



**33<sup>rd</sup> America's Cup Match**  
(“Match”)

**From 1<sup>st</sup> February 2010 to 25<sup>th</sup> February 2010\***

**Société Nautique de Genève**  
(“Organising Authority”)

**Valencia, Spain**

**NOTICE OF RACE**  
(“NOR”)

Incorporating Amendment No.1 from 19 January 2010

**1. RULES**

- 1.1 In accordance with the terms of the Deed of Gift which requires in the absence of mutual consent the Match be governed by SNG's *“rules and sailing regulations so far as they do not conflict with the provisions of this Deed of gift”*, the Match will be governed by the following:
- (a) the Deed of Gift dated 24th October 1887 as amended by the orders of the Supreme Court of the State of New York dated 17<sup>th</sup> December 1956, 20<sup>th</sup> September 1984, and 5<sup>th</sup> April 1985;
  - (b) this Notice of Race published by the Organising Authority pursuant to RRS 89;
  - (c) the Sailing Instructions to be published by the Race Committee pursuant to RRS 90.2; and
  - (d) the Racing Rules of Sailing for 2009-2012 with Appendix C (“RRS”) as amended by the documents precedent and by this NOR.

- 1.2 Subject to RRS 63.7 any conflict in the rules shall be resolved by applying the rule in the first listed document above which shall prevail over a conflicting rule in a subsequently listed document.
- 1.3 A copy of all the above documents and rules will be available at [www.americascup.com](http://www.americascup.com) except that any document published by ISAF is available on ISAF's website at [www.sailing.org](http://www.sailing.org).
- 1.4 For the avoidance of doubt:
- (a) RRS Appendices A, B, D and E shall not apply;
  - (b) The ISAF Equipment Rules of Sailing 2009 – 2012 shall not apply;
  - (c) ISAF Regulations shall not apply, unless stated to apply in this Notice of Race or the Sailing Instructions;
  - (d) All past trustee interpretative resolutions issued prior to 2 March 2003 were repealed by SNG in 2003 and are of no further effect;
  - (e) The Prescriptions of Swiss Sailing and of the ISAF Member National Authority of the venue of the Match shall not apply (this has been mutually agreed by both competitors, and approved by ISAF).
- 1.5 The RRS are changed (or applied) as follows:
- (a) RRS 31 is modified as a consequence of amendments to Appendix C (see below) by adding the following sentence:  
“An entry mark ranks as a starting mark to a boat until it has satisfied C 4.2”.
  - (b) RRS 41 (c) and (d) are deleted and replaced with:  
“(c) communications to and from the Umpires and Race Committee to the competing boats via equipment to be provided by the Race Committee, the use of GPS devices, low power onboard communication systems, use of onboard laser, radar and other detection equipment operated solely from onboard as permitted by NOR 14.(b).(iv), and the operation of onboard event broadcast equipment, and to permit any actions authorised by the NOR and the SI”.

- (c) RRS 47.2 is deleted and replaced with:
- “No person on board shall intentionally leave, except when ill or injured, or to help a person or vessel in danger. The boat shall decide whether a crew member recovered by another vessel is to be returned to the boat; if so, the crew member shall be returned to the boat without penalty by only the boat’s chase boat”
- (d) RRS 49 to RRS 54 (inclusive) are deleted. For the avoidance of doubt anything that may have been prohibited by such rules is permitted.
- (e) RRS 62.1 is altered by adding:
- “(e) an illegal or accidental action by a third party that causes serious damage to a boat“.
- (f) RRS 63.3(a) is amended by the deletion of the first two sentences and replaced with:
- “The parties to the hearing, or representatives of each, have the right to be present throughout the hearing of all the evidence. When a protest claims a breach of a rule of Part 2, 3 or 4, the representatives of boats need not have been onboard at the time of the incident”.
- (g) RRS 78 is amended so that a reference to “class rules” in RRS 78 shall be a reference to and in compliance with the respective measurement requirements specified in NOR 7.
- (h) Pursuant to RRS 86.1(b) the number of hull lengths determining a zone around marks for all marks and mark boats is four (4).
- (i) RRS Appendix C is modified (which has been approved by ISAF) as follows:
- (i) Delete RRS C2.5
- (ii) Delete RRS C3.1 and replace it with:
- “C3.1 Starting Signals**
- The signals for starting a match shall be as follows. Times shall be taken from the visual signals; the failure of a sound signal shall be disregarded:

