible for the Event and for entitlements under Articles 5, 27 and 41;
- (iii) for a failure to race when attending a regatta, the Competitor shall forfeit US\$250,000 of their Performance Bond.

For the avoidance of doubt, a Competitor may appeal the decision of the Regatta Director to the Jury.

**to be replaced by:**

Unless the Regatta Director is satisfied on reasonable grounds that a failure to race was due to unintended damage or circumstances beyond the reasonable control of the Competitor:

- (i) for a failure to attend a World Series Regatta racing where the Competitors are racing an AC45 Yacht, the Competitor shall forfeit US\$150,000 of their Performance Bond;
- (ii) for a failure to attend a regatta in which the competitors are racing an AC72 Yacht, the Competitor shall forfeit US\$500,000 of their Performance Bond;
- (iii) for a second failure to attend a regatta the Competitor shall forfeit the balance of their Performance Bond and shall cease to be eligible for the Event and for entitlements under Articles 5, 27 and 41; and
- (iv) for a failure to race when attending a regatta, the Competitor shall forfeit US\$50,000 of their Performance Bond when racing an AC45 Yacht and US\$100,000 when racing an AC72 Yacht .

For the avoidance of doubt, a Competitor may appeal the decision of the Regatta Director to the Jury.

**8. Article 24.2**

**Existing language:**

“If it becomes impossible or unfeasible for the Event Authority to hold any part of the Regatta at a Venue, GGYC, in consultation with the Event Authority, Competitor Forum and the Regatta Director, may select an alternative venue(s) and/or dates for the Regatta. GGYC shall give Competitors as much notice as reasonably possible.”

**to be replaced by:**

“If it becomes impossible or unfeasible for the Event Authority to hold any part of the Regatta at a Venue, or due to the failure or inability of the host city/region/country to abide by their agreement with the Event Authority, GGYC, in consultation with the Event Authority, Competitor Forum and the Regatta Director, may select an alternative venue(s) and/or dates for the Regatta. GGYC shall give Competitors as much notice as reasonably possible both that a change to the venue or dates are being considered and of the new venue and dates.”

**9. Article 27.2**

**Existing language:**

“For AC World Series regattas raced in AC45 Yachts, the minimum equipment for each Competitor transported by ACRM will be:

- (a) three 40-foot shipping containers, which shall contain the race yacht including wing(s);
- (b) one chase boat not to exceed 14m LOA; and
- (c) where a Competitor enters and races two yachts, ACRM will ship for them an additional 40-foot shipping container and one additional chase boat not to exceed 14m LOA.”

**to be replaced by:**

“For the AC World Series regattas raced in AC45 Yachts, the minimum equipment for each Competitor transported by ACRM will be:

- (a) Four 40 foot shipping containers that will contain the race yacht including wing(s). If any of these containers are required to be High Cube containers, this will be communicated to the Competitors before 31st December 2010.
- (b) One chase boat. The chase boat must be presented for transport inside a standard 40 foot shipping container or on a standard 40 foot shipping flat rack. If presented on a 40 foot flat rack, no equipment stored on the flat rack shall extend outside any profile or foot print of the flat rack.
- (c) Where a Competitor enters and races two yachts, ACRM will ship one additional 40 foot shipping container and one additional chase boat (subject to 27.2(b)).”

**10. Article 27.4**

**Existing language:**

“The Regatta Director, in consultation with the Competitor Forum and prospective competitors, shall develop specifications for standardized cradles and lifting equipment, chase and other support boats (including “pushers”), Wing transport and Wing handling and mooring procedures. These specifications will be issued by 31 January 2011. Non-compliant equipment may not be transported.”

**to be replaced by:**

“The Regatta Director, in consultation with the Competitor Forum, shall publish equipment limits and specifications for standardized cradles and lifting equipment, chase and other support boats (including “pushers”), Wing transport and Wing handling and mooring procedures. These specifications will be issued by 31 January 2011 and may be amended as required. Non-compliant equipment may not be transported.”

