



# The Protocol Governing the 34<sup>TH</sup> America's Cup



**DRAFT**

The Golden Gate Yacht Club having won the 33<sup>rd</sup> America's Cup holds a silver cup known as the "America's Cup" in accordance with the terms of a Deed of Gift dated 24 October 1887.

The Golden Gate Yacht Club has received and accepted a notice of challenge from Club Nautico di Roma in accordance with the Deed of Gift.

The Golden Gate Yacht Club and Club Nautico di Roma now record in this Protocol the arrangements they have mutually agreed in accordance with the terms of the Deed of Gift.

## AGREED AS FOLLOWS

### PART A INTERPRETATION

1 In the interpretation of this Protocol:

- 1.1 (a) **2011 Yacht Rules:** means the class rules of the yacht determined by the Event Authority to be used in the pre regattas prior to the implementation of the AC Class Yachts, with all interpretations, rulings and amendments.
- (b) **2011 Yacht:** means a yacht that complies with the 2011 Yacht Rules.
- (c) **AC Park** means that part of the AC Villages designated by the Event Authority which will generally be accessible to the general public where public entertainment will be provided and authorized merchandising and concession activities will be situated, but excludes any Base;
- (d) **ACPI** means America's Cup Properties Incorporated, a company incorporated in the State of New York, United States of America, the holder of America's Cup trade mark registrations and the licensor of those trade marks;
- (e) **AC Village** means each AC Park, each Base, VIP hospitality areas, super yacht berthage and hospitality area, media centers including International Press Centre and International Broadcast Centre, Race Committee Offices, Event Authority Offices, Accreditation Centre, Volunteer Centre, heliports, storage facilities and all other facilities established or designated by the Event Authority, and land, air or water space under the control of the Event Authority, or ACRM and includes, but not by way of limitation, all mooring and berthage areas leased to and under the control of the Competitors, as well as mooring and berthage areas under the control and supervision of the Event Authority;
- (f) **Advertising** is the name, logo, slogan, description, depiction, a variation or distortion thereof, or any other form of communication that promotes an organization, person, product, service, brand or idea so as to call attention to it or persuade persons or organizations to buy, approve or otherwise support it, provided that the following do not constitute advertising;
- (i) name of skipper of the yacht;
  - (ii) name of the home port of the yacht;
  - (iii) name, flag or emblem of the nation or national territory the yacht represents;
  - (iv) name and burgee of the yacht club the yacht represents;
  - (v) builder's and/or maker's marks no more than 150mm x 150mm in size;
  - (vi) the name of the yacht, if approved by the Jury under Article 42 of the

Protocol; and

- (vii) any flag(s) or other mark(s) that the Event Authority may require each yacht to display while racing, pursuant to Article 42.

The name and logo of a Competitor, provided such logo is the sole and exclusive property of the Competitor or a closely related person or entity and does not incorporate or closely resemble another trade mark that is used commercially other than a mark licensed by ACPI, and is not used for any purpose other than by the Competitor and its sponsors to support the Competitor's sailing activities;

- (g) **ACRM** means America's Cup Race Management, a perpetual entity to provide independent, professional, and neutral management of all racing during the Event;
- (h) **America's Cup Class Yacht** means a yacht that complies or could comply with the Columbia Class Rules;
- (i) **America's Cup Class Rules** means the type, specifications and construction rules of the yachts to be used in the Event in accordance with this Protocol
- (j) **America's Cup Class Surrogate**. In relation to Article 26, America's Cup Class Surrogate means any high-performance yacht that is between 17 and 31 metres in waterline length;
- (k) **Bank Guarantee** means the bank guarantee at first demand set forth in Article 8;
- (l) **Base** means a base at the AC Village leased to a Competitor and under the control of that Competitor but subject to the restrictions set out in this Protocol and in the lease and includes an adjacent mooring area also under the control of the Competitor, and shall include any similar areas under the control of a Competitor at a Pre-regatta;
- (m) **Challenger** means, except where inconsistent with the context, a Yacht Club whose challenge has been accepted by GGYC under Article 7 and includes any person or entity which undertakes that Yacht Club's challenge as its representative;
- (n) **Challenger of Record** means CNR or such other Yacht Club that assumes CNR's responsibilities under Article 6.3;
- (o) **Challenger Selection Series** means the selection series referred to in Article 21;
- (p) **CNR** means Club Nautico di Roma and includes any person or entity which undertakes that Yacht Club's challenge as its representative;
- (q) **Competitor** means a Defender Candidate or a Challenger or any one or more of them as the case may be;
- (r) **Competitor Committee** means the organization to represent all Competitors required to be established pursuant to Article 5 of this Protocol;
- (s) **Course Area** means one or more areas within the Race Area on which courses may be set at the Venue and includes the Field of Play and the Flag Area;
- (t) **Deed of Gift** means a deed of gift dated 24 October 1887 between George L. Schuyler and the New York Yacht Club regarding a silver cup won by the

schooner yacht *America* at Cowes, England on the 22<sup>nd</sup> day of August 1851;

- (u) **Defender** means except where inconsistent with the context, GGYC and includes any person or entity which undertakes GGYC's defense in the Match as its representative;
- (v) **Defender Candidate** means an entity participating in the Defender Trials should GGYC elect to hold such trials, but unless it does so, it shall mean the Defender;
- (w) **Defender Trials** mean trials between the Defender Candidates GGYC may, at its discretion, elect to hold during the period of the Challenger Selection Series prior to selection of its defending yachts for the Match;
- (x) **Designer** means a person who applies substantial intellectual creativity and judgment to the determination of the shape or structure of the following: a yacht's hull, deck, cockpit, mast tube, geometry of the mast rigging, appendages or sails (excluding battens and sail hardware). For the avoidance of doubt, designer does not mean a person who designs any component other than those listed above, or who develops, modifies, operates, analyses the results of, or provides instructions for the use of, any design tool or resource including but not limited to computer software or hardware, tow tanks or wind tunnels or any other testing facility;
- (y) **Entry Fee:** means the fee to specified in Article 7.6;
- (z) **Event** means the Regatta, all Pre-regattas, and any special events as may be held by the Event Authority pursuant in this protocol;
- (aa) **Event Authority** means the entity appointed by GGYC to organize and manage the Event pursuant to Article 4.1;
- (bb) **Field of Play** means that part of the Course Area generally used by Competitors' yachts while racing;
- (cc) **Flag Area** means that part of the Course Area, immediately adjacent to the Field of Play, as designated by the Event Authority and the Regatta Director exclusively for vessels provided with accreditation flags by the Event Authority;
- (dd) **GGYC** means The Golden Gate Yacht Club as holder of the America's Cup;
- (ee) **Hull** shall have the same meaning ascribed in the America's Cup Class Rules;
- (ff) **Host City** means the city at the Venue hosting the Regatta;
- (gg) **Jury** means the Jury appointed pursuant to Article 13 of this Protocol;
- (hh) **Keel Bulb** means the appendage that contains ballast (as ascribed in the America's Cup Class Rules);
- (ii) **Keel Fin** shall have the same meaning ascribed in the America's Cup Class Rules;
- (jj) **Late Fee** means the fee prescribed in Article 7.6;
- (kk) **Match** means the 34th Match between the Defender and a challenger for the America's Cup pursuant to the terms of the Deed of Gift and this Protocol;

- (ll) **Measurement Committee** means the Committee appointed pursuant to Article 4.3 of this Protocol;
- (mm) **Media Organization** means an organization whose business is, in whole or in part, dissemination of information to the public or any section of it in any form by any means;
- (nn) **Notice of Challenge** means the document required from Challengers (other than the Club Nautico di Roma) by Article 7.6 in the form set out in Schedule 1 to this document;
- (oo) **Notice of Defense:** means the document required from Defender Candidates by Article 7.6 to this document;
- (pp) **Notice of Race** means the Notice of Race for the Regatta and the Pre-regattas;
- (qq) **Officials** means:
  - (i) The Regatta Director and any persons appointed by him (Regatta Officials), members of the Jury; and
  - (ii) Any other person or entity assisting with the organization or management of the Event;
- (rr) **Original Hull surface:** For America's Cup Class Yacht shall be as the Hull was when completed. "Original Hull surface" will be defined in detail in the Measurement Committee Interpretation issued pursuant to this Article;
- (ss) **Performance Bond** means a bond required by the Protocol which is to be provided by all Competitors;
- (tt) **Pre-regatta** means any of the regattas agreed pursuant to Article 23;
- (uu) **Protocol** means this protocol together with all attachments, schedules and appendices to this protocol, and any amendment, or any replacement protocol that is to govern the 34th America's Cup;
- (vv) **Race Area** means an area at the Venue within which Course Areas will be set; it also means, an equivalent area at the site of any Pre-regatta as defined in the relevant Notice of Race;
- (ww) **Regatta** means the Challenger Selection Series, the Defender Trials (if held) and the Match;
- (xx) **Regatta Director** means the person appointed pursuant to Article 4.3;
- (yy) **Revenue** means income and capital receipts received by the Event Authority arising from the activities described in Article 4.1(c) and shall include Competitor entry fees (Article 7.6) and forfeited Performance Bonds (Article 8.3). For the avoidance of doubt Revenue shall not include any other revenue received by any competitor or related entity including for example income or any other returns that may be received by any Competitors, their representatives or any associated persons or entities arising from real estate transactions at a Venue.
- (zz) **Signage** means a depiction, in whole or in substantial part, of any name, brand, trademark, product, product display by any person or entity, including the name, brand or trademark of a Competitor, but does not include an image of a

Competitor's yachts, vessels or team members except that part of an image which depicts a name, brand or trademark of any person or entity including those of the Competitor.

- (aaa) **Special Events** means events to be organized and managed by the Event Authority described in Article 44;
  - (bbb) **Technical Director** means the person appointed pursuant to Article 26 and who shall be Chairman of the Measurement Committee pursuant to Article 4.3;
  - (ccc) **WSTA** means the World Sailing Teams Association SA duly incorporated in the state of Luxembourg.
  - (ddd) **Venue** means the venue to be determined by and announced by GGYC pursuant to Article 24 and comprises the Competitor bases, public areas, all berthage areas, water space, airspace and all other areas under the control of the Event Authority. Where the context so requires, Venue shall also mean the respective venues of Pre-regattas;
- 1.2 Singular/Plural:** Unless the context otherwise requires, the plural means the singular and *vice-versa*.
- 1.3 Official Dictionary:** The English language shall prevail in the interpretation of this Protocol. The meaning of any word used in this Protocol and any document governing the Event, unless defined in Article 1.1, shall be determined by reference to the Oxford English Dictionary, Second Revised Edition (2009) – CD Rom Version 4.0 (Oxford University Press 21 May 2009) or any later published version.
- 1.4 Articles/Annexure:** A reference to an Article or annexure is a reference to an Article or annexure to this Protocol.
- 1.5 Time Zones:** Unless otherwise specified, all times are the time zones of the respective Venue.

**PART B      EVENT STRUCTURE****2.      PURPOSE AND INTENT**

The purpose and intent of this Protocol shall be to promote a competitive sporting regatta for all Competitors, and while doing so:

- (a) Realize the sporting and commercial potential of the America's Cup;
- (b) Encourage world-wide growth and interest in the America's Cup as a premier event, consistent with the provisions of the Deed of Gift; and
- (c) Maximize the media potential of the Event with the co-operation and assistance of all Competitors, and all Officials.

**3.      NEUTRAL MANAGEMENT**

- (a) GGYC (in its capacity as trustee), Challenger of Record (in its capacity as Challenger of Record) the Event Authority, ACRM, the Regatta Director, and all Officials shall;
  - (i) each act in the best interests of all Competitors collectively, consistent with Article 2, in organizing and managing the Event, and in developing the rights referred to in Article 4.1(c); and
  - (ii) not favor the interests of the Defender Candidates over those of the Challengers nor the interests of the Challengers over the Defender Candidates.
- (b) A Competitor, the Event Authority, or the Regatta Director may seek the review of any decision made in accordance with Article 13.4. The Jury may, if it finds a breach of this Article has occurred, revise the decision in question, as it considers just and equitable for all competitors and as may be necessary to meet the objectives set out in Article 2.

**4.      REGATTA MANAGEMENT AND FUNDING****4.1      Management and Funding:**

- (a) All losses, expenses and costs incurred in organizing and managing the Event (but not the costs of competitors to compete except as provided in this Protocol) shall be the sole responsibility of GGYC.
- (b) GGYC shall have sole responsibility to organize and manage the Event as provided in this Protocol. GGYC shall raise all necessary funds to meet all costs and expenses of the Event. GGYC's responsibility shall include;
  - (i) selecting the Venue and reaching an agreement with the relevant authorities;
  - (ii) establishing the timing of the Event;
  - (iii) endeavoring to make available space at the Venue for the Competitors at reasonable cost to establish an operational base;
  - (iv) raising funds to meet the costs of the Event by developing the rights referred

- to in this to best advantage;
- (v) promoting the Event;
  - (vi) meeting its obligations under the Deed and this Protocol
- (c) To assist GGYC to raise all necessary funds to organize and manage the Event and to reduce the financial risks of the Event on GGYC, all commercial rights of such Event shall vest in trust in GGYC and also the Event Authority (as GGYC's agent) pursuant to Article 4.2. Such commercial rights shall include (without limitation);
- (i) sponsorship and official supplier agreements of the Event;
  - (ii) global media rights including but not limited to still images, moving images and race animations broadcast or delivered in whatever medium or technology;
  - (iii) Event merchandising;
  - (iv) ticketing and entry fees;
  - (v) entertainment;
  - (vi) concessions;
  - (vii) licensing;
  - (viii) funds or goods and services (if any) provided by any lawful authority related to the selection of the venue;
  - (ix) super yacht berthage and associated services; and
  - (x) such other commercial rights and fundraising opportunities as GGYC may identify;
- subject to compliance with the provisions of this Protocol.
- (d) Nothing in this Article shall affect the rights and obligations conferred or imposed by the constitution of ACPI.
- (e) All intellectual property rights which are created by the Event Authority, GGYC and any Official including their members, representatives or employees, in the course of the organization, management and conduct of the Event, whether registered or not (except for the rights vested in ACPI or for the rights developed by Competitors in accordance with applicable rules), are assigned to GGYC as trustee of the America's Cup for the benefit of all current and future competitors and shall vest in all future trustees.

#### **4.2 Appointment of the Event Authority:**

- (a) To meet its obligations set out in Article 4.1 and to meet the purpose and intent of Article 2 of this Protocol, GGYC shall appoint the Event Authority to provide professional commercial management expertise and financial resources to minimize the risk of losses.