<i>Signal</i>	<i>Time in minutes</i>	<i>Visual Signal</i>
Attention	10	Flag F displayed
Warning	6	Flag F removed and Warning Signal (Event / Class Flag referred to in SI 6) displayed
Preparatory	5	Flag P Displayed
	3	Blue or Yellow flag or both* displayed
Starting	0	Warning signal removed and Flag P removed

\*These signals shall be made only if one or both boats fail to comply with RRS C4.2. The flag(s) shall be displayed until the umpires have signaled a penalty or for one minute, whichever is earlier.

- (iii) The first sentence of RRS C4.1 is deleted and replaced with:
- “At her preparatory signal each boat shall be outside the line that is at a 90° angle to the starting line through the mark at her assigned end of the Entry Line (see the course diagram in SI Attachment 2)”.
- (iv) RRS C4.2 is deleted and replaced with:
- “Within the two minute period following her preparatory signal, a boat shall cross and clear the line between the entry mark and the Race Committee boat (the Entry Line), the first time from the course side to the pre-start side. After that, or after the end of the two minute period following the preparatory signal, the entry mark no longer ranks as a mark for the purpose of the definition of a *mark*”
- (v) Delete RRS C7.3 (a)
- (vi) Delete RRS C10, and C11
- (vii) Delete RRS C6.6(b) (1)
- (viii) RRS C2.7 is deleted and replaced with:
- “When RRS 20 applies, the following arm signals are required in addition to the hails:
- for ‘Room to tack’, repeatedly and clearly pointing to windward; and

- for 'You tack', repeatedly and clearly pointing at the other boat and waving the arm to windward.

- (j) Standard RRS changes (see ISAF Appendix L):
  - (i) RRS 32 is modified as provided in Sailing Instruction 8.4;
  - (ii) RRS 33 is modified as provided in Sailing Instruction 8.5;
  - (iii) RRS 60.1.(a) is modified as provided in Sailing Instruction 15.6;
  - (iv) RRS 62.2 is modified as provided in Sailing Instruction 15.8; and
  - (v) RRS 66 is modified as provided in Sailing Instruction 15.7.

1.6 The changes to the RRS will appear in full in the Sailing Instructions. The Sailing Instructions may also change other racing rules.

1.7 If there is a conflict between languages, the English text will take precedence.

1.8 Attention is drawn to RRS 3 (Acceptance of the Rules) of Part 1 (Fundamental Rules), which provides that by participating in a race conducted under ISAF RRS each competitor and boat owner agrees:

- (a) to be governed by the *rules*, (as such word is defined in the RRS);
- (b) to accept the penalties imposed and other action taken under the *rules*, subject to the appeal and the review procedures provided in them, as the final determination of any matter arising under the *rules*; and
- (c) with respect to any determination, not to resort to any court of law or tribunal.

## 2. **ADVERTISING**

ISAF Regulation 20 shall apply. ISAF has given its written agreement to boats displaying advertising in accordance with ISAF Regulation 20.6.4. Competing boats may be required to display advertising chosen and supplied by the Organising Authority in accordance with and as permitted by ISAF Regulation 20 as follows:

- (a) on the first 20% of the forward part of each side of each hull;
- (b) the foremost 20% of each side of the mainsail boom; and
- (c) an event sponsors flag to be carried throughout the event including when the boat is in harbour or ashore.

### **3. ELIGIBILITY AND ENTRY**

The regatta shall be open to the boat “USA” as described and defined in an undated certificate which accompanied the Notice of Challenge delivered to Société Nautique de Genève (“SNG”) by Golden Gate Yacht Club (“GGYC”) dated 11<sup>th</sup> July 2007 and in the Certificate of Documentation provided to SNG as its Customs House Registry; and a yacht or vessel which shall be nominated prior to the start of the first race, representing SNG as the Defender. There shall be no other entries.

### **4. CLASSIFICATION**

The ISAF sailor classification code shall not apply.

### **5. FEES**

No entry fees are payable.

### **6. SCHEDULE**

#### **6.1 Registration**

No competitor registration is required.

#### **6.2 Measurement and Inspection**

Days and dates:

- (a) GGYC shall present the USA for measurement, and SNG shall present for measurement at least one yacht or vessel it may select prior to the first race, as reasonably required by the Measurer between February 1, 2010 to February 6, 2010 from 0900 to 1800hrs.

- (b) The Measurer may extend such periods as reasonably required to complete any measurement.
- (c) A competitor may arrange an earlier measurement by mutual agreement with the Measurer and the Organising Authority prior to the above periods.

### **6.3 Scheduled dates of racing**

Monday 8 <sup>th</sup> February 2010	First Race
Wednesday 10 <sup>th</sup> February 2010	Second Race
Friday 12 <sup>th</sup> February 2010 (if required)	Third race (if required)
14 <sup>th</sup> February 2010 to the 25 <sup>th</sup> February 2010* (inclusive)	Reserve Days

### **6.4 Additional Reserve Days**

The Race Committee shall add at any time any number of additional Reserve Days as may be necessary to determine a winner of the Match. Both competitors have agreed one (1) day shall intervene between each completed race and such intervening day need not be a week day.

### **6.5 Number of Races**

There shall be a minimum of two (2) races and a maximum of three (3) races. The first to win two races shall be declared the winner of the Match.

If a race is cancelled, abandoned or postponed that race will be sailed on the next scheduled date and the subsequent races shall be postponed accordingly.

If a race is a dead heat, no boat finishes, both boats are disqualified, or one boat fails to finish and the other is disqualified, the race shall be re-sailed.

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\* Subject to NOR 6.4

## **6.6 Scheduled Warning Signal Time**

As provided in RRS J1.1(5), the scheduled time of the warning signal for each race is yet to be determined and is unknown at the time of issue of this NOR, but will be specified in the Sailing Instructions. The warning signal shall not be prior to 0800hrs or after 1630hrs (local time).

## **6.7 Wind and Wave Height Limits**

To ensure the safety of competitors, officials and spectators, and taking into account the length of the courses to be sailed and the nature of the boats, RRS 27 and RRS 32 shall apply. It is anticipated that races shall be sailed in winds having a windspeed of not more than 15 knots measured at 60 metres, and in waves of not more than 1 metre in height.

## **7. MEASUREMENTS**

7.1 The Organising Authority shall appoint an ISAF qualified international Measurer. The Measurer may engage assistants to assist the Measurer in the taking of measurements and in administration.

7.2 The Measurer shall determine the following:

- (a) Whether the boat representing SNG, has a length on load waterline of between 44 feet and 90 feet if it has one mast, and 80 feet and 115 feet if it has more than one mast;
- (b) Whether the boat representing the GGYC conforms to the description and has dimensions specified in its Notice of Challenge dated 11 July 2007 and its Certificate of Documentation provided to SNG by GGYC as its “customs house registry” namely:
  - (i) it is the “USA”;
  - (ii) has a rig of a single mast and is sloop rigged;
  - (iii) a length on load waterline of not exceeding 90 feet;
  - (iv) a beam at load waterline of not exceeding 90 feet;
  - (v) an extreme beam of not exceeding 90 feet;
  - (vi) a draught of water (hull draught) of not exceeding 3 feet; and
  - (vii) a draught of water (boards down) of not exceeding 20 feet.

- 7.3 Measurement shall be undertaken as set in documents provided to GGYC by SNG prior to the issue of this NOR but subject to any modification made by order of the Supreme Court of the State of New York. Copies of such documents are attached in Attachment 1 of this NOR.
- 7.4 If a boat does not conform to the respective requirements in NOR 7.2, the Measurer shall in compliance with RRS 78.3 issue a report to the Race Committee. The Race Committee shall protest the boat as required by RRS 60.2.
- 7.5 (a) A boat's crew shall provide all assistance as may be reasonably requested by the Measurer for any measurement or inspection.
- (b) Should the Measurer be unable to complete a boat's measurement prior to the dates mentioned herein due to causes beyond the reasonable control of the boat, the International Jury, after reviewing the circumstances, may grant additional time sufficient for the measurement to be completed.
- (c) In the event that the Measurer is unable to obtain a measurement which is considered accurate before a race, a remeasurement shall be taken as soon as possible after the race, and should a boat fail to properly measure the Measurer shall make the report required by RRS 78.3 and the boat shall be protested by the Race Committee pursuant to RRS 60.2.
- (d) "Equipment" in RRS 47.1 shall not include movable and variable water ballast
- 7.6 Post race inspections of a boat for compliance with NOR 7.2 above, may be carried out by the Measurer. In the event of such inspection nothing shall be taken on board or removed from the boat without the express permission of the Measurer. A substitution of dry for wet sails and a reasonable time to dry the boat shall be permitted.
- 7.7 No alterations may be made to a boat after measurement, which may materially alter its measured dimensions without being reported to the Measurer who shall determine if the boat is to be remeasured or not. For the avoidance of doubt the taking on or the discharge of water ballast by a boat shall not be an alteration requiring reporting to the Measurer or require remeasurement.

## **8. SAILING INSTRUCTIONS**

Draft Sailing Instructions will be available to both competitors for review and suggestions no later than after 2300 hours 8<sup>th</sup> January 2010 and the final instructions will be available at the office of the Race Committee within seven working days at the venue of such time.

## **9. VENUE**

The marks of the races shall be within an area bounded by the coast and the following coordinates:

- (a) from the Port of Valencia, Valencia, Spain, northwards along the coast to the point of intersection with Latitude 039° 52.0' North;
- (b) thence East along Latitude 039° 52.0' North to the point of intersection with Longitude 000° 27.5' East;
- (c) thence South along Longitude 000° 27.5' East to the point of intersection with Latitude 038° 58.0' North;
- (d) thence West along Latitude 038° 58.0' North to the point of intersection with the coast in the vicinity of Gandia; and
- (e) thence northwards along the coast, returning to the place of beginning at the Port of Valencia, Valencia, Spain.

A Marine Traffic Corridor for the passage of commercial port traffic to and from the Port of Valencia will be established by the maritime authorities. The Marine Traffic Corridor will include transit channels, pilot boarding areas, and marine anchorage areas for commercial traffic. Competitors will be advised of the Marine Traffic Corridor location and regulations as soon as these are promulgated.

When established, Competitors may transit the Marine Traffic Corridor during their training not interfering with the commercial and pilot traffic and complying with COLREGS, but are not to establish training courses within the Corridor.

In addition, it may be necessary to temporarily restrict the use of certain parts of the Race Area to allow for marine traffic involved in the expansion of the harbor breakwater. Competitors will be notified when these restrictions are to be in effect.

Attachment 2 shows the location of the racing area.

## 10. THE COURSES

The courses to be sailed will be as follows:

- (a) **The first race:** twenty (20) nautical miles to windward and return;
- (b) **The second race:** an equilateral triangular race of thirty nine (39) nautical miles, the first side of which shall be a beat to windward; and
- (c) **The third race:** (if required) twenty (20) nautical miles to windward and return.

The races shall be sailed in the above sequence. If a race is re-sailed, the course shall not alter.

## 11. SCORING

The winner of the 33<sup>rd</sup> America's Cup Match shall be the first boat to win two (2) races.

## 12. SUPPORT BOATS

Support boats of the competitors shall be clearly marked with the name of the respective competitor. There will be restrictions on the number, positioning, and movement of competitors support boats in the Sailing Instructions.

## 13. BERTHING

Boats shall be kept in their assigned places in the Darsena or in the outer harbour of the Darsena as notified in the Sailing Instructions.

## 14. RADIO COMMUNICATION

14.1 Except as expressly permitted by this NOR, the Sailing Instructions, or by the Race Committee, a boat shall not carry on board while racing any equipment capable of:

- (a) receiving communications or signals originating outside the boat, including without limitation pagers, internet, mobile telephones and/or flying devices either attached or linked or not to the boat;

- (b) transmitting any communications or signals from the boat; or
  - (c) having the effect of competing with any broadcast coverage that may be licensed by the Organising Authority.
- 14.2 While racing each boat is permitted to carry on board and to use the following:
- (a) Global Positioning System receiver(s) including receipt of differential corrections;
  - (b) telemetry system(s) for the electronic collection, storage, and transmission of that boat's own performance data, provided that such data is kept within and used strictly by that team;
  - (c) low power, on-board communications system(s) (voice and/or data) on board the boat for the purpose of providing communications between crew members;
  - (d) lasers, radar or other detection equipment for measuring the relative position of the opponents yacht, other vessels and obstructions; and
  - (e) Organising Authority supplied broadcast and telemetry equipment.
- 14.3 Each boat and that boat's Chase Boat shall carry on board a two-way "Safety" Radio issued by the Race Committee. For the avoidance of doubt, while racing the use of the Safety Radio by the boat or her Chase Boat for safety or emergency communication does not break this NOR.
- 14.4 When radio advice may be given using the Safety Radio in addition to signals prescribed in the RRS, it shall not be grounds for redress should the Race Committee or Umpires fail to give that radio advice or the boat fail to receive it.
- 14.5 After consultation with the competitors the Race Committee will specify in a notice to competitors by 28th January 2010 broadcast and telemetry equipment to be installed. Each boat shall permit without restriction, and shall not deliberately interfere with, the installation, maintenance, testing, or normal operation of all equipment.
- 14.6 The position of all broadcast and telemetry equipment, its function, field of view, weight, and dimensions shall be as equal as practicable on both boats.

## **15. PRIZES**

The winner shall be presented with possession of the America's Cup to be held in accordance with the terms of the Deed of Gift dated 24<sup>th</sup> October 1887. In the event GGYC win the Match, an Assignment and Acceptance shall be executed by SNG and GGYC in the form required by the Deed of Gift, prior to presentation.

## **16. DISCLAIMER OF LIABILITY**

Competitors participate in the Match entirely at their own risk. See RRS 4 – “Decision to Race”. The Organising Authority will not accept any liability for material damage or personal injury or death sustained in conjunction with or prior to, during, or after the regatta.

## **17. INTERNATIONAL JURY**

17.1 There shall be an International Jury to be appointed as prescribed in the ISAF Regulations and RRS 91.(b).

17.2 The functions of the International Jury shall be as set out in RRS Appendix N.

17.3 The International Jury shall be entitled to resolve any dispute arising under any of the documents referred to in NOR 1.1, at the request of a competitor or the Race Committee.

17.4 The decisions and interpretations of the International Jury shall be final and binding on the competitors in accordance with RRS 70.5, and there shall be no appeal from the decisions of the International Jury. In accordance with Fundamental Rule RRS 3.(c) no competitor shall resort to any court or other tribunal.

## **18. UMPIRES**

ISAF shall appoint ISAF qualified international umpires.

## **19. ANTI-DOPING**

The Match shall be subject to anti doping rules as may be notified by ISAF and advised in the Sailing Instructions.

## **20. FURTHER INFORMATION**

For further information please contact Mr. Fred Meyer, Chairman America's Cup Committee, Vice-Commodore SNG, at SNG Port Noir, Cologny, Geneva, Telephone: +41 22 707 0500, email: [admin@nautique.org](mailto:admin@nautique.org).

## **21. MEDIA RIGHTS**

ISAF as the first owner of all the media rights in the Match pursuant to ISAF Regulation 18.15.1 have licensed all such rights to the Organising Authority. No competitor shall directly or indirectly limit the media rights of the Organising Authority in any manner or by any means.

## **22. SAFETY EQUIPMENT**

Competitors will be required in the Sailing Instructions to carry on board the following equipment:

- (a) life-jackets, of a size suitable for, and a number not less than the number of people aboard the boat;
- (b) a horseshoe type lifebuoy, fitted with a whistle, kept on deck or in the cockpit within reach of the crew;
- (c) an orange smoke canister, kept on deck or in the cockpit within reach of the crew, capable of being thrown in the vicinity of a person overboard to alert other vessels that a person is overboard; and
- (d) a small airhorn or similar sound signal device but not a whistle.

## **23. DATE OF ISSUE**

This NOR is dated and issued the 10th day of November 2009, and amended with the amendments incorporated into this document on 19<sup>th</sup> day of January 2010.

# Attachment 1. Measurement Procedures for the 33rd America's Cup (NOR 7.5)



**SOCIÉTÉ NAUTIQUE DE GENÈVE**

Mr. Marcus Young Commodore  
The Golden Gate Yacht Club  
#1 Yacht Road  
San Francisco  
California 94123  
USA

6 August 2009

## 33<sup>rd</sup> America's Cup

Dear Commodore,

We refer to the letter sent by Barry Ostrager to the New-York Supreme Court on July 22, 2009 a copy of which was sent to James Kearney, representing GGYC. We are pleased to issue the measurement procedures (attached to this letter). These measurement procedures will form part of the Notice of Race, which will be issued at a later date.

The purpose of the measurement will be to confirm that the dimensions of GGYC challenging vessel are the same as the dimensions certified by you, yourself as Commodore, in the Certificate of name, ownership, rig and specified dimensions, which was attached to your notice of challenge dated July 11, 2007.

The requirement to match these dimensions as measured using these procedures shall apply for measurement prior to the start of racing and for any measurement checks during the racing period.

We confirm that the same procedures shall apply to the vessel that the Defender will name on the start of the first race and which will have to comply with the dimensions of the load water-line as per the Deed of Gift requirements.

Respectfully,

Fred Meyer  
Vice-Commodore  
Chairman of America's Cup Committee

Alec Tournier  
General Secretary

**Measurement procedures for 33<sup>rd</sup> America's Cup issued by SNG**

**6 August 2009**

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1. For the purposes of measurement, the "length on load water line" is the distance between a line perpendicular to the yacht's centre line and passing through the furthest forward point of intersection of the yacht with its water-line plane, and a line perpendicular to the yacht's centre line and passing through the aftermost point of intersection of the yacht with its water line plane.
2. For the purposes of measurement, the "beam at load waterline" is the distance between a line parallel to the yacht's centre line and passing through the furthest starboard point of intersection of the yacht with its waterline plane, and a line parallel to the yacht's centre line and passing through the furthest port point of intersection of the yacht with its water-line plane.
3. The center board(s) or sliding keel, if any, shall not be considered a part of the yacht for any purposes of measurement. The "draught of water" shall be measured with such center board(s) or sliding keels fully retracted.
4. The "length on load water line", "beam at load water-line", and "draught of water" shall be measured with the yacht in "load condition".
5. "Load condition" shall mean the yacht has on board all equipment aboard while racing and shall include all sails, spars, computers, spares, consumables, anchors, warps, safety equipment and crew. All of the above shall be in their normal position. Ballast used during measurement shall be maintained in the same location whilst racing.
6. The "extreme beam" shall be measured in accordance with the instructions published on the website of the United States Coast Guard National Vessel Documentation Center.
7. For the purposes of measurement, the yacht shall be floated in "load condition" in calm water of a specific gravity of 1.025, at the venue of the Match, at a location designated by the measurer.

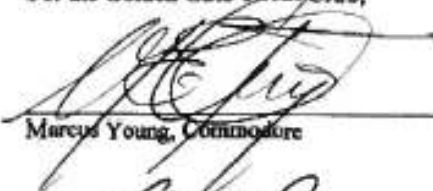
A handwritten signature or set of initials, possibly 'SNG', written in black ink. The signature is stylized and appears to be a personal mark.


**CERTIFICATE  
OF NAME, RIG AND SPECIFIED DIMENSIONS OF  
CHALLENGING VESSEL**

I, Commodore Marcus Young, certify the details set out below as to the name, rig and specified dimensions of the keel yacht to represent Golden Gate Yacht Club in a match for the America's Cup to be sailed in accordance with the Notice of Challenge herewith:

1. **Name:** *USA*
2. **Owner:** Oracle Racing, Inc.
3. **Rig:** Single-masted, sloop-rigged
4. **Dimensions:**
  - (a) Length on Load Waterline - 90 feet
  - (b) Beam at Load Waterline - 90 feet
  - (c) Extreme Beam - 90 feet
  - (d) Draught of water (hull draft) - 3 feet
  - (e) Draught of water (boards down) - 20 feet

For the Golden Gate Yacht Club,

  
\_\_\_\_\_  
Marcus Young, Commodore

  
\_\_\_\_\_  
Norbert Bajurin, Staff Commodore

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BY E-MAIL

August 13, 2009

Re: *Golden Gate Yacht Club v. Société Nautique de Genève, et al.* (New York County Clerk's Index No. 602446/07)

James V. Kearney, Esq.  
Latham & Watkins LLP  
885 Third Avenue  
New York, New York 10022

Dear Counsel:

I write in response to your letter of August 11, 2009 requesting clarification as to certain measurement procedures promulgated by Société Nautique de Genève ("SNG") on August 6, 2009 (the "Measurement Procedures").

SNG remains committed to working in good faith with Golden Gate Yacht Club ("GGYC") to answer reasonable questions regarding the measurement procedures. It nevertheless remains indisputably SNG's sole right to set the rules and regulations governing the race for the 33<sup>rd</sup> America's Cup. Accordingly, nothing herein is in any way a waiver of that right.

We address what we understand to be the questions raised in the August 11 letter in turn:

(1) Please confirm that the term "water-line" in the Measurement Procedures has the same meaning as the term "waterline" defined in rule C.6.3(c) of the ISAF Equipment Rules of Sailing for 2009-2012.

The Deed of Gift states that neither the "center-board" nor "sliding keel" shall "be considered a part of the vessel for any purposes of measurement". The Deed excludes no other part of the vessel from measurement. The procedure for measurement of length on load waterline is properly defined in paragraph 1 of the Measurement Procedures. Any part of the yacht which is not a center-board or sliding keel would be considered as part of the yacht for purposes of measuring the length on load waterline.

(2) Please confirm that all ballast (including movable ballast) used while racing shall also be onboard when the vessels are measured (and for the sake of clarity, confirm that the ballast onboard while measuring shall be the maximum movable ballast used while racing).

The procedure for measurement of length on load waterline for the 33<sup>rd</sup> America's Cup is defined in paragraph 5 of the Measurement Procedures. With regard to ballast position, paragraph 5 provides, "Ballast used during measurement shall be maintained in the same location whilst racing." As stated at the August 10, 2009 hearing, this is consistent with SNG's statement that there would be no prohibition against the use of movable ballasts. See Transcript of August 10, 2009 hearing, at 83:5-14 ("This simply says that, if you use ballast at the time of measurement, that ballast that you use at the time of measurement needs to remain there. It says nothing about having additional ballast while you're racing."). To further clarify,

(i) While any ballast used during measurement to obtain the measurement of the boat must remain in the boat and in the same position for the race,

(ii) any other or further moveable or variable ballast not present during measurement may be used and moved freely during the race.

(3) Please confirm that there is no restriction on filling or emptying ballast tanks or otherwise moving ballast while racing.

We reaffirm that the International Sailing Federation Rules of Racing and Sailing ("RRS") Rule 51 will not apply. Furthermore, we reaffirm that the Notice of Race, to be issued by SNG prior to the race, will not prohibit or restrict, while racing, filling or emptying ballast tanks or otherwise moveable or variable ballast which were not used during measurement. As noted above, any ballast, which is used during measurement to obtain measurement, must be maintained in the same location during the race.

(4) Please confirm that the approach to be used under the Measurement Regulations will be that during measurement equipment with more than one normal sailing position and crew shall be located in their normal fore and aft position and approximately on the center line.

The measurer will determine the normal position of the crew for measurement purposes and he will center the weight of the crew athwartships.

(5) Please confirm that the approach to be used under the Measurement Regulations will be that when measuring the vessel to evenly distribute the maximum movable ballast used while racing into the tanks on each side of the vessel.

See response to question 2 and 3.

(6) Please provide a copy of the specific instructions of the United States Coast Guard regulations to which you refer.

Measurement of the "extreme beam" will rely upon the definition found in the United States Coast Guard Form CG-5397:

BREADTH (B) is the horizontal distance taken at the widest part of the hull, excluding rub rails, from the outboard side of the skin (outside planking or plating) on one side of the hull to the outboard side of the skin on the other side of the hull.

(7) Please confirm that SNG will adhere to the provision of the Deed that the Challenge Certificate dimensions "shall not be exceeded."

GGYC's challenging vessel must match the dimensions on the Challenge Certificate. The vessel's measurements may not be greater than or less than those dimensions. The challenging vessel will, of course, not be permitted to race if it does not match the challenge dimensions.

SNG looks forward to meeting GGYC in February 2010 on the waters off of Ras Al-Khaimah in the United Arab Emirates. SNG is willing to work with GGYC to ensure that GGYC understands all of the requirements laid out in the Measurement Procedures. To this end, GGYC may communicate in writing any further questions GGYC may have with regard to the measurement rules directly to Fred Meyer, Chairman of SNG America's Cup Committee.

Sincerely,

  
Jonathan K. Youngwood

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VIA EMAIL

August 21, 2009

*Re: Golden Gate Yacht Club v. Société Nautique de Genève, et al.*  
(New York County Clerk's Index No. 602446/07)

James V. Kearney, Esq.  
Latham & Watkins LLP  
885 Third Avenue  
New York, New York 10022

Dear Mr. Kearney:

I write in response to your letter of August 18, 2009 requesting further clarification as to the rules governing the 33<sup>rd</sup> America's Cup match.

We have previously informed you that ISAF Racing Rules of Sailing ("ISAF RRS") 49 – 54 will not apply in the 33<sup>rd</sup> Cup. SNG has also announced measurement rules and, through my August 13 letter, answered your questions regarding the measurement rules. As required by ISAF RRS, the applicable racing rules and any changes to the ISAF RRS will be identified in the Notice of Race ("NOR") and in the Sailing Instructions ("SI"). SNG will issue the NOR for the 33<sup>rd</sup> America's Cup on November 6, 2009 and SI for the race on January 8, 2010.

We address the majority of the questions raised in your August 18 letter below using the numbering system in your letter. We have responded to any questions that we understand relate to the completion of your boat USA. Any other issues raised by your letter do not pertain to vessel design and construction and will be addressed in the NOR and SI.

(1) *Please advise whether there shall or shall not be a prohibition on outside help.*

There will be a general prohibition on outside help and your boat should be constructed with this prohibition in mind. As an exception, communications from the Umpires and Race Committee to the competing boats via equipment to be provided by the Race Committee, use of GPS devices, low power onboard communication systems, use of onboard laser, radar and any other detection

equipment operated solely from onboard, and the operation of onboard event broadcast equipment will be permitted.

(2) *Please advise whether there shall or shall not be a prohibition on sail pumping.*

Sail pumping shall be prohibited.

(3) *Please advise whether [ ] Rule 47.1 shall or shall not apply.*

Picking up additional equipment while racing shall be prohibited.

(4) *Please confirm by August 21, 2009 that crew members cannot intentionally leave the vessel during a race.*

No crew shall be permitted to intentionally leave a competing yacht or vessel while racing.

(5) *Please confirm by August 21, 2009 that C7.3(a) does not apply.*

We do not see how this question pertains to boat construction.

(6) *Please confirm by August 21, 2009 that the Organizing Authority shall not attempt to place any equipment onboard our vessel.*

We do not see how this question pertains to boat construction.

(7) *Please confirm by August 21 2009 that there will not be wind limits.*

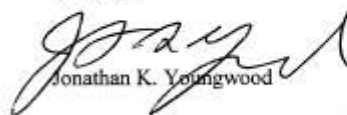
The race committee will retain at all times the responsibility to start the race depending on the adequacy of the weather/sailing conditions.

As you are aware, it remains SNG's unilateral right and duty to set the rules and regulations governing the race for the 33<sup>rd</sup> America's Cup. While Golden Gate Yacht Club ("GGYC") may rely on the answers above, SNG's efforts to answer GGYC's questions through both this letter and our August 13 letter are not in any way a waiver of that right.

SNG is willing to consider and respond to any further reasonable inquiries you may have directly affecting the measurement procedures and vessel design and construction. We believe, however, that you have enough information to complete the construction of USA and deliver us the required Custom House Registry as soon as possible. Furthermore, we invite GGYC to present USA for measurement in advance of the issuance of the NOR and SI if GGYC is concerned about the boat's dimensions.

Again, SNG very much looks forward to meeting GGYC in February 2010 on the waters off of Ras Al-Khaimah in the United Arab Emirates.

Sincerely,

  
Jonathan K. Youngwood

cc: David Boies, Esq.

## Attachment 2. Chart of Venue and Race Area (NOR 9)