**11. Article 29.2(a)**

**Existing language:**

“by 31 December 2011, Competitors shall have satisfied the requirements of Article 12(g)(ii) for one new AC72 Yacht; and”

**to be replaced by:**

“by 1 April 2012, Competitors shall have satisfied the requirements of Article 12(g)(ii) for one new AC72 Yacht; and”

**12. Article 33.1**

**Existing language:**

“From 1 April 2012, each Competitor shall engage separate and independent Designers who, from that date forward shall have no design involvement with any other Competitor’s program for this Event in developing an AC72 Yacht Hull, deck, cockpit, Wing Mast (Mast sections and flap elements), geometry of the standing rigging, appendages or sails excluding battens and sail hardware, or those same components of any other yacht capable of being measured as an AC72 Yacht without significant modification, except that a Designer whose contract is terminated by a Competitor prior to the Regatta may work for another Competitor, but not where the Designer terminates or intentionally initiates termination of their contract.”

**to be replaced by:**

“From 1 June 2012 each Competitor shall engage separate and independent Designers who, from that date forward shall have no design involvement with any other Competitor’s program for this Event in developing an AC72 Yacht Hull, deck, cockpit, Wing Mast (Mast sections and flap elements), geometry of the standing rigging, appendages or sails excluding battens and sail hardware, or those same components of any other yacht capable of being measured as an AC72 Yacht without significant modification, except that a Designer whose contract is terminated by a Competitor prior to the Regatta may work for another Competitor, but not where the Designer terminates or intentionally initiates termination of their contract.”

**13. Article 33.2**

**Existing language:**

“From 1 April 2012, Competitors, including through the assistance of third parties, shall not share or exchange any further AC72 Class design or performance information or equipment. This restriction shall not apply to.”

**to be replaced by:**

“From 1 June 2012 Competitors, including through the assistance of third parties, shall not share or exchange any further AC72 Class design or performance information or equipment. This restriction shall not apply to.”

**14. Article 33.2(a)**

**Existing language:**

“the acquisition or use of equipment designed prior to 1 June 2012;”

**to be replaced by:**

“equipment delivered to the Competitor prior 1<sup>st</sup> June 2012”

**15. Article 43.10**

**Existing language:**

“A Competitor may display Advertising on its crew clothing. and shall display the surname of each crew (or nickname if approved by the Regatta Director) clearly visible on the back of the respective crew in letters not less than 75mm in height, and any Advertising on the back of crew shall not be within 35mm of the crew’s name.”

**to be replaced by:**

“A Competitor may display Advertising on its crew clothing and shall display the following:

- (a) The surname of each crew (or nickname if approved by the Regatta Director) clearly visible on the back of the respective crew in letters not less than 75mm in height. Any Advertising on the back of crew shall not be within 35mm of the crew’s name.
  
- (b) On one sleeve of each piece of crew clothing there must be displayed the event logo with free space around the logo that will be defined by the EA before 31 January 2011.”

**16. Article 48.3**

**Existing language:**

“Members of media units contracted or affiliated to any Competitor must be accredited by the Event Authority and unless approved by the Event Authority they:

- (a) shall not record moving images any race of the Event, whether from shore, afloat or from the air;
- (b) shall not record moving images anywhere within the AC Village during the Event, except that they may record moving images that Competitor and its activities at any time;
- (c) may record moving images of their own yacht(s) in the Race Area except as while racing in the Event.

The Event Authority may withdraw the accreditation of a Competitor’s film units for failure to comply with the above conditions, and they shall not be further engaged by a Competitor at the Venue.”

**to be replaced by:**

“Members of media units contracted or affiliated to any Competitor must be accredited by the Event Authority and unless approved by the Event Authority they:

- (a) shall not record moving images of any race of the Event, whether from shore, afloat or from the air;
- (b) shall not record moving images anywhere within the AC Village during the Event, except that they may record moving images of that Competitor and its activities at any time;
- (c) may record moving images of their own yacht(s) in the Race Area except as while racing in the Event.

