

Dated

2015

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Agreement for the syndicate ownership

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AGREEMENT FOR THE SYNDICATE OWNERSHIP

Name of Boat: SUNNY DAYS
Flag and Port of Registry: LONDON
Lying at: PUERTO PORTALS
Register Status: MCA PART 1 SSR
Vessel: PRINCESS

AN AGREEMENT made BETWEEN

XXXXXXXXXX. The owners include their respective successors in title and shall hereinafter be collectively referred to as (the "**Parties**").

WHEREAS the Parties wish to enter into an agreement to share the use of the Princess 64 "**Sunny Days**" (the "**Boat**")

WHEREAS the Parties have purchased the Boat as co-owners in the following shares (each a "**Share**" which term shall also include any future interest in the Boat arising on subdivision or amalgamation of any of the original Shares):

- | | |
|--------------------|---------------------------------------|
| (1) xxxxxxxxxxxxxx | 8/64 th = 6 weeks use p.a. |
| (2) xxxxxxxxxxxxxx | 8/64 th = 6 weeks use p.a. |
| (3) xxxxxxxxxxxxxx | 8/64 th = 8 weeks use p.a. |
| (4) xxxxxxxxxxxxxx | 8/64 th = 8 weeks use p.a. |
| (5) xxxxxxxxxxxxxx | 8/64 th = 8 weeks use p.a. |
| (6) xxxxxxxxxxxxxx | 8/64 th = 8 weeks use p.a. |
| (7) xxxxxxxxxxxxxx | 8/64 th = 8 weeks use p.a. |
| (8) xxxxxxxxxxxxxx | 8/64 th = 8 weeks use p.a. |

NOW IT IS HEREBY MUTUALLY AGREED between the Parties as follows:

1. **Joint Bank Account**

- ("**Finance Manager**") shall operate a bank account (the "**Account**") in the name of Sunny Days into which the Parties shall upon request of the Boat Manager in each year transfer fees until up to six months after the termination of this agreement in accordance with Clause 5 which shall be held on trust and subject to the terms of this Agreement.

2. **Withdrawals and Contributions from/to Account**

Simon Maunder (the "**Boat Manager**") and The Finance Manager shall have power separately to draw monies from the Account for the sole purpose of the maintenance and management of the Boat in accordance with the terms of this agreement and shall have power to call for further and necessary contributions in their respective Shares from the other Parties subject always to the safeguards in Clause 4.7 and to the general law affecting principal and agent.

3. **Finances**

- 3.1. The Boat Manager shall notify each Party of the amount of fees to be paid by that Party into the Account when submitting the Annual Return in accordance with clause 4.7 ("**Annual Payment**").
- 3.2. Each Party shall pay the Annual Payment into the Account within 30 days of the date on which the Annual Report is produced by the Boat Manager. This amount is intended to cover general maintenance expenses.
- 3.3. Where there are sufficient existing funds in the Account, the cost of maintenance, repairs, replacements, improvements and purchase of new equipment will be met from existing funds. Where existing funds are insufficient, each Party shall pay their Share of the cost of agreed expenditure to the Account, when requested by the Boat Manager.
- 3.4. The Account should not be allowed to fall below the minimum level. This is currently £1,000. Should the Boat Manager anticipate that it will fall below this level, each Party shall make a payment to the Account as and when requested by the Boat Manager. The minimum level can be varied by agreement of all the Parties.

4. **Management Responsibility**

The Boat Manager shall have the following powers, duties and responsibilities:

- 4.1. to make day-to-day decisions for the general management of the Boat;
- 4.2. to make any arrangement for the purchase of capital equipment up to a maximum value of £5,000, without pre-agreement from the other Parties. All individual items of expenditure exceeding £5,000 per item/job and aggregate expenditure exceeding £7,500 must first be approved by majority agreement between the Parties;
- 4.3. to insure the Boat, her apparel, fittings etc. against the usual risks with a reputable marine insurance company or association;
- 4.4. to employ any yard, sail-loft, brokers or agents on their usual terms of business and to transact any business which is reasonably necessary in relation to the Boat;
- 4.5. to make, adjust, apportion or settle at his reasonable discretion any salvage, damage, average or other claims in favour of or against the Boat or to refer the same to mediation or arbitration;
- 4.6. to take such steps as may be reasonably necessary to defend proceedings, accept service or arrange finance relating to the Boat;
- 4.7. as soon as reasonably practicable after each 12 month's season of operation, to render to the other Parties details of accounts paid together with the Account statements as evidence of payment, and on request to produce all vouchers, books or other documents and papers relating to the management of the Account and of the Boat ("**Annual Report**").