- (b) To facilitate funding of the Event, GGYC shall provide for the management of the commercial rights referred to this Article to be vested in trust in the Event Authority who shall be entitled to receive and manage all revenue derived from such commercial rights, and manage all expenditure relating to the Event in accordance with the terms of this Protocol.
- (c) The Event Authority shall have no authority in respect of any of the responsibilities of ACRM but shall fully and closely co-operate with ACRM at all times in a professional manner to achieve the objectives set out in Article 2.
- (d) The Event Authority may publish from time to time reasonable regulations regarding activities at the Venue consistent with the terms of the Protocol. Such regulations shall not take precedence over or amend any of the documents referred to in Article 11 of the Protocol. Competitors and Officials shall comply with such regulations.
- (e) The Event Authority shall be paid a management fee of 10% of the net surplus revenue, available for distribution pursuant to Article 41. Such fee is to compensate for provision of services the Event Authority provides, and the assumption of the risk that expenses of the Event will exceed income from the Event.
- (f) GGYC may appoint one person to serve on the Board of Directors of the Event Authority who is proposed by the Competitor Committee. The Competitor Committee shall be entitled to remove this person from the Board of Directors at their discretion.

#### **4.3 America's Cup Race Management (ACRM)**

- (a) To provide neutral, independent, professional, and fair management of all racing of the Event, GGYC shall establish and appoint ACRM as a perpetual entity to be solely responsible for the management of on-water race areas and the conduct of all racing between the Competitors during the Event.
- (b) ACRM shall be owned in trust for the benefit of all Competitors by the trustee of the America's Cup, and shall be passed on to successor trustees free of all liabilities in the same manner and under similar terms as ACPI, provided that the successor trustee and its challenger of record provides the undertaking referred to in Article 41.2(b).
- (c) The Board of Directors of ACRM shall consist of the Regatta Director, one person appointed by the Defender Candidates and one person appointed by the Challengers.
- (d) The Regatta Director shall be the Chief Executive of ACRM. WSTA shall appoint on or before 30 September 2010 the Regatta Director from a list of candidates provided by GGYC and the Challenger of Record. If WSTA fail to appoint Regatta Director by 30 September 2010, the Jury shall immediately appoint the person it believes is best qualified from a list of persons proposed by the GGYC and the Challenger of Record. The Board of ACRM shall be entitled by majority vote to remove the Regatta Director and re-appoint another Regatta Director. GGYC may remove the Regatta Director if ACRM exceeds its agreed budget. At which time the Board shall appoint another Regatta Director.
- (e) ACRM shall engage race officers, umpires and any other Officials necessary to

conduct fair and impartial racing of all races forming part of the Event.

- (f) ACRM shall have no authority in respect of any of the responsibilities of the Event Authority but shall fully and closely co-operate with the Event Authority at all times in a professional manner to achieve the objectives set out in Article 2.
- (g) The Event Authority shall develop and agree a budget process with ACRM and ACRM shall be responsible to manage the expenditure relating to the activities of the Regatta Officials, Jury and the meteorological and oceanographic data service within an agreed budget process.
- (h) The Regatta Director shall appoint (with power to dismiss and appoint replacements) in consultation with the Event Authority;
  - (i) Race Officer(s) to be responsible to conduct the races of the Event who shall be responsible for on water management decisions whilst racing;
  - (ii) a Measurement Committee to ensure compliance with the America's Cup Class Rules and other measurement requirements, which shall include the Technical Director who shall be the Chairman of the Measurement Committee, and not less than two additional measurers;
  - (iii) Umpires as may be reasonably required to umpire races of the Event, the Umpires may from time to time serve as members of the Jury in accordance with Article 13;
  - (iv) persons to manage the meteorological and oceanographic data collection service referred to in this Article;
  - (v) Logistics Managers, Frequency coordinators and such other persons as are reasonably necessary in meeting the obligations of ACRM
- (i) **Regatta Officials Review and Development:** The Regatta Director shall implement a program of professional development and performance evaluation for Race Officials so as to ensure a high standard of professionalism.
- (j) **Terms of Engagement:** The terms of engagement of the Regatta Officials shall be agreed by ACRM and the Event Authority.
- (k) **Selection criteria:** Criteria for selection of all Regatta Officials (excluding members of the Jury whose selection criteria is set out in Article 13) includes:
  - (i) they shall be technically skilled and competent for the role to which they are appointed;
  - (ii) they may be a resident or citizen of any country, including a country of a yacht club participating in the Event;
  - (iii) they shall not be disqualified by being a member of a yacht club participating in the Event;
  - (iv) they shall be known to be fair minded and to possess good judgment; and
  - (v) they shall be able to reside at the Venue for the duration of a regatta, or such lesser time as may be required by the Regatta Director.

- (l) **ISAF:** The Regatta Director shall conclude any necessary arrangements with ISAF provided that the Event Authority and GGYC shall approve any financial terms.

#### **4.4 MEASUREMENT COMMITTEE**

- (a) All matters relating to the measurement of the 2011 Yachts, the interpretation of the 2011 Yacht Rules, or the determination as to whether a Yacht meets the 2011 Yacht Rules, or the racing rules referred to in Article 11 insofar as they relate to a Yacht's equipment shall be determined by the Measurement Committee. The Measurement Committee shall have no power or authority to amend, alter, cancel or add to the 2011 Yacht Rules or the Racing Rules but shall be entitled to interpret the words used in such documents.
- (b) All matters relating to the measurement of the America's Cup Class Yachts, the interpretation of the America's Cup Class Rules, or the determination as to whether a Yacht meets the America's Cup Class Rules, or the Racing Rules referred to in Article 11 insofar as they relate to a yacht's equipment, shall be determined by the Measurement Committee. The Measurement Committee shall have no power or authority to amend, alter, cancel or add to the America's Cup Rules or the Racing Rules but shall be entitled to interpret the words used in such documents
- (c) Decisions of the Measurement Committee within its jurisdiction shall be final and shall not be subject to appeal or be referred to any court or other tribunal for review in any manner except that the Jury shall solely determine any matter relating to the jurisdiction of the Measurement Committee or compliance by the Measurement Committee with this Protocol. All decisions of the Measurement Committee shall be determined by majority vote.
- (d) The Measurement Committee Chairperson may delegate one or more measurers to carry out measurement, inspection or other duties on behalf of the Measurement Committee and the Measurement Committee shall be entitled, in the absence of manifest error, to act on a report of any such delegated member(s).
- (e) Competitors shall pay reasonable fees as determined by the Event Authority and expenses incurred for the services of the Measurement Committee.

#### **5. COMPETITOR COMMITTEE**

- 5.1** GGYC and CNR shall on the acceptance of the first valid entry establish and maintain, until after the last race of the Match, a Competitor Committee.
- 5.2** Each Competitor shall have the right to appoint one representative with authority to vote on all issues to the Competitor Committee, have equal power, and have an equal vote on all issues before the Competitor Committee. Unless unanimity is otherwise specified in any applicable rule, all issues shall be determined by majority vote.
- 5.3** Upon a Competitor being excused, eliminated, or disqualified by the Jury from further participation in the Event, or if half or more of its performance bond has been forfeited, such Competitor shall, unless otherwise agreed by the Jury, cease to be a member of the Competitor Committee and shall have no further entitlement to vote on any matter before the Committee, however, where they remain entitled to receive a share of surplus revenue in accordance with Article 41, they shall be entitled to vote in accordance with Article 41.2 (c) or (d).

5.4 All Competitors shall fund the Competitor Committee equally.

## 6. CHALLENGER OF RECORD

6.1 **Appointment of Club Nautico di Roma:** CNR, having submitted the first valid notice of challenge to GGYC, is appointed by GGYC as the Challenger of Record.

6.2 **Withdrawal by single challenger:** Unless GGYC has previously accepted at least one other challenge pursuant to this Protocol and such other challenge has not been withdrawn, CNR or any subsequent Challenger of Record must give 90 days notice of an intention to withdraw its challenge. Their challenge shall remain valid until expiry of the 90 day notice period. Withdrawal of their challenge without giving notice of an intention to withdraw the challenge in accordance with this Article shall be deemed to be a notice of intention to withdraw the challenge in compliance with this Article. GGYC may by written notice to CNR or subsequent Challenger of Record, waive or shorten the notice period.

6.3 **Replacement when multiple Challengers:** If at any time CNR or any subsequent Challenger of Record ceases to be a Challenger, the next Challenger of Record shall be the Challenger whose challenge was accepted first in time after the challenge of the Challenger of Record and whose challenge is still current. At the conclusion of the Challenger Selection Series, the winning Challenger of the Challenger Selection Series who is eligible to compete in the match shall become the Challenger of Record.

## 7. ACCEPTANCE OF CHALLENGES AND DEFENDER CANDIDATES

7.1 **Further Challengers:** A challenge will be accepted to compete in the Challenger Selection Series as set out in this Protocol.

7.2 **Challenger Qualifications:** Challengers are required to meet the qualifications for a challenger prescribed in the Deed of Gift.

7.3 **Time period to challenge:** Challengers may challenge in accordance with the Protocol from 0900 hrs on 1 October 2010 (US Pacific time) until 1600 hrs on 31 January 2011 (US Pacific time). Thereafter, challenges will be accepted at the discretion of the Event Authority until 1600 hrs on 31 March 2011 (US Pacific time) if there are less than 8 challengers and upon payment of the Late Fee.

7.4 **Defender Candidates:** GGYC will receive and review applications to become a Defender Candidate, and shall accept such application where it is satisfied on reasonable grounds that an applicant has all the necessary resources (including but not limited to financial, human, and technology) and experience necessary to win the Defender Trials, and to win the Match representing GGYC.

7.5 **Defender time period to file a defense notice and documents and fees:** Defender Candidates may challenge in accordance with the Protocol from 0900 hrs on 1 October 2010 (US Pacific time) until 1600 hrs on 31 January 2011 (US Pacific time).

7.6 **Documents and fees:** All Competitors shall provide to GGYC:

- (a) a completed Notice of Challenge (other than CNR) or Application of Defense in the respective form set out in Schedules 1 and 2 to this document;
- (b) A performance bond of US\$3,000,000 (three million US Dollars), in accordance with Article 8 to assure a Competitor's participation in the Event, and compliance with this Protocol as may be determined by the Jury;

- (c) An entry fee of €1,500,000 (one and a half million Euros) provided that Competitors whom have had issued to them by WSTA and continue to hold fully paid preference shares in WSTA shall not be required to pay such entry fee;
- (d) a bank draft in the sum of US\$25,000 (twenty five thousand US Dollars) made payable to "America's Cup Properties Inc." as a contribution to ACPI's costs to protect the America's Cup trademarks in accordance with Article 45 of the Protocol;
- (e) Where a challenge is made after 1600 hrs on 31 January 2011, a bank draft in the sum of US\$1,000,000.00 (one million US Dollars) made payable to the Event Authority as a late fee; and
- (f) declarations from both the challenging yacht club and from the entity which undertakes that yacht club's challenge on its behalf as its representative that since 14 February 2010 and until the last race of the Match:
  - (i) it accepts that it will be bound by the terms of the Deed of Gift and the Protocol, together with the other documents referred to in Article 11 of the Protocol;
  - (ii) it has complied with and will in the future comply with the terms of the Deed of Gift, and the Protocol;
  - (iii) it agrees to submit sole and exclusive jurisdiction of the Jury.
  - (iv) it acknowledges that all decisions rendered by the Jury established by the Protocol, will be final and binding and shall not be subject to appeal or be referred to any court, tribunal or other authority or body for review in any manner except as may be expressly permitted by the terms of the Protocol.

## 7.7 WITHDRAWAL OF CHALLENGE OR DEFENCE

A Challenger may withdraw its challenge by notice to GGYC. A Defender Candidate may withdraw its defense by notice to GGYC. Any Challenger withdrawing its challenge or any Defender Candidate withdrawing its defense before being eliminated in competition will forfeit its Performance Bond and all fees paid on or after challenging. All rights of a Competitor under the Protocol or any other document shall immediately cease on giving GGYC notice of withdrawal of a challenge or defense as the case may be.

## 8 Performance Bond

**8.1 US\$3 million Bond:** The Performance Bond of US\$3,000,000.00 (three million US Dollars) required by Article 7.6 of the Protocol of all Competitors, may be paid in cash or by way of a Bank Guarantee at first demand issued by a primary bank approved by the Event Authority.

- (a) **Cash:** Each Performance Bond shall be by delivery to the Event Authority of certified or bank check payable to [tbc].
- (b) **Bank Guarantee:**
  - (i) In lieu of delivering cash for a given Performance Bond, a Competitor may deliver a bank guarantee on first demand issued by a primary bank registered in [*California*], or a branch registered in [*California*], in both cases the form and substance of the Bank Guarantee and the issuing bank shall be

satisfactory to the Event Authority;

- (ii) A suggested form of the Bank Guarantee is attached to Schedule 3 of this Protocol;
- (iii) If the expiration date of any Bank Guarantee is earlier than 31 December 2013, the Bank Guarantee must state that it will be renewed or extended automatically for a term expiring no earlier than 31 December 2013, unless at least 30 days prior to such scheduled expiration date, the bank issuing such Bank Guarantee gives written notice to the Event Authority that the scheduled expiration date will not be renewed or extended. In the event of such notice, the Event Authority shall be entitled to present and draw upon the Bank Guarantee in its full amount and the funds received upon the presentation of, and draw upon, the Bank Guarantee will be held, and returned or forfeited, in accordance with the provisions of this Protocol.

## 8.2 Return of Performance Bonds

A Competitor's Performance Bond will be held by the Event Authority in trust and will be returned in full as promptly as practicable once a Competitor has discharged all its obligations but not later than 60 days after the last race of the Match if the competitor has discharged all of its obligations, provided the Performance Bond has not been forfeited in whole or in part.

## 8.3 Forfeiture of Performance Bonds

In the event that a Competitor fails to:

- (a) compete in any Pre-regatta
- (b) compete in a majority of races forming part of a series for which it is eligible;
- (c) compete in the Match for the America's Cup if it is the successful Challenger; or
- (d) comply with the terms of the Protocol after receiving 30 days notice to remedy the breach, or 24 hours notice during the period of any regatta or special event forming part of the Event,

one half of its Performance Bond shall be forfeited, and the forfeited part of the Performance Bond will become the property of the Event Authority and shall constitute revenue of the Event Authority for the purposes of Article 41 of the Protocol. If a Performance Bond is fully forfeited, then subject to Article 8.4 the Competitor shall be excused from all further participation in the Event and all rights and entitlements shall be immediate forfeited.

**8.4 Relief against forfeiture:** Any Competitor whose Performance Bond is forfeited in whole or in part, pursuant to Article 8.3 other than arising from withdrawal of a challenge under Article 7.7, may seek relief from forfeiture from the Jury. The Jury may grant relief against forfeiture in whole or in part, but shall only do so where it is satisfied the Competitor's failure was caused by *force majeure* circumstances that are legally accepted to excuse contractual obligations. Insufficient funds shall not be grounds for the Jury to grant relief against forfeiture.

**8.5 Postponement:** In the event the Regatta is postponed the Event Authority may require, and each Challenger shall deliver, a replacement Performance Bond on the same terms, except that the Performance Bond period shall be extended until 180 days after

the last re-scheduled race of the Match.

## 9. DEED OF GIFT

GGYC and CNR have mutually agreed, in accordance with the terms of the Deed of Gift as follows:

- (a) all racing in the Regatta shall be undertaken in yachts that comply with America's Cup Class Rules and this Protocol;
- (b) centre-board or sliding keel vessels are permitted provided they meet the requirements of the America's Cup Class Rules;
- (c) the Regatta shall be held at the Venue on the dates to be announced by GGYC pursuant to Article 24 of this Protocol;
- (d) unless otherwise agreed by the Competitors involved in the Match, the winner of each race in the Match scores one point, the loser scores no points, and the winner of the Match will be decided by the first yacht to attain five points;
- (e) unless otherwise agreed by the Event Authority, ACRM, and the Competitor Committee, the match racing courses for the Regatta shall be a combination of windward and leeward legs, of more than one lap. The full description of courses shall be published by the Regatta Director, in consultation with the Event Authority and the Competitor Committee, by 31 October 2012.
- (f)
  - (i) the requirement that the yacht of a challenging yacht club be constructed in the country of the challenging yacht club, and the yacht of the yacht club holding the America's Cup be constructed in the country of such yacht club, shall be deemed to be satisfied by the lamination or another form of construction of the entire Hull in such country; materials, moulds and other components and hardware used in or during the lamination or other form of construction of the Hull may be obtained from any source;
  - (ii) a Competitor shall arrange for a member of the Measurement Committee to inspect the Hull of that Competitor's America's Cup Class Yacht at its place of construction to affirm that the Hull has been constructed in accordance with this Article; affirmation by the Measurement Committee shall be final, binding, and conclusive evidence of compliance with this Article;
  - (iii) the fabrication, acquisition or use of any component, materials or resources used to complete an America's Cup Class Yacht may be sourced without restriction as to their country of origin, place of fabrication, assembly, construction or development; for the avoidance of doubt, any such component, materials or resources must nevertheless comply with the restrictions in Article 26 of this Protocol and the America's Cup Class Rule;
  - (iv) there is no restriction on the locality of substitution and/or modification of any part of an America's Cup Class Yacht.
- (g) EITHER

In accordance with past practice in America's Cup competition prior to 1980, there shall be no requirement regarding the nationality or residency of any crew member, nor of a Designer, of a Competitor's competing Yacht.

OR

At least 20% (rounded up) of crew members on board at the start of every race shall be nationals of the country where the yacht club is based. The rules and interpretations governing nationality shall be the same as used by the International Olympic Committee as at the date of this Protocol.

## 10 HISTORICAL INTERPRETIVE RESOLUTIONS

All past Trustee Interpretive Resolutions were repealed as at the end of the last race of the 31<sup>st</sup> America's Cup match held on 2 March 2003. They continue to have no further effect now or in the future for any purpose whatsoever.

## 11 RULES

### 11.1 **Applicable documents:** The Event shall be governed by:

- (a) the Deed of Gift;
- (b) this Protocol;
- (c) the America's Cup Class Rules for all regattas held after 1 January 2012, but the ACC Rules for Pre-regattas held prior to 31 December 2011; and
- (d) the Racing Rules.

### 11.2 **Precedence of Rules:** Unless expressly provided otherwise, the documents referred to in Article 11 shall have precedence in the order the documents are listed with the intent that any express conflict between the provisions of such documents shall be resolved in favor of the document first listed.

### 11.3 **RACING RULES**

- (a) GGYC and the Challenger of Record in consultation with the WSTA and the Competitor Committee shall, before 31 December 2010, in consultation with the Event Authority, prepare and publish Racing Rules to govern the Event regattas consistent with the provisions of this Protocol and meeting the reasonable commercial requirements of the Event Authority.
- (b) The Regatta Director may amend the published Racing Rules with the approval of the Competitor Committee.

## 12 AMENDMENTS

### 12.1 **Amendments:** GGYC and the Challenger of Record may, from time to time, by mutual agreement, amend this Protocol and mutually determine such other terms and conditions as they agree are necessary or desirable for the Event in consultation with the Competitor Committee, the Regatta Director and the Event Authority. In the circumstance that no agreement is reached on a proposed amendment, the proposing party may make application to the Jury who shall determine whether a proposed amendment shall be made, taking into account the objectives set out in Article 2.

### 12.2 **Amendments required by authority:** GGYC may, after providing notice to the Challenger of Record, the Event Authority, Regatta Director, and the Competitor Committee, modify this Protocol to meet the requirements of any authority having jurisdiction over the Deed of Gift as to the manner in which GGYC is to administer the



Deed of Gift.

### **13 DISPUTE RESOLUTION AND JURY**

- 13.1**
- (a) **Selection:** There shall be a Jury of five persons. The International Sailing Federation ("ISAF") in consultation with GGYC and the Challenger of Record shall appoint the Jury from a list of names supplied by GGYC and the Challenger of Record by 30 September 2010.
  - (b) **Local Substitution:** The Chairperson may at his discretion before hearing any application or matter substitute an appointed Jury member with another who has no conflict of interest in the matter to be determined to serve on the Jury in respect of a specific matter where there is good reason to do so
  - (c) **Quorum:**
    - (i) The quorum for the Jury shall, subject to the following, be five members, except on the resignation or death of a Juror when the quorum shall be reduced to the remaining number of Jury members.
    - (ii) If some members are unavailable for any reason, the quorum may be reduced provided that;
      - (A) the remaining members of the Jury believe there is an urgent need to resolve an issue before all members of the Jury will be available, and resolution reasonably cannot be delayed without disrupting the Event;
      - (B) the jurisdiction of the remaining Jury is limited to only those urgent matters requiring resolution to avoid disrupting the Event; and
      - (C) the quorum shall never be less than three.
    - (iii) Decisions of a reduced Jury shall be final, and there shall be no appeal or other redress to the full Jury.
- 13.2 Selection criteria:** Criteria for selection of members of the Jury shall be:
- (a) shall possess knowledge of America's Cup history and the Deed of Gift;
  - (b) shall possess good general knowledge of yacht racing and yacht clubs;
  - (c) shall have good commercial knowledge and experience;
  - (d) shall be known to be fair-minded and to possess good judgment.
  - (e) may be a resident or citizen of any country, including a country of a yacht club participating in the Event and / or a member of a yacht club participating in the Event.
- 13.3 Costs and expenses:**
- (a) Members of the Jury shall be paid a fair and reasonable remuneration and expenses by the Event Authority
  - (b) The Jury may award costs (which may include the costs of the Jury and may include the costs of any other parties to the hearing) to be paid by one or more

parties to any application as the Jury considers just and equitable.

- (c) Any financial penalty (not being an award in the nature of damages or compensation) shall be paid to such charity or charities as may be determined by the Jury.

**13.4 Jurisdiction:** The Jury shall act both as a jury under the applicable rules of sailing and also as an arbitral body and shall be empowered as follows

- (a) to resolve all matters of interpretation of any of the documents and rules referred to in Article 11;
- (b) To resolve any disputes between any of the Competitors, GGYC, the Competitors Committee, CNR, the Event Authority, ACRM, and any Official;
- (c) to resolve and decide all matters for which it has been given power to do so by this Protocol;
- (d) In the event of a breach of a rule, unless a penalty is otherwise prescribed as the Jury believes to be just and equitable, having regard to the nature and manner and effect of the breach, including but not limited to any one or more of the following:
  - (i) censure;
  - (ii) fine;
  - (iii) partial or full forfeiture of a Challenger's Performance Bond;
  - (iv) loss of existing or future points, scores or races;
  - (v) award of points or races to another Competitor;
  - (vi) disqualification from any race, series or the Event;
  - (vii) the reduction in the number of sails permitted by Article 26.11 to be used by a Competitor; and/or
  - (viii) the suspension or expulsion of any individual at fault as being a member of a crew of a competing yacht, or as part of a competing team.
- (e) to resolve any dispute, deadlock or impasse between any Competitor, GGYC, Event Authority, Regatta Director Race Committee, Competitor Committee or any Official (other than the Jury) that cannot be resolved by the terms of any applicable document, provided that unless the parties otherwise agree, the Jury shall not have jurisdiction to resolve disputes between:
  - (i) A party not referred to in Article 13.4(b) (unless jurisdiction has been agreed in writing by all parties) which includes for example but not by way of limitation Venue authorities, sponsors or suppliers; or
  - (ii) the Event Authority and any Official concerning their contractual or employment relationship.
- (f) to make such orders as it shall reasonably determine to be appropriate as regards the conduct of the Event to enforce and give effect to the provisions of the rules specified in Article 11.1, the regulations referred to in Article 4.2 (d), and the decisions of the Jury, which shall be binding on and be observed by all

Competitors, the Event Authority, ACRM, the Regatta Director, and all Officials.

- (g) to determine the limits of the jurisdiction of the Measurement Committee or compliance by the Measurement Committee with the terms of this Protocol;
- (h) to act as a Jury under the Racing Rules applicable for the Event;
- (i) to resolve any other matters which it is given jurisdiction to determine by GGYC and the Competitor Committee;
- (j) to resolve a dispute between GGYC and a yacht club whose challenge has not been accepted by GGYC where such Challenger has, in attempting to make its challenge, lodged the declarations required by the Protocol, or any party who has applied to become a Defender Candidate and has lodged the declaration required by Article 7.6; and
- (k) to determine the jurisdiction of the Jury in accordance with the terms of this Protocol.

**13.5 Meetings:** Meetings of the Jury may be held in person, by telephone, audiovisual linkup or email. Each member shall be entitled to one vote. Decisions shall be made by a majority of votes.

**13.6 Procedure:** The Jury shall establish its rules of procedure consistent with the rules of natural justice and the laws and rules referred to in Article 13.11 and due process that shall apply to all proceedings of the Jury unless an alternative procedure is specified in an applicable document.

**13.7 Counsel and Experts:** The Jury may, if it believes it requires expert assistance, engage independent counsel or other independent technical experts to assist the Jury from time to time.

**13.8 Previous decisions and purpose and intent:**

- (a) The Jury, in making its decisions, shall always give effect to the purpose and intent of this Protocol set out in Article 2, and the provisions of Article 3.
- (b) The Jury shall not be bound by previous decisions of any America's Cup Arbitration Panel or Juries of past America's Cups, but may take into account such decisions when making any determination.

**13.9 Protest time limits:** Unless a shorter time limit is otherwise specified in a relevant document, there shall be a time limit of fourteen (14) days from when the protestor was or could reasonably have been aware of the circumstances justifying the protest, to lodge any protest alleging non compliance with any of the documents and rules set out in this Protocol. The Jury may extend the time limit if there is good and substantial reason for failure to meet the time limit.

**13.10 Proceedings in English:** All proceedings of the Jury shall be conducted in the English language.

**13.11 Legal Seat and Law Governing Jury Proceedings:** The Jury shall be an arbitration body. The legal seat of the Jury is New York. However, the Jury may carry out all the actions that fall within its jurisdiction at the Venue of the America's Cup or in any other place it deems appropriate, or by correspondence or other means of communication at a distance. The Jury proceedings shall be governed by the U.S. Federal Arbitration Act and by the New York Convention of 1958 on the Recognition and Enforcement of

Arbitral Awards. In all instances, the Jury shall act fairly and impartially, provide equal treatment and a fair opportunity to be heard given the circumstances in which the decision must be made.

#### **14 ACCEPTANCE OF PROTOCOL AND PROHIBITION ON PROCEEDINGS**

**14.1 Resort to Courts prohibited:** The decision and or award of the Jury shall be final and binding on the parties. It may not be challenged by way of an action for setting aside for any reason including but not limited to lack of domicile, habitual residence or business establishment in any jurisdiction. Any Competitor who resorts to any court or tribunal, other than the Jury will except as permitted by Article 14.3, be in breach of this Protocol. The penalty for this breach will be, in the case of a Challenger, ineligibility to compete in any Pre-regatta and ineligibility to be a challenger for the Challenger Selection Series or the Match and in the case of a Candidate for the defense, such penalty as the Jury may impose pursuant to Article 13.4

**14.2 Waiver of claim:** Without in any way limiting Article 23.1, each Competitor, by agreeing to be bound by this Protocol, is deemed to have undertaken on its own behalf and on behalf of each of its officers, members, employees, agents and contractors, that they will not, at any time, in relation to any matter governed by this Protocol, or in relation to any other matter concerning the 34th America's Cup, issue proceedings or suit in any court or other tribunal against all or any of the following:

- (a) GGYC or any of its officers, members, employees, agents or contractors;
- (b) ACPI or any of its officers, employees, agents or contractors; or
- (c) any Competitor, the Competitor Committee or the CNR or any of their respective officers, members, employees, agents or contractors; or
- (d) any Officials; or
- (e) the Event Authority or any of their respective officers, employees, agents or contractors.

**14.3 Proceedings permitted:** The preceding provisions of this Article do not limit the right to issue proceedings or suit in relation to:

- (a) any proceedings against a third party not referred to in Article 13.4(b);
- (b) any loss or damage to any property used in connection with a Challenge or the defense;
- (c) any injury, loss or damage to a person, boats or other property as a result of wilful or negligent acts; or;
- (d) any person who is allegedly in breach of any confidentiality undertaking or restrictive covenant entered into with any Competitor;
- (e) seeking any Court or any lawful authority to exercise its inherent jurisdiction to oversee and guide the administration of the Deed of Gift;
- (f) the enforcement of contractual or property or other rights not based on or derived from the Deed of Gift, this Protocol, the Notice of Race, the America's Cup Class Rules, the 2011 Yacht Rules, or any determination made under any of those documents by GGYC, Competitor Committee, the Jury, or any other Official.

- 14.4 Contractor defined:** Reference to “contractors” in Article 14 shall be limited to persons whose contractual relationships are analogous to employment relationships and do not extend to contracts for the supply of goods or property.

## **15 COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS**

Competitors shall do all things necessary to comply at all times with all applicable laws and regulations of any city, state, region or national governmental authority having jurisdiction over the Event or part thereof.

## **16 COSTS AND EXPENSES TO COMPETE**

Unless expressly provided otherwise in writing by the Event Authority, all costs and expenses incurred in competing in the 34th America’s Cup Event, including any Pre-regatta, and in meeting all obligations under the Protocol shall be the sole and exclusive responsibility of the Competitor incurring such costs.

## **17 LIABILITY AND INSURANCE**

- 17.1 Own risk:** Every Competitor taking part in the Event does so at its own risk and responsibility.
- 17.2 Indemnity:** Each Competitor shall protect, indemnify and hold harmless GGYC, the Challenger of Record, any other Competitor, the Challenger Commission, the Event Authority, ACRM, any Official, their respective directors, officers, employees and contractors, from and against any and all liabilities, damages, indemnity, compensation, costs and expenses (including all legal fees incurred) whatsoever resulting from any claims, proceedings or actions brought by such Competitor and arising directly or indirectly out of or in any way connected with the acceptance of their challenge and performance in the Event or other associated event provided that such indemnity shall not apply to any proceedings of the Jury arising from the terms and conditions of the documents referred to in Article 11 of the Protocol.
- 17.3 Third party risk insurance:** Each Competitor participating in the Event shall provide to the Event Authority a Certificate of Liability Insurance, on an industry-standard English language form, at least 30 days prior to the Regatta and each Pre-regatta. This Certificate shall show evidence that the participant carries third party liability insurance for both personal injury and property damage in an amount of not less than €10,000,000.00 (ten million Euros) during the period of any Pre regatta and during the period of the Regatta. This Certificate shall also show evidence that the insurance policy will remain in effect until 31 December 2013 and shall name GGYC, the Event Authority, ACRM, and the Officials as additional insured.
- 17.4 Health insurance cover:** Competitors are strongly advised to arrange and ensure appropriate health insurance coverage for all members of their team participating in the Event, as well as such other insurance coverage for team members as is prudent. Neither GGYC nor the Event Authority shall be under any obligation or liability to provide for or make provision for health care for any Competitor or team member.
- 17.5 Postponement or cancellation:** Neither GGYC nor the Event Authority, ACRM, Challenger of Record or any Official, nor any of their directors, officers, employees, agents or contractors shall be liable to any Competitor or Official or any of their directors, officers, employees, agents or contractors 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 or the Event Authority including but not limited to acts of God, terrorism, war, government intervention or regulation, public health, environmental conditions, strikes, lock-outs, other industrial acts or any other *force majeure* circumstance.

**18 Spare**

**19 Spare**

**20 Spare**

**PART C      COMPETITION****21      CHALLENGER SELECTION SERIES:**

- 21.1**      GGYC and CNR have agreed to hold a selection series to determine the challenger for the Match. The winning Challenger shall become the challenger under the Deed of Gift in the Match. If the winning Challenger is for any reason ineligible to be the Challenger in the Match, then the Challenger which placed second in the Challenger Selection Series, or failing the eligibility of that Challenger, the Challenger which gained the next highest place in the Challenger Selection Series and which is eligible, shall become the challenger in the Match. If no Challenger is eligible, GGYC will be declared the winner of the Match.
- 21.2**      The format of the Challenger Selection Series shall be agreed by the Challengers with the Regatta Director who shall not unreasonably withhold his approval on or before 1 March 2011. The period of the Challenger Selection Series shall not extend more than two months. If no agreement is reached or the approval of the Regatta Director is not obtained by such date the Challenger Selection Series shall have the same format as is practicably possible to the Challenger Selection Series held immediately prior to the 32<sup>nd</sup> America's Cup Match.
- 21.3**      Entry into the Challenger Selection Series and 2013 Pre Regattas shall be on the following basis:
- (a)      if there are eight or fewer Challengers all challengers will proceed to the Challenger Selection Series;
  - (b)      if there are up to ten Challengers the lowest scoring eight challengers in the Pre-regattas shall proceed to the Challenger Selection Series; or
  - (c)      if there are eleven or more Challengers the lowest scoring ten challengers in the Pre-regattas shall proceed to the Challenger Selection Series.
- 21.4**      Unless otherwise agreed by the Competitor Committee and GGYC, the period between the conclusion of the Challenger Selection Series and the Match shall be not less than five days nor more than 10 days.

**22      DEFENDER TRIALS**

GGYC may hold trials during the period of the Challenger Selection Series to select a defender to represent GGYC in the Match and having such format and rules as GGYC may determine. The same selection criteria and scoring system shall apply to the Defender Candidates and entry to the Defender Trials as apply to challengers and entry to the Challenger Selection Series as specified in Article 21.3.

**23      PRE-REGATTAS:**

- 23.1      Attendance:** The Pre-regattas and the Regatta for qualified competitors are compulsory for all Competitors.
- 23.2      Number and Format of Pre Regattas:** There will be between six to eight Pre-regattas per year in 2011 and 2012. There will be at least two Pre-regattas in 2013 prior to the Regatta. The format of the Pre-regattas shall be agreed by the GGYC and the Challenger of Record, in consultation with the Event Authority, Regatta Director and Competitor Committee on or before 31 December 2010 except that the regatta prior to the Challenger Selection Series / Defender Trials shall be a Fleet Racing Regatta.

**23.3 Pre-regatta Venues:** Event Authority will announce the venues and timing of all Pre-regattas on 31 December 2010 or such later date as may be advised. America's Cup Class Yachts shall be used after 31 March 2012.

**23.4 Low points scoring.** Each challenger shall score a number of points equal to its placing multiplied by one as against all challengers for each Pre-regatta held in the new class of yacht in 2012. Each challenger shall score a number of points equal to its place multiplied by three as against all challengers for each Pre-regatta held in 2013. The results of the Pre-regattas shall seed competitors in the Challenger Selection Series or Defender Trials.

**23.5 Shipping :** The Event Authority shall arrange, at its cost, shipping to transport from a site nominated by the Event Authority to the site of any Pre-regatta and return, the following for each Competitor:

- (a) one America's Cup Class Yacht;
- (b) one set of appendages only, contained within either the America's Cup Class Yacht or its cradle
- (c) one / two mast(s) for America's Cup Class Yachts;
- (d) seven standard 40 foot shipping containers;
- (e) one chase boat (transportation dimensions of dd m x ee m x ff m), and

In 2011 when 2011 Yachts are used in Pre Regattas the 2011 Yachts and related equipment will be shipped.

These limits are subject to review and may be changed due to availability of suitable transportation and venue infrastructure.

**23.6 Annual Series and World Championship:**

The Event Authority may announce not later than the beginning of each calendar year;

- (a) that any Pre Regatta may be declared a World Championship with no more than 1 World Championship per calendar year;
- (b) all or a selection of Pre Regattas in a calendar year may be used to determine a world champion;
- (c) all or a selection of Pre Regattas held in a calendar year may form part of an annual series, and

the Event Authority may designate an alternative title to "world championship".

**23.7 Postponement or Cancellation of Pre Regattas:** In the event it becomes impossible or impracticable for any reason to hold any Pre-regatta, the Event Authority may, in consultation with the Defender and the Challenger Commission, postpone and/or relocate or cancel such Pre-regatta. Except in case of *force majeure* event, the Event Authority will give Competitors as much advance notice as reasonably possible of any such postponement, relocation or cancellation.

**23.8 Non Event Regatta**

A Competitor shall not participate, without the prior written approval of the Event



Authority, in any non-Event regatta that is presented in a way that is or could be perceived to be an ambush of the America's Cup Event, or that is presented or held out to be part of the America's Cup Event, or infringes the trademark rights of ACPI (and Competitors shall cooperate with the Event Authority in enforcing this provision on any non-Event regatta organizer).

Any approval by the Event Authority granted for a regatta pursuant to this Article shall not make the regatta an America's Cup Event.

## **24 REGATTA SCHEDULE AND RACE AREA**

**24.1 Challenger Selection, Defender Trials and Match Venue(s) Announcement:** The venue(s) and timing of the Regatta will be announced by GGYC on or before 31 December 2010. The Match may be in more than one Venue.

**24.2 Change to Regatta Venue:** In the event that the authorities at the Venue fail to meet their contractual obligations arising from the selection of the Venue, or it becomes impossible to hold the Regatta at the Venue, GGYC may select an alternative venue and/or dates for the Regatta with the approval of the Event Authority, ACRM and the Competitor Committee. Such approvals shall not be unreasonably withheld.

### **24.3 Race Area:**

- (a) The Regatta Director, in consultation with the Event Authority, shall select and announce by 31 January 2011 the Race Area at the Regatta Venue. Following the announcement it shall only be amended by the Regatta Director with approval of the Event Authority.
- (b) The Regatta Director, in consultation with the Event Authority, shall select the Race Area at the Pre Regatta Venues and details of these areas will be published as part of the Notice of Race for the respective Pre Regatta.

**24.4 Racing Areas to be Shared:** The racing areas for the Challenger Selection Series and the Defender Trials shall be the same racing areas for the Match and the racing areas shall be shared equally between the Challengers and the Defender Candidates as the Regatta Director shall reasonably determine after consultation.

## **25 NO SAILING PERIODS**

- (a) Competitor shall only sail an America's Cup Class Yacht or a yacht deemed by Article 26.5 to be an America's Cup Class yacht during the following periods:
  - (i) during a regatta which forms part of the Event held after 1 January 2012;
  - (ii) From 1 January 2012 until the first regatta of the 2012 season that uses the America's Cup Class yacht.
  - (iii) after 1 January 2012, four days prior to a regatta which forms part of the Event but only at the venue of such regatta, or such shorter period(s) as the Event Authority may advise, due to the shipping schedule of Competitor's America's Cup Class Yachts arranged by the Event Authority even if a Competitor's America's Cup Class Yacht is unaffected by such shipping schedule; and
  - (iv) nine calendar months prior to the first scheduled race of the Match, provided that any change to the scheduled date of such race after the commencement of such period shall not retrospectively affect the right to

sail and America's Cup Class Yacht.

- (b) The penalty for breach of this Article shall be immediate disqualification from the Event, unless the competitor seeks relief from the Jury and the Jury finds the breach was in inadvertent and has imposed penalties sufficient to remove all possible competitive advantages that may have accrued to the offending Competitor, including at the Jury's discretion but not limited to loss of all accrued Pre-regatta placing and a significant reduction in the number of sails and masts permitted to be used by such Competitor during the Event and the Regatta.

## 26 YACHTS

- 26.1 (a) GGYC shall present a concept paper for the America's Cup Class
- (b) GGYC and the Challenger of Record in consultation with the WSTA shall appoint the Technical Director for the new America's Cup Class and shall publish with the Technical Director by 30 September 2010 a new class rule for the type of vessel determined by this Article. If no class rule has been published by such date, the America's Cup Class Rules shall be those published by the Technical Director by 30 October 2010.

### 26.2 Eligible Yachts:

- (a) The 2011 Class Yachts shall be used in all Pre-regattas held in 2011.  

The event authority shall announce the boat and relative rules that have effect for this class no later than 30 days after the publication of the America's Cup Class Yacht design rule.
- (b) For the Pre-regattas held after 31 December 2011 and the Regatta, America's Cup Class Yachts shall be used.

- 26.3 **Yacht Substitution:** With the approval of the Jury, Competitors may substitute eligible Yachts between races with another qualified yacht when there is unintended damage. This is to ensure racing in any part of the Event by a Competitor is able to continue. Before giving approval, the Jury shall be satisfied the unintended damage is sufficiently serious that to undertake a repair would cause a delay in the respective part of the Event.

- 26.4 **New Yacht rules:** Each Competitor may only build, acquire or otherwise obtain a maximum of two new America's Cup Class Yachts.

- (a) Competitors shall be required to satisfy the requirements of Article 9 (f)(ii) for one new America's Cup Class Yacht on or before 31 December 2011,
- (b) and shall not launch a second new America's Cup Class Yacht before a date which is nine calendar months before the first scheduled race of the Match.

- 26.5 **Restrictions to reinforce New Yacht rule:** In order to give full effect to the intent of this Article, which is to limit Competitors to building, acquiring, or otherwise obtaining the specified number of New America's Cup Class Yachts, the following provisions shall apply:

- (a) The acquiring or obtaining of a yacht capable of being measured as an America's Cup Class Yacht without significant modification shall be deemed to be the acquisition of an America's Cup Class Yacht.

- (b) Using an America's Cup Class Surrogate for training or for testing and development of hulls, decks, appendages, spars and sails for an America's Cup Class Yacht shall be deemed to be the acquisition of an America's Cup Class Yacht. Except that a Competitor may prepare and race an America's Cup Class Surrogate in a regatta subject to the following conditions:
  - (i) The sailing preparation period shall not be longer than the period of the regatta;
  - (ii) The regatta shall have at least 2 other competitors who are not Competitors in the Event;
  - (iii) The regatta shall be accredited by the Regatta Director who shall be satisfied that it is a bona fide regatta conducted for a recognized class of yacht by an independent third party and is not intended to provide a competitor with design data to develop an America's Cup Class Yacht for the Event.
- (c) Once a Competitor has been allocated, or should have been allocated under the America's Cup Class Rules two sail numbers, no further sail numbers may be allocated to that Competitor. A Competitor shall only be entitled to be allocated a new sail number under the America's Cup Class Rules where they have not built or have been deemed to have built, acquired or obtained (in each case through alteration or otherwise) two America's Cup Class Yachts.

**26.6 Designers restricted to work for one Competitor:** Subject to the other provisions of this Article, each Competitor shall engage separate and independent Designers, who have had no design involvement with any other Competitor's program for this Event, to develop an America's Cup Class Yacht's Hull, deck, cockpit, mast tube, geometry of the mast rigging, appendages or sails (excluding battens and sail hardware), or those same components of any other yacht capable of being measured as an America's Cup Class Yacht without significant modification. Working for a Competitor prior to the publication of the America's Cup Class Rules shall not constitute working for a Competitor. A Designer whose contract is terminated by a Competitor may work for another Competitor, but not where the Designer terminates or intentionally initiates termination of their contract.

**26.7 Design information and equipment not to be shared:** Subject to the other provisions of this Article. Competitors, including through the assistance of third parties, shall not share or exchange America's Cup Class design or performance information or equipment except hardware (not being Hulls, decks, cockpits, mast tubes, appendages or sails) which is available for purchase by all Competitors on similar terms. This restriction shall not apply to design and performance information which may be gleaned without assistance from the other person or entity in formal or informal or head-to-head competition or otherwise as permitted in this Protocol, from the media, or other informal sources. Nothing in this Article shall prevent a supplier to two or more Competitors disclosing improved construction methods or technology developed solely by the supplier, provided the designs, methods or technology developed by the Competitors are not disclosed or exchanged.

**26.8 Size limitation for models:** Any scale model or scaled down version of an America's Cup Class Yacht (or other yacht, other than an America's Cup Class Yacht, which could be measured as an America's Cup Class Yacht without significant modification) which is greater than one-fifth of the size of an actual America's Cup Class Yacht (or such other yacht) is deemed to be a New America's Cup Class Yacht for the purposes of this Article and shall be deemed to have been allocated a sail number under the America's

Cup Class Rules.

**26.9 Anti-avoidance:** Any agreement, arrangement or understanding, whether legally enforceable or not, by one person or entity (in this paragraph “the first person”), whether then a Competitor or not, with any other person or entity (in this paragraph “the second person”) that the second person will directly or indirectly build, acquire or otherwise obtain one or more yachts of whatever type (in this paragraph “other yachts”) so that the first person can directly or indirectly obtain, in any manner whatever, design or performance information regarding the other yacht or yachts for use in the program of design, development or challenge of the first person, is prohibited.

**26.10 Sail Limits:**

- (a) For the Match the Defender and Challenger are allowed 25 declared sails plus the remainder of any additional sail allocation earned as a result of Pre-regatta performances.
- (b) The Regatta Director, in consultation with the Competitor Committee shall specify limits on the number of declared sails for the;
  - (i) Challenger Selection Series;
  - (ii) Defender Trials; and
  - (iii) All other regattas;consistent with the number of sails permitted for the Match and consistent with an intention to reduce the cost to compete.
- (c) Extra sail(s) will be added to one of the limits (be it another regatta, the Challenger Selection Series, Defender Trials or the Match) as follows:
  - (i) Three extra sails to the overall winner of the 2012 regattas, two extra sail to the overall second placed competitor and one extra sail to the overall third placed competitor.
  - (ii) Three extra sails to the overall winner of the 2013 Pre Regattas, two extra sail to the overall second placed competitor and one extra sail to the overall third placed competitor.
- (d) To be eligible for use as set out in this Article, a sail must be measured and registered with the Measurement Committee as part of the Competitor’s sail inventory. Sails may be measured and/or registered in the sail inventory at any time during the Regatta.

**26.11 Mast Limits:**

Each Competitor may only build, acquire or otherwise obtain a maximum of four (4) America’s Cup Class Yacht mast tubes.

- (a) **Masts counted:** A mast is only included if it is stepped into a yacht.
- (b) **Mast modification:** A mast shall be deemed to be a new mast if more than 50% of its tube is replaced.

**26.12 Keel Fin Limits:**

Each Competitor may only build, acquire or otherwise obtain a maximum of four (4) America's Cup Class Yacht keel fins.

- (a) **Keel Fin counted:** A keel fin is only included after it is attached to a yacht.
- (b) **Keel Fin modification:** A keel fin shall be deemed to be a new keel fin if it is re-cast.

**26.13 Keel Bulb Limits:**

Each Competitor may only build, acquire or otherwise obtain a maximum of three (3) America's Cup Class Yacht keel bulbs.

- (a) **Keel bulb counted:** A keel bulb is only included if it is attached to a yacht.
- (b) **Keel bulb modification:** A keel bulb shall be deemed to be a new keel bulb if it is re-cast

**26.14 Hull Modification Limits:**

- (a) **No limits before launch:** An America's Cup Class Yacht hull is deemed to be completed on its launching date, being the date it is first floated in the water for any reason. There is no limit on modifications that may be made to an America's Cup Class Yacht before it is completed.
- (b) **Limits after launch:** Competitors may modify the Hulls of their America's Cup Class Yachts up to a maximum of 50% of the original Hull surface of the yacht. If the total of all Hull surface modifications to a yacht exceeds the permitted limits set out in this Article, then the yacht shall be deemed to be a new America's Cup Class Yacht within the terms of this Article and shall be allocated a new sail number under the America's Cup Class Rule.

**26.15 Information to the Measurement Committee:**

- (a) A Competitor shall provide, to the satisfaction of the Measurement Committee, the following:
  - (i) **Masts:** Geometric and structural designs and of each mast within 7 days of the mast being first stepped into a yacht.
  - (ii) **Hulls:** Geometric designs of each hull within 7 days of the hull being launched. Structural plans shall also be provided if required by the Measurement Committee.
- (b) The Measurement Committee shall be provided with any additional information it requests and believes is necessary to determine whether the modification to masts, hulls, keel fins or keel bulbs are permitted.
- (c) The Measurement Committee shall hold all plans provided in strictest confidence, and such plans shall normally be stored for safe-keeping in a recognized safety deposit facility or filed in an electronic form protected by an appropriate security encryption.

**26.16 Measurement Committee Approval Process:**

- (a) (i) No modifications shall be made to a mast after it is stepped or the Hull surface of an America's Cup Class Yacht after it is completed without the

written approval of the Measurement Committee.

- (ii) The Measurement Committee is empowered to give approval after a modification is commenced where the terms of this Protocol have otherwise been complied with and the Measurement Committee is satisfied failure to obtain approval was through inadvertence.
- (b) The following procedure shall apply to mast and Hull surface modification:
- (i) The Competitor shall provide the Measurement Committee with plans of the proposed modifications showing the cut lines and physical reference points in respect of each proposed modification. The Measurement Committee shall then calculate both:
    - (A) the modification in the original surface resulting from the particular proposed modification; and
    - (B) the new aggregate of all modifications including this proposed modification.
  - (ii) The Measurement Committee shall advise the Competitor in writing of these calculated values.

The Measurement Committee may also require a check measurement.

**26.17 Repairs:** A repair that is approved by the Measurement Committee shall not be considered a modification in regards to Article 26.

**26.18 Interpretation:** The Measurement Committee shall issue an interpretation of Article 26, setting out clear technical guidelines on the application of this Article. This interpretation, when issued, shall be deemed to constitute part of this Article.

## **27 SHROUDING**

Underbodies of any yacht owned or used by any Competitor shall not be shrouded at any time. Use of protective wrapping during shipment, placing a yacht in a building or shelter with a solid floor for storage or to carry out maintenance or modifications, or the use of protective covers while undertaking sanding or painting operations to prevent drift of particles shall not constitute shrouding.

## **28 USE OF PATENTED PRODUCTS**

Use of a design or process for the Hull, appendages, spars, rigging, and sails for which a patent has been granted or is pending is prohibited unless the design or process is available to all Competitors on a reasonable commercial basis.

## **29 CREW**

Except with the consent of all Competitors still competing in the Event, no person who has sailed as a crew member on a Competitor's yacht during any race of the Regatta (defined in Article 1.1 as the Challenger Selection Series, the Defender Trials and the Match) shall sail as a crew member on any other Competitor's competing yacht during any race in the Regatta. Nothing in this rule shall prevent such person being otherwise engaged by the second Competitor except as a crewmember on a yacht racing in the Regatta.

**30 SUPPORT VESSELS:**

**Restrictions on number of support vessels:** Except in an emergency, a Competitor shall not use simultaneously more than three vessels supporting sailing operations at the Venue or a designated site of any Pre-regatta, including chase boats, tenders and utility boats, but not including America's Cup Class Yachts or other yachts used for team training, or vessels used for team recreation, or other vessels for sponsor or spectator purposes. In addition, a Competitor may use a fourth support vessel strictly for ferrying equipment and/or personnel between the shore and sailing operations afloat or for umpiring purposes.

**31 WEATHER DATA**

**31.1 Meteorological Data Service:** ACRM shall establish and manage a meteorological and oceanographic data collection service at the Venue and make the data available to Competitors electronically to avoid duplication of effort by Competitors and to provide a more level basis for all Competitors. ACRM shall consult with both the Competitor Committee and with the Event Authority as to the services to be provided. The net costs of the meteorological and oceanographic data service will be borne by ACRM.

**31.2 Permitted Weather Data:** A Competitor may only use weather, wind, sea state or sea current data from:

- (a) any source that is provided by an independent third party and is public and readily available to all Competitors at no cost; or
- (b) a consolidated weather program managed by ACRM; or
- (c) personal observation from land or on a vessel afloat.
- (d) Any source at a location that is not within 200 nautical miles from the venue for the Regatta and at a time that is not within 15 days prior to and during a Pre Regatta).
- (e) For the avoidance of doubt, no competitor shall use weather data collected from:
  - (i) any form of aircraft, satellite or airborne weather station;
  - (ii) buoys or other meteorological or oceanographic equipment in the sea;
  - (iii) any vessel afloat (other than the competitors competing 2011 Yacht or America's Cup Class yacht(s)); or
  - (iv) any lidar, sodar, codar or similar remote sensing device capable of measuring wind or sea surface current at a distance greater than 1 meter from the device; however this shall not preclude the use of sonic and/or other non-mechanical wind-measuring devices with an operating range of less than one meter.
  - (v) any land based weather stations not publically available.

The sources specified in paragraphs (a), (b), (c) and (d) are not limited by the restrictions under paragraph (e).

**32 RECONNAISSANCE**

**32.1 Worldwide:** This Article applies throughout the world to all Competitors from when this Protocol is published until the completion of the last race of the Match.

**32.2 Prohibited activities**

The Competitors are prohibited from engaging in any of the following activities

- (a) any intentional illegal act related to the gaining of information about a Competitor;
- (b) the use of listening devices for eavesdropping;
- (c) accessing to frequencies allocated to other teams;
- (d) the unauthorized entry into any computer system used by a Competitor including the capture, recording or analysis of any data emanating from telemetry, instruments, computers etc from another Competitor;
- (e) The use of satellites, aircraft (fixed or rotary winged), and/or other means to observe or record from above another Competitor's yacht; except that during a training session or approved non-Event regatta, the involved Competitor(s) and/or prospective competitor(s) may, for promotional purposes, observe or record from above their yachts with the prior written agreement of such involved Competitors and/or prospective competitor(s), and in accordance with the terms of such agreement.
- (f) without the prior consent of the Competitor, navigating a vessel within 200m of another Competitor's yacht for the purpose of observation.
- (g) the acceptance of any information from a third party that, under this Article, would have been improper for the Competitor to obtain directly.

**32.3 Proximity:** The proximity of another Competitor's vessel to a Competitor's Yacht, due to compliance with applicable local laws and requirements or the requirements of the Race Committee, shall not be, in itself, a breach.

**32.4 Media activities protected:** Article 32 shall not restrict the lawful and permitted activities of any media representative accredited by the Event Authority, provided they shall not, other than by way of public dissemination by a Media Organization, provide to any Competitor any material that a Competitor could not itself collect without breach of Article 32.

**33 TELEVISION AND TECHNICAL EQUIPMENT**

**33.1 Yachts must carry broadcast equipment:** During racing in the Event, television, audio and other electronic equipment shall be carried on competing America's Cup Class Yachts and/or crew as determined by the Event Authority. This may also include cameramen. The amount and manner of placement of such television, audio and other electronic equipment on yachts shall be consistent for all Competitors. Competitors shall provide the Event Authority broadcast all live telemetry data from their competing yacht including but not limited to boat speed, true and apparent wind speed, boat heading, [other devices] wind direction which shall be used solely for broadcast and media purposes. Competitors shall not alter the telemetry data provided, so that the Event Authority broadcaster receives accurate data, as it is reasonably possible.

**33.2 Crew Personal Microphones and other equipment:** In order to produce an attractive and compelling media broadcast, the Event Authority may require crew members to wear personal microphones. The Event Authority in consultation with the Competitor



Committee may require additional personal broadcast equipment to be carried by selected crew members, such as cameras and biometric monitoring equipment. All such equipment shall be equalized as between competing competitors. The Regatta Director in consultation with the Event Authority shall publish when such equipment is to be broadcasting and where it is to be located.

**33.3 Officials' Microphones and other equipment:** In order to produce an attractive and compelling media broadcast, Officials selected by the Event Authority shall wear personal microphones. The Event Authority in consultation with the Regatta Director may require additional personal broadcast equipment to be carried by selected officials, such as cameras and biometric monitoring equipment

**33.4 Yacht Communications:** Competitors shall provide the Event Authority real time access to all onboard and team to Yacht communications for broadcast purposes on race days during the Event.

ACRM may supply or designate competitors with on board communication system that shall be the sole electronic communication system used on each yacht. The Regatta Director shall inform Competitors of ACRM's decision to supply such equipment by 31 October 2011.

The Regatta Director in consultation with the Event Authority shall publish when such equipment is to be broadcasting.

**33.5 Protection of performance data:** The Event Authority and Competitor Committee shall ensure that adequate measures are put in place so that performance information of individual yachts is not available to any other Competitor, other than a broadcast through a Media Organization authorized by the Event Authority.

The Event Authority within 48 hours of a race shall provide on an equal basis a copy of the standard production stream produced by the host broadcaster. Competitors may use such data and footage provided by the Event Authority solely for competitive analysis, and shall not use it for any broadcast or other purposes without the prior consent of the Event Authority.

**34 Frequency Allocation:**

- (a) The Regatta Director shall assign frequencies to Competitors, ACRM and the Event Authority;
  - (i) No later than 10 days prior to the first scheduled race of each Pre Regatta; and
  - (ii) No later than 9 months prior to the first scheduled race of the Regatta.
- (b) Unless otherwise agreed by the Regatta Director, these frequencies are available for use from receipt of the frequency to;
  - 1 day after the last scheduled race of each Pre Regatta; or
  - 1 day after a Competitor is excused, eliminated, or disqualified by the Jury from further participation in the Event.

**35** Spare

**36** Spare

**37** Spare

**38** Spare

**39** Spare

**40** Spare

**PART C COMMERCIAL****41 NET SURPLUS REVENUE**

**41.1** The net surplus revenue shall be the Revenue received, less the costs of:

- (a) Salaries and bonuses of staff and management;
- (b) The Officials;
- (c) TV and other media production;
- (d) Sponsor fulfillment obligations;
- (e) Administration;
- (f) Insurance;
- (g) Venue procurement fees;
- (h) Sales commissions;
- (i) Interest, finance and banking charges;
- (j) All taxes, duties, levies and social services charges payable, including any taxes incurred by the Event Authority and ACRM as a corporation;
- (k) All costs and expenses of by ACRM;
- (l) Expenses incurred by GGYC in discharging their duties as holder of the America's Cup including but not limited to all ACPI costs in excess of the funds provided by Competitors; and
- (m) Other expenses incurred by the Event Authority in organizing the Event,

For the avoidance of doubt the costs of any Competitor competing in the Event shall not be deducted from Revenue for the purpose of calculating net surplus revenue.

**41.2** The net surplus revenue shall be determined (at least on a provisional basis) within 180 days after the last race of the Match and paid as a contribution towards the costs incurred by competitors to compete in the Event as forming part of the costs incurred in holding the Match as required by the Deed of Gift, within 90 days of its determination as follows:

- (a) Payment of the management fee referred to in Article 4.2 to the Event Authority;
- (b) The payment of 5% of the balance of the net surplus up to a maximum of €10,000,000 (ten million Euros) to ACRM towards the costs of the 35<sup>th</sup> America's Cup provided that in the event the winner of the Match and its Challenger of Record provides a written enforceable undertaking within 90 days of the last race of the Match that they will:
  - (i) comply with the terms of the Deed of Gift;
  - (ii) agree all dispute resolution shall be by way of arbitration;
  - (iii) hold a challenger selection series;

- (iv) use ACRM to provide neutral, independent, professional, and fair management of all racing for the 35<sup>th</sup> America's Cup;
- (v) organize an annual series of regattas commencing within 12 months of the last race of the Match for America's Cup Class Yachts or such other yachts to be used in the 35<sup>th</sup> America's Cup; and
- (vi) hold the 35<sup>TH</sup> America's Cup Match within 5 years of the date of the last match in the 34<sup>TH</sup> America's Cup.

If no such undertaking is provided the payment to ACRM shall not be made, the assets of ACRM shall be liquidated and such sums and proceeds shall remain part of the net surplus revenue to be distributed to the Competitors as provided below.

- (c) One half of the remainder to be distributed to GGYC.
- (d) the remainder shall be distributed to Challengers as follows:
  - 70% divided equally amongst all Challengers;
  - 10% divided equally amongst all Challenger semi-finalists;
  - 10% divided equally amongst both Challenger finalists;
  - 10% to the winner of the Challenger Selection Series,

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

- (e) A winner of the Match and its challenger of record (if entitled to a share of the Net Surplus Revenue) who have failed to give the undertakings referred to in Article 41.2(b) shall not be entitled to any distribution of the Net Surplus Revenue and their shares shall be redistributed to the other entitled Competitors as set out in Article 41(c) and (d).
- (f) Notwithstanding the provisions of this Article, any Challenger that has forfeited half or more of its Performance Bond, or that has been disqualified from competing further in the Regatta by the Jury, shall not be entitled to receive any part of the net surplus revenue unless the Jury orders the restoration in whole or in part of such entitlement where the Jury is satisfied that forfeiture arose through inadvertence or was beyond the reasonable control of the Challenger, and has not resulted in the Event Authority incurring any significant actual or contingent liability, expense or lost revenue; insufficient funds shall not be grounds for the Jury to restore in whole or in part the entitlement of a Challenger to receive any part of the net surplus revenue.
- (g) The Event Authority may make interim distributions of surplus revenue at any time but strictly in accordance with the above distribution provisions, unless otherwise agreed by the Competitor Committee and the Event Authority
- (h) The amount payable to Competitors under this Article shall be paid only as a contribution to the gross expenses of each Competitor as forming part of the costs incurred in holding the Match as required by the Deed of Gift. Any amount in excess of a Competitor's gross expenses shall only be paid to such Competitor if GGYC is satisfied on reasonable grounds that payment would not breach any

legal duty or obligation to which it is subject.

**41.3 Six Monthly Reporting:** The Event Authority shall, as from the accounting balance date of the event authority in 2011, prepare and submit six-monthly reports regarding Event revenue and expenditure and including forecasts of future Event revenue and expenditure for approval by GGYC. GGYC shall provide copies of such reports to the Competitors following its approval.

**41.4 Annual and Final Reporting:** The annual and final accounts of the Event Authority shall be audited by an auditor selected by the Competitor Committee and on completion of the audit the accounts and audit report shall be provided to all Competitors.

## **42 ADVERTISING AND NAMES OF YACHTS**

**42.1 Advertising restrictions:** There will be constraints on advertising in any form on the Hulls, cockpits, appendages, sails, rigs, crew clothing or associated equipment of a yacht as set out in this Article 42. Competitors shall also comply with the appropriate laws of the Venue in respect of their advertising as set out in this Protocol.

**42.2 Prohibited Advertising:** Advertising by a Competitor or the Event Authority of, or other reference to, tobacco products or such other products, the advertising of which is prohibited or restricted at the Venue, is prohibited.

**42.3 Notification:** The Event Authority shall immediately notify all Competitors of all contracted sponsors with signage rights on competing Yachts giving full details of contracted signage rights. Competitors shall immediately notify the Event Authority of all of their sponsors with signage rights on competing Yachts giving details of signage rights. There shall be no penalty beyond this Article for failure to notify.

### **42.4 Event signage and National Flags on competing yachts:**

- (a) Competitors shall display Event sponsor signage on each side of the jib or genoa, near the tack, of the dimensions up to 1 square meter.
- (b) Competitors shall include on both sides of the mainsail, a national flag of the competitor. The fly of the flag shall be 1.5 meters on the hoist and the hoist of the flag being closest to the mast. The flag shall be wholly above an arc whose centre is the head point and whose radius is 60% of the leech length.
- (c) A national flag of the competitor displayed on the hull of the vessel at [location tbc]

### **42.5 Conflicting sponsors:**

- (a) Conflicting contractual obligations shall not be grounds to justify failure to display required advertising.
- (b) A competitor may object by application to the Jury to the placement of Event sponsor signage on their sails if it is in direct and substantial commercial conflict with the signage of the Competitor's major sponsor and such Event sponsorship was notified to the competitor after the Competitor notified the Event Authority that it had contracted such sponsorship and signage.
- (c) The Jury shall determine whether the respective sponsorship signage is in direct substantial commercial conflict, and whether the Event sponsorship was notified after the Competitor notified the Event Authority. If the Jury is so satisfied, the Jury may relieve the competitor from an obligation to carry the Event sponsor on its sails on such terms as it believes are fair and reasonable giving full and due

consideration to the objectives set out in Article 2

**42.6 Anti-ambush Advertising:** A Competitor shall not place on its competing Yacht or any of its support vessels the name of or any advertising of any Media Organization unless approved by the Event Authority.

**42.7 Name of Yacht:** A Competitor shall not name its competing yacht with a name that constitutes Advertising.

**42.8 Offensive advertising prohibited:** A Competitor shall not use any offensive, obscene, abusive or illegal image on or name for its Yacht. The decision of the Jury shall be final, conclusive and binding on all Competitors as to what constitutes offensive, obscene, abusive or illegal.

**42.9 Hull advertising:**

- (a) Advertising on the Hull is permitted in an area not to exceed ten (10) square meters on each side (a "side" is the area from the centerline of the Hull to the sheerline). The area is measured by constructing the smallest possible rectangle around each advertisement and then adding the areas of the rectangles together.
- (b) Article 10.8(a) notwithstanding, the Hull may be of any color or combination of colors, and such color schemes (as opposed to logos or lettering) shall not constitute advertising.

**42.10 Deck and Cockpit advertising:**

- (a) Advertising on the surfaces of the deck, including hatches, troughs, recesses and cockpit(s) is permitted in an area not to exceed 20 square meters. The deck is bounded by the sheerline and the stern, and the area is measured by constructing the smallest possible rectangle around each advertisement and adding the area of the rectangles together.
- (b) This Article notwithstanding, the deck and cockpit(s) may be of any color or combination of colors, and such color schemes (as opposed to logos or lettering) shall not constitute advertising.

**42.11 Sails Mast Boom and Equipment Advertising**

Advertising is permitted on:

- (a) Mainsails in rectangular areas not exceeding 42 square meters on each side within the area bounded by the foot, the luff, the leech and a line connecting a point on the luff seven meters above the tack and a point on the leech seven meters above the clew;
- (b) Spinnakers;
- (c) Both sides of the main boom;
- (d) Both sides of the mast from the deck to the first spreader including on any instrument panel mounted on the mast;
- (e) The aerial frame; and
- (f) On any item of equipment in the cockpit of the Yacht, including instruments, helm and grinding equipment and pedestals provided that, there are no more than 12

individual signs with a maximum area of 150mm x 40mm each, and such advertising is not readable from the stern of the yacht.

**42.12 Appendages advertising:** Advertising is permitted on any surface of the appendages.

**42.13 Crew clothing advertising:** Advertising on crew clothing is permitted provided the name of each crew member must be clearly visible on the front and back of each crew member's clothing in letters not less than 100mm in height, and all other advertising on the back of such clothing shall not be larger in size than the crew member name nor placed within 100mm of the crew member's name.

**42.14 Prior approval**

- (a) Details of intended advertising or an intended competing Yacht's name shall be submitted to the Jury for approval as to compliance with this Article 42;
- (b) When the Jury's approval is granted, thereafter protests alleging non-compliance with this Article 10 shall be refused unless the protest alleges the display was materially altered after the Jury's approval.
- (c) Jury decisions when issued under this Article shall be distributed to all Competitors.

### **43 MEDIA COMMITMENTS AND PUBLIC APPEARANCES**

**43.1 On Board:** Competitors shall co-operate and assist the host broadcaster by providing on board brief comments for broadcasting prior to, during and after racing.

**43.2 Press conferences:**

- (a) Competitors shall send two crew members of their competing yacht, in team uniform, to each official post-race press conference; such crew members may be specified by the Event Authority.
- (b) When requested by the Event Authority, Competitors will send appropriate competitor personnel to themed press conferences, for example, designers to a design press conference. The Event Authority may specify the persons to attend any such themed press conferences.
- (c) Persons attending any press conferences on behalf of a Competitor shall not be made available to the media, in a way that could compete with the upcoming official press conference, from the time of the request until the official press conference, except for on-the-water interviews and filming and photography shoots conducted by the Event Authority's authorized broadcaster or media.
- (d) Persons attending official press conferences on behalf of a Competitor will attend for the duration of the conference and will actively participate in such conference that will not exceed approximately one hour.
- (e) The Event Authority may specify certain Officials to attend a press conference.

**43.3 Public appearances:** Competitors will make available up to three team members prior to and after each official race to participate in a public appearance in the AC Park. The Event Authority will submit details of such public appearances prior to the commencement of the Event regatta. Team members attending such public appearances shall actively participate for the duration of the presentation, which will not

normally exceed 30 minutes.

#### **44 SPECIAL EVENTS**

**44.1** The Event Authority will exclusively organize and manage:

- (a) Formal presentation of the America's Cup Class Yachts at the beginning of each Pre Regatta as well as prior to the Regatta.
- (b) Opening ceremonies;
- (c) pre- and post- race press conferences;
- (d) pre- and post- race public presentations;
- (e) special America's Cup functions;
- (f) prize giving ceremonies;
- (g) closing ceremonies; and
- (h) other events as may be advised by the Event Authority from time to time.

**44.2 Participation in Special Events:** All Competitors are required to participate, at no cost to the Competitors, in Special Events, with the number of team members reasonably specified by the Event Authority.

**44.3 Event Co-ordination:** To prevent conflict of events, the Event Authority will maintain a calendar of America's Cup related events that will be made available to Competitors. Competitors shall advise the Event Authority of any major event they intend to host, or any event to which they plan to invite Officials or other Competitors, whether on their Base or elsewhere.

#### **45 AMERICA'S CUP TRADE MARKS**

**45.1 ACPI Contribution:** Each Competitor shall pay the sum of US\$25,000 (twenty five thousand US dollars) as provided by Article 7.6(d) to be held by GGYC for defraying costs associated with the maintenance of ACPI and the creation and maintenance of America's Cup trade marks and other intellectual property held or to be held by ACPI. GGYC shall ensure ACPI makes an annual report to all Competitors regarding disposal of funds. Such contribution does not create any rights in ACPI or constitute a license or right to use any trademark or other intellectual property except as provided in this Article.

**45.2 Use of America's Cup trade marks:** Each Competitor may, within 6 months of acceptance by GGYC of its challenge, but prior to any use of any of the America's Cup trade marks owned by ACPI, whichever is the earlier, execute a license agreement with ACPI relating to the America's Cup trade marks in such form as ACPI may reasonably require. The Jury shall determine any dispute as to the terms of the license. No Competitor may use any trademark or other intellectual property of ACPI until it has executed a license agreement with ACPI.

**45.3 America's Cup Insignia:** Competitors shall remove any America's Cup trademark owned by ACPI affixed to its mainsail or other yacht equipment prior to selling, leasing or otherwise parting with possession, to any person or entity that is not a Competitor licensed by ACPI, or when no longer a Competitor.



**45.4 Event Logo:** No Competitor shall use Event logo(s) developed by the Event Authority for the Event or part thereof without the prior approval of the Event Authority. The Event logo(s) may incorporate trademarks owned by ACPI.

**45.5 ACPI Succession:** A challenger winning the America's Cup shall take control of ACPI in accordance with the terms of a Pre-incorporation Agreement dated 1 October 1986 and the constitution of ACPI.

## **46 MEDIA**

**46.1 Ownership of broadcast and media rights:** All media and broadcast rights and telemetry positioning data in the Event are vested solely and exclusively in the Event Authority. Such rights shall include, but not by way of limitation, all rights to promote the Event, to broadcast the Event and the results and race statistics of the Event. At the conclusion of the event all copyright and all other intellectual property in all film, video, photographs, data and information of whatever nature, and for whatever purpose, produced by the television, audio and other electronic equipment carried on Yachts and/or crew participating in the Event shall be held by GGYC and form part of the property of the America's Cup and shall pass to future trustees.

**46.2 Media Ambush:** A Competitor shall not;

- (a) provide access to the Event, including official interview areas, to any Media Organization without the prior written consent of the Event Authority;
- (b) provide access to the competing yacht and any of it's crew, during a period 30 minutes before the Attention Signal for each race and up to 30 minutes after each race of the Event;
- (c) provide access to the Competitors' yachts, tenders and chase boats, or access to telemetry information to any third party not authorized by the Event Authority;
- (d) provide access to any video or film crew or any other media to the AC Village at any time, or to any Course Area being used for Event racing, without the prior written approval of the Event Authority; and
- (e) exclude any accredited media from any media event.

## **46.3 Releases**

- (a) **Broadcasting:** All Competitors acknowledge, and shall obtain acknowledgements from all of their crew, team members, sponsors and commercial partners, that the Event Authority and its authorized agents, including its broadcast rights holder and all authorized broadcasters and mobile media providers, shall be entitled, without payment of fees to any person including Competitors or any of their crew, team members, sponsors or commercial partners, to reproduce, print, publish or disseminate worldwide in any medium the names, logos, images, likenesses and voices of Competitors, their yachts and other vessels, their crew members and team members and burgee for the purposes of broadcasting the Event in any medium, live or by way of delayed coverage, and in the distribution, exploitation, advertising and promotion of programs associated with the Event. Any broadcast of the Event may include the names and/or logos of the Event Authority's sponsors within the broadcast
- (b) **Promotion and advertising:** All Competitors acknowledge, and shall obtain acknowledgements from all of their crew, team members, sponsors and

commercial partners, that Event Authority and its authorized agents, sponsors, licensees, the host cities of the Event, and the host country of the Regatta, shall be entitled, without payment of fees to any person including Competitors or any of their crew, team members, sponsors and commercial partners to reproduce, print, publish or disseminate worldwide in any medium the names, logos, images, likenesses and voices of Competitors, their yachts and other vessels, their crew members and team members and burgee for the purposes of promotion, advertising and merchandising.

- (c) **No endorsement:** The Event Authority and its agents, sponsors, licensees, the host cities of the Event, and the host country of the Regatta in (a) and (b) above shall not use the foregoing entitlements in any way as to create an endorsement, direct or indirect, by or from a Competitor or any person, organization, sponsor, product or service associated with a Competitor, without the prior consent of the Competitor.

**46.4 Exclusive media rights:** Competitors may not enter into any exclusive arrangement with any media including any broadcaster, which has the effect of preventing access by any media or broadcaster authorized by the Event Authority. Competitors may provide still and moving images of their Team to any media or broadcaster provided it has not done so on an exclusive basis so as to prevent the Event Authority's authorized broadcaster or media from using any image of the Team.

**46.5 Host Broadcaster preferential positioning:** The host broadcaster shall be given priority choice of positioning at all open media events and mixed zones organized by or hosted by a Competitor in its Base or outside the AC Village.

**46.6 Books and magazines:** The Event Authority and its licensees may use still images and moving images taken during the Event, and any images taken by the Event Authority, its authorized broadcaster and other media, to compile, produce, market and distribute books, magazines, programs, calendars and any other form of publication regarding or associated with the Event without restriction, except that it is understood that all such publications shall be conceived on an event background either as individual product or as a series (e.g. a book on the Event or part thereof, a calendar depicting various Competitors, programs on the presentation of Competitors participating to specific stages of the Event [e.g. the Match], a series of programs / magazines each on different Competitors etc.) and shall not suggest the individual endorsement by or of a single Competitor in connection therewith.

**46.7 Access for promotional filming:** Competitors shall give to the Event Authority, any the Event Authority authorized film crew, and any Event Authority accredited broadcaster, at mutually agreed times access to film and take pictures of the Competitor's team training, sailing, and interviews with key team members, such footage solely to be used to produce promotional films and advertising about the Event. All copyright in the material filmed by the Event Authority or any the Event Authority authorized film crew, and any the Event Authority accredited broadcaster, but not archive material provided by the Competitor to the Event Authority will vest in the Event Authority on behalf of GGYC until the last race of the Regatta, when it will form part of the film and video footage of the Event and ownership shall vest in accordance with Article 46.1.

**46.8 Race Area filming:** The Event Authority and its authorized broadcaster, media and production company may film any Competitor in the Race Area at any time . The Event Authority shall not provide any such footage taken to any Competitor other than via a public broadcast.

**47 IMAGE RIGHTS****47.1 (a) Use by Competitors and their Sponsors:**

Competitors and their sponsors may use still images of their own yachts and crews taken at any time including during racing in the Event. Where other Competitors or crews also appear in such images, they shall first obtain the written approval of any other Competitor depicted

**(b) Not create misleading impression of status:**

All Competitors shall ensure their own use and the use by any of their sponsors of any image does not create a misleading impression as to a sponsorship or association with the Event, other than the sponsorship of that respective Competitor. In particular, to prevent any misleading impression as to the status of the sponsor or licensee, any Competitors' sponsor or licensee using images shall always include a clear statement as to its designation as sponsor or licensee of a particular Competitor.

**(c) Competitors' Sponsors to undertake:**

Prior to authorizing any use of Event images depicting another Competitor, a Competitor shall obtain written undertakings from their sponsors and licensees to comply with the above.

**(d) No Alteration of Images:**

Images of the Event shall be used without any alteration. In particular, but without limitation, any trademark or signage appearing on an image shall not be altered. This applies to use of Event images by Competitors, their sponsors, licensees and agents and by the Event Authority, its agents, sponsors, licensees, the host city(ies) of the Event, and the host country of the Regatta.

**47.2 Competitors' Photographers:** Photographers contracted to provide photographic services to Competitors and/or their sponsors shall be accredited by the Event Authority and

- (a) they may sell and distribute their images of racing during the Event for media editorial use;
- (b) they may sell and distribute their images taken of racing during the Event for commercial use to their respective contracted Competitors and the Competitors' sponsors and licensees, but this shall not entitle Competitors, their sponsors and licensees to use such images for merchandising purposes unless permitted by paragraph (d) of this Article;
- (c) they may sell and distribute their pictures taken of racing during the Event for non-commercial use by third parties, but not for advertising or promotional purposes;
- (d) they shall not use images taken of racing during the Event depicting any other Competitor for their own, their contracted Competitor, such Competitor's sponsors or licensees, merchandising or publishing purposes on products, except for incidental purposes not amounting to more than 20% of the total images;
- (e) they may sell and distribute images to the Event Authority, its sponsors and commercial partners, and the host city of the Event.

In the event of failure to comply with the above conditions, the Event Authority may withdraw a Competitor's photographer's accreditation and upon such withdrawal of

accreditation they shall not be further engaged by a Competitor at the Venue.

For the avoidance of doubt, the Event Authority will require similar or more restrictive conditions of all accredited photographers.

**47.3 Competitors' film units:** Members of film units contracted or affiliated to any Competitor must be accredited by the Event Authority and unless approved by the Event Authority:

- (a) they shall not film any race of the Event, whether from shore, afloat or from the air
- (b) they shall not film anywhere within the AC Village during the Event, except that they may film that Competitor and its activities at any time;
- (c) for the avoidance of doubt, they may film their own yacht(s) in the Race Area except as prohibited under (a) above, and film units are subject to the provisions of Article 32 of the Protocol (Reconnaissance).

In the event of failure to comply with the above conditions, the Event Authority may withdraw a Competitor's film unit's accreditation. Upon such withdrawal of accreditation they shall not be further engaged by a Competitor at the Venue.

**47.4 Use of Event still images by the Event Authority:** The Event Authority, its agents, sponsors, licensees, the host city(ies) of the Event, and the host country of the Regatta may use Event still images taken at any time, which may include images of Competitors, their Yachts, support vessels, crew and team members and sponsors, provided that an unambiguous and visible statement as to the respective status of the Event Authority or its agents, sponsors, licensees, the host city(ies) of the Event, and the host country of the Regatta in relation with the Event or part thereof in a manner required by the Event Authority is included, and further provided that use of image(s) in accordance with the foregoing shall not constitute an endorsement, direct or indirect:

- (a) when image(s) taken during racing of any competing Yacht are used show more than one Competitor; or
- (b) for Event merchandising, advertising and promotion, when the image(s) representing Competitors do not amount to more than 20% of the total image(s) used; or
- (c) when image(s) of any docking, prize giving ceremony or any other characteristic Event moments are used, such image(s) show at least three persons of a Competitor depicted with similar prominence; or
- (d) when image(s) showing only one Competitor's vessel do not show a complete name or logo of that Competitor and there is no apparent intent to create an endorsement; or
- (e) when image(s) of individual team members depicts at least three persons with similar prominence and there is no apparent intent to create an endorsement.

**47.5 Use of moving images of Event:** Other than for live or delayed broadcasting in any medium of the Event, including any highlights package, use of Event moving images by the Event Authority its agents, sponsors, licensees, the host city of the Event, and the host country of the Regatta shall be subject to the same conditions set out in Article 47.4, except that a sequence of moving pictures is to be considered as a whole rather than frame by frame.

**48 OFFICIAL VIDEO/DVD:**

The Event Authority and its licensee may use still images and moving images of the Event and any other images taken by the Event Authority, its authorized broadcaster and other media to compile, produce, market and distribute an official video/DVD, or such format as deemed appropriate, of the Event without restriction, except that it is understood that all such video/DVD shall be conceived on an event background either as individual product or as a series and shall not suggest the individual endorsement by or of a single Competitor in connection therewith.

**49 ELECTRONIC GAMES AND BOARD GAMES:**

The Event Authority and its licensees may, with the agreement of the Competitors whose images or logos are used, use still and moving images of the Event as well as the name of any Competitor to produce, market and distribute any electronic or board games of the America's Cup.

**50 WEBSITES AND WIRELESS COMMUNICATIONS**

**50.1 Websites:** No Competitor or any of its sponsors or commercial partners shall display any moving images or a series of sequential photographs of racing during the Event on its website without the consent of the Event Authority. Competitors may display still images of racing during the Event on its website as permitted by Article 47. Competitors and their sponsors may display race results of the Event on their websites. If required by the Event Authority, Competitor websites shall be linked to the Event Authority's official website, and vice versa.

**50.2 Wireless:** Competitors shall not broadcast to the general public or enter into any commercial arrangement with a service provider to supply, by wireless means including but not limited to mobile telephones, PDA's, Internet or other mobile media, any Event moving or still images of racing during the Event or Event information. Competitors may, however, supply race results by wireless means.

**51 AC VILLAGE**

**51.1 Competitors to be based at AC Village:** All competitors shall lease a Base at the AC Village from which they shall conduct their operations at the Venue. If all available Bases at the AC Village have been allocated, the Event Authority will endeavor to locate and find an alternative location at the Venue for the Competitor, but once all available Bases have been allocated the Event Authority will be under no obligation to provide an alternative location to Competitors.

**51.2 Pre Regatta Facilities:** Temporary space will be allocated at the venue of Pre Regattas for each competitor but some facilities may be shared. Bases will not be of equal size or prominence. Such temporary space will be small and compact.

**51.3 Number of Bases available:** There will be a minimum of **X** Bases at the AC Village for allocation to Competitors. Bases will not be of equal size or prominence. Bases will be sufficient to accommodate two standard America's Cup Class Yachts.

**51.4 Allocation of Bases:** Bases at the AC Village will be allocated based in the following order:

- (a) One base selected by GGYC
- (b) One base selected by the Challenger of Record

- (c) One base selected by the Challenger and Defender Candidates in the order of entry into the Event as determined by the Regatta Director.

- 51.5 Base Lease:** All Competitors leasing a Base at the AC Village will enter into a lease consistent with this Protocol and with the terms set out in a lease agreement to be provided by the Event Authority.
- 51.6 Occupation until conclusion of Match:** Competitors shall continue to occupy and operate their Base at the AC Village at their cost and expense until the conclusion of the last race of the Match of the 34th America's Cup notwithstanding the Competitor being eliminated from the 34th America's Cup competition. This obligation shall include, after elimination, the participation in all Special Events, the public display in a manner reasonably required by the Event Authority on their Base of at least one of their yachts that competed in the Regatta, and the continued performance of all obligations under this Protocol. Prior to the conclusion of the last race of the Match, no eliminated Competitor shall, without the prior approval of the Event Authority, in any area visible to the public, disassemble, dismantle, pack up their Base, yacht, support vessels or other assets and equipment
- 51.7 Base Construction:** Competitors shall be responsible to organize, manage and meet all costs of construction of their base facilities. All Bases shall comply with the architectural guidelines to be advised by the Event Authority including but not limited to guidelines regarding height, exterior color, exterior construction materials, impact on surrounding areas and overall exterior appearance of the Base, and the positioning of piles, travel lift facilities and pontoons on any water space adjacent to a Base and provision for public viewing (including webcam) and access. Unless otherwise agreed with the Event Authority, all Competitors shall dismantle all improvements made by the Competitor on the Base within 90 days after the conclusion of the last race of the Match and restore the Base area to the condition it was in prior to any improvement made by a Competitor.
- 51.8 No assignment of Base Lease:** Competitors shall not, at any time, hire, sub-lease or assign their Base to any person or entity without the prior written consent of the Event Authority
- 51.9 Public bars, restaurants and cafes prohibited at Bases:** No Competitor shall use any part of their Base as a bar, restaurant, cafe or similar facility selling or distributing free of charge, food and/or beverages for the general public. Competitors may however operate from within their Base a private bar, restaurant, cafe or similar facilities to entertain their team members, team members' families, sponsors and selected invited guests.
- 51.10 Base Services:** the Event Authority shall procure that all electrical, gas, water and sewage and fixed-line telecommunications services will be provided, by suppliers that may be appointed by the Event Authority to each Base at equal to or less than standard market rates. Competitors shall meet all costs and charges relating to the consumption of water, electricity, gas and telecommunications services, and the disposal of sewage.
- 51.11 Base retail activities:** Subject to supplying the Event Authority's authorized retailers, a Competitor may sell its team merchandising from its respective Base. Such merchandising shall not include the sale or distribution of any food or beverage item to the general public. A Competitor shall not carry on or facilitate the carrying on by any third party of any retail activities to the general public from its base.
- 51.12 Bases to be clean and tidy:** All Competitors shall keep their Base clean and tidy and in good repair at all times and remove promptly any rubbish and waste on or about their

Base.

- 51.13 Environmental protection:** Competitors shall comply with applicable environmental protection laws and regulations and shall conduct all their operations and activities in an environmentally responsible manner, and return their respective Bases to the Event Authority in the same environmental condition as such Base was on being first accepted by the respective Competitor.

## **52 SIGNAGE**

All signage on Base buildings and signage on Competitors' support vessels shall meet and comply with the guidelines set out below:

- 52.1 Compliance with local laws and in good taste:** All signage on the Venue, Bases, competing yachts and any other vessel or vehicle under the control of the Event Authority or a Competitor shall comply with all applicable laws and regulations, and shall be in good taste, not be offensive, or bring the America's Cup, any Competitor, ACRM, the Event Authority, any sponsor of any Competitor or the Event Authority, the Race Committee, Umpires or Jury, the Host City, the country of the Venue, any other Official, or any of their employees, agents or contractors, into disrepute or ridicule. Competitors shall submit a plan of any proposed signage to the Event Authority for approval prior to installation. Approval shall not be unreasonably delayed or refused.

### **52.2 Competitor Bases**

- (a) **Interior:** There are no restrictions on signage in the interior of Competitor Bases.
- (b) **Exterior:** There are the following restrictions in respect of the exterior of Competitor Bases:
- (i) **Base sea frontage:** There are no restrictions on signage on the side of Bases facing the berthage area under the control of the Competitor of the respective Base;
  - (ii) **Sides and AC Park Frontage:** A maximum of 15% of the total surface areas of each side (measured as the total length of the side of the Base and the maximum permitted height of any building whether or not a structure exists) may be used for Competitor or Sponsor signage on the sides, other than the side facing the berthage area under the control of the Competitor of the respective Base. Unused allowances on one side cannot be accumulated and used on other sides; the percentage is measured by constructing the smallest possible rectangle around each signage and then adding the rectangles together.
  - (iii) **Flags:** Any flag displaying any Sponsor or Competitor signage shall be included in the 15% calculation of clause 1.2(b) above;
  - (iv) **Roof:** No signage is permitted on the roof of a Base, with the exception of a national flag of the country of the competing yacht club; or the name and/or logo of the respective Competitor, provided such signage does not incorporate or closely resemble another trade mark that is used commercially other than a mark licensed by ACPI, and is not used for any purpose other than by the Competitor and its sponsors to support the Competitor's sailing activities. Signage displayed on the roof of a Base shall be such size as specified by the Event Authority.

- (v) **Sea Walls:** Competitors may use the sea wall adjacent to the Competitor's berthage area for signage.
- (vi) **Historic structures:** Restrictions on signage on historic buildings may apply.
- (c) **Billboards:** Other than signage affixed to a Base or to sea walls, a Competitor may not install any sign, billboard or other forms of advertising visible from anywhere outside its Base.

### **52.3 Team Support Vessels and Team Spectator Vessels**

- (a) **Permitted Signage:** Signage on Team spectator vessels and Team support vessels is limited to a maximum of 6 square meters per side. No signage is permitted on the deck or roof of such vessel.
- (b) **Billboards:** Other than signage affixed to hulls, topsides and cabin tops, as permitted by clause 2.1 above, Competitors may not display any sign, billboard or other advertising medium on any Team support vessel or Team spectator vessel.

**52.3 AC Village:** The Event Authority will grant exclusive signage and display rights to its Event sponsors and commercial partners at the AC Village other than on a Base.

## **53 MERCHANDISING**

**53.1 Retailing and Concession:** With the exception of Team merchandising facilities permitted in the Bases by Article 51.11, only the Event Authority appointed retailers and concessionaires are authorized to carry on any retailing or merchandising activities to the general public at the AC Village.

**53.2 Merchandising by the Event Authority retailers:** Competitors need not have a merchandising program at their Base or elsewhere. Any Competitor which has a merchandising program shall procure that they or their merchandising suppliers sell their merchandise to the Event Authority appointed retailers at most favorable wholesale customer price and terms. The Event Authority retailers shall be entitled to sell Competitors' merchandise at the AC Village and other locations required by the Event Authority. Competitors shall make arrangements to ensure sufficient quantities of merchandise are produced to meet the Event Authority's retailers' reasonable requirements. The Event Authority appointed retailers normally shall stock a representative selection of a Competitor's merchandise.

**53.3 Use of Trademarks:** All Competitors consent to and shall procure written consent from the owners of all trademarks and other intellectual property used in or depicted on their merchandising so as to permit the sale by the Event Authority and its appointed retailers of such clothing and merchandising

**53.4 Sampling:** No free promotional product shall be distributed to the general public at the AC Village without prior written approval of the Event Authority.

**53.5 Use of images in merchandising:** In its merchandising, a Competitor shall have no rights to use any still image taken of racing during the Event which depicts any other Competitor, its yachts, support vessels, crew or team members unless otherwise approved by the Event Authority, except, where such use is incidental and limited to 20% of the content of the product. For the avoidance of doubt, the approval of the other Competitor is always required in accordance with Article 47.

## **54 ENTERTAINMENT**



All public entertainment at the AC Village will be organized and managed by the Event Authority or its authorized contractors and agents, except that a Competitor may offer the following at its Base:

- (a) interactive, educational and museum facilities that relate to the respective Competitor, its members, its history and activities, America's Cup or sailing; and/or
- (b) displays and promotions of that Competitor's sponsors, provided the signage rules specified in Article 52 are complied with; and provided the area is partitioned or fenced in a manner that clearly indicates it is part of the Competitor's Base.

## **55 SECURITY**

The safety of all Competitors, their sponsors and guests and the general public is paramount. Competitors and all Officials shall comply at all times with all security measures adopted by the Event Authority for the safety of Competitors, sponsors, VIPs, and the public. This will include the need for all Competitors' employees, contractors and agents to carry at all times at the AC Village security passes issued by the Event Authority or its agents or its security contractors. Competitors shall take all measures necessary to assist security contractors appointed by the Event Authority and to assist any lawful authority at the Venue and at the site of any Pre-regatta to facilitate the safety of all Competitors and the public. The Event Authority will take all reasonable measures to protect the privacy and confidentiality of Competitors. Competitors will be solely responsible for the security of their Bases, their competing Yachts, support vessels and all other equipment and assets of the Competitor and their team members.

## **56 AIR SPACE**

All air space above the AC Village and above the water space designated for use during the Event at the Venue or other Event location will be under the control and direction of the Event Authority or its designates. No Competitor or their employees, contractors, agents or sponsors shall contest or attempt to use the air space for any purpose without the prior written consent and authorization of the Event Authority or its designate.

## **57 WATER SPACE**

**57.1 Control by the Event Authority:** The Race Area at the Venue, and at the site of any Pre-regatta, is under the control of the Event Authority. During racing in the Event, the Event Authority will delegate control of the Field of Play and the Flag Area to ACRM. Outside the period of any racing in the Event, ACRM on behalf of the Event Authority may from time to time regulate use of the Race Area by Competitors, including but not limited to restricting access by Competitors for special events approved by the Event Authority. All Competitors will be entitled to fair and reasonable access to the Race Area. Competitors will be entitled to fair and reasonable shared access to any Course Area when not in use by ACRM.

**57.2 Spectator vessels:** The Regatta Director shall endeavor to maximize the opportunities for spectator vessels on the Field of Play and on the Flag Area. The Event Authority shall have the sole right to control and utilize all capacity for spectator vessels on the Field of Play and in the Flag Area during all racing in the Event. The Event Authority will always be entitled to at least one spectator vessel of up to 45 meters in length on the Field of Play of any race in the Event. The Event Authority shall, however, subject to the overriding directions Regatta Director to ensure fair racing, allocate the following minimum number of spectator vessels in accordance with the following table:

**Table of number and location of spectator vessel allocations to Competitors by the Event Authority**

<i>One flight on Field of Play</i>				<i>Multiple flights on Field of Play</i>			
Field of Play		Flagged Area		Field of Play		Flagged Area	
Competing Competitor	Non-competing Competitor	Competing Competitor	Non-competing Competitor	Competing Competitor	Non-competing Competitor	Competing Competitor	Non-competing Competitor
2	0	3	1	0	0	3	1

All other available capacity shall be available solely to the Event Authority. Each Competitor spectator vessel shall be no more than 35 meters in length overall. Without prior permission from the Event Authority persons in the Field of Play and in the Flag Area shall not hold or use any camera (still or video) or sound equipment that has the effect of competing with any broadcast rights licensed by the Event Authority, nor make any broadcast.

**57.3 Competitors' vessels:** All vessels shall comply with regulations and instructions issued by the Race Committee and the local maritime authorities. Except for America's Cup Class Yachts and related support boats, Competitors' vessels other than the vessels referred to under Article 16.2 shall remain outside the Field of Play and Flag Area during racing.

**58 TEAM INFORMATION**

To assist the Event Authority in planning, upon request, all Competitors shall provide the Event Authority with such information regarding the Competitor and their team members as may be reasonably required from time to time.

**Schedule One – Notice of Challenge (Article 7.6)**

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**TO: Golden Gate Yacht Club**

[address]

Attn: The Commodore

- (1) I, *[insert Full Name]* am the *[Commodore or state office with authority]* of the *[insert name of Yacht Club]* (the “Challenger”) and I am duly authorized by such yacht club to deliver this Notice of Challenge to you.
- (2) The Challenger by this Notice hereby challenges for the 34th America’s Cup in accordance with the Protocol Governing the 34th America’s Cup dated **[date]** as amended. The Challenger hereby agrees to be bound by and undertakes to comply with the terms of the said Protocol and all other rules set forth in its Article 11, and any amendments to the Protocol or those rules.
- (3) The Challenger is a qualified yacht club under the terms of the Deed of Gift of the America’s Cup dated 24 October 1887 to challenge for the 34th America’s Cup.
- (4) A copy of the Challenger’s certificate of incorporation, patent or license or other document evidencing the incorporation, patent or license of the Challenger is annexed to this Notice of Challenge.
- (5) Details of the Challenger’s annual regatta on the sea or arm of the sea demonstrating the Challenger meets the obligations in the Deed of Gift are annexed to this Notice of Challenge.
- (6) On behalf of this Challenge I hereby declare that:
  - (a) The Challenger accepts that it will be bound by the terms of the Deed of Gift and the Protocol, together with the other documents referred to in Article 11 of the Protocol.
  - (b) The Challenger has complied with and will in the future comply with the terms of the Deed of Gift, and the Protocol;
  - (c) The Challenger agrees to submit sole and exclusive jurisdiction of the Jury.
  - (d) The Challenger acknowledges that all decisions rendered by the Jury established by the Protocol, will be final and binding and shall not be subject to appeal or be referred to any court, tribunal or other authority or body for review in any manner except as may be expressly permitted by the terms of the Protocol.
- (7) The Challenger will be represented by *[insert Name of Representative]*

(8) All communications and notices from GGYC, The Event Authority, the Measurement Committee, the Regatta Director, and all other authorities are to be sent to:

(c) *[Insert the Address, fax, email and telephone details of both the yacht club and the challenge entity with the names of contact persons]*

DATED this *[insert date of notice]* at *[insert location]*

**Signed by:**

*[insert name and title]*

**In the Presence of:**

*[insert name and title of witness]*

Accompanying checklist

- the performance bond required by Article 8 of the Protocol;
- the Entry Fee or Proof of WSTA share ownership required by Article 7.6(c);
- a bank draft in accordance with Article 7.6(d);
- the copy of the Challenger's certificate of incorporation, patent or license referred to at paragraph 4 above;
- the details of the Challenger's annual regatta on the sea or an arm of the sea referred to at paragraph 5 above;
- if applicable, a bank draft for the late entry fee in accordance with Article 7.6(e)

**Schedule Two – Application to be a Defender Candidate (Article 7.6)**

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**TO: Golden Gate Yacht Club**

[address]

Attn: The Commodore

- (1) I, *[insert Full Name]* am the *[insert title]* of the *[insert name of Defender Candidate]* (the “Defender Applicant”) and I am duly authorized by such team to deliver this application to you.
- (2) The Defender Candidate by this Notice hereby challenges for the 34th America’s Cup in accordance with the Protocol Governing the 34th America’s Cup dated **[date]** as amended. The Defender Candidate hereby agrees to be bound by and undertakes to comply with the terms of the said Protocol and all other rules set forth in its Article 11, and any amendments to the Protocol or those rules.
- (3) Details of the Defender Candidate’s corporate structure, registered business address and team management. We agree to provide further details of our challenge as GGYC may request to review and consider this application.
- (4) On behalf of this Defender Candidate I hereby declare that:
- (e) The Defender Candidate accepts that it will be bound by the terms of the Deed of Gift and the Protocol, together with the other documents referred to in Article 11 of the Protocol.
  - (f) The Defender Candidate has complied with and will in the future comply with the terms of the Deed of Gift, and the Protocol;
  - (g) The Defender Candidate agrees to submit sole and exclusive jurisdiction of the Jury.
  - (h) The Defender Candidate acknowledges that all decisions rendered by the Jury established by the Protocol, will be final and binding and shall not be subject to appeal or be referred to any court, tribunal or other authority or body for review in any manner except as may be expressly permitted by the terms of the Protocol.
- (5) All communications and notices from GGYC, The Event Authority, the Measurement Committee, the Regatta Director, and all other authorities are to be sent to:
- (d) [Insert the Address, fax, email and telephone details of the Defender Candidate entity with the names of contact persons]*

DATED this *[insert date of notice]* at *[insert location]***Signed by:**

*[insert name and title]*

**In the Presence of:**

*[insert name and title of witness]*

Accompanying checklist

- the performance bond required by Article 8 of the Protocol;
- the Entry Fee or Proof of WSTA share ownership required by Article 7.6(c);
- a bank draft in accordance with Article 7.6(d);
- the details of the Defender Candidate's structure referred to at paragraph 3 above;
- if applicable, a bank draft for the late entry fee in accordance with Article 7.6(e)

**Schedule Three – Bank Guarantee Terms (Article 8)**

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**Bank Guarantee**

**Beneficiary:** Golden Gate Yacht Club

**Amount:** US\$3,000,000.00 (Three Million US Dollars)

**Expiration Date:** December 31, 2013 *[or other date in the event of renewable guarantee]*

We have been informed that under the Protocol applicable to the participation of Challengers and Defender Candidates to the 34th America's Cup, a performance bond of US\$ 3'000'000.— is to be delivered to you in the form of an irrevocable bank guarantee by *[insert name of entity]*, an entity which is filing a challenge or application to become a Defender Candidate .

This being stated, we, *[insert name of US Bank or US subsidiary of bank]* irrespective of the validity and the legal effects of the above-mentioned contract and waiving all rights of objection and defense arising there from, hereby irrevocably undertake to pay to you, upon your first demand, any amount up to the above mentioned maximum amount of US\$ 3'000'000.-, upon receipt of your duly signed request for payment.

For the purpose of identification, your written request for payment has to be presented through the intermediary of a first rate bank confirming that the signatures thereon are legally binding upon you.

Your claim is also acceptable if transmitted to us in fully by duly encoded telex/SWIFT through a first rate bank confirming that your original claim has been sent to us by registered mail and that the signatures thereon are legally binding upon you.

Our guarantee is valid until December 31<sup>st</sup>, 2013 and expires in full and automatically, should we not be in possession at our above address on or before that date, of your written request for payment at our above address on or before that date, regardless of such date being a banking day or not.

Our guarantee will be reduced by each payment made by us as a result of a claim.

*[Insert the following language if the Bank Guarantee is renewable and the renewal date of the Bank Guarantee is prior to December 31, 2013:]*

“It is a condition of the Bank Guarantee that it shall be automatically extended for further periods of [.....] without amendment, unless at least thirty (30) days prior to each successive expiration date we shall notify you in writing, via registered mail, return receipt requested at *[exact address to be confirmed]* of our intention not to renew this Bank Guarantee. After receipt of such notice but not after the then current expiration date, you may draw hereunder up to the available amount. In any event this Bank Guarantee will not be automatically extended beyond 31 December 2013.”

Subject to your different instructions notified to us in accordance with the procedure set forth above for payment request, any payment under this guarantee will be effected to the following account, by wire transfer:

**Bank:**

**Account of:** Golden Gate Yacht Club

**Account No:**

**Address:**

**Swift Number:**

This guarantee is governed by law of the State California, place of jurisdiction and performance is San Francisco, California.

*[Insert name of issuing bank]*

\_\_\_\_\_  
Authorized signature

\_\_\_\_\_  
Authorized signature