

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

BRUCE KIRBY, INC., and  
BRUCE KIRBY

Plaintiffs,

vs.

LASERPERFORMANCE (EUROPE) LIMITED,  
QUARTER MOON, INCORPORATED,  
KARAYA (JERSEY) LIMITED,  
INTERNATIONAL SAILING FEDERATION  
LIMITED,  
INTERNATIONAL LASER CLASS  
ASSOCIATION, and  
FARZAD RASTEGAR

Defendants.

Civil Action No.

**JURY TRIAL  
DEMANDED**

**COMPLAINT FOR COUNTERFEITING, DEFAULT OF CONTRACT,  
INDUCEMENT TO DEFAULT CONTRACT, TRADEMARK INFRINGEMENT,  
UNFAIR COMPETITION, FALSE DESIGNATION OF ORIGIN AND  
MISAPPROPRIATION OF PUBLICITY RIGHTS**

BRUCE KIRBY, INC. and BRUCE KIRBY (collectively “Kirby”) bring this action against LASERPERFORMANCE (EUROPE) LIMITED, QUARTER MOON, INCORPORATED, KARAYA (JERSEY) LIMITED (collectively “Laser Performance”), the INTERNATIONAL SAILING FEDERATION LIMITED (“ISAF”), INTERNATIONAL LASER CLASS ASSOCIATION (“ILCA”), and FARZAD RASTEGAR (“Rastegar”) and complains and alleges as follows:

## **Introduction**

This case concerns the production, sale, and racing of sailboats designed and sold by Bruce Kirby since about 1970.

In order to establish the Kirby sailboat design as a standard class for international racing, Kirby reached agreements with the various sailboat builders who held rights to the Laser name as well as the international governing bodies that regulate competitive sailing. Under the terms of these agreements, the builders paid a royalty to Kirby and received the right to manufacture boats according to the Kirby sailboat design and uniform Construction Manual and to affix a plaque on the hull of each boat featuring Bruce Kirby's name and trademark, and a unique hull/sail number.

The plaque confirms that the boat was built according to the Kirby sailboat design and is authorized by Bruce Kirby. Only those boats manufactured under the various builder agreements and bearing the appropriate plaque were entitled to race in events sanctioned by the international governing bodies.

This system worked to the mutual benefit of the builders, the governing bodies, Kirby, and sailors worldwide for over 20 years until certain builders decided to breach their agreements by, among other things, ceasing royalty payments and transferring their rights without notice or consent of Kirby. Notwithstanding their breach, these builders continue using both the Kirby sailboat design and the Bruce Kirby name and trademark.

The governing bodies named in this complaint compound this breach by continuing to issue hull plaques featuring the Bruce Kirby name and trademark, as well as a unique hull/sail number even though the boats were no longer made under Kirby's authorization. As a result, boats currently distributed in interstate commerce and in Connecticut are counterfeit, and violate

Kirby's trademark and publicity rights. Kirby sues for default of contract as well as counterfeiting, trademark infringement, unfair competition, false designation of origin, inducement to default on contract, and right of publicity under federal and state law.

### **Jurisdiction and Venue**

1. This is a civil action arising under the trademark laws of the United States, Title 15, U.S.C. Sections 1051 et seq., as amended (hereinafter the "Lanham Act"), 1114 and 1125. This Court has subject matter jurisdiction pursuant to 15 U.S.C. Sections 1121, and 28 U.S.C. Sections 1331, 1338, and 1367(a) because this Complaint raises federal questions under the Lanham Act, and it involves state causes of action, including claims of unfair competition, misappropriation of publicity rights, default of contract, and inducement to default contract.

2. Personal jurisdiction over Defendants is vested in the United States District Court for the District of Connecticut pursuant to Conn. Gen. Stat. § 52-59b. Upon information and belief, Defendants conduct business in Connecticut and their acts within or directed toward Connecticut have caused injury to Kirby in Connecticut. On information and belief, Defendants actively promote and sell their products and services in Connecticut, have advertised in Connecticut, and have used the marks described herein in Connecticut, have used the marks in electronic form available in Connecticut, have delivered publications bearing the infringing marks to persons located in Connecticut, and/or have intentionally acted in a manner to cause injury in Connecticut. Furthermore, Quarter Moon, LP Europe, Rastegar, ILCA, and ISAF have had direct business dealings with Kirby in Connecticut.

3. Venue is proper under 28 U.S.C. § 1391(b) because the claim arose in this district and under 28 U.S.C. § 1391(c).

**The Parties**

4. Plaintiff Bruce Kirby, Inc. (“BKI”) is a Connecticut corporation having a place of business at 213 Rowayton Avenue, Rowayton, CT 06853.

5. Plaintiff Bruce Kirby is an individual residing at 213 Rowayton Avenue, Rowayton, Connecticut, United States of America 06853.

6. Defendant LaserPerformance (Europe) Limited (“LP Europe”), on information and belief, is incorporated in England and Wales, having a place of business at StationWorks, Long Buckby, Northampton, NN6 7PF, England, United Kingdom. On information and belief, LP Europe has regularly conducted business in Connecticut, at least by making royalty payments to Kirby.

7. Defendant Quarter Moon, Incorporated (“Quarter Moon”), on information and belief, is a Rhode Island Corporation having a place of business at 200 Highpoint Avenue, Portsmouth, Rhode Island 02871. On information and belief, Quarter Moon has regularly conducted business in Connecticut by selling boats and parts throughout the state, and paying royalties to Kirby.

8. Defendant Karaya (Jersey) Limited (“Karaya”), on information and belief, is a Channel Island company with an address of 14 Conway Street, St. Helier, Jersey, Channel Islands. On information and belief, Karaya has regularly conducted business in Connecticut by licensing its LASER trademarks to Quarter Moon for use on Kirby Sailboats sold throughout Connecticut.

9. LP Europe, Quarter Moon, and Karaya will hereinafter be collectively referred to as “Laser Performance”.

10. Defendant Farzad Rastegar (“Rastegar”) is an individual having residence at 30 Broad Street, Weston, Connecticut, United States. Upon information and belief, Rastegar owns and/or controls Laser Performance, and has places of business in Connecticut at 25 Van Zant Street, Norwalk, CT 06855; 125 Main Street, Westport, CT 06880; and 4 Testa Place, Norwalk, CT 06854.

11. On information and belief, ISAF is an Isle of Man company. The records of the government of the Isle of Man indicate the incorporation address of ISAF is 69 Athol Street, Douglas, Isle of Man IM1 1JE. ISAF’s website indicates a registered business address at 4 Upper Church Street, Douglas, Isle of Man IM1 1EE. On information and belief, ISAF regularly conducts business in Connecticut and throughout the United States by issuing plaques placed on boats entering Connecticut and the stream of interstate commerce in the United States.

12. On information and belief, ILCA is a British organization having a mailing address of PO Box 26, Falmouth, Cornwall, United Kingdom TR11 3TN. On information and belief, ILCA regularly conducts business in Connecticut, and throughout the United States by issuing plaques placed on Kirby Sailboats entering Connecticut and the stream of interstate commerce in the United States, and by sending reports of issued plaques to Kirby.

### **Background**

13. Kirby is the designer of a 13 foot 10 ½ inch sailboat herein referred to as the “Kirby Sailboat” as depicted on Exhibit 1 attached. The methods and materials for manufacturing an official Kirby Sailboat are contained in a confidential document hereinafter referred to as the “Construction Manual”.

14. Plaintiff Bruce Kirby is a widely recognized figure in the sailing community, both in the United States and throughout the world.

15. BKI is the owner of U.S. Trademark Registration No. 3532451 for the mark BRUCE KIRBY® for use in connection with “Boats.” A copy of U.S. Trademark Registration No. 3532451 is attached as Exhibit 2.

16. BKI and its affiliates by themselves and through predecessors in interest have been using the BRUCE KIRBY® trademark in connection with boats since at least as early as July 1983.

17. BKI has actively promoted the BRUCE KIRBY® trademark and associated it with sophisticated, high-quality boats.

18. BKI’s use of the BRUCE KIRBY® trademark in Connecticut, the United States, and throughout the world has made the BRUCE KIRBY® trademark famous and strong, symbolizing and identifying the high-quality services and products provided by BKI.

#### **ISAF Agreement**

19. On or about November 30, 1983, BKI and Bruce Kirby entered into an Agreement (“ISAF Agreement”) with Performance Sailcraft, Inc., Laser International Holdings Limited, ILCA, and the International Yacht Racing Union (“IYRU”), copy attached as Exhibit 3.

20. The ISAF Agreement governed the production, distribution, and management of Kirby Sailboats approved for officially sanctioned sailboat races worldwide. Section “Agreement 1” specifies that all authorized builders of Kirby Sailboats must have a license from Kirby.

21. Section 5.1 of the ISAF Agreement stipulates that all Kirby Sailboats must be built in accordance with the Construction Manual to receive accreditation from the IYRU. Section 5.1 further stipulates that all parties agree that all Kirby Sailboats shall be manufactured in accordance with the highest possible degree of uniformity in every respect.

22. Upon information and belief, ISAF is the successor in interest to the rights and obligations of the IYRU under the ISAF Agreement.

**1983 Builder Agreement**

23. On or about July 11, 1983, Kirby entered into a License Agreement (“1983 Builder Agreement”) with Brook Shaw Motor Services Ltd. (“Brook Shaw”), a copy is attached as Exhibit 4.

24. The 1983 Builder Agreement established Brook Shaw as the licensed builder of Kirby Sailboats in Europe and elsewhere.

25. Upon information and belief, Performance Sailcraft Europe Limited (“PSE”) succeeded to all of Brook Shaw’s rights and obligations under the 1983 Builder Agreement on or about August 30, 1995 pursuant to a written amendment between PSE and Kirby, a copy of which is attached as Exhibit 5.

26. On or about May 3, 2005, Kirby and PSE entered an Amendment to the 1983 Builder Agreement a copy of which is attached as Exhibit 6.

27. On or about June 16, 2005, Kirby and PSE entered into an Amendment to the 1983 Builder Agreement a copy of which is attached as Exhibit 7.

28. On information and belief, LP Europe is currently building Kirby Sailboats under a claim of authorization from the 1983 Builder Agreement and its Amendments.

29. Kirby has not received any notice of change of name from PSE or its successor as required by article 13.2 of the 1983 Builder Agreement.

30. Kirby has not granted or been asked to grant prior written permission for PSE to assign its rights and obligations under the 1983 Builder Agreement as required by article 11.2.

31. Since at least about January 2011, Kirby has not received any royalty payments under the 1983 Builder Agreement as required by article 8.

32. On information and belief, Rastegar caused and directed the events alleged in paragraphs 28-30.

### **1989 Builders Agreement**

33. On or about March 31, 1989, Kirby entered into a License Agreement (“1989 Builder Agreement”) with PY Small Boat, Inc. (“PYSBI”), a copy of which is attached as Exhibit 8.

34. The 1989 Builder Agreement establishes PYSBI as the licensed builder of Kirby Boats in North America and elsewhere.

35. Upon information and belief, in or about 1991, Sunfish/Laser, Inc. succeeded to all of PYSBI’s rights and obligations under the 1989 Builder Agreement.

36. On or about March 25, 1997, Kirby and Sunfish/Laser, Inc. entered into an Amendment and Quarter Moon, Inc d/b/a Vanguard Racing Sailboats (“QM Vanguard”), succeeded to all Sunfish/Laser, Inc.’s rights and obligations in and to the 1989 Builder Agreement and the ISAF Agreement, copies of which are attached as Exhibit 9.

37. On information and belief, Quarter Moon is currently building Kirby Sailboats under a claim of authorization from the 1989 Builder Agreement.

38. On information and belief, Quarter Moon and Karaya are both owned and/or controlled by Rastegar and are cooperating to manufacture and sell unauthorized Kirby Sailboats and transfer the proceeds offshore in lieu of paying royalties to Kirby.

39. Kirby has not received any notice of change of name from QM Vanguard or its successor as required by article 14.2 of the 1989 Builder Agreement.



40. Kirby has not granted or been asked to grant prior written permission for QM Vanguard to assign its rights and obligations under the 1989 Builder Agreement as required by article 11.2.

41. Since at least about January 2011, Kirby has not received any royalty payments under the 1989 Builder Agreement as required by article 8.

42. On information and belief, Rastegar caused and directed the events alleged in paragraphs 36-40.

### **LASER Trademark**

43. The records of the United States Patent and Trademark Office indicate that the current owner of the LASER trademark in the United States is Karaya (Jersey) Limited, with an address of 14 Conway Street, St. Helier, Jersey, Channel Islands. Copies of the LASER trademark registrations are attached as Exhibit 10.

44. The records of the United States Patent and Trademark Office indicate that Karaya's current domestic representative for the LASER trademarks is Ilan Nordmann, DORY VENTURES, c/o Mr. Thomas von Urbisch, 25 Van Zant Street, Norwalk, CT 06855, and that Karaya's current correspondence address for the LASER trademarks is Thomas von Urbisch, 41 Boulevard d'Italie, Monte-Carlo, Monaco 98000.

45. The records of the United Kingdom Intellectual Property Office indicate that the current owner of the LASER trademark in the United Kingdom is Velum Limited ITM SA (Antigua and Barbuda), with an office at 17 rue du Cendrier, PO Box 1699 CH-1211 Geneva 1, Switzerland.

46. On information and belief, Rastegar owns and/or controls both Karaya (Jersey) Limited and Velum Limited ITM SA.

47. As authorized builders under respectively under the 1983 and 1989 Builder Agreements, PSE and QM Vanguard are required to own or have a license to use the trademark LASER in their territory on Kirby Sailboats, according to article 11 of each Builder Agreements and section “Agreement 1” of the ISAF Agreement.

#### **Termination of the 1989 Builder Agreement**

48. On or about July 17, 2012, Kirby gave written notice to Quarter Moon/QM Vanguard of default under the 1989 Builder Agreement pursuant to article 10.2 for nonpayment of royalties pursuant to article 10.1 e), a copy of which is attached as Exhibit 11.

49. On or about October 11, 2012, Kirby gave written notice to Quarter Moon/QM Vanguard of termination of the 1989 Builder Agreement pursuant to article 10.2 due to failure to cure the default for non payment of royalties pursuant to article 10.2, a copy of which is attached as Exhibit 12.

50. On information and belief, the failure of Quarter Moon/QM Vanguard to pay royalties to Kirby under the 1989 Builder Agreement, and the failure to cure the nonpayment was caused and directed by Rastegar.

51. Quarter Moon/QM Vanguard have continued to manufacture Kirby Sailboats following termination of the 1989 Builder Agreement in violation of article 10.9.

52. Quarter Moon/QM Vanguard have continued to use the Construction Manual following termination of the 1989 Builder Agreement in violation of article 10.9.

53. Quarter Moon/QM Vanguard have continued to use the production tooling following termination of the 1989 Builder Agreement in violation of article 10.9.

54. Quarter Moon/QM Vanguard have continued to use the molds following termination of the 1989 Builder Agreement in violation of article 10.9.

55. Quarter Moon/QM Vanguard have continued to use the plugs following termination of the 1989 Builder Agreement in violation of article 10.9.

56. Quarter Moon/QM Vanguard have continued to use the design of the Kirby Sailboat following termination of the 1989 Builder Agreement in violation of article 10.9.

57. On information and belief, Rastegar has caused and directed the actions of Quarter Moon/QM Vanguard as alleged in paragraphs 50-55.

#### **Termination of the 1983 Builder Agreement**

58. On or about October 11 and November 15, 2012, Kirby gave written notice to PSE/LP Europe of default under the 1983 Builder Agreement pursuant to article 10.2 for nonpayment of royalties pursuant to article 10.1 e), a copy of which is attached as Exhibit 13.

59. On or about November 15, 2012 and March 1, 2013, Kirby gave written notice to PSE/LP Europe of termination of the 1983 Builder Agreement pursuant to article 10.2 due to failure to cure the default for non payment of royalties pursuant to article 10.2, a copy of which is attached as Exhibit 14.

60. On information and belief, the failure to pay royalties to Kirby under the 1983 Builder Agreement, and the failure to cure the nonpayment was caused and directed by Rastegar.

61. PSE/LP Europe have continued to manufacture Kirby Sailboats following termination of the 1983 Builder Agreement in violation of article 10.9.

62. PSE/LP Europe have continued to use the production tooling following termination of the 1983 Builder Agreement in violation of article 10.9.

63. PSE/LP Europe have continued to use the molds following termination of the 1983 Builder Agreement in violation of article 10.9.

64. PSE/LP Europe have continued to use the plugs following termination of the 1983 Builder Agreement in violation of article 10.9.

65. PSE/LP Europe have failed to negotiate the sale of “all plugs, moulds and tooling” used to make the Kirby Sailboat following termination of the 1983 Builder Agreement in violation of article 10.8.

66. On information and belief, Rastegar has caused and directed the actions of PSE/LP Europe as alleged in paragraphs 60-64.

#### **Issuance of ISAF Plaques to Terminated Builders**

67. On or about October 11, 2012, Kirby notified ILCA that Kirby had terminated the 1989 Builder Agreement and that ILCA should not issue ISAF Plaques to Quarter Moon/QM Vanguard or any other entity claiming to have North American rights to build Kirby Sailboats, a copy of which is attached as Exhibit 15.

68. Subsequent to October 11, 2012, Kirby notified both ILCA and ISAF that Kirby had terminated both the 1983 and 1989 Builder Agreements, and that neither ISAF nor ILCA should issue ISAF Plaques to Quarter Moon/QM Vanguard, or PSE/LP Europe, or any entity claiming rights to build Kirby Sailboats in North America or Europe.

69. Attached as Exhibit 16 is a sample ISAF Plaque that includes a Hull Number/Sail Number, and includes the trademark BRUCE KIRBY, and when placed on a Kirby Sailboat purports to notify a purchaser/user that the boat is royalty paid and authorized by Kirby.