5. **Maintenance, repairs and replacements**

- 5.1. The Parties shall together maintain the Boat to a standard sufficient to ensure her safe enjoyment.
- 5.2. Any maintenance, repairs and replacements which become necessary during the sailing season shall be notified to the Boat Manager as soon as reasonably practicable by the Party using the Boat at that time ("**Party in Charge**").

6. **Improvements and purchase of new equipment**

- 6.1. Any suggestions to make improvements to the Boat, or purchase new equipment will be discussed and agreed between the Parties.
- 6.2. The agreement of all Parties is required before any such work or purchase may be undertaken.

7. **Compliance and Insurance**

- 7.1. The Party in Charge of the Boat shall ensure that whilst under his control:
 - 7.1.1. the terms and conditions of the insurance cover are observed. In particular, at all times while the Boat is in use, the Party in Charge must be on board, and not hire out or let others use the Boat without their presence;
 - 7.1.2. when in charge of the Boat, comply with all laws, regulations and international requirements relating to its use and keep on board (where appropriate) all relevant documentation required by such laws etc in relation to its use.
- 7.2. No Party shall in any way encumber, charge or pledge as security his Share in the Boat.

8. **Damage or loss**

- 8.1. In the event of damage or loss of equipment caused by the Party in Charge or his crew, the damage will be repaired/equipment replaced as soon as possible by the Party in Charge at his expense.
- 8.2. The Party in Charge may make a claim against the insurance policy, subject to the terms of the policy, for the cost of the damage or loss, subject to advising the boat manager in advance of any such claim. If such a claim is made, any excess will be paid by the Party in Charge provided that no claim shall be brought under the terms of the insurance policy in relation to the Boat unless the amount claimed exceeds £5,000.
- 8.3. In the event of damage or loss of equipment caused by a 3rd party, the Boat Manager will attempt to recover the cost of the damage or loss from the 3rd party or their insurers so that the damage or loss can be corrected.
- 8.4. In the event that this is not possible, the Boat Manager will arrange for the damage or loss to be corrected and will meet the cost of such from the Account or by making a claim against the insurance policy.

8.5. If such a claim is made, any excess will be paid from the Account.

9. **Breakdown**

In the event of a breakdown or failure of the Boat, the Party in Charge must make the Boat safe, notify the Boat Manager, and assist as much as possible to arrange repairs to restore the Boat to the normal conditions as quickly as possible.

10. **Disposal of a Share**

10.1. Any Party who wishes to give, bequeath or sell their Share, should notify the Boat Manager in writing. The remaining Parties may be offered the Share at the fair market value of the Share, as agreed by the Boat Manager or determined in accordance with clause 10.5.

10.2. Any Party wishing to exercise their right to purchase the Share should inform the selling Party or the Boat Manager within 7 days of receiving notification of the Party's intention to sell.

10.3. Once the terms of a sale have been agreed, the Boat Manager must approve the new Party. Their approval must only be withheld on reasonable grounds.

10.4. Once the new Party has been approved, the Boat Manager will arrange for:

10.4.1. completion of bills of sale for transfer of the relevant Share of the Boat from the old Party to new Party;

10.4.2. completion of MCA declaration of eligibility by the new Party;

10.4.3. notify other 3rd parties such as insurers, marinas, professional contractors etc;

10.4.4. arrange for new Party to sign an adherence in the form of the Appendix to this agreement.

10.5. If a dispute arises as to the price to be paid for a Share then any Party may refer the matter to a recognised yacht broker agreed by all of the Parties, or in the event that no such agreement can be obtained within 14 days of a broker first being nominated, to such yacht broker as may be nominated by the Secretary General of the Royal Yachting Association on the application of any one of the Parties with instructions to value the Boat on an open market basis ("**Fair Value**") and the value attributable to that Share shall be the proportion of the Fair Value that the Share bears to the aggregate of all Shares and the decision of the broker shall be final and binding on the Parties.

11. **Mooring location**

11.1. The location and/or style of mooring may be changed on agreement of a majority of the Parties.

12. **Default**

12.1. Non-payment by a Party ("**Defaulting Party**") of any of the following amounts will, unless agreed to the contrary by all other Parties ("**Non-defaulting Parties**"), exclude the use of the Boat by the Defaulting Party until such time as the

outstanding amount is paid, along with interest at 3% over the prevailing Bank of England base rate:

- 12.1.1. the Semi-annual Payment;
 - 12.1.2. his share of the annual mooring costs;
 - 12.1.3. his share of the lift out and lay up costs;
 - 12.1.4. his share of other costs agreed by all Parties;
 - 12.1.5. his share of a top up payments requested by the Boat Manager under clauses 2 and 3.4.
- 12.2. Non-payment of maintenance dues shall restrict the shareholder from access on board and for non payment of more than 6 months, shall allow the Non-defaulting Parties to insist on the sale of the Share, the proceeds of which shall first be used to pay arrears plus interest.
- 12.3. In the event that the Defaulting Party does not take adequate steps to find a suitable replacement, the Non-defaulting Parties may market the Share and obtain the best price available in the market place at the time and deduct the reasonable costs associated with such sale (including, without limitation, any advertising, auction or legal costs) from the proceeds of sale.

13. **Dispute Resolution/Arbitration clause**

- 13.1 If any dispute, difference or question arises between the Parties relating to the rights, duties or obligations of either of them, including (without prejudice to the generality hereof) any dispute, difference or question whether the owners have, in fact, properly and satisfactorily carried out their obligations under this agreement, the same shall be referred to a mediator to be agreed upon by the Parties or, failing such agreement, appointed by the Secretary General of the Royal Yachting Association.

14. **Variation of agreement**

- 14.1. This agreement may only be varied by majority agreement of all Parties.

15. **Termination of agreement**

- 15.1. This agreement will terminate with immediate effect in relation to a Party in the following situations:
- 15.1.1. upon the sale of his Share by that Party under clause 10;
 - 15.1.2. the agreement of all the Parties, in writing, to terminate this agreement.

16. **Notices**

- 16.1. Any notice under this agreement shall be in writing and shall be sufficiently served if delivered personally, faxed or posted on the owner's closed user group website or mailed to the owners home address. Any notice posted online shall be deemed to have been received two days after the time of posting, and any notice delivered personally or by fax shall be deemed to have been received from the time of delivery.

.....

Appendix

THIS DEED OF ADHERENCE is made on [DATE]

BY [NAME] of [ADDRESS] (the "**Covenantor**") in favour of the persons whose names are set out in the syndicate agreement (the "**• Syndicate Agreement**") dated [DATE] made between (1) •, (2) •, (3) •, (4) •, (5) •, (6) •, (7) • and (8) •.

AGREED TERMS

1. Unless the context otherwise requires, words and expressions defined in the Syndicate Agreement shall have the same meaning when used in this Deed.
2. The Covenantor confirms that [he] **OR** [she] has been given and has read a copy of the Syndicate Agreement and covenants with each person named in the Schedule to perform and be bound by all the terms of the Syndicate Agreement as if the Covenantor was a party to it and named in it as a Party.
3. It is agreed that all the provisions of the Syndicate Agreement shall remain in full force and effect.

This deed is governed by English law.

This deed has been signed as a deed by the Covenantor on the date stated at the beginning of it.

SCHEDULE

[INSERT NAMES OF PARTIES TO SYNDICATE AGREEMENT INCLUDING THOSE WHO HAVE EXECUTED EARLIER DEEDS OF ADHERENCE OR ACCESSION AGREEMENTS]

Executed and delivered as a **Deed**
on the date hereof by
[insert name of Covenantor]
in the presence of:

.....
[Covenantor]

WITNESS NAME

WITNESS SIGNATURE

ADDRESS

OCCUPATION