SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK COUNTY OF NEW YORK SOCIÉTÉ YACHT CLUB, Plaintiff, v. Index No. 602446/07 IAS Part 54 Defendant, V. CLUB NÁUTICO ESPAÑOL DE VELA, Intervenor-Defendant. X

LUCIEN MASMEJAN, being duly sworn, deposes and says:

- 1. I am a citizen of Switzerland over the age of 18 and a member of the law firm Lenz & Staehelin in Lausanne, Switzerland. I am also a member of Société Nautique de Genève ("SNG"), as well as its America's Cup Committee Secretary.
- 2. In my capacity as America's Cup Committee Secretary, I am SNG's representative and advisor in matters pertaining to the 33rd America's Cup.
- 3. I respectfully submit this affidavit in support of SNG's opposition to GGYC's motion regarding the Deed's constructed-in-country requirement.
- 4. Attached hereto as Exhibit A are true and correct copies of the Certificates of Origin of the (i) yacht "Alinghi 5" and (ii) the sails delivered by the Vaud Chamber of Commerce and Industry, Switzerland ("Chambre Vaudoise du Commerce et de l'Industrie") acting on behalf of the Swiss Federal Authorities under the supervision of the Federal Customs Authorities. These two Certificates are used in international trade

and attest that the certified products are manufactured in Switzerland under the Swiss Federal Council's Decree governing Certification of Origin of 9 April 2008. The Certificates of Origin are delivered only after analysis of the documentary evidence of the origin of raw material and transformation in Switzerland.

- 5. To qualify a vessel as being built in Switzerland, the hull must be fabricated in Switzerland. Like the U.S. Coast Guard (*see* 46 U.S.C.A. § 12112 (2006); *Shipbuilders Council of America* v. *U.S. Coast Guard*, 578 F.3d 234 (4th Cir. 2009)), the Swiss Chamber of Commerce provides that items not integral to the hull, such as the sails, have no bearing on a Swiss or U.S. build determination and may, therefore, be foreign-built. This said, although the sails have no bearing on the determination of the country of origin of the vessel, the Swiss Chamber of Commerce has certified that the sails of the Alinghi 5 vessel are of Swiss origin.
- 6. Attached hereto as Exhibit B is a true and correct copy of the Swiss Made Certificate delivered by the Swiss Label Association. Team Alinghi is a member of the Swiss Label Association. This Swiss Label certifies the Swiss origin defined under the same criteria of the Federal Council's regulations governing Certification of Origin of 9 April 2008. The Swiss Made Certificate suffices as evidence of the Swiss character of a product for purposes of international trade.
- 7. Attached hereto as Exhibit C is a true and correct copy of the Admission Temporaire ("ATA") Carnet of the yacht "Alinghi 5." ATA Carnets are obtained from the home country's National Guaranteeing Association, in Switzerland, the Swiss Chamber of Commerce. The ATA Carnet is an international customs document that allows the temporary importation (up to one year) of goods without payment of

value-added taxes and duties. The ATA Carnet is valid for entry of a product into the

territories of countries that belong to the Customs Convention on the ATA Carnet for the

Temporary Admission of Goods. The United States acceded to the ATA Convention in

1968. The ATA Carnet attached hereto indicates that the yacht "Alinghi 5" is of Swiss

origin.

Dated: January 21, 2010

Lausanne, Switzerland

LUCIEN MASMEJAN

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EXHIBIT A

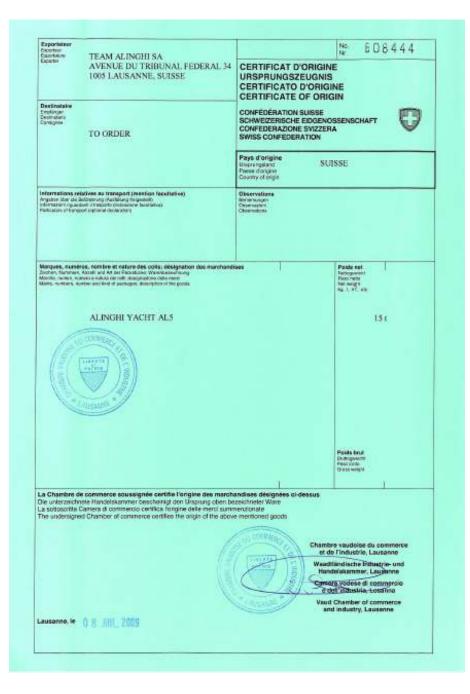




EXHIBIT B



Certificat

Les soussignés attestent que le

Ceam Alinghi, sise à Lausanne et Villeneuve

est membre de SWISS LABEL depuis 2009. Il est ainsi autorisée à apposer la marque protégée représentée par l'arbalète sur ses produits vendus en Suisse et dans les principaux pays d'exportation.

> Le président Bruno Zuppiger

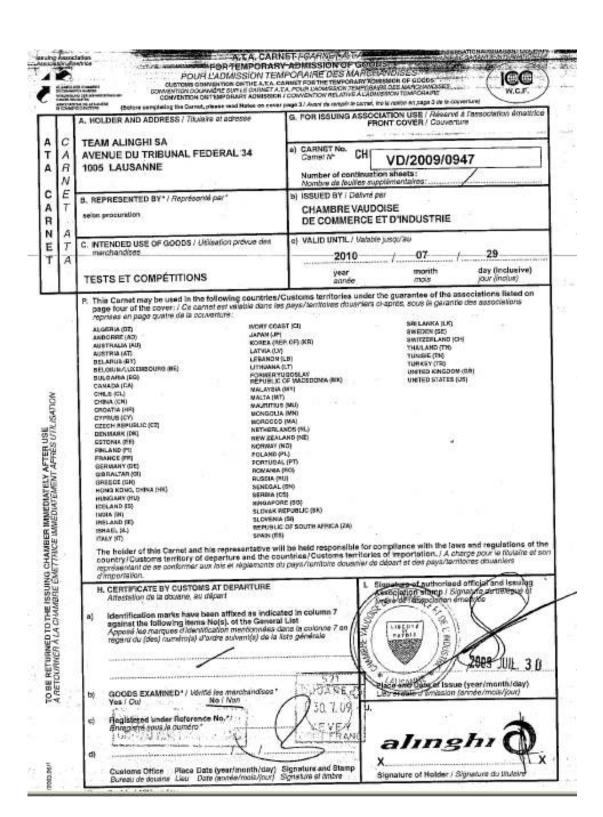
Le directeur Rudolf Horber

Berne, en juillet 2009

SWISS LABEL

Gesellschaft zur Promotion von Schweizer Produkten und Dienstleistungen Société pour la promotion des produits et services suisses

EXHIBIT C



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