70. Article 6.1 of both the 1983 and 1989 Builder Agreements give Kirby the right to issue and assign Hull Numbers/Sail Numbers for use to build and sell Kirby Sailboats.

71. Article 6.2 of both the 1983 and 1989 Builder Agreements give Kirby the right to refuse to issue Hull Numbers/Sail Numbers to any builder that owes and has not paid royalties to Kirby.

72. Article 6.3 of both the 1983 and 1989 Builder Agreements give Kirby the right to designate an agent to issue and assign Hull Numbers/Sail Numbers.

73. Notwithstanding the notification provided by Kirby to ISAF and ILCA as set out in paragraphs 66-67, ISAF and ILCA have continued to issue ISAF Plaques to terminated builder Quarter Moon/QM Vanguard, as evidenced by a copy of the shipping notification attached as Exhibit 17.

74. ISAF and ILCA have told Kirby that they will continue to issue ISAF Plaques to terminated builders Quarter Moon/QM Vanguard and PSE/LP Europe until a court tells ILCA and ISAF not to issue plaques or tells the terminated builders not to make and sell Kirby Sailboats.

75. On information and belief, Rastegar has encouraged ISAF and ILCA to continue to issue ISAF Plaques to terminated builders, interfering with Kirby's rights under the 1983 and 1989 Builder Agreements.

**CLAIM I**  
**Counterfeiting Of The Kirby Sailboat**

76. Kirby repeats the allegations contained in Paragraphs 1-75.

77. Terminated builder Quarter Moon/QM Vanguard, together with ISAF Plaque suppliers ISAF and ILCA, and LASER trademark owner Karaya, continue to manufacture and

sell counterfeit Kirby Sailboats with ISAF Plaques bearing the federally registered BRUCE KIRBY trademark in Connecticut and in interstate commerce.

78. The counterfeit Kirby Sailboats made by the terminated builder are substantially identical to authentic, royalty paid and authorized Kirby Sailboats, bear the identical ISAF Plaque provided by ILCA and ISAF which features the federally registered BRUCE KIRBY trademark and the LASER trademark, and therefore deceive the public into believing the counterfeit Kirby Sailboats originate from, are associated with, or are otherwise authorized by Kirby, in violation of 15 U.S.C. § 1114.

79. Use of the federally registered BRUCE KIRBY trademark by Quarter Moon/QM Vanguard, ISAF, ILCA and Karaya in the manner described in paragraph 77 is likely to cause confusion, mistake and deception as to the origin of the counterfeit Kirby Sailboats.

80. Kirby has no control over the nature and quality of the counterfeit Kirby Sailboats.

81. Counterfeiting of the Kirby Sailboat by Quarter Moon/QM Vanguard, ISAF, ILCA and Karaya is willful and intentional, warranting an award of enhanced damages, statutory damages and attorney fees under 15 U.S.C. § 1117.

82. Kirby has no adequate remedy at law and continues to suffer irreparable harm as a result of the counterfeiting of Kirby Sailboats by Quarter Moon/QM Vanguard, ISAF, ILCA and Karaya.

83. On information and belief, Rastegar directs and controls the counterfeiting by Quarter Moon/QM Vanguard and Karaya, and encourages the counterfeiting by ISAF and ILCA.

**CLAIM II**  
**Infringement of BRUCE KIRBY Trademark,**  
**Unfair Competition And False Designation Of Origin**

84. Kirby repeats the allegations contained in Paragraphs 1-83.

85. Terminated builder Quarter Moon/QM Vanguard, together with ISAF Plaque suppliers ISAF and ILCA, and LASER trademark owner Karaya, continue to manufacture and sell Kirby Sailboats with ISAF Plaques bearing the federally registered BRUCE KIRBY trademark in Connecticut and in interstate commerce.

86. The unauthorized Kirby Sailboats made by the terminated builder are substantially identical to authentic royalty paid and authorized Kirby Sailboats, bear the identical ISAF Plaque provided by ILCA and ISAF which features the federally registered BRUCE KIRBY trademark and the LASER trademark, and are likely to cause confusion, mistake and deception as to their origin, in violation of 15 U.S.C. § 1114.

87. Kirby has no control over the nature and quality of the unauthorized Kirby Sailboats.

88. Infringement of the federally registered BRUCE KIRBY trademark by Quarter Moon/QM Vanguard, ISAF, ILCA and Karaya is willful and intentional, warranting an award of attorney fees under 15 U.S.C. § 1117.

89. Kirby has no adequate remedy at law and continues to suffer irreparable harm as a result of the unauthorized manufacture of Kirby Sailboats by Quarter Moon/QM Vanguard, ISAF, ILCA and Karaya.

90. On information and belief, Rastegar directs and controls the trademark infringement, unfair competition and false designation of origin by Quarter Moon/QM Vanguard

and Karaya, and encourages the trademark infringement, unfair competition and false designation of origin by ISAF and ILCA.

**CLAIM III**  
**Unfair Competition Under The Connecticut Unfair Trade Practices Act**

91. Kirby repeats the allegations contained in Paragraphs 1-90.

92. The acts of Quarter Moon/QM Vanguard, ISAF, ILCA and Karaya that are in violation of 15 U.S.C. § 1114 also violate of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110b, resulting in damage and ascertainable loss to Kirby.

93. By continuing to issue ISAF Plaques to and permit use of the LASER trademark by terminated builders Quarter Moon/QM Vanguard and PSE/LP Europe, ISAF, ILCA and Karaya have tortiously interfered with Kirby's rights under the Builder Agreements by encouraging and enabling the terminated builders to continue to manufacture and sell unauthorized and counterfeit Kirby Sailboats, depriving Kirby of royalties in their territories.

94. ISAF, ILCA and Karaya's tortious interference with Kirby's Builder Agreements constitutes unfair competition under the Connecticut Unfair Trade Practices Act.

95. On information and belief, the complained of activities were undertaken by ILCA, ISAF and Karaya in disregard of Kirby's rights and the law, and will continue to cause damage and irreparable harm to Kirby who has no adequate remedy at law.

96. Kirby is entitled to punitive damages and attorney fees in accordance with Conn. Gen. Statue 42-110g.

97. On information and belief, Rastegar directs and controls the trademark infringement, unfair competition and false designation of origin by Quarter Moon/QM Vanguard



and Karaya, and encourages the trademark infringement, unfair competition and false designation of origin by ISAF and ILCA.

**CLAIM IV**  
**Misappropriation of Bruce Kirby's Publicity Rights**

98. Kirby repeats the allegations contained in Paragraphs 1-97.

99. Bruce Kirby is a widely recognized figure in the sailing community, both in the United States and throughout the world.

100. Bruce Kirby owns the publicity rights to his name, Bruce Kirby.

101. ISAF and ILCA have used Bruce Kirby's name without authorization on the ISAF Plaques.

102. Quarter Moon/QM Vanguard and Karaya have cooperated to use Bruce Kirby's name without authorization by affixing ISAF Plaques on unauthorized Kirby Sailboats.

103. On information and belief, Rastegar directs and controls Quarter Moon/QM Vanguard and Karaya's unauthorized use of Bruce Kirby's name and encourages ISAF and ILCA's unauthorized use of Bruce Kirby's name.

104. The unauthorized use of Bruce Kirby's name on the ISAF Plaques and on unauthorized Kirby Sailboats is likely to cause damage to the commercial value of Bruce Kirby's persona because it falsely implies that the unauthorized Kirby Sailboats are in fact authorized, sponsored, or approved by Bruce Kirby.

105. Bruce Kirby has suffered and will continue to suffer irreparable harm as a result of such misappropriation of his publicity rights and has no adequate remedy at law.

**CLAIM V**  
**Default of 1983 Builder Agreement**

106. Kirby repeats the allegations contained in Paragraphs 1-105.

107. PSE/LP Europe is in default of the 1983 Builder Agreement under article 10.1 e) for failure to pay the royalties due Kirby under article 8, and is in default of the 1983 Builder Agreement under article 10.1 d) for failure to provide written reports on the number of Kirby Sailboats sold under article 7.

108. On information and belief, PSE/LP Europe is in default of the 1983 Builder Agreement under article 13.2 for failure to provide notice of change of name.

109. On information and belief, PSE/LP Europe is in default of the 1983 Builder Agreement under article 11.2 for failure to seek or obtain prior written consent to assign the rights and obligations under the Agreement.

110. PSE/LP Europe is in default of their post-termination obligations under articles 10.7, 10.8 and 10.9 of the 1983 Agreement.

111. On information and belief, Rastegar directs and controls PSE/LP Europe's default of the 1983 Builder Agreement.

112. PSE/LP Europe's defaults of the 1983 Builder Agreement are intentional. They have and will continue to cause damage and irreparable harm to Kirby who has no adequate remedy at law.

**CLAIM VI**  
**Default of 1989 Builder Agreement**

113. Kirby repeats the allegations contained in Paragraphs 1-112.

114. Quarter Moon/QM Vanguard is in default of the 1989 Builder Agreement under article 10.1 e) for failure to pay the royalties due Kirby under article 8, and is in default of the 1989 Builder Agreement under article 10.1 d) for failure to provide written reports on the number of Kirby Sailboats sold under article 7.

115. On information and belief, Quarter Moon/QM Vanguard is in default of the 1989 Builder Agreement under article 14.2 for failure to provide notice of change of name.

116. On information and belief, Quarter Moon/QM Vanguard is in default of the 1989 Builder Agreement under article 11.2 for failure to seek or obtain prior written consent to assign the rights and obligations under the Agreement.

117. Quarter Moon/QM Vanguard is in default of their post-termination obligations under articles 10.7 and 10.9 of the 1989 Agreement.

118. On information and belief, Rastegar directs and controls Quarter Moon/QM Vanguard's default of the 1989 Builder Agreement.

119. Quarter Moon/QM Vanguard's defaults of the 1989 Builder Agreement are intentional. They have and will continue to cause damage and irreparable harm to Kirby who has no adequate remedy at law.

**CLAIM VI**  
**Inducement To Default The Builder Agreements**

120. Kirby repeats the allegations contained in Paragraphs 1-119.

121. ISAF and ILCA have continued to issue ISAF Plaques to Quarter Moon/QM Vanguard and PSE/LP Europe after they stopped paying royalties and providing written reports of their sales to Kirby. As a result, Quarter Moon/QM Vanguard and PSE/LP Europe were able to manufacture and sell unauthorized Kirby Sailboats bearing ISAF Plaques without fulfilling their obligations to Kirby under the 1983 and 1989 Builder Agreements. ISAF and ILCA's actions induced Quarter Moon/QM Vanguard and PSE/LP Europe to default on those Agreements.

122. As a result of Quarter Moon/QM Vanguard and PSE/LP Europe's failure to pay royalties or provide written reports, Kirby notified them of their default and subsequently terminated the 1983 and 1989 Builder Agreements.

123. Subsequent to termination, ILCA and ISAF have continued to issue ISAF Plaques to the terminated builders. As a result, the terminated builders have been able to continue to manufacture and sell unauthorized Kirby Sailboats, in violation of the termination provisions of the 1983 and 1989 Builder Agreements. ISAF and ILCA's actions induced Quarter Moon/QM Vanguard and PSE/LP Europe to default on the termination provisions of the 1983 and 1989 Builder Agreements.

124. Upon information and belief, ISAF and ILCA's inducement of PSE/LP Europe and Quarter Moon/QM Vanguard's to default on the Builder Agreements was intentional.

125. The induced default of the 1983 and 1989 Builder Agreements have materially damaged Kirby for at least the reason that they have deprived him of royalties, interest, and post-termination rights to which he is entitled.

126. Kirby has suffered and will continue to suffer irreparable harm as a result of the induced default of the 1983 and 1989 Builder Agreements and has no adequate remedy at law.

### **DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury on all claims and issues so triable.

### **PRAYERS FOR RELIEF**

WHEREFORE, Plaintiffs pray that judgment be entered against the Defendants as follows:

A. That Quarter Moon/QM Vanguard immediately pay Kirby for all unpaid past royalties, plus interest pursuant to Article 8.3 of the 1989 Builder Agreement;

B. That PSE/LP Europe immediately pay Kirby for all unpaid past royalties, plus interest pursuant to Article 8.3 of the 1983 Builder Agreement;

C. That ILCA and ISAF, their officers, members, managers, affiliates, agents, employees, servants, representatives, and all persons acting under or in concert with them, be preliminarily and permanently enjoined from issuing ISAF Plaques to any entity not explicitly authorized by Kirby, including but not limited to the other named Defendants and their officers, members, managers, affiliates, agents, employees, servants, representatives, and all persons acting under or in concert with them;

D. That Defendants, their affiliates, agents, employees, servants, representatives, and all persons acting under or in concert with them, be preliminary and permanently enjoined from manufacturing Kirby Sailboats;

E. That Defendants immediately forfeit and return to Kirby all copies of the Construction Manual, along with all production tooling, moulds, and plugs associated with the manufacture of Kirby Sailboats;

F. That Defendants, their officers, members, managers, affiliates, agents, employees, servants, representatives, and all persons acting under or in concert with them, be preliminarily and permanently enjoined from using, in conjunction with any goods or services, the mark “BRUCE KIRBY®” or any other mark, word or name confusingly similar to or including the mark “BRUCE KIRBY®” without prior written authorization;

G. That Defendants, their officers, members, managers, affiliates, agents, employees, servants, representatives, and all persons acting under or in concert with them, be preliminarily and permanently enjoined from using, in conjunction with any goods or services, Bruce Kirby’s name “BRUCE KIRBY” without prior written authorization;

H. That Defendants, their officers, members, managers, affiliates, agents, employees, servants, representatives, and all persons acting under or in concert with them, be required to forfeit to Kirby all ISAF plaques in their possession;

I. That Defendants be required to account for and pay to Kirby all profits derived as a result of the activities complained of herein;

J. That Defendants be required to pay to Kirby statutory damages sustained as a result of the activities complained of herein;

K. That Defendants be required to pay enhanced damages due to its willful unlawful acts;

L. That Defendants be required to pay heightened statutory damages for willful counterfeit of the BRUCE KIRBY® trademark;

M. That Defendants be required to pay costs and attorney fees and prejudgment interest at the statutory rate; and

N. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

March 4, 2013

/s/ Wesley W. Whitmyer, Jr.

Wesley W. Whitmyer, Jr., ct03509

Andy I. Corea, ct25925

Brian L. Repper, ct28225

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Facsimile: (203) 327-1096

Email: [litigation@ssjr.com](mailto:litigation@ssjr.com)