The Event Authority may withdraw the accreditation of a Competitor’s media units for failure to comply with the above conditions, and they shall not be further engaged by a Competitor at the Venue.”

**17. A new Article 54.6 be added as follows:**

“On one sleeve of each piece of team merchandise in respect to a Competitor in the 34AC there must be displayed an event logo with free space around the logo that will be defined by the Event Authority before 31 January 2011.”

**18. Article 56**

**Existing language:**

“Subject to and in full compliance with the laws and/or other lawful directives of the competent (relevant) government authorities, Competitors and all Officials shall comply with security measures adopted by the Event Authority. While in the AC Village Competitors’ employees, contractors and agents shall carry security passes issued by the Event Authority. Competitors shall assist security contractors appointed by the Event Authority. Competitors shall be responsible for the security of their Team Bases, their competing Yachts, support vessels and all other equipment and assets of the Competitor and their team members.”

**to be replaced by:**

“Subject to and in full compliance with the laws and/or other lawful directives of the competent (relevant) government authorities, Competitors and all Officials shall comply with security measures adopted by the Event Authority and/or ACRM. While in the AC Village Competitors’ employees, contractors and agents shall carry security passes issued by the Event Authority and/or ACRM. Competitors shall assist security contractors appointed by the Event Authority and/or ACRM. Competitors shall be responsible for the security of their Team Bases, their competing Yachts, support vessels and all other equipment and assets of the Competitor and their team members.”

**19. Article 57**

**Existing language:**

“Subject to and in full compliance with the laws and/or other lawful directives of the competent (relevant) government authorities, all air space above the AC Village and above the water space designated for use during the Event will be under the control and direction of the Event Authority. Competitors and sponsors shall not contest or use the air space for any purpose without the prior approval the Event Authority.”

**to be replaced by:**

“Subject to and in full compliance with the laws and/or other lawful directives of the competent (relevant) government authorities, all air space above the AC Village and above the water space designated for use during the Event will be under the control and direction of the Event Authority and/or ACRM. Competitors and sponsors shall not contest or use the air space for any purpose without the prior approval of the Event Authority.”

**20. Article 41.3(c)**

**Existing language:**

“one half of the remainder to GGYC , subject to 41.4 and 41.5; then”

**to be replaced by**

“one half of the remainder to GGYC , subject to 41.4 and 41.5, but with payment to each Defender Candidate who had issued to them fully paid preference shares to the value €1,000,000 in WSTA (and who held them as at 1<sup>st</sup> December 2010) the sum of €1,000,000 less any sum distributed by WSTA to such Defender Candidate ; then

**21. Article 41.3(d)**

**Existing language:**

“the remainder to Challengers, subject to 41.4 and 41.5 as follows:

- 70% divided equally between all Challengers;
- 10% divided equally between all Challenger semi-finalists;
- 10% divided equally between both Challenger finalists;
- 10% to the winner of the America’s Cup Challenger Series; and

provided that, prior to the commencement of the Regatta, by unanimous agreement the Challengers may alter this distribution formula.”



**to be replaced by**

“the remainder to Challengers, subject to 41.4 and 41.5 as follows:

payment to each Challenger who had issued to them fully paid preference shares to the value €1,000,000 in WSTA (and who held them as at 1<sup>st</sup> December 2010) the sum of €1,000,000 less any sum distributed by WSTA to such Competitor, then the remainder distributed:

- 70% divided equally between all Challengers;
- 10% divided equally between all Challenger semi-finalists;
- 10% divided equally between both Challenger finalists;
- 10% to the winner of the America’s Cup Challenger Series; and

provided that, prior to the commencement of the Regatta, by unanimous agreement the Challengers may alter this distribution formula.”

**22. Article 13.3 (a)**

**Existing language:**

“Before 31 December 2010, GGYC and the Challenger of Record in consultation with the Competitor Forum (or prospective competitors) and ISAF shall prepare and publish the RRSAC.”

**to be replaced by**

“Before 1 January 2011, GGYC and the Challenger of Record shall prepare and issue a draft of the RRSAC. Before 1 March 2011, GGYC and the Challenger of Record in consultation with the Competitor Forum and ISAF shall finalize and publish the RRSAC.”

**Dated** this 12th day of December 2010

**Signed,**

---

**Marcus Young, Commodore, Golden Gate Yacht Club**

---

**Claudio Gorelli, President, Club Nautico di Roma**

**I confirm** that this has been approved by a majority of the Competitor Forum in accordance with Article 14.1 of the Protocol,

---

**Iain Murray, Regatta Director**

**to be replaced by**

"the remainder to Challengers, subject to 41.4 and 41.5 as follows:

payment to each Challenger who had issued to them fully paid preference shares to the value €1,000,000 in WSTA (and who held them as at 1<sup>st</sup> December 2010) the sum of €1,000,000 less any sum distributed by WSTA to such Competitor, then the remainder distributed:

- 70% divided equally between all Challengers;
- 10% divided equally between all Challenger semi-finalists;
- 10% divided equally between both Challenger finalists;
- 10% to the winner of the America's Cup Challenger Series; and

provided that, prior to the commencement of the Regatta, by unanimous agreement the Challengers may alter this distribution formula."

**22. Article 13.3 (a)**

**Existing language:**

"Before 31 December 2010, GGYC and the Challenger of Record in consultation with the Competitor Forum (or prospective competitors) and ISAF shall prepare and publish the RRSAC."

**to be replaced by**

"Before 1 January 2011, GGYC and the Challenger of Record shall prepare and issue a draft of the RRSAC. Before 1 March 2011, GGYC and the Challenger of Record in consultation with the Competitor Forum and ISAF shall finalize and publish the RRSAC."

Dated this 12th day of December 2010

Signed,

  
\_\_\_\_\_  
Marcus Young, Commodore, Golden Gate Yacht Club

\_\_\_\_\_  
Claudio Gorelli, President, Club Nautico di Roma

I confirm that this has been approved by a majority of the Competitor Forum in accordance with Article 14.1 of the Protocol,

  
\_\_\_\_\_  
Iain Murray, Regatta Director

to be replaced by

the remainder to Challengers, subject to 41.4 and 41.5 as follows:

payment to each Challenger who had issued to them fully paid preference shares to the value €1,000,000 in WSTA (and who held them as at 1<sup>st</sup> December 2010) the sum of €1 000,000 less any sum distributed by WSTA to such Competitor, then the remainder distributed:

- 70% divided equally between all Challengers;
- 10% divided equally between all Challenger semi-finalists;
- 10% divided equally between both Challenger finalists;
- 10% to the winner of the America's Cup Challenger Series; and

provided that, prior to the commencement of the Regatta, by unanimous agreement the Challengers may alter this distribution formula."

22. Article 13.3 (a)

Existing language:

"Before 31 December 2010, GGYC and the Challenger of Record in consultation with the Competitor Forum (or prospective competitors) and ISAF shall prepare and publish the RRSAC."

to be replaced by

"Before 1 January 2011, GGYC and the Challenger of Record shall prepare and issue a draft of the RRSAC. Before 1 March 2011, GGYC and the Challenger of Record in consultation with the Competitor Forum and ISAF shall finalize and publish the RRSAC."

Dated this 12th day of December 2010

Signed,

---

Marcus Young, Commodore, Golden Gate Yacht Club



---

Claudio Gorelli, President, Club Nautico di Roma

I confirm that this has been approved by a majority of the Competitor Forum in accordance with Article 14.1 of the Protocol.

  

---

Iain Murray, Regatta Director