ATTORNEYS FOR PLAINTIFFS

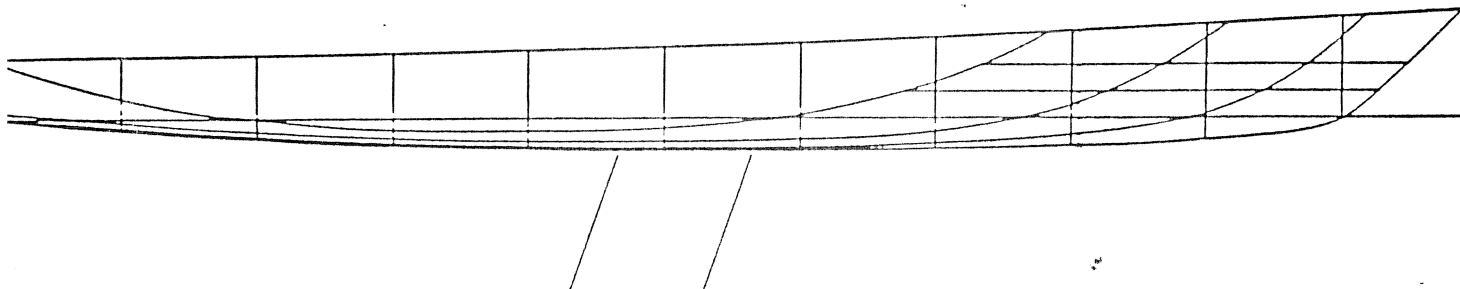
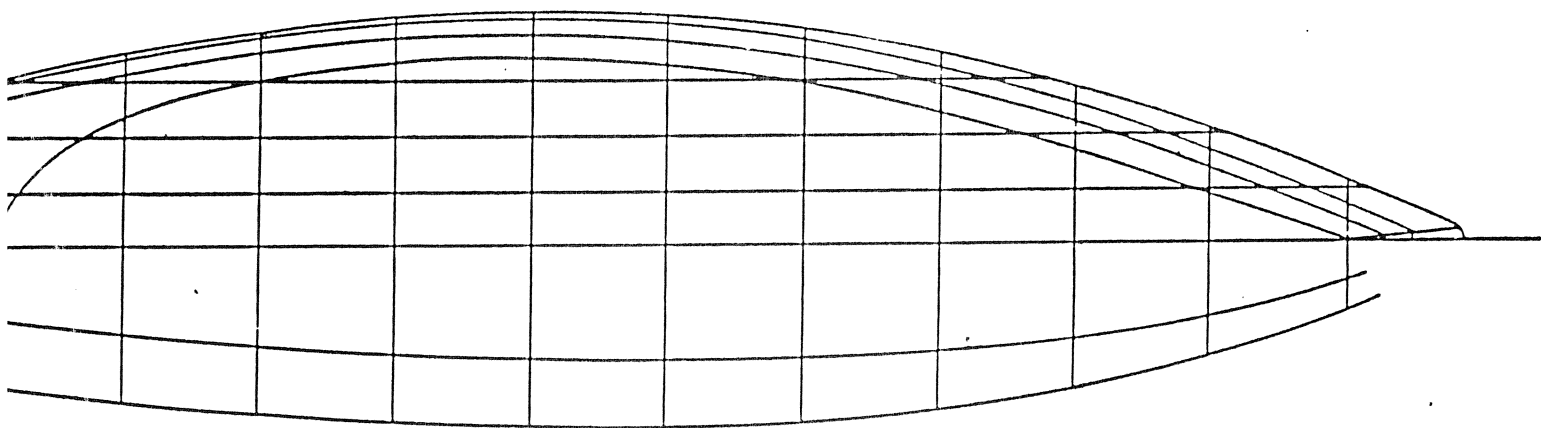
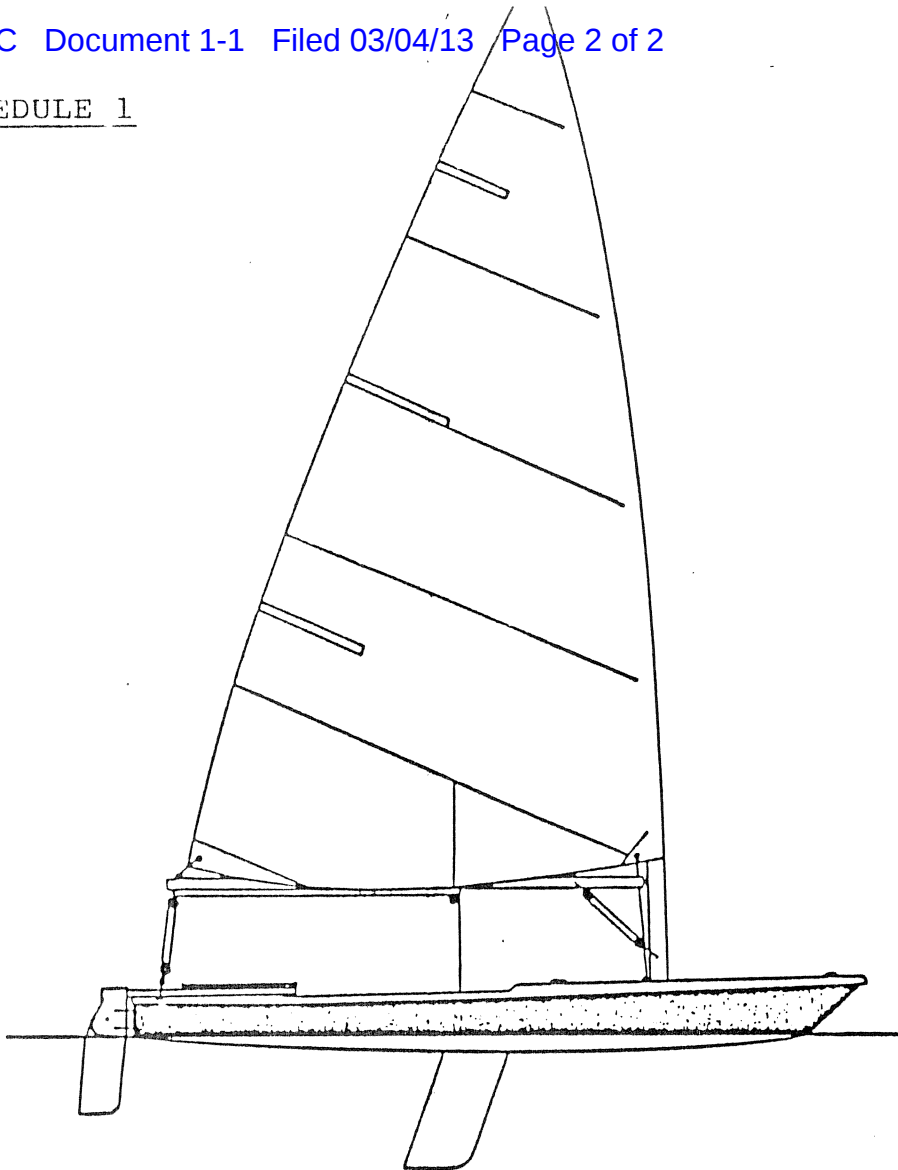
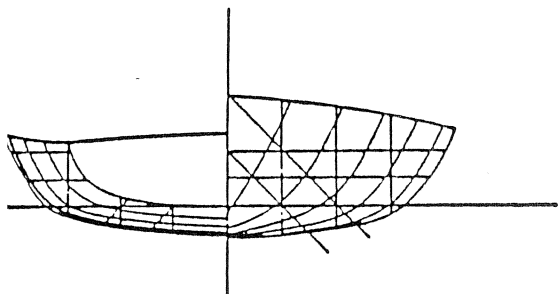
# **EXHIBIT 1**



SCHEDULE 1

Designed by Bruce Kirby

length overall	4,23 m	13'10½"
length waterline	3,81 m	12'6"
beam	1,37 m	4'6"
sail area	7,06 m <sup>2</sup>	76 sq ft



**EXHIBIT 10**

Int. Cls.: 12 and 22

Prior U.S. Cl.: 19

United States Patent and Trademark Office  
New Cert.

Reg. No. 1,038,170

Registered Apr. 20, 1976

OG Date Jan. 11, 2011

**TRADEMARK  
PRINCIPAL REGISTER  
REGISTRATION ASSIGNED**

**LASER**

KARAYA (JERSEY) LIMITED (JERSEY  
CORPORATION)  
14 CONWAY STREET  
ST HELIER, JERSEY

FOR: SAILBOATS, AND PARTS AND  
ACCESSORIES FOR SAILBOATS -  
NAMELY, SPARS, BOOMS, CENTER  
BOARDS, RUDDER COVERS AND BOAT  
COVERS, IN CLASS 12 (U.S. CL. 19).

FIRST USE 1-0-1971; IN COMMERCE  
3-0-1973.

FOR: SAILS, IN CLASS 22 (U.S. CL.  
19).

FIRST USE 1-0-1971; IN COMMERCE  
3-0-1973.

SER. NO. 73-024,301, FILED 6-17-1974.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Jan. 11, 2011.*

Int. Cls.: 12 and 22

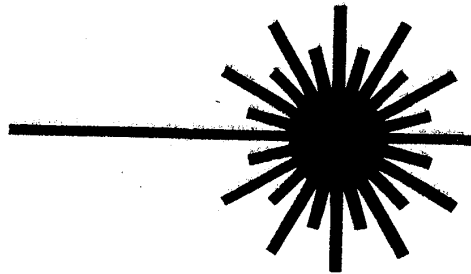
Prior U.S. Cls.: 19 and 22

**United States Patent and Trademark Office**

Reg. No. 1,800,653

Registered Oct. 26, 1993

**TRADEMARK  
PRINCIPAL REGISTER**



PY SMALL BOATS, INC. (RHODE ISLAND CORPORATION)  
WEST SHORE ROAD  
PORTSMOUTH, RI 02871

FOR: SAILBOATS, SAILBOAT PARTS AND ACCESSORIES; NAMELY, SAILBOAT STRUCTURAL PARTS INCLUDING BEAMS, BOOMS AND BOOM HARDWARE; MASTS AND MAST HARDWARE; HULLS, HULL SECTIONS AND HULL HARDWARE; RUDDERS, RUDDER COMPONENTS AND RUDDER ASSEMBLIES; TILLERS, TILLER COMPONENTS AND TILLER ASSEMBLIES; HULL FITTINGS INCLUDING DRAIN PLUGS, CLEATS, BAILERS, COAMINGS, CENTERBOARDS, KEELS AND CUDGEONS; BOAT PADDLES; FITTED AND SEMI-FITTED COVERS FOR BOATS AND

BOAT COCKPITS; AND SAILBOAT RIGGING INCLUDING RINGS, HALYARDS, STAYS, SPREADERS, PULLEYS, BLOCKS, LINES, SHACKLES, RATCHETS, BOLTS, NUTS, WASHERS, EYES, FURLINGS, BRIDLES, TRAPEZES, HOOKS AND HINGES, IN CLASS 12 (U.S. CL. 19).

FIRST USE 1-0-1971; IN COMMERCE 3-0-1973.

FOR: SAILBOAT SAILS; STORAGE BAGS FOR BOAT SPARS AND SAILBOATS, IN CLASS 22 (U.S. CLS. 19 AND 22).

FIRST USE 1-0-1971; IN COMMERCE 3-0-1973.

SER. NO. 74-141,280, FILED 2-22-1991.

DAVID H. STINE, EXAMINING ATTORNEY

## **EXHIBIT 11**

**BRUCE KIRBY, INC.**  
*Marine Design*  
**213 Rowayton Avenue**  
**Rowayton, CT 06853**

July 17, 2012

Quarter Moon, Incorporated  
200 Highpoint Avenue  
Portsmouth, RI 02871  
Attn: William S. Crane

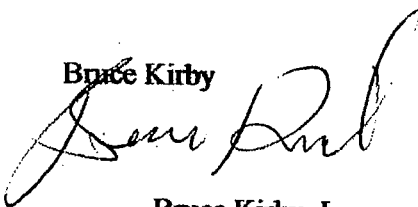
Gentleman:

Pursuant to Article 10, Section 10.1E of the License Agreement dated March 31, 1989 as assigned and assumed by Agreement dated March 25, 1997, you are hereby notified of my intent to declare a default under your License Agreement based upon your failure to pay royalties. We compute, based upon information obtained from ILCA and other sources, that the unpaid royalties are in excess of \$200,000.00 plus twelve per cent (12%) interest on overdue royalties.

Please respond to this notice immediately. If no response is received by August 1, 2012, we will deem this to be an affirmative refusal to pay leaving us no alternative but to seek enforcement of our contractual rights including, but not limited to, terminating your right to build the licensed design (Kirby Sailboat).

Very truly yours,

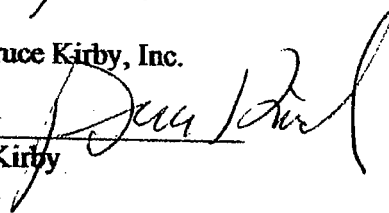
Bruce Kirby



Bruce Kirby, Inc.

by

Bruce Kirby



## **EXHIBIT 12**

BRUCE KIRBY, INC.  
*Marine Design*  
213 Rowayton Avenue  
Rowayton, CT 06853

October 11, 2012

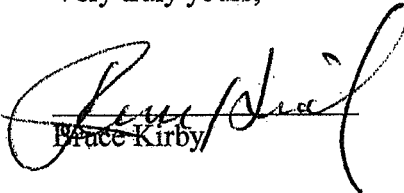
Quarter Moon, Incorporated  
200 Highpoint Avenue  
Portsmouth, RI 02871  
Attn: William S. Crane

Quarter Moon Incorporated  
300 Highpoint Avenue  
Portsmouth, RI 02871  
Attn: Jim Forrest, Registered Agent

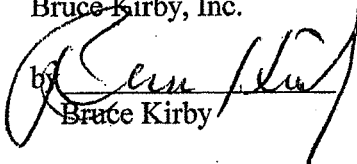
Gentleman:

Based upon your failure to pay royalties as set forth in my letter to you dated July 17, 2012 (copy enclosed) your right to build the licensed design (Kirby Sailboat) is hereby terminated. I am giving simultaneous notice of your termination to the International Sailing Federation and the International Laser Class Association. You are no longer entitled to obtain plaques or in any manner whatsoever take any action regarding the licensed design (Kirby Sailboat). Please review and abide by your duties and obligations upon "Termination" as set forth in the License and Manual Agreement dated November 11, 2005.

Very truly yours,

  
Bruce Kirby

Bruce Kirby, Inc.

by   
Bruce Kirby



**EXHIBIT 13**

BRUCE KIRBY, INC.  
*Marine Design*  
213 Rowayton Avenue  
Rowayton, CT 06853

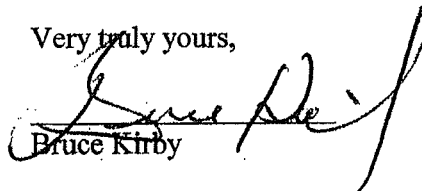
October 11, 2012

Laser Performance Europe Ltd and/or  
Performance Sailcraft Europe Ltd  
Station Works  
Long Buckby  
Northampton NN6 7PF  
UK

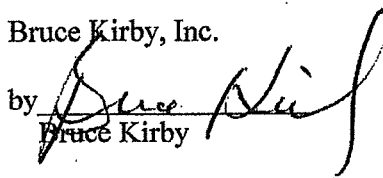
Gentlemen:

Pursuant to the License Agreement dated July 11, 1983 as amended, you are hereby notified that under Article 10 of said License Agreement you are in default for failure to pay design royalties when due. Unless your default is cured within thirty (30) days of the giving of this notice your license will be terminated.

Very truly yours,

  
Bruce Kirby

Bruce Kirby, Inc.

by   
Bruce Kirby

BRUCE KIRBY, INC.  
Marine Design  
213 Rowayton Avenue  
Rowayton, CT 06853

November 15, 2012

Laser Performance Europe Ltd and/or  
Performance Sailcraft Europe Ltd  
Station Works  
Long Buckby  
Northampton NN6 7PF  
UK

Gentleman:

Based upon your failure to pay royalties as set forth in my letter to you dated October 11, 2012 (copy enclosed) your right to build the licensed design (Kirby Sailboat) is hereby terminated. I am giving simultaneous notice of your termination to the International Sailing Federation and the International Laser Class Association. You are no longer entitled to obtain plaques or in any manner whatsoever take any action regarding the licensed design (Kirby Sailboat). Please review and abide by your duties and obligations upon "Termination" as set forth in the License and Manual Agreement dated November 11, 2005.

Very truly yours,

  
Bruce Kirby

Bruce Kirby, Inc.

by   
Bruce Kirby

## **EXHIBIT 14**

BRUCE KIRBY, INC.  
*Marine Design*  
213 Rowayton Avenue  
Rowayton, CT 06853

March 1, 2013

LaserPerformance (Europe) Limited and/or  
Performance Sailcraft Europe Ltd.  
(formerly Brook Shaw Motor Services)  
196 Gibraltar  
Sheffield  
England

Attention: Tim Coventry Esq.

Also at:  
Station Works  
Station Road  
Long Buckby  
Northampton  
Northamptonshire NN6 7PF  
United Kingdom

Re: **Licence Agreement dated 11 July 1983 between Bruce Kirby Inc, Bruce Kirby and Brook Shaw Motor Services Ltd (now LaserPerformance (Europe) Limited (“the Licence Agreement”))**

Gentlemen:

We refer to our letters dated 11 October 2012 and 15 November 2012 of which we enclose copies. By these letters we gave you notice of your breach of the above Licence Agreement, in particular your failure to pay royalties as they fall due. Accordingly, by our letter dated 15 November 2012 the Licence Agreement was terminated.

Although you have referred to this as a purported termination you have failed entirely to explain why you think it may not be effective.

Entirely without prejudice to the validity of the termination of the Licence Agreement as set out above and reserving all our rights entirely, we will in the alternative rely upon the letter dated 15 November 2012 to constitute notice of breach under Article 10.1 of the Licence Agreement in that you have failed to pay royalty payments to Kirby Inc (Article 10.1 (e) of the Licence Agreement).

More than thirty days having expired since delivery of the letter dated 15 November 2012 (receipt of which was acknowledged on your behalf by your legal representatives HGF Law by letter dated 21 November 2012, copy enclosed). This letter is to be treated as the notice of termination pursuant to Article 10.2 of the Agreement.

LaserPerformance (Europe) Limited and/or  
Performance Sailcraft Europe Ltd.  
March 1, 2013  
Page 2

In the further alternative and without prejudice to the above, we hereby give you notice pursuant to Article 10.6 of the Licence Agreement of our desire to terminate the Licence Agreement with effect from 11 July 2013.

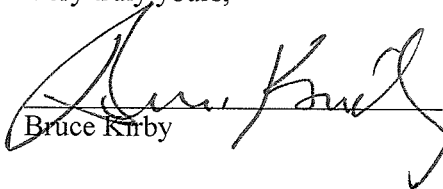
We are not aware of a nominee having been designated by you under Article 13.3 (a) of the Licence Agreement but if you take a contrary view please inform us immediately.

This letter is being sent by pre-paid air mail and by courier. We are sending this letter to the address specified in Article 13.3 (a) of the Agreement as well as to your registered office address being Station Works, Station Road, Long Buckby, Northampton, Northamptonshire NN6 7PF.

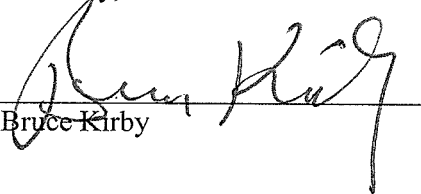
Pursuant to Article 13.3(a) a copy of this letter is being sent to 124561 Canada Inc. and to the current trademark owner of the "Laser" mark, Velum Limited ITM SA.

We are also sending a copy of this letter to the International Laser Class Association (ILCA) and the International Sailing Federation (ISAF).

Very truly yours,

  
Bruce Kirby

Bruce Kirby, Inc.

by   
Bruce Kirby

Encs.

c: 124561 Canada Inc.  
1250 Tessier Bld, Hawkesbury, Ontario, Canada  
Attention: Robert Kruyt, Esq.

Velum Limited ITM SA  
17 rue du Cendrier, P.O. Box 1699, CH-1211 Geneva 1, Switzerland

International Laser Class Association (ILCA)  
P.O. Box 26, Falmouth, Cornwall, TR11 3TN, United Kingdom

International Sailing Federation (ISAF)  
Ariadne House, Town Quay  
Southampton, Hampshire, SO14 2AQ, United Kingdom

BRUCE KIRBY, INC.  
*Marine Design*  
213 Rowayton Avenue  
Rowayton, CT 06853

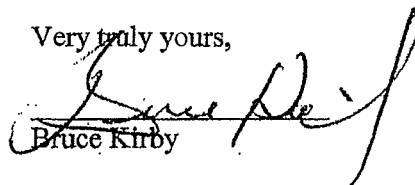
October 11, 2012

Laser Performance Europe Ltd and/or  
Performance Sailcraft Europe Ltd  
Station Works  
Long Buckby  
Northampton NN6 7PF  
UK

Gentlemen:

Pursuant to the License Agreement dated July 11, 1983 as amended, you are hereby notified that under Article 10 of said License Agreement you are in default for failure to pay design royalties when due. Unless your default is cured within thirty (30) days of the giving of this notice your license will be terminated.

Very truly yours,

  
Bruce Kirby

Bruce Kirby, Inc.

by   
Bruce Kirby

BRUCE KIRBY, INC.  
Marine Design  
213 Rowayton Avenue  
Rowayton, CT 06853

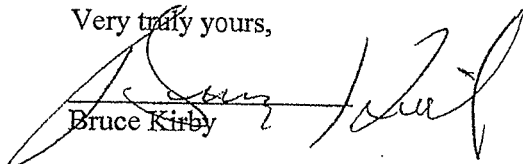
November 15, 2012

Laser Performance Europe Ltd and/or  
Performance Sailcraft Europe Ltd  
Station Works  
Long Buckby  
Northampton NN6 7PF  
UK

Gentleman:

Based upon your failure to pay royalties as set forth in my letter to you dated October 11, 2012 (copy enclosed) your right to build the licensed design (Kirby Sailboat) is hereby terminated. I am giving simultaneous notice of your termination to the International Sailing Federation and the International Laser Class Association. You are no longer entitled to obtain plaques or in any manner whatsoever take any action regarding the licensed design (Kirby Sailboat). Please review and abide by your duties and obligations upon "Termination" as set forth in the License and Manual Agreement dated November 11, 2005.

Very truly yours,

  
Bruce Kirby

Bruce Kirby, Inc.

by   
Bruce Kirby



## **EXHIBIT 15**

BRUCE KIRBY, INC.

*Marine Design*  
213 Rowayton Avenue  
Rowayton, CT 06853

October 11, 2012

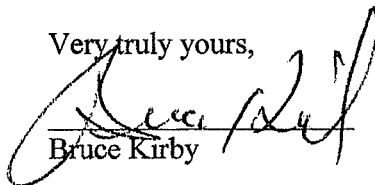
International Laser Class Association  
P.O. Box 26  
Falmouth, Cornwall  
TR11 3TN  
UK  
Attn: Jeff Martin

Gentlemen:

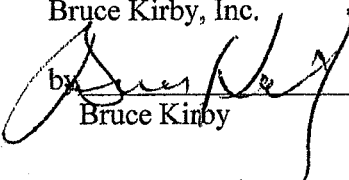
We have enclosed a copy of our letter dated today to Quarter Moon, Incorporated. Please cease the issuance of plaques to Quarter Moon or any other entity claiming to have North American building rights.

In due course we will contact you regarding appointment of a new North American builder of the Kirby Sailboat. It is our intention that the Kirby Sailboat as built by any new builder will be fully recognized by your association.

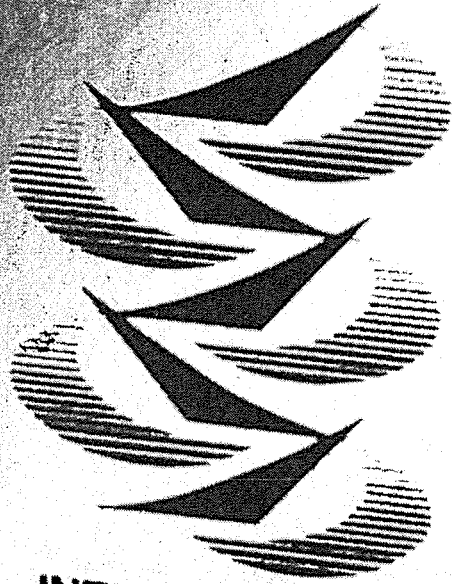
Very truly yours,

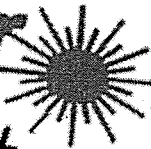
  
Bruce Kirby

Bruce Kirby, Inc.

by   
Bruce Kirby

## **EXHIBIT 16**



**Laser** 

**INTERNATIONAL  
CLASS SAILBOAT  
SAIL No.**

**199980**

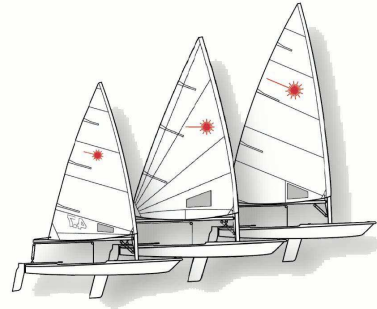
**INTERNATIONAL  
SAILING FEDERATION**

**AUTHORISED BY  
THE INTERNATIONAL  
SAILING FEDERATION,  
THE INTERNATIONAL  
LASER CLASS  
ASSOCIATION,  
BRUCE KIRBY INC.  
& TRADE MARK  
OWNER**

## **EXHIBIT 17**

# International Laser Class Association

PO Box 26, FALMOUTH, Cornwall TR11 3TN, England  
Tel: +44 (0)1326 315064 E-Mail: [office@laserinternational.org](mailto:office@laserinternational.org)  
Fax: +44 (0)1326 318968 Web Site: [www.laserinternational.org](http://www.laserinternational.org)



**FROM:** Leigh Hughes

**DATE:** 28 Aug, 2012

**TO:** ISAF – Ruth Holford – [ruth@isaf.co.uk](mailto:ruth@isaf.co.uk)  
Bruce Kirby – [brucekirby@optonline.net](mailto:brucekirby@optonline.net)

## ILCA LASER PLAQUES – Shipping Notification

We confirm despatch of the following plaques:

Batch No: **555**

Manufacturer: **Quarter Moon – Laser Performance North America**

Country: **USA**

Quantity: **50**

Order date July 5, 2012

Payment date: July 17, 2012

Shipment date: July 19, 2012

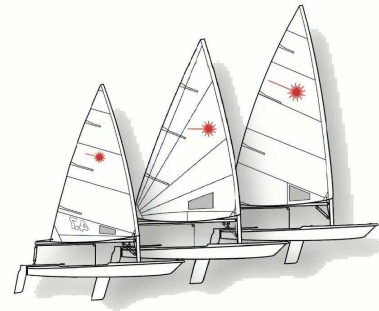
Serial Numbers:

**203914 – 203963**

Please quote batch number on any correspondence.

# International Laser Class Association

PO Box 26, FALMOUTH, Cornwall TR11 3TN, England  
Tel: +44 (0)1326 315064 E-Mail: [office@laserinternational.org](mailto:office@laserinternational.org)  
Fax: +44 (0)1326 318968 Web Site: [www.laserinternational.org](http://www.laserinternational.org)



**FROM:** Leigh Hughes

**DATE:** 28 Aug, 2012

**TO:** ISAF – Ruth Holford – [ruth@isaf.co.uk](mailto:ruth@isaf.co.uk)  
Bruce Kirby – [brucekirby@optonline.net](mailto:brucekirby@optonline.net)

## ILCA LASER PLAQUES – Shipping Notification

We confirm despatch of the following plaques:

Batch No: **556**

Manufacturer: **Quarter Moon – Laser Performance North America**

Country: **USA**

Quantity: **105**

Order date July 20, 2012

Payment date: Aug 7, 2012

Shipment date: Aug 8, 2012

Serial Numbers:

**203964 – 204068**

Please quote batch number on any correspondence.

## **EXHIBIT 2**



**Int. Cl.: 12**

**Prior U.S. Cls.: 19, 21, 23, 31, 35, and 44**

**Reg. No. 3,532,451**

**United States Patent and Trademark Office**

Registered Nov. 11, 2008

**TRADEMARK  
PRINCIPAL REGISTER**

**BRUCE KIRBY**

BRUCE KIRBY, INC. (CONNECTICUT CORPORATION)  
213 ROWAYTON AVE.  
ROWAYTON, CT 06853

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK IDENTIFIES "BRUCE KIRBY", WHOSE CONSENT(S) TO REGISTER IS SUBMITTED.

FOR: BOATS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 7-0-1983; IN COMMERCE 7-0-1983.

SN 78-650,504, FILED 6-14-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

ELLEN BURNS, EXAMINING ATTORNEY

## **EXHIBIT 3**

DATED 30<sup>th</sup> November

1983

THE INTERNATIONAL YACHT RACING UNION  
INTERNATIONAL LASER CLASS ASSOCIATION  
IYRU HOLDINGS LIMITED  
BRUCE KIRBY, INC.  
BRUCE KIRBY  
LASER INTERNATIONAL HOLDINGS (1983) LIMITED

AGREEMENT

relating to

THE INTERNATIONAL LASER CLASS BOAT



throughout the world by certain licensees.

4. The Association has been formed by owners of said sailboats, who have passed and adopted a Constitution for the Laser Class, a copy of which is annexed as Schedule 3 to this Agreement.

5. Performance Sailcraft International Company Limited and the Association made application to the IYRU for International Status to be granted in respect of the said sailboat.

6. The IYRU granted provisional International Status to the Laser Class on November 9, 1973 and final approval by agreement dated July 8, 1974 among the IYRU, Performance Sailcraft International Company Limited, the Association and Holdings (hereinafter referred to as the "Original Agreement").

7. Bruce Kirby and Kirby Inc. together own the copyright in and to the design of the said sailboat, Kirby Inc. having acquired its interest therein from Bruce Kirby.

8. Trade Mark Owner is the owner of the trade mark "LASER" for use in association with the said sailboat which it acquired from Peat Marwick Limited, the receiver and manager of Performance Sailcraft Inc.

AGREEMENT

1. In this Agreement:

"Laser class boat" means the sailboat pictured in Schedule 1 annexed hereto designed by Bruce Kirby, the copyright in and to the design of which is owned by Bruce Kirby and Kirby Inc.

"Builder" means any manufacturer::

- (a) approved by the IYRU to manufacture the Laser class boat;
- (b) licensed by Bruce Kirby and Kirby Inc. to manufacture, sell and market Laser class boats in a specified territory; and
- (c) licensed by Trade Mark Owner to use the trade mark "LASER" in association with such boats in such specified territory.

For the purpose of this Agreement, Builder may include Trade Mark Owner.

"Advisory Council" means the advisory council established  
Article Constitution of the Association  
president and- rice president Of the

*SM*

*SM*

"Construction Manual" means the manual which prescribes the materials to be used in the construction of a Laser class boat and prescribes the method to be used in the manufacture thereof including:

- a) the specifications for the materials to be used in the construction of a Laser class boat, including sailcloth, fittings and raw materials,
- b) the method for production of tooling, moulds and plugs used in the construction of a Laser class boat,
- c) the manufacture of the hull, deck, centerboard box, centerboard and rudder for a Laser class boat,
- d) the method of cutting the sailcloth and finishing the sails for a Laser class boat, and
- e) the assembly of the parts necessary to make the mast, boom and spars for a Laser class boat,

as amended, revised or reconstituted from time to time in the manner prescribed by this Agreement.

"Master Tooling" means a master hull mould and a master deck mould owned by Trade Mark Owner for use in the manufacture of the Laser class boat and which is in compliance with the specifications therefor as set out in the Construction Manual.

"Master Plug" means reversals produced from Master Tooling.

"Production Tooling" means hull moulds and deck moulds produced from the Master Plugs by a Builder to the specifications of the Construction Manual.

"Licensed Territory" means a territory in which a Builder is licensed by Bruce Kirby and Kirby Inc. to manufacture and market Laser class boats and by Trade Mark Owner to use the trade mark "LASER" in association therewith.

2. This Agreement shall be in substitution for the Original Agreement which shall terminate upon the coming into force of this Agreement.

3. With effect from the date of this Agreement, the Laser class boat shall continue to be accredited with International Status within Category 2 of the By-Laws of the IYRU, and shall hold such status unless and until it shall be revoked in accordance with the Constitution and By-Laws of the IYRU.

4. With effect from the date of this Agreement, the administration and management of the Association shall be subject to the approval of the IYRU in respect of the following matters:



- (a) any amendments to the Class Rules, being By-law 1 of the Association annexed as Schedule e hereto notwithstanding any provision to the contrary contained in the Class Rules;
- (b) the enforcement of the Measurement By-law being By-law 3 of the Association, a copy of which is annexed as Schedule 5 hereto; and
- (c) the approval of any amendments to the Measurement By-law notwithstanding any provision to the contrary contained in the Measurement By-law.

5.1 With effect from the date of this Agreement, the IYRU, through its Chief Measurer shall have the right:

- (a) to inspect and measure all Master Tooling used by Trade Mark Owner in the manufacture of Master Plugs;
- (b) to inspect the method of manufacture of all Production Tooling to satisfy the Chief Measurer that such method is in accordance with the Construction Manual a copy of which has been delivered to the Chief Measurer;
- (c) to make such periodic investigations as in the opinion of the Chief Measurer are necessary to satisfy the Chief Measurer that the manufacture of the Laser class boat is in accordance with the Construction Manual;

and it is understood and agreed by all parties hereto that Laser class boats shall continue to be manufactured in accordance with the highest possible degree of uniformity in every respect.

5.2 The IYRU acknowledges that the Construction Manual contains confidential information of Trade Mark Owner and that it contains information with respect to Bruce Kirby's and Kirby Inc.'s copyright interest. The IYRU shall keep the information contained in the Construction Manual secret and confidential, provided that such information is not in the public domain, shall not disclose such information to any other person without the prior written consent of Trade Mark Owner and Bruce Kirby and Kirby Inc. as the case may be and shall not use such information for any purpose other than for the purpose of this Agreement. The IYRU shall require each of its officers, employees or representatives including its Chief Measurer to whom the IYRU discloses the contents of the Construction Manual to be bound by the obligations of secrecy and confidence contained in this Agreement.

6.1 With effect from the date of this Agreement, the Association, through its Chief Measurer, shall have the right:

- (a) to inspect and measure all Master Tooling used by Trade Mark Owner in the manufacture of Master Plugs;

- (b) to inspect the method of manufacture of all Production Tooling to satisfy the Chief Measurer that such Method is in accordance with the Construction Manual, a copy of which has been delivered to the Chief Measurer;
- (c) to make such periodic investigations as in the opinion of the Chief Measurer are necessary to satisfy the Chief Measurer that the manufacture of the Laser class boat is in accordance with the Construction Manual;

and it is understood and agreed by all parties hereto that Laser class boats shall continue to be manufactured in accordance with the highest possible degree of uniformity in every respect.

6.2 The Association acknowledges that the Construction Manual contains confidential information of Trade Mark Owner and that it contains information with respect to Bruce Kirby's and Kirby Inc.'s copyright interest. The Association shall keep the information contained in the Construction Manual secret and confidential, provide that such information is not in the public domain, shall not disclose such information to any other person without the prior written consent of Trade Mark Owner and shall not use such information for any purpose other than for the purpose of this Agreement. The Association shall require each of its officers, employees or representatives, including its Chief Measurer to whom the Association discloses the contents of the Construction Manual, to be bound by the obligations of secrecy and confidence contained in this Agreement.

7. Trade Mark Owner on behalf of the Builders set forth in Schedule 2, as amended from time to time; undertakes and agrees to cause the manufacture of Master Tooling, Production Tooling and the Laser class boat, including the sail, mast, boom, rudder, centerboard and all fittings, to be in strict accordance with the Construction Manual and with the highest possible degree or uniformity in every respect and agrees:

- (a) to cause measurement of Laser class boats of each Builder to be carried out in accordance with the in-plant procedure set out in the Construction Manual;
- (b) to permit the Chief Measurer of the IYRU and the Chief Measurer of the Association at any and all reasonable times to have free access to any manufacturing facility to inspect the Production Tooling, the Laser class boat or any part thereof including the sail; and
- (c) to comply with all reasonable requirements or directions of the Chief Measurer to ensure the conditions set out in this Agreement are fully complied with.

8. The parties agree that any revisions or amendments to the Construction Manual shall not be made unless prior written approval has been obtained for such revisions or amendments of each of the Chief Measurer of the IYRU, the Chief Measurer of the Association, and the Advisory Council. Each of the Chief Measurer of the IYRU,





the Chief Measurer of the Association and the Advisory Council shall consider any revisions or amendments to the Construction Manual and, if satisfied, shall approve such revisions or amendments, but shall not approve any amendments to the Construction Manual that may adversely affect the one-design character of the Laser class boat.

9.1 It is understood and agreed by IYRU and Holdings that the Builders set forth in Schedule 2 as amended from time to time are authorized to manufacture the Laser class boat and to distribute the same within a Licensed Territory and that further Builders may only be appointed with the prior written approval of Kirby Inc., Trade Mark Owner and the IYRU in accordance with the following principles, unless otherwise agreed:

- (a) the proposed marketing territory shall not at such time be adequately served by any Builder
- (b) the market potential shall be sufficient to sustain minimum production of not less than 300 Laser class boats per year for a minimum of five years;
- (c) all contractual agreements are entered into as are necessary to permit the control of manufacture in accordance with Clauses 5, 6 and 7 hereof, the payment of all royalties and fees and the protection of the Licensed Territories of other Builders;
- (d) the proposed Builder has an established ability to manufacture, sell and market first quality watercraft; and
- (e) the proposed Builder has sufficient net worth, working capital and bank lines of credit to enable such Builder to manufacture Laser class boats.

9.2 It is expressly understood that nothing shall preclude a Builder from establishing additional manufacturing facilities within its Licensed Territory subject only to the prior written approval of the IYRU, Holdings, Kirby Inc. and Trade Mark Owner, which approval shall not be unreasonably withheld. Sub-licenses are neither contemplated nor permitted.

9.3 It is expressly understood and agreed that Trade Mark Owner in conjunction with Kirby Inc., may without the consent of the IYRU, Holdings or the Association vary or amend the Licensed Territory of any duly Licensed Builder with the consent of such Builder.

10. It is understood and agreed that Holdings (with the approval of the IYRU) may request Bruce Kirby, and Kirby Inc. to take reasonable steps to suspend or cancel any license granted by Bruce Kirby and Kirby Inc. to a Builder listed in Schedule 2 as

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amended from time to time to manufacture, sell and market Laser class boats and may request Trade Mark Owner to take reasonable steps to suspend or cancel any license granted by Trade Mark owner to a Builder listed in Schedule 2 as amended from time to time to use the trade mark "LASER" in association with the Laser class boat for a violation of Clauses 5, 6, 7 hereof provided that the violation shall not have been remedied by such Builder within 30 days of the giving of written notice by Bruce Kirby and Kirby Inc. or Trade Mark Owner to such Builder of the violation, or if the violation is one which requires more than 30 days to remedy, and the remedying has not commenced within such period and is not thereafter diligently pursued

11. It is expressly understood and agreed that the sail for the Laser class boat may only be manufactured in accordance with the Construction Manual and finished by such sail makers as are approved by the Trade Mark Owner.

12.. The IYRU acknowledges that under certain license agreements among Bruce Kirby, Kirby Inc. and a Builder, the IYRU might be called upon in default of Kirby Inc. or its agent to appoint a nominee to issue hull numbers to Licensees for Laser class boats all as contemplated in Article 6.5 of said agreements. The IYRU agrees to act promptly to appoint a nominee upon the occurrence of the circumstances described in the said Article 6.5.

13.1 In consideration of the services to be performed by the IYRU herein set forth, there shall be paid to Holdings by each builder manufacturing the Laser class boat, a fee of such amount as is established from time to time with the approval of all the parties hereto, such fee is presently \$e.00 Canadian for each Laser class boat manufactured by such Builder. Such payments shall be computed monthly. Payment of all sums due shall be made by the Builder within 30 days from the end of the month with respect to all Laser class boats sold or otherwise disposed of during such month.

13.2 In consideration of the services to be performed by the Association as herein set forth, there shall be paid to the Association by each Builder manufacturing the Laser class boat a fee of such amount as is established from time to time with the approval of the Association and such Builder and the said fee shall be at least equal to the Association's International subscription prevailing at the time. Such payments shall be computed monthly. Payment of all sums due shall be made by the Builder within 30 days from the end of the month with respect to all Laser class boats sold or otherwise disposed of during such month.

13.3 Trade Mark Owner on behalf of the Builders set forth in Schedule 2 as amended from time to time undertakes and agrees to cause each such Builder to submit to Holdings and the Association within 30 days from the end of each calendar month, a written report giving particulars of the number of Laser class boats sold or otherwise disposed of by it (whether to direct purchasers, distributors, dealers or other Builders) during the previous month.

Holdings and the Association shall have the right, through its duly appointed agents, to cause any audit or other investigation to be

undertaken as may be necessary from time to time to verify any such written report.

1e. Any dispute arising out of or by virtue of this Agreement shall be submitted to a single arbitrator to be appointed in default of agreement by Lloyds Register of Shipping and this shall be a submission to arbitration under the provisions of the Arbitration Act 1979 or any reenactment, modification or extension thereof for the time being in force. The parties hereto agree that the right of appeal under Section 1 of the Arbitration Act 1979 and the right to apply to the High Court under Section 2 of said Act are hereby excluded in accordance-with the provisions of Section 3 of said Act.

15. This Agreement may be amended at any time upon agreement of all the parties hereto.


16. This Agreement shall be construed in accordance with the laws of England.

17. This Agreement shall continue to be to the benefit of and be binding upon the parties hereto, their successors and assigns, provided that none of Kirby Inc., Trade Mark Owner or the Builders set forth in Schedule 2 as amended from time to time, may assign their rights and obligations under this Agreement without the prior written approval of the IYRU and the Association, which approval shall not be unreasonably withheld.

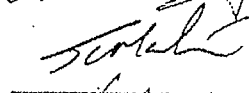
18. This Agreement shall continue in force so long as International Status shall be accredited to the Laser Class boat by the Iyru.

IN WITNESS WHEREOF the parties hereto have signed this Agreement as of the date and year first above written.

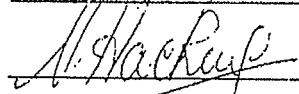
SIGNED for and on behalf of  
INTERNATIONAL YACHT RACING  
UNION

  
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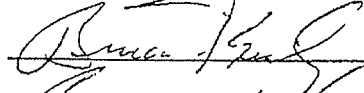
SIGNED for and on behalf of  
INTERNATIONAL LASER CLASS  
ASSOCIATION

  
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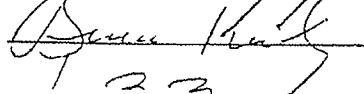
SIGNED for and on behalf of  
IYRU HOLDINGS LIMITED

  
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SIGNED for and on behalf of  
BRUCE KIRBY, INC.

  
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SIGNED for and on behalf of  
BRUCE KIRBY

  
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SIGNED for and on behalf of  
LASER INTERNATIONAL HOLDINGS  
(1983) LIMITED, -

  
\_\_\_\_\_

## **EXHIBIT 4**

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THIS AGREEMENT made as of the 11<sup>th</sup> day of July, 1983. (8)

BETWEEN:

BRUCE KIRBY, INC., a corporation incorporated under the laws of the State of Connecticut, United States of America (hereinafter called "Kirby Inc.")

- and -

BRUCE KIRBY, an individual of the Town of Rowayton in the State of Connecticut, United States of America

- and -

BROOK SHAW MOTOR SERVICES LTD., a corporation incorporated under the laws of England (hereinafter called the "Licensee")

WHEREAS Bruce Kirby is an independent designer of sailboats and yachts and in particular is the designer of the 13 foot 1/2 inch sailboat pictured in Schedule 1 annexed hereto, which has been manufactured and sold in Canada and in other countries of the world in association with the trade mark "LASER";

AND WHEREAS Bruce Kirby and Kirby Inc. have represented that together they own all right, title and interest in the design and copyright of the said sailboat;

AND WHEREAS 124561 Canada Inc. of Hawkesbury, Ontario has acquired from Peat Marwick Limited, as receiver and manager of Les Voiliers Performance Inc./Performance Sailcraft Inc., of the City of Pointe Claire, in the Province of Quebec, Canada, and is the owner of, the trade mark "LASER" for use in association with, inter alia, sailboats;

AND WHEREAS Licensee is desirous of obtaining a license from Bruce Kirby and Kirby Inc. to manufacture said sailboat and of obtaining a license from 124561 Canada Inc. to use the trade mark "LASER" in association with said sailboat;

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 In this agreement:

- a) "Licensed Design" means the design created by Bruce Kirby for the 13 foot 10 1/2 inch sailboat pictured in Schedule 1 annexed hereto, the copyright in which is owned by Bruce Kirby and Kirby Inc.;
- b) "Kirby Sailboat" means a sailboat or sailboat hull manufactured in accordance with the Licensed Design which has been commonly sold in association with the trade mark "LASER";
- c) "ILCA" means International Laser Class Association of Cornwall, England;
- d) "IYRU" means The International Yacht Racing Union of London, England;
- e) "IYRU Holdings" means IYRU Holdings Limited of Surrey, England;
- f) "IYRU Agreement" means the agreement dated July 8, 1974 among IYRU, Performance Sailcraft International Company Limited, ILCA and IYRU Holdings as heretofore or hereafter amended or as hereafter reconstituted from time to time;
- g) "Advisory Council" means the advisory council established pursuant to Article 15 of the constitution of ILCA which comprises the president and vice president of the World Council of ILCA from time to time (presently Paul van Ellemeet and Peter Griffiths respectively) and two persons nominated by 124561 Canada Inc. from time to time (presently Tim Coventry and Ian Bruce);
- h) "Construction Manual" means the manual which prescribes the materials to be used in the construction of a Kirby Sailboat and the method to be used in the manufacture thereof including:

- 3 -
- i) the specifications for the materials to be used in the construction of a Kirby Sailboat, including sailcloth, fittings and raw materials,
  - ii) the method for production of tooling, moulds and plugs used in the construction of a Kirby Sailboat,
  - iii) the manufacture of the hull, deck, centerboard box, centerboard and rudder for a Kirby Sailboat,
  - iv) the method of cutting the sailcloth and finishing the sails for a Kirby Sailboat, and
  - v) the assembly of the parts necessary to make the mast, boom and spars for a Kirby Sailboat.
- i) "Hull Number" means a serial number attached to or impressed upon the hull of a Kirby Sailboat in the manner referred to in the Construction Manual;
- j) "Dealer Wholesale Price" means Licensee's published wholesale price for Kirby Sailboats to the Dealer, FOB factory, which shall include the royalty fee payable to Kirby Inc. by this Agreement but shall exclude duty and applicable sales taxes, cost of packaging and IYRU fees, and national and international class fees which may be collected by Licensee; and
- k) Unless the context otherwise indicates, words in the singular include the plural and words in the plural include the singular.

ARTICLE 2 - GRANT OF LICENSE

- 2.1 Bruce Kirby and Kirby Inc. hereby jointly warrant that they are the exclusive owner of all right, title and interest in and to copyright and industrial design rights in the Licensed Design (hereinafter collectively referred to as the "Copyright") in all countries of the world which recognize Canadian copyright and industrial design rights and that the Copyright is valid and subsisting.
- 2.2 Bruce Kirby and Kirby Inc. hereby jointly warrant that neither Bruce Kirby nor Kirby Inc. has made any assignment of, or granted

any license which is now subsisting in respect of the Copyright in the territory described in Schedule 2 annexed hereto (hereinafter referred to as the "Licensed Territory") save only for such rights as Alary Sailcraft and Mr. R.P. Stratton & Partners might have by reason of an agreement dated February 5, 1981, among Performance Sailcraft Inc./Les Voiliers Performance Inc., Alary Sailcraft and Mr. R.P. Stratton & Partners, The International Yacht Racing Union and International Laser Class Association, a copy of which forms Schedule 3 annexed hereto.

2.3 Subject to the terms and conditions herein contained, Bruce Kirby and Kirby Inc. hereby give and grant to Licensee, to the exclusion of all others including Bruce Kirby and Kirby Inc. the sole and exclusive license of the Copyright to manufacture, sell and market Kirby Sailboats in the Licensed Territory save only for such rights as Alary Sailcraft and Mr. R.P. Stratton might have by reason of an agreement dated February 5, 1981, among Performance Sailcraft Inc./Les Voiliers Performance Inc., Alary Sailcraft and Mr. R.P. Stratton & Partners, The International Yacht Racing Union and International Laser Class Association, a copy of which forms Schedule 3 annexed hereto.

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2.4 Licensee is hereby authorized to sell and market Kirby Sailboats manufactured by Licensee <sup>✓ to ✓</sup> in a territory for which Bruce Kirby and Kirby Inc. shall have granted to another person a license such as that granted herein provided that Licensee shall have secured the prior written consent of such other person.



2.5 Licensee hereby accepts the aforesaid license and agrees to observe and abide by all the terms and conditions of this Agreement.

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 (B) 1  
 Bruce Kirby and Kirby Inc. shall ~~not~~ grant ~~any~~ licenses of Copyright ~~in any territory save~~ <sup>outside the licenced territory of Schedule 2</sup> only on terms and conditions substantially the same as the terms and conditions of this Agreement, and neither Bruce Kirby nor Kirby Inc. shall manufacture Kirby Sailboats.

### ARTICLE 3 - PRODUCTION

3.1 Licensee acknowledges and represents that Licensee has acquired and is the owner of a set of production tooling for the construction of Kirby Sailboats including:

- a) deck moulds,
- b) hull moulds,
- c) glue jigs,
- d) centerboard box moulds,
- e) deck plugs, and
- f) hull plugs.

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 3.2 Licensee acknowledges and represents that 124561 Canada Inc. has ~~agreed to~~ grant to Licensee the right to use the trade mark "LASER" in the Licensed Territory in association with Kirby Sailboats and that Licensee has acquired ~~ownership of~~ one current and complete copy of the Construction Manual. (B)

3.3 In order to maintain and protect the reputation of Bruce Kirby as a designer of sailboats and yachts, the reputation of Kirby Sailboats as quality sailboats and the status of Kirby Sailboats as a recognized international class of sailboats with the IYRU, Licensee undertakes and agrees that Licensee shall manufacture Kirby Sailboats only from the materials and only in accordance with the methods specified

and described in the Construction Manual.

- 3.4 Licensee agrees to maintain strict quality control procedures in the manufacture of Kirby Sailboats and agrees to maintain all tooling, moulds and plugs used in the manufacture of Kirby Sailboats in good condition and to replace all tooling, moulds and plugs in a timely manner to avoid the production of Kirby Sailboats below the standards specified in Article 3.3 hereof.
- 3.5 Licensee agrees to permit Bruce Kirby or a representative of Kirby Inc. who has the prior written approval of Licensee, which approval shall not be unreasonably refused, to inspect Licensee's premises and to inspect Kirby Sailboats being manufactured by Licensee to ensure that such sailboats meet the standards specified in this Article.
- 3.6 Licensee shall not sell Kirby Sailboats save in association with the trade mark "LASER" and the trade mark which comprises a representation of a sunburst.

ARTICLE 4 - INDEMNIFICATION AND INFRINGEMENT

- 4.1 In all aspects of the manufacture, distribution and sale of Kirby Sailboats, Licensee agrees to comply with all local laws governing Licensee. It is agreed that Bruce Kirby and Kirby Inc. are parties to this agreement as the owner of the Licensed Design and that Bruce Kirby and Kirby Inc. shall not be represented as making any warranty to any dealer or purchaser from Licensee. Licensee agrees to indemnify and save harmless Bruce Kirby and Kirby Inc. from any action, suit or claim arising from any alleged faulty manufacture of Kirby Sailboats by Licensee or by its servants, dealers or agents.

4.2 Licensee shall promptly give notice in writing to Bruce Kirby and Kirby Inc. of any infringement of the Copyright in the Licensed Territory or in any territory in which Licensee is selling and marketing Kirby Sailboats pursuant to the provisions of Article 2.4 hereof which shall come to the knowledge of Licensee. Bruce Kirby and Kirby Inc. shall promptly after receipt of such notice take all reasonable steps to bring such infringement to an end. Licensee agrees to cooperate with Bruce Kirby and Kirby Inc. in taking such steps ~~and in the conduct of such proceedings~~ at the cost of Kirby Inc. and at no cost to Licensee. If Bruce Kirby and Kirby Inc. shall not have commenced to take all reasonable steps to bring such infringement to an end within 90 days from the receipt of the aforesaid notice and do not diligently pursue such steps to bring such infringement to an end, Licensee shall have the right, at the sole cost of Licensee, to take such steps in Licensee's own name or in the name of Bruce Kirby and Kirby Inc. including legal proceedings to bring such infringement to an end. In the event that such legal proceedings are instituted by Licensee, any monetary recovery therefrom shall be retained by Licensee as compensation for its costs or loss. Bruce Kirby and Kirby Inc. shall cooperate with Licensee in taking such steps at the cost of Bruce Kirby and Kirby Inc. and at no cost to Licensee.

ARTICLE 5 - MARKETING AND ADVERTISING

5.1 Licensee agrees:

- a) to use reasonable efforts to promote the sale of Kirby Sailboats in the Licensed Territory;
- b) where practical, to identify Bruce Kirby as the designer of the Kirby Sailboat in all brochures, posters, magazine and similar advertisements prepared by or at the direction of Licensee (unless

Bruce Kirby agrees in advance to the contrary);

- c) where practical, to identify the designer of any other watercraft the trade mark of which includes the word "LASER" (such as for example, the trade mark "LASER II" or "LASER SHELL") in all brochures, posters, magazine and similar advertisements relating thereto prepared by or at the direction of Licensee. The intention of this paragraph and the preceding paragraph is to disassociate Bruce Kirby from watercraft which he did not design, particularly in brochures, posters, magazine and similar advertisements for several watercraft products the trade marks of which include the word "LASER"; and
- d) not to publish any misleading or deceptive advertisements relating to Kirby Sailboats or Bruce Kirby or to encourage or authorize any of Licensee's dealers or agents to do so.

5.2 Licensee agrees:

- a) not to use the trade mark "LASER" in association with watercraft other than Kirby Sailboats unless another word, numeral, character, device, prefix or suffix such as, for example, "LASER II", "LASER BLADE" or "LASER SHELL" is used with said trade mark;
- b) save insofar as it shall be contrary to law, not, save as provided in Article 2.4 hereof, to distribute, sell or market, directly or indirectly, Kirby Sailboats to customers outside the Licensed Territory, which prohibition shall include, without limitation, the sale of Kirby Sailboats to others knowing the same are for purposes of resale outside Licensed Territory; and
- c) not to offer, sell or deliver a Kirby Sailboat unless such sailboat meets the specifications described in the Construction Manual and has an authorized Hull Number attached to or impressed on it. Only those Hull Numbers that are issued pursuant to Article 6 hereof shall be authorized Hull Numbers for the purpose of this Agreement.

ARTICLE 6 - HULL NUMBERS

- 6.1 Kirby Inc. shall be responsible for issuing and assigning Hull Numbers to Licensee for use by Licensee in connection with Kirby Sailboats.
- 6.2 Kirby Inc. shall, within seven days of receipt of a request, issue to Licensee such quantity of Hull Numbers as Licensee shall from time to time reasonably request. Licensee acknowledges that Kirby Inc. may refuse to issue Hull Numbers to Licensee if any royalties due to Kirby Inc.

for Kirby Sailboats manufactured by Licensee are unpaid on the date payment is due hereunder and have not subsequently been paid.

6.3 Kirby Inc. may designate an agent to issue and assign Hull Numbers.

VB (H)

Subject to Article 6.5 hereof ✓

6.4 Licensee agrees to use only those Hull Numbers that are issued by Kirby Inc. to Licensee and to cause the appropriate Hull Number to be attached to or impressed on each Kirby Sailboat hull manufactured by Licensee. Each Kirby Sailboat hull shall have a separate and not previously used Hull Number.

VB (H)

- SEE RIDER 6.5 ATTACHED ON PAGE 9A ✓ (H)

ARTICLE 7 - RECORDS

7.1 Licensee shall at all times keep or cause to be kept clear, accurate and comprehensive records of:

- a) the number of Kirby Sailboats delivered by Licensee to direct purchasers and to dealers;
- b) the Dealer Wholesale Price of each Kirby Sailboat sold by Licensee in sufficient detail to enable the payments due hereunder to be correctly calculated and verified; and
- c) the Hull Number of each Kirby Sailboat sold by Licensee.

Such records shall be available on the premises of Licensee for inspection at all reasonable times to chartered or similarly qualified accountants appointed by Kirby Inc. and consented to by Licensee which consent shall not be unreasonably withheld.

7.2 Within 30 days from the end of each calendar month during the term of this Agreement (and thereafter until all inventory of Kirby Sailboats has been sold), Licensee shall provide Kirby Inc. (with copies to IYRU and ILCA) with a written report giving particulars of:

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6.5 If Kirby Inc. or its agent are in breach of the obligation to issue hull numbers under Article 6.2 hereof, and licensee is not in breach of its obligations under this agreement, licensee may upon notice to Kirby Inc. require the I.Y.R.U. to nominate a person to issue hull numbers as agent for Kirby Inc. If Kirby Inc. does not cure such breach within seven (7) days of licensee giving said notice, licensee shall be entitled to use hull numbers issued thereafter by said nominee of the I.Y.R.U. as though such hull numbers were issued by Kirby Inc., until such time as the I.Y.R.U. is satisfied that Kirby Inc. will honour its obligations under Article 6.2 hereof.

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- a) the number of Kirby Sailboats sold or otherwise disposed of by Licensee (whether to direct purchasers, distributors, dealers or other licensees of Kirby Inc.) and the number of credits and returns during the previous month; and
  - b) the Dealer Wholesale Price in force in the area of sale at the time of sale of each Kirby Sailboat sold by Licensee.

If no Kirby Sailboats were sold by Licensee during the previous month, the report shall so state. For the purpose of this agreement, the time of sale or other disposition shall mean the time of raising of an invoice rather than the time an order is taken or signed.

#### ARTICLE 8 - ROYALTY PAYMENTS

8.1 In consideration of the grant of the license herein, subject to Article 8.2 hereof, Licensee shall pay:

- a) to Kirby Inc. a royalty payment of two (2%) percent of Licensee's Dealer Wholesale Price for each Kirby Sailboat manufactured and sold or otherwise disposed of by Licensee after deducting the value of any returns or credits. When the Dealer Wholesale Price is in other than United States Dollars the royalty payment shall be converted into and paid in United States Dollars using the best exchange rate available in London, England at the date when payment is made or when payment falls due, whichever is earlier;
- b) to IYRU Holdings an IYRU fee of such amount as is established from time to time. Such fee is presently 4 dollars Canadian for each Kirby Sailboat sold by Licensee. Licensee shall be entitled to pay such fee in pounds Sterling on consent of IYRU Holdings; and
- c) to ILCA a fee of such amount as is established from time to time. Such fee is presently 17 pounds Sterling for each Kirby Sailboat sold by Licensee.

Royalty payments hereunder shall be paid to Kirby Inc.

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 monthly within 30 days from the end of each calendar month with respect to all Kirby Sailboats sold <sup>✓</sup> by Licensee during such month. In the event that the payment of royalties or the statements required by Article 7 hereof are not maintained on a current basis, Kirby Inc. shall be entitled to require prepayment of royalties to Kirby Inc. and/or fees to IYRU
 
 ✓ OR OTHERWISE DISPOSED OF ✓

Holdings and ILCA as a condition to Hull Numbers being assigned under Article 6 hereof until such time as Kirby Inc. shall be reasonably satisfied that the royalties and/or fees will be paid by Licensee when due hereunder.

- 8.2 Licensee shall pay royalty payments and fees in respect of any Kirby Sailboat that Licensee sells to another licensee of Bruce Kirby and Kirby Inc. Licensee shall not be responsible to pay royalty payments and fees in respect of Kirby Sailboats that it purchases from such other licensee, it being the intention that such other licensee shall pay such payments and fees.
- 8.3 Notwithstanding any other rights of Kirby Inc. hereunder, Licensee agrees to pay interest to Kirby Inc. on any overdue royalty payment at the rate of twelve per cent (12%) per annum calculated and compounded monthly during the period, from and after the date the royalty is due to be paid hereunder to the date the same is actually paid.
- 8.4 If any law or regulation is imposed in the Licensed Territory restricting or limiting the right of Licensee to make payment to Kirby Inc. as provided herein, Licensee shall immediately notify Kirby Inc. of such restrictions or limitations and shall use its best efforts to register or qualify this Agreement and the payment obligations herein contained under such laws and regulations in order to allow Licensee to make full payment to Kirby Inc. as provided in this Agreement. Licensee agrees to supply Kirby Inc. at the expense of Kirby Inc. with the opinion of legal counsel in the Licensed Territory explaining the operation of the subject law or regulation and the exceptions



which are or might be available to Kirby Inc. During any period when payment is so limited, Licensee shall hold all monies owing hereunder to Kirby Inc. in trust for Kirby Inc. in a separate bank account, and shall give Kirby Inc. particulars of such bank account. At the request of Kirby Inc., Licensee also agrees to attempt to negotiate modifications of any terms of this Agreement if such modifications are necessary and reasonable in order to allow royalty payments in full to be made to Kirby Inc. as aforesaid. If the agreement cannot be modified to the satisfaction of both parties so as to allow Licensee to obtain sufficient foreign exchange to make the required payments hereunder, then in that event Kirby Inc. shall have the option of accepting payment in any other authorized currency acceptable to Kirby Inc. and designated by Kirby Inc. to Licensee in writing.

8.5 All payments to Kirby Inc. hereunder shall be made without deduction of any kind except for withholding taxes, if any, exigible on the payments hereunder provided the same are transmitted to the proper authorities by Licensee. Licensee agrees to provide Kirby Inc. with particulars of all withholding tax payments so withheld, and to take all reasonable steps at the expense of Kirby Inc. to assist Kirby Inc.:

- a) to obtain the benefit of any applicable double taxation agreement relating to the payments hereunder; and
- b) to minimize the impact of any taxation in respect of such payments.

#### ARTICLE 9 - INTERNATIONAL STATUS

9.1 Licensee agrees to use its reasonable efforts to maintain the Kirby Sailboat as a recognized international class of sailboat with the IYRU.

9.2 Licensee agrees to comply with and be bound by each of the terms and conditions of the IYRU agreement to the same extent as if Licensee was a party thereto. In particular Licensee agrees:

- a) as required by the IYRU agreement, to cause the manufacture of the plugs, production tooling and the Kirby Sailboat, including the sail, mast, boom, rudder, centerboard and fittings, to be in strict accordance with the Construction Manual and with the highest degree of uniformity in every respect; and
- b) as required by the IYRU agreement, to permit reasonable access to the Chief Measurer of the IYRU or his duly authorized nominee, to carry out such investigations, for the purpose of compliance with the IYRU agreement, as the Chief Measurer shall see fit.

ARTICLE 10 - EVENTS OF DEFAULT

10.1 The occurrence of any of the following events or circumstances shall constitute a "default" under this Agreement, namely:

- a) if Licensee makes any assignment or composition for the benefit of creditors;
- b) if Licensee takes the benefit of any Act that may be available for bankrupt or insolvent debtors;
- c) if a receiver or similar officer is appointed either by a court of competent jurisdiction or under any indenture or instrument with respect to all or a substantial part of Licensee's property or business;
- d) if Licensee fails to give an accounting as provided for in Article 7 hereof, or if such accounting deliberately understates the quantity of Kirby sailboats sold or otherwise disposed of, or the Dealer Wholesale Price thereof;
- e) if Licensee fails to pay when due any royalty payment owed by Licensee to Kirby Inc. hereunder;
- f) if Licensee <sup>Bevco Kirby Inc</sup> contests in any manner whatsoever the validity of Kirby Inc.'s exclusive and complete ~~Copyright in the Licensed Design;~~ ✓
- g) if Licensee knowingly sells or distributes any Kirby Sailboat which does not have attached to or impressed on it, its authorized Hull Number;
- h) if Licensee sells fewer than 1000 Kirby Sailboats in any of the calendar years 1984, 1985, 1986, 1987 and 1988;
- i) if Licensee is in breach of its obligations under Article 9.2 hereof;

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- j) if Licensee is in breach of its obligations to make payments under the provisions of the IYRU agreement while the IYRU agreement is in full force and effect;
- k) if Licensee is not, or ceases to be, licensed to use the trade mark "LASER" in association with Kirby Sailboats; and
- l) if IYRU Holdings (with the approval of IYRU) request Kirby Inc. to cancel this Agreement pursuant to the provisions of the IYRU agreement and Kirby Inc. is required by the provisions of the IYRU agreement to cancel this Agreement.

10.2 Upon the occurrence of any "default" under subparagraphs d), e), g), or j) of Article 10.1 hereof, Kirby Inc. may at its option give written notice to Licensee of such event of default, and if Licensee does not cure such default within 30 days of the giving of said notice, this Agreement shall terminate upon Kirby Inc. giving to Licensee written notice of termination on the expiry of such 30 day period.

10.3 Upon the occurrence of any "default" under subparagraphs i) or l) of Article 10.1 hereof, Kirby Inc. may at its option give written notice to Licensee of such event of default, and if Licensee does not cure such default within 30 days of the giving of said notice or if the event of default is one which requires more than 30 days to cure, and the curing has not commenced within such period and is not thereafter diligently pursued, this Agreement shall terminate upon Kirby Inc. giving to Licensee written notice of termination on the expiry of such 30 day period.

10.4 Upon the occurrence of any "default" under subparagraphs a), b), c), f) or k) of Article 10.1 hereof, Kirby Inc. may at its option give written notice to Licensee specifying the event of default and of the intent of Kirby Inc. to terminate this Agreement, and upon the giving of such notice, this Agreement shall automatically terminate.

- 10.5 Upon the occurrence of any "default" under subparagraph h) of Article 10.1 hereof, Kirby Inc. may at its option, within 60 days from the end of the year of default, give written notice to Licensee of such event of default. Licensee shall have 60 days after the giving of said notice to pay to Kirby Inc. an amount which shall be equal to an amount calculated to be two (2%) percent of the difference between 1000 and the number of Kirby Sailboats sold by Licensee in the year of default multiplied by the average Dealer Wholesale Price in force in the Licensed Territory at the end of said year, and if no Dealer Wholesale Price is so in force, the Dealer Wholesale Price last in force in the Licensed Territory. If Licensee does not pay to Kirby Inc. said amount within 60 days of the giving of said notice, Kirby Inc. may at its option give written notice to Licensee specifying the intent of Kirby Inc. to terminate this Agreement and upon the giving of such notice, this Agreement shall automatically terminate. If Licensee pays to Kirby Inc. the said amount prior to such automatic termination, the right of Kirby Inc. to terminate this Agreement as a result of such specific event of default shall cease.
- 10.6 Subject to earlier termination as herein provided, this Agreement shall extend for an initial term of 21 years from the effective date hereof, and shall be automatically renewed on an annual basis thereafter on the same terms and conditions as herein specified except if the parties hereto agree to the contrary, unless either of Licensee or Kirby Inc. by notice in writing at least 60 days before the expiration of the initial term of this Agreement or any

renewal term thereof shall advise the other party of its desire to terminate.

Agreement of Licensee on Termination

- 10.7 Licensee agrees that termination of this Agreement for any reason shall not relieve Licensee of the obligation to pay the royalty payments and fees as provided herein which have accrued up to the effective date of termination hereof and the obligation to pay the royalty payments and fees for all Kirby Sailboats manufactured prior to the effective date of termination hereof but not delivered until after such date.
- 10.8 Licensee agrees that in the event of termination of this Agreement for any reason, Licensee shall attempt in good faith to negotiate a sale to Kirby Inc., or to negotiate a sale to another licensee of Kirby Inc., all plugs, moulds and tooling then owned by Licensee relating to the manufacture of Kirby Sailboats at fair market value not to exceed replacement cost.
- 10.9 Upon termination of this Agreement for any reason, Licensee shall forthwith discontinue manufacturing Kirby Sailboats and shall discontinue the use of and shall refrain from using the production tooling, moulds and plugs particularly associated with the manufacture of Kirby Sailboats. Notwithstanding the foregoing, Licensee shall be permitted (against a letter of credit or other similar assurance that royalties and fees shall be fully paid) to complete the manufacture, subject to all the terms and conditions of this Agreement, of all Kirby Sailboats in the course of manufacture, and sell all such sailboats, together with any Kirby Sailboats in

a finished state at the effective date of termination hereof provided that in each case Licensee pays all royalty payments and fees with respect to such Kirby Sailboats at the rate, time and manner provided for in Article 8 hereof.

Agreement of Kirby Inc. on Default

10.10 The occurrence of any of the following events or circumstances shall constitute a "default" under this Agreement:

- a) if Kirby Inc. is in breach of its obligations under Article 4.2 hereof or of its warranty under Articles 2.1 or 2.2 hereof or any of the other terms hereof or its obligations hereunder; and
- b) if Bruce Kirby is in breach of its obligations under Article 4.2 hereof or of his warranty under Articles 2.1 or 2.2 hereof or any of the other terms hereof or his obligations hereunder.

10.11 Upon the occurrence of any "default" under subparagraphs

a) or b) of Article 10.10 hereof, Licensee may at its option give written notice to Kirby Inc. of such event of default, and if Kirby Inc. does not cure said default within 30 days of giving said notice, Licensee shall be entitled by notice in writing either to be released from its obligations to pay royalty payments to Kirby Inc. under the provisions of Article 8 hereof in respect of Kirby Sailboats sold by Licensee after the date of said notice until the date that Kirby Inc. shall have cured said default and provided Licensee with written notice that said default has been cured or to terminate this Agreement.

*UB* *BR* In the event Licensee shall <sup>✓ have</sup> decided <sup>✓</sup> to be released from its obligation to pay royalties it may by notice in writing <sup>✓ at any time thereafter ✓</sup> given hereunder <sup>^</sup> (but before Kirby Inc. shall have provided Licensee with written notice that such default has been cured) be entitled to terminate this Agreement.

*7 UB*

ARTICLE 11 - ASSIGNMENT AND SUB-LICENSING

- 11.1 Licensee acknowledges and agrees that Licensee does not have the power to and shall not grant sublicensees hereof but may sub-contract the manufacture of, or purchase from any third party, any parts for Kirby Sailboats.
- 11.2 Subject to Article 11.3 hereof, Licensee acknowledges and agrees that this license is not assignable in whole or in part to any person including any corporation which is a successor corporation of Licensee without the prior written consent of Kirby Inc., which consent shall not be unreasonably withheld, provided that:
- a) such person shall have sufficient net worth, working capital and bank lines of credit to enable such person to manufacture Kirby Sailboats;
  - b) such person shall agree to be bound by the terms of this Agreement;
  - c) 124561 Canada Inc. shall agree to grant to such person a license to use the trade mark "LASER" in association with Kirby Sailboats in the Licensed Territory; and
  - d) IYRU has approved of such person to manufacture, sell and market Kirby Sailboats.
- 11.3 Licensee shall have the right to assign to another person its rights under this Agreement for an area within the Licensed Territory provided that:
- a) Licensee agrees to restrict Licensee's Licensed Territory to exclude such area;
  - b) Kirby Inc. provides its prior written consent, which consent shall not be unreasonably withheld;
  - c) such person shall have sufficient net worth, working capital and bank lines of credit to enable such person to manufacture Kirby Sailboats;
  - d) such person shall agree to be bound by the terms of this Agreement;
  - e) 124561 Canada Inc. shall agree to grant to such person a license to use the trade mark "LASER" in association with Kirby Sailboats in such territory; and
  - f) IYRU has approved of such person to manufacture, sell and market Kirby Sailboats.

11.4 Neither Bruce Kirby nor Kirby Inc. shall assign any rights in the Licensed Design save to an assignee who shall enter into an agreement with Licensee on terms and conditions identical with the terms and conditions of this Agreement.

ARTICLE 12 - OMISSION OR DELAY

12.1 Failure or delay of either Kirby Inc. or Licensee to claim "default" hereunder or to take any permitted action hereunder shall not constitute abandonment of the right to do so, or any waiver by it of its right hereunder, and notwithstanding any such forbearance, it shall have the right at any time to require the due and punctual fulfillment of any of its rights hereunder and to seek any and all remedies.

ARTICLE 13 - MISCELLANEOUS

13.1 The headings contained in this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

13.2 Licensee shall promptly give notice to Kirby Inc. of any change of Licensee's corporate name.

13.3 Any notice or other communication required or permitted by the terms of this Agreement shall be in writing and shall be well and sufficiently given if personally delivered, if transmitted by cable or Telex, or if sent by pre-paid registered airmail, addressed:

a) in the case of Licensee to:

BROOK SHAW MOTOR SERVICES LTD.  
196 Gibraltar,  
Sheffield, England

Attention: Tim Coventry, Esq.,

with a copy to



124561 Canada Inc.  
 1250 Tessier Blvd.  
 Hawkesbury, Ontario, Canada  
 Attention: Robert Kruyt, Esq.

and if transmitted by cable or Telex or <sup>✓ THEN ✓</sup>  
 if send by pre-paid registered airmail, with  
 a confirmation copy to a nominee, ~~transmitted~~ <sup>✓ WHO MAY BE ✓</sup>  
~~by cable, Telex or sent by prepaid registered~~  
 airmail, as may be designated by Licensee by  
 notice to Bruce Kirby and Kirby Inc. given as  
 aforesaid.

b) in the case of Bruce Kirby and Kirby Inc. to:

Bruce Kirby, Inc.  
 213 Rowayton Avenue  
 Rowayton, Connecticut  
 06853 U.S.A.

Attention: Bruce Kirby, Esq.

Any such notice, or other communication shall be deemed  
 to have been duly given when personally delivered to an  
 adult person during normal business hours at the address <sup>✓ ON ✓</sup>  
 specified, and if cabled or telexed to have been given <sup>✓</sup>  
 second business day following transmission, and if mailed,  
 to have been given on the fourteenth business day following  
 the day on which it was registered in a post office. Any  
 party to this agreement may, by written notice to another  
 party hereto, given as aforesaid, designate a changed  
 address for such party.

13.4 Time shall be of the essence of this Agreement, provided,  
 however, that the time or times within which moneys may or  
 shall be expended hereunder or rights may be exercised here-  
 under or obligations shall be performed hereunder shall be  
 extended by a period of time equal to the total of all periods  
 of time during which any party hereto or its representatives,  
 agents, contractors or employees are prevented from or  
 seriously impeded in doing work hereunder by reason of fire,

power shortage, strike, lockout or other labour dispute, inability to obtain adequate or suitable machinery, equipment or labour, war, acts of God or enemies of the state, governmental regulation, requirement or policy, inability to obtain or the non-issuance of any governmental approval, license, permit, undertaking or consent, or any other cause (whether or not similar to any of the foregoing) beyond the control of such party or its said representatives, agents, contractors or employees, it being agreed that the settling of any labour dispute is beyond the control of a party hereto and nothing herein contained shall obligate any party hereto, its representatives, agents, contractors or employees to settle any such dispute. The party hereto claiming the occurrence and duration of any event contemplated under the provisions of this paragraph 13.4 shall notify the other parties hereto accordingly, such notice to be prima facie evidence of the existence of such event and of the duration thereof. Upon the termination of such occurrence such party shall forthwith notify the other parties hereto accordingly.

13.5 Should any part or provision of this Agreement be held unenforceable or in conflict with the law in any jurisdiction, the validity of the remaining parts or provisions shall not be effected by such holding.

13.6 The validity, construction and enforcement of this Agreement shall be governed in accordance with the laws of the Province of Ontario, Canada.

13.7 Nothing contained herein or done hereunder shall be construed as constituting a party as the agent or partner for or of the other party hereto.

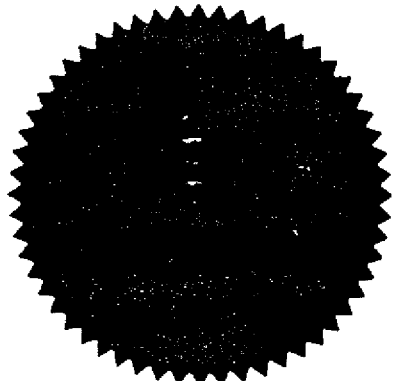
13.8 This Agreement shall take effect, and the representations and warranties shall speak as and from, the latter of:

- a) the date on which IYRU signs this Agreement to evidence its approval of granting the subject license to Licensee;
- b) the date on which Licensee enters into an agreement with 124561 Canada Inc. to use the trade mark "LASER" in association with Kirby Sailboats;
- c) the date of this Agreement; <sup>(15)</sup>
- d) the date on which Licensee acquires substantially all of the <sup>moveable</sup> tangible assets of Performance Sailcraft (Ireland) Ltd. <sup>FAOM</sup> by its receiver and manager Deloitte, Haskins & Sells; and
- e) the date on which Licensee acquires substantially all of the <sup>tangible moveable</sup> assets of Performance Sailcraft (U.K.) Ltd. by its receiver and manager Touche Ross & Co.

IB  
13

tangible moveable

IN WITNESS WHEREOF the parties hereto have signed this agreement as of the date and year first above written.



BROOK SHAW MOTOR SERVICES LTD.

By: [Signature]

By: [Signature] c/s

BRUCE KIRBY, INC.

By: [Signature]  
PRES

By: [Signature]  
VICE PRES

[Signature]  
BRUCE KIRBY

WITNESS

The IYRU, pursuant to the IYRU agreement, signs this agreement to evidence its approval and recommendation in Kirby Inc. granting the subject license to Licensee.

SIGNED AT to Knightsbridge, this 14<sup>th</sup> day of July, 1988  
London

INTERNATIONAL YACHT RACING UNION

By: [Signature] c/s

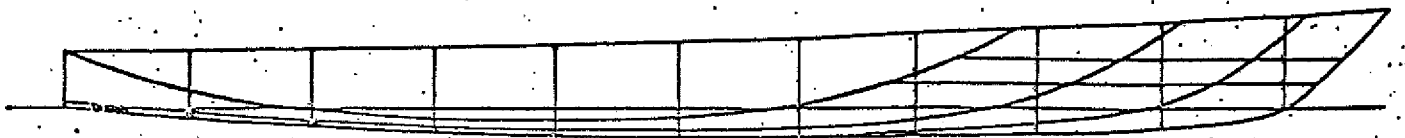
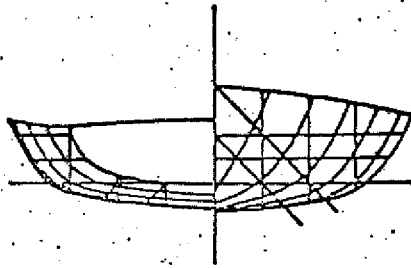
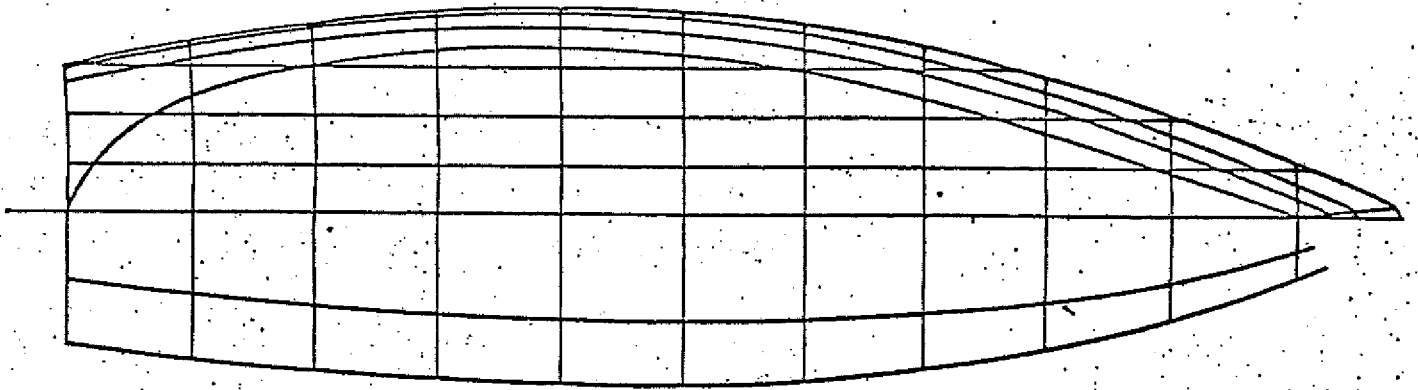
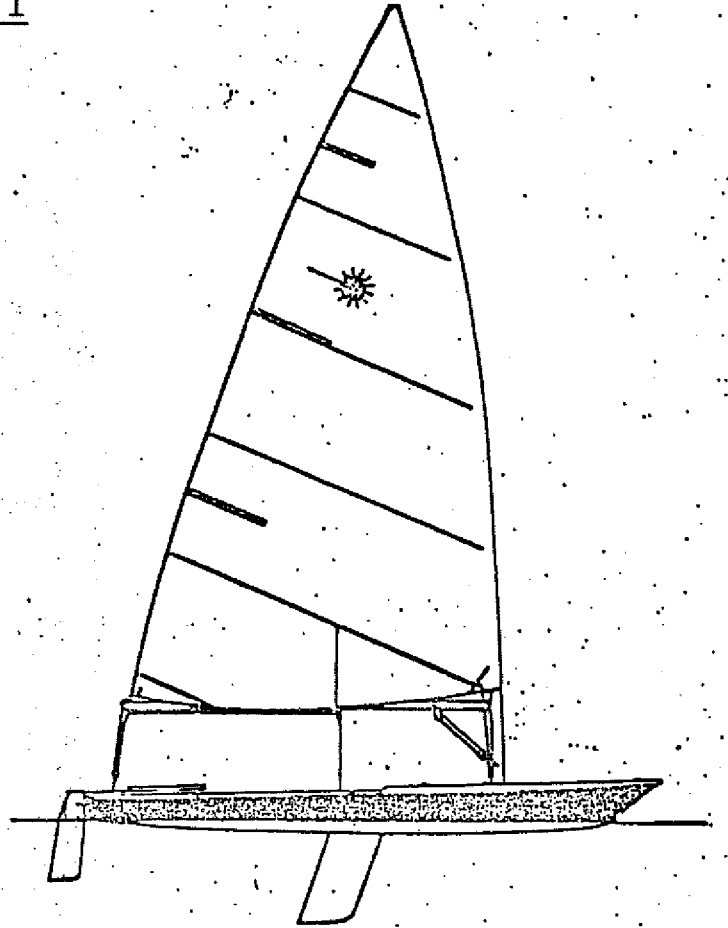
SCHEDULE 1

Designed by Bruce Kirby

LOA	4.23 m	13'10½"
DWL	3.81 m	12'6"
Beam	1.37 m	4'6"
Sail area	7.06 m²	76 sq ft

Weight	56.7 kg	125 lb
Positive flotation	158.7 kg	350 lb foam

BS ↑



SCHEDULE 2

Continental Europe including in particular:

- |                        |                             |
|------------------------|-----------------------------|
| United Kingdom         | Northern Ireland            |
| Republic of Ireland    | Spain                       |
| France                 | Federal Republic of Germany |
| Italy                  | German Democratic Republic  |
| Yugoslavia             | Greece                      |
| Portugal               | Finland                     |
| Norway                 | Sweden                      |
| Denmark                | Switzerland                 |
| ✓ <del>Benelux</del> ✓ | Austria                     |
| Czechoslovakia         | Hungary                     |
| Rumania                | Russia                      |
| Bulgaria               | Poland                      |

BLS

The Middle Eastern Countries, in particular:

- |        |                     |
|--------|---------------------|
| Turkey | Lebanon             |
| Syria  | Jordan              |
| Israel | Iraq                |
| Kuwait | Saudi Arabia        |
| Oman   | United Arab Emuates |
| Yemen  | South Yemen         |
| Qatar  | Bahrain             |
| Iran   |                     |

The countries of the Continent of Africa north of Gabon, Congo, Zaire, Uganda and Kenya.

The Channel Islands, Azores, Canary Islands, Madeira, Gibraltar, Mediterranean Islands, Iceland, Seyschelles, Isle of Man, Reunion, Falkland Islands.

Any new country created out of the above existing countries shall be included within the countries listed above.

## **EXHIBIT 5**

**AGREEMENT AMENDING LICENSE**

Agreement made this 30<sup>th</sup> day of AUGUST, 1995 BY AND BETWEEN:

**BRUCE KIRBY, INC.**, a corporation incorporated under the laws of the State of Connecticut, United States of America ("Kirby Inc.")

- and -

**PERFORMANCE SAILCRAFT EUROPE LIMITED**, a corporation incorporated under the laws of England ("PSE")

WHEREAS on July 11, 1983 Kirby Inc. and Bruce Kirby executed a License Agreement with Brook Shaw Motor Services Ltd., a corporation incorporated under the laws of England ("Brook Shaw"); and

WHEREAS subsequently thereto PSE succeeded to all of the rights of Brook Shaw in and to the subject matter of said License Agreement; and

WHEREAS subsequently thereto Bruce Kirby assigned all of his rights in and to the subject matter of said License Agreement to Kirby Inc.; and

WHEREAS on August 30, 1989 PSE executed an Agreement of Purchase and Sale with Metcalfe Realty Company Limited, a corporation incorporated under the laws of the Province of Ontario, Canada ("Metcalfe") which agreement provided for inter alia the sale, assignment and transfer of certain Trade-Mark registrations as identified in said agreement; and

WHEREAS PSE has obtained Trade-Mark registrations in various countries as more particularly identified in Schedule A attached hereto; and

WHEREAS PSE has obtained ownership by usage of certain Trade Names in various countries throughout the world.

WHEREAS PSE requests that Kirby Inc. amend its License Agreement to apply to

all countries where PSE has acquired Trade-Mark registrations and/or Trade Name ownership; and

WHEREAS Kirby Inc. is willing, upon all of the terms hereof, to amend said License Agreement as requested by PSE;

NOW THEREFORE, it is agreed as follows:

1. AMENDED GRANT OF LICENSE

Kirby Inc. hereby grants to PSE a License under all applicable terms of the July 11, 1983 License Agreement covering a licensed territory consisting of: those countries identified in the July 11, 1983 License Agreement; those countries identified in the August 30, 1989 Agreement of Purchase and Sale with Metcalfe; those countries where PSE has obtained Trade Names by usage; and those countries identified in Schedule A attached hereto and fully incorporated herein.

2. LICENSED RIGHTS

The rights of Kirby Inc. licensed to PSE are those rights which derive from Bruce Kirby's original design of the sailboat pictured in Schedule 1 annexed to the July 11, 1983 License; those rights which reverted to Bruce Kirby and Kirby Inc. upon the bankruptcy of Performance Sailcraft, Inc.; those rights contractually established and recognized by various parties and various countries throughout the world and those rights which may exist under the laws of any and all countries to which this license may apply including any additional rights or protection of said rights which may be subsequently acquired or perfected by Kirby Inc.

3. INTEGRATION OF AGREEMENTS

Except as amended by this agreement and by any other agreements to the date hereof between Kirby Inc. and PSE, the July 11, 1983 agreement is hereby accepted, confirmed and ratified by the parties hereto and the July 11, 1983 agreement and this agreement shall constitute the entire agreement between the parties relating to the subject matter hereof.

4. CONSTRUCTION

This Agreement shall be construed as extending the Kirby Inc. license to all countries where PSE has Trade Mark and/or Trade Name rights but shall not be construed as creating or confirming conflicting rights or violations of the terms of any prior agreement to which Kirby Inc. is a part or is subject to.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the day,



month and year first set forth above.

**BRUCE KIRBY INC.**

by

  
Bruce R.W. Kirby, its President

**PERFORMANCE SAILCRAFT EUROPE LIMITED**

by

  
Timothy W. Coventry, Director

PERFORMANCE SAILCRAFT EUROPE LIMITED

TRADE MARK REGISTRATIONS

Trade Mark LASER

Country	Reg Number	Class	Registered	Renewal Date	Remarks
Argentina	1.504,539	22	28 Feb 1994		
Austria	92161	12, 22	12 Oct 1979	11 Oct 1999	
Benelux	323458	06, 09, 12, 22, 25	05 Dec 1973	05 Dec 2003	
Bophuthatswana	B73/6299	12	07 Dec 1973	07 Dec 2003	
Bophuthatswana	89/1651	12	PENDING APPLICATION DATE FILED 23 DEC 1989		
Brunei	17,222	12	17 Jul 1991	16 Jul 1998	
Brunei	17,458	22	17 Jul 1991	16 Jul 1998	
Chile	211,657/326,858	12, 22	21 Jan 1988	20 Jan 1998	
China, PR	552674	12	20 May 1991	19 May 2001	
China, PR	552913	22	20 May 1991	19 May 2001	
Denmark	1976/3174	12, 18, 22	24 Sep 1976	23 Sep 1996	

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Estonia	93-0417	12	15 Mar 1974	15 Mar 2004	USSR Re-reg
Finland	68917	12	20 Apr 1979	05 Mar 1999	
France	1253524	6, 9, 12, 14, 18, 20, 21, 22, 24, 25, 26, 34	06 Dec 1983	06 Dec 2003	
Germany	930181	12	17 Apr 1975	13 Dec 2003	
Hong Kong	4214 of 1991	12	24 Apr 1990	23 Apr 1997	
Hong Kong	3454 of 1991	22	24 Apr 1990	23 Apr 1997	
India	308678	12	28 Jul 1994	12 Dec 2001	
India	308541	22	26 Jul 1994	7 Sep 2001	
Indonesia	A05178	12	12 Dec 1991	12 Dec 2001	
Indonesia	A04341	22	7 Sep 1991	7 Sep 2001	
Ireland	87389	12	03 Jul 1974	02 Jul 1995	
Israel	44808	12	27 Jun 1977	28 Sep 1998	
Israel	44809	22	27 Jun 1977	28 Sep 1998	
Italy	300095	12, 22, 25	12 Dec 1973	12 Dec 2003	No RM 93
Italy	C001312				
Latvia	M-93-197	12	15 Mar 1954	15 Mar 2004	Cert awaited

Malaysia	MAA/4251/91	22	01 Aug 1991	01 Aug 1998
New Zealand	106629	12	09 Jan 1976	14 Jun 1994
Norway	093194	12	20 Mar 1975	20 Mar 1995
Poland	75.800	12	02 Aug 1991	02 Aug 2001
Portugal	224234	12	19 Apr 1989	19 Apr 2004
Portugal	224233	22	23 Mar 1989	23 Mar 2004
Russia	50585	12	15 Mar 1974	15 Mar 2004
Singapore	S/6465/91	22	09 Jul 1991	09 Jul 2001
South Africa	B73/6299	12	07 Dec 1973	07 Dec 2003
South Africa	93/00472	22	PENDING APPLICATION DATE FILED 22 JAN 1993	
Spain	1.135.104/7	22	20 Jul 1987	ex Hornisch
Spain	815.562/3	28		ex Vallivé
Sweden	148,959	12, 22	18 Oct 1974	17 Oct 1994
Switzerland	289114	12, 22	01 Jun 1977	30 May 1997
Transkei	B73/6299	12	07 Dec 1973	07 Dec 2003

Transkei	B90/0030	12		11 Jan 1990	11 Jan 2000	Can only be used in conjunction with (Quaser Sports)
Turkey	133.644	12, 22 etc equiv	09 Dec 1991	08 Dec 2001		
United Kingdom	1229115	03	30 Oct 1984	30 Oct 2005		
United Kingdom	1436929	09	02 Aug 1990	02 Aug 1997		
United Kingdom Sunburst	1436931	25	02 Aug 1990	02 Aug 1997		
United Kingdom	1022163	12 (Part A)	14 Jun 1973	14 Jun 2008		
United Kingdom	B1047439	22 (Part B)	03 Jun 1975	03 Jun 1996		
Venda	B73/6299	12	07 Dec 1973	07 Dec 2003		
Venda	89/1397	12	28 Dec 1989	28 Dec 1999		
Yugoslavia	29978	12, 22, 25	25 May 1987	24 May 1997		

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 (5)

PERFORMANCE SAIL/CRAFT EUROPE LIMITED

TRADE MARK REGISTRATIONS

Trade Mark 'SUNBURST'

Country	Reg Number	Class	Registered	Renewal Date	Remarks
Argentina	1.462.312 (tr hnd)	12	31 Aug 1993	30 Aug 2003	
Argentina	1.455.407 (tr hnd)	22	30 Jul 1993	30 Jul 2003	
Argentina	1.460.313 (tr hnd)	12	31 Aug 1993	30 Aug 2003	
Argentina	1.455.408 (tr hnd)	22	30 Jul 1993	30 Jul 2003	
Benelux	541547	06, 22	11 Aug 1993	11 Aug 2003	
Brazil	816.410.062	Brazil 07 (07, 35, 55, 60)	06 Apr 1993	06 Apr 2003	Cert awaited
Brunei	BRU/18,937	12	17 Jul 1991	17 Jul 1998	
Brunei	BRU/20918	22	17 Jul 1991	17 Jul 1998	
Chile	418.629 (281,133)	12 & 22	Tr. 15 Jul 1991	20 Dec 2003	
Chile	420.484 (282,293)	12 & 28	21 Jan 1994	20 Jan 2004	
China, PR	552675	12	20 May 1991	19 May 2001	

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(6)

China, PR	552914	22	20 May 1991	19 May 2001
Germany	2 027 747	12, 22, 24	11 Jan 1993	18 Jan 2001
Greece	106518	12, 22	01 Nov 1991	
Hong Kong	2337 of 1991	12	24 Apr 1990	23 Apr 1997
Hong Kong	2338 of 1991	22	24 Apr 1990	23 Apr 1997
India	307623	12	2 Jul 1994	12 Dec 2001
Indonesia	A03924	22	12 Dec 1991	12 Dec 2001
Malaysia	MA/4253/91	22	01 Aug 1991	01 Aug 1998
Poland	75.799	22	02 Aug 1991	02 Aug 2001
Singapore	S/6466/91	12	09 Jul 1991	09 Jul 2001
Singapore	S/6467/91	22	09 Jul 1991	09 Jul 2001
South Africa	93/00468	12	PENDING APPLICATION DATE FILED 22 JAN 1993	
South Africa	93/00469	22	PENDING APPLICATION DATE FILED 22 JAN 1993	
Spain	1759342	16	03 May 1993	
Spain	1759343	22	03 May 1993	
Spain	1759344	28	03 May 1993	

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Taiwan	550539	82 (Int 12 & 22)	01 Feb 1992	31 Jan 2002
Thailand	159091	Thai 22	29 Aug 1991	28 Aug 2001
Turkey	134.019	12 equiv	09 Dec 1991	08 Dec 2001
UK	1436932	09	02 Aug 1990	02 Aug 1997
UK	1436933	18	02 Aug 1990	02 Aug 1997
UK	1436934	25	02 Aug 1990	01 Aug 1997



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PERFORMANCE SAILCRAFT EUROPE LIMITED  
TRADE MARK REGISTRATIONS

Trade Mark LASER 'SUNBURST'

Country	Reg Number	Class	Registered	Renewal Date	Remarks
Brazil	815.880.170	Brazil 07 (07.35, 55, 60)	01 Dec 1992	02 Dec 2002	
Brazil	815.880.189	Brazil 12.20	11 Aug 1992		
Indonesia	A03923	12	12 Dec 1991	12 Dec 2001	
Pakistan	111885	12			
South Africa	93/00470	12			PENDING APPLICATION DATE FILED 22 JAN 1993
South Africa	93/004571	22			PENDING APPLICATION DATE FILED 22 JAN 1993
South Africa	94/3702	42			PENDING APPLICATION DATE FILED 13 APR 1994
Thailand	159059	Thai 13	29 Aug 1991	28 Aug 2001	
Thailand	158317	Thai 22	29 Aug 1991	28 Aug 2001	
Turkey	133.683	12 equiv	09 Dec 1991	09 Dec 2001	


NOTE: there are not included in the above applications which have provisionally been accepted subject only to advertisement.

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## **EXHIBIT 6**



We refer to that Agreement dated as of July 11, 1983, between Bruce Kirby, Inc., Bruce Kirby, and Brook Shaw Motor Services Limited (the "Original Agreement"), as amended by Agreement dated August 31, 1995, by and between Bruce Kirby, Inc. and Performance Sailcraft Europe Limited (the "Amendment").

In order to give the parties time to *for the mutual benefit of both parties* continue certain discussions, the undersigned  agree that:

the phrase "at least 60 days" contained in Section 10.6 of the Original Agreement shall be changed to "at least 15 days."

All of the remaining provisions of the Original Agreement and Amendment remain unmodified.

Please indicate your approval and acceptance of this modification by signing below.

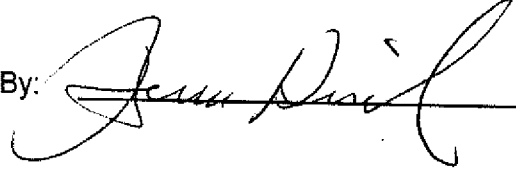
Very truly yours,

PERFORMANCE SAILCRAFT  
EUROPE LIMITED

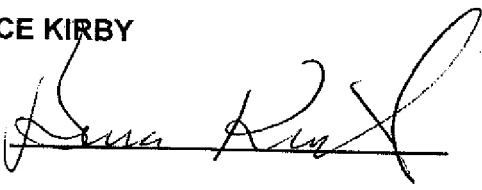
By:   
3<sup>rd</sup> May 2005

Approved, Accepted and Agreed:

BRUCE KIRBY, INC.

By: 

BRUCE KIRBY

By: 



## **EXHIBIT 7**



This **THIRD AMENDATORY AGREEMENT** is made effective as of the 16<sup>th</sup> day of June 2005 by and between Bruce Kirby, Inc. and Performance Sailcraft Europe Limited.

WHEREAS, we refer to that Agreement dated as of July 11, 1983, between Bruce Kirby, Inc., Bruce Kirby, and Brook Shaw Motor Services Limited (the "Original Agreement"), as amended by Agreement dated August 31, 1995, by and between Bruce Kirby, Inc. and Performance Sailcraft Europe Limited (the "Amendment") and as amended by Agreement dated May 3, 2005, by and between Bruce Kirby, Inc. and Performance Sailcraft Europe Limited (the "Second Amendment"), and wish to amend the Original Agreement and the Amendment in certain respects.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereby agree as follows:

Clause 10.6 of the Original Agreement shall be, and it hereby is, deleted in its entirety and replaced with the following:

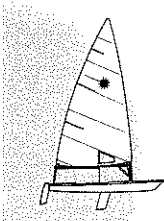
**"10.6 Subject to earlier termination as herein provided, this Agreement shall extend on the same terms and conditions as herein specified except if the parties hereto agree to the contrary, unless either of Licensee or Kirby shall advise the other party by notice in writing at least thirty (30) days at any time of its desire to terminate."**

Except as amended herein, the terms of the Original Agreement and the Amendment shall remain in full force and effect and represent the entire understanding, oral and written, of the parties hereto and may only be changed in a writing signed by all of the parties hereto.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be executed as of the date first above written.

Performance Sailcraft Europe Limited	Bruce Kirby, Inc
Signed: <u>[Signature]</u>	Signed: <u>[Signature]</u>
Title: <u>DIRECTOR</u>	Title: <u>PRESIDENT</u>
Date: <u>20 June 2005</u>	

**Bruce Kirby**  
Signed: [Signature]



## **EXHIBIT 8**

LICENSE

THIS AGREEMENT made as of the *31st* day of *March*, 1989.

BETWEEN:

BRUCE KIRBY, INC., a corporation incorporated under the laws of the State of Connecticut, United States of America  
(hereinafter called "Kirby Inc.")

- and -

BRUCE KIRBY, an individual of the Town of Rowayton in the State of Connecticut, United States of America

- and -

PY SMALL BOATS, INC., a Rhode Island corporation incorporated under the laws of the State of Rhode Island having its principal place of business at West Shore Road, Portsmouth, Rhode Island 02871  
(hereinafter called the "Licensee")

WHEREAS Bruce Kirby is an independent designer of sailboats and yachts and in particular is the designer of the 13 foot 10 and ½ inch sailboat pictured in Schedule 1 annexed hereto (hereinafter referred to as the "Licensed Design", which has been manufactured and sold in Canada and in other countries of the world in association with the trade mark "LASER");

AND WHEREAS following the receivership of Les Voiliers Performance Inc./Performance Sailcraft Inc. of Montreal, Canada in January, 1983, all design rights in and to the Licensed Design reverted to Bruce Kirby and Bruce Kirby Inc.;

AND WHEREAS Laser International Holdings (1983) Ltd. has acquired from Peat Marwick Limited, as receiver and manager of Les Voiliers Performance Inc./Performance Sailcraft Inc., and is now the owner of, the trade mark "LASER" for use in association with, inter alia, sailboats;

AND WHEREAS Laser International Holdings (1983) Limited has merged with and into Metcalfe Realty Company Limited;

AND WHEREAS Metcalfe Realty Company Limited has transferred and assigned to Licensee the trade mark "LASER" in the Licensed Territory and the rights of the Trade Mark Owner under the IYRU Agreement in the Licensed Territory, as such terms are hereinafter defined;

AND WHEREAS Licensee desires to obtain from Bruce Kirby and Kirby Inc. an exclusive license to utilize the Licensed Design in the Licensed Territory to manufacture, market and sell sailboats and related products and accessories.

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 In this agreement:

- (a) "Licensed Design" means the design created by Bruce Kirby and (partially assigned to Kirby Inc.) for the 13 foot 10½ inch sailboat pictured in Schedule 1 annexed hereto;
- (b) "Kirby Sailboat" means a sailboat or sailboat hull manufactured in accordance with the Licensed Design which has been commonly sold in association with the trade mark "LASER";
- (c) "ILCA" means International Laser Class Association of Cornwall, England;
- (d) "IYRU" means The International Yacht Racing Union of London, England;
- (e) "IYRU Holdings" means IYRU Holdings Limited of Surrey, England;
- (f) "IYRU Agreement" means the agreement dated November 30, 1983 as heretofore or hereafter amended or as hereafter reconstituted from time to time;
- (g) "Advisory Council" means the advisory council established pursuant to Article 15 of the constitution of ILCA.
- (h) "Construction Manual" means the construction manual as defined in the IYRU Agreement which prescribes the material to be used in the construction



of a Kirby Sailboat and the method to be used in the manufacture thereof including:

- i) the specifications for the materials to be used in the construction of a Kirby Sailboat including sailcloth, fittings and raw materials,
  - ii) the method for production of tooling, moulds and plugs used in construction of a Kirby Sailboat;
  - iii) the manufacture of the hull, deck, centerboard box, centerboard and rudder for a Kirby Sailboat,
  - iv) the assembly of the parts necessary to make the mast, boom and spars for a Kirby Sailboat.
- (i) "Hull Number" means a serial number attached to or impressed upon the hull of a Kirby Sailboat in the manner prescribed in the Construction Manual;
- (j) "Dealer Wholesale Price" means the total net sales expressed in U.S. dollars, of all Kirby Sailboats sold for the previous year commencing September 1st and ending August 31st less any duties, sales taxes, IYRU fees, National or International Class fees, Royalties, shipping and the actual cost of packaging divided by the number of units sold; and
- (k) Unless the context otherwise indicates, words in the singular include the plural and words in the plural include the singular.

## ARTICLE 2 - GRANT OF LICENSE

- 2.1 Subject to the terms and conditions herein contained, Bruce Kirby and Kirby Inc. hereby give and grant to Licensee during the term of this Agreement, to the exclusion of all others the sole and exclusive right to use the Licensed Design in the territory described in Schedule 2 annexed hereto (hereinafter referred to as the "Licensed Territory") in connection with the production, marketing and sale of Kirby Sailboats and component parts and accessories in accordance with the terms hereof.
- 2.2 Bruce Kirby and Kirby Inc. hereby jointly warrant that neither Bruce Kirby nor Kirby Inc. has granted any license which is now subsisting in respect of the Licensed Design in the Licensed Territory, and that Bruce Kirby and Kirby Inc. are (subject to the IYRU approving of the granting the within license to the Licensee as required under the IYRU Agreement) entitled to grant the within license. Kirby and Kirby Inc. hereby consent to the designation of the Licensee as a "Builder" within the licensed territory under the IYRU Agreement.

- 2.3 Licensee is hereby authorized to sell and market Kirby Sailboats manufactured by Licensee in accordance with the terms and conditions hereof into a territory for which Bruce Kirby and Kirby Inc. shall have granted to another person or corporation a license such as that granted herein provided that Licensee shall have secured the prior written consent of such other person or corporation.
- 2.4 Licensee hereby accepts the aforesaid license and agrees to observe and abide by all the terms and conditions of this Agreement.
- 2.5 Neither Bruce Kirby nor Kirby Inc. shall manufacture Kirby Sailboats.

ARTICLE 3 - PRODUCTION

- 3.1 Licensee acknowledges and represents that Licensee has acquired and is the owner of a complete set of production tooling for the construction of Kirby Sailboats including:
  - a) deck moulds,
  - b) hull moulds,
  - c) glue jigs,
  - d) centerboard box moulds,
  - e) deck plugs, and
  - f) hull plugs.
- 3.2 Licensee acknowledges and represents that Metcalfe Realty Company Limited has assigned to Licensee the rights to the trade mark "LASER" in association with Kirby Sailboats within the licensed territory and that Licensee has acquired one current and complete copy of the Construction Manual.
- 3.3 In order to maintain and protect the reputation of Bruce Kirby as a designer of sailboats and yachts, the reputation of Kirby Sailboats as quality sailboats and the status of Kirby Sailboats as a recognized international class of sailboats with the IYRU, Licensee undertakes and agrees that Licensee shall manufacture Kirby Sailboats only from the materials, and only in accordance with the methods, specified and described in the Construction Manual.
- 3.4 Licensee agrees consult with Kirby with regard to any proposed amendment to the Construction Manual.
- 3.5 Licensee agrees to permit Bruce Kirby or a representative of Kirby Inc. who has the prior written approval of Licensee, which approval shall not be unreasonably

refused, to inspect Licensee's premises and to inspect Kirby Sailboats manufactured and in the course of manufacture by Licensee to ensure that such sailboats meet the standards herein specified.

- 3.6 Licensee shall not sell Kirby Sailboats save in association with the trade mark "LASER" and the symbol which comprises a representation of a sunburst.

ARTICLE 4 - COMPLIANCE WITH GOVERNING LAW AND INDEMNIFICATION

- 4.1 In all aspects of the manufacture, distribution and sale of Kirby Sailboats, Licensee agrees to comply with all local laws governing Licensee. It is agreed that Bruce Kirby and Kirby Inc. are parties to this Agreement as licensors of the Licensed Design and that Bruce Kirby and Kirby Inc. shall not be represented as making any representation or warranty to any dealer or purchaser from Licensee. Licensee agrees to indemnify and save harmless Bruce Kirby and Kirby Inc. from any action, suit or claim arising from any alleged faulty manufacture of Kirby Sailboats and component parts and accessories by Licensee or by its servants, dealers or agents.

ARTICLE 5 - MARKETING AND ADVERTISING

- 5.1 Licensee agrees:

- a) to use reasonable efforts to promote the sale of Kirby Sailboats in the Licensed Territory;
- b) where practical, to identify Bruce Kirby as the designer of the Kirby Sailboat in all brochures, posters, magazine and similar advertisements prepared by or at the direction of Licensee (unless Bruce Kirby agrees in advance to the contrary);
- c) where practical, to identify the designer of any other watercraft the trade mark of which includes the word "LASER" (such as for example, the trade mark "LASER II" or "LASER SHELL") in all brochures, posters, magazine and similar advertisements relating thereto prepared by or at the direction of Licensee. The intention of this paragraph and the preceding paragraph is to disassociate Bruce Kirby from the watercraft which he did not design, particularly in brochures, posters, magazines and similar advertisements for several watercraft products the trade marks of which include the word "LASER"; and
- d) not to publish any misleading or deceptive advertisements relating to Kirby Sailboats or Bruce Kirby or to encourage or authorize any of Licensee's dealers or agents to do so.

5.2 Licensee agrees:

- a) not to use the trade mark "LASER" in association with watercraft other than Kirby Sailboats unless another word, numeral, character, devise, prefix or suffix such as, for example, "LASER II", "LASER BLADE" or "LASER SHELL" is used with said trade mark;
- b) save insofar as it shall be contrary to law, not, save as provided in Article 2.3 hereof, to distribute, sell or market, directly or indirectly, Kirby Sailboats to customers outside the Licensed Territory, which prohibition shall include, without limitation, the sale of Kirby Sailboats to others knowing the same are for purposes of resale outside Licensed Territory; and
- c) not to offer, sell or deliver a Kirby Sailboat unless such sailboat meets the specifications described in the Construction Manual and has an authorized Hull Number attached to or impressed on it. Only those Hull Numbers that are issued pursuant to Article 6 hereof shall be authorized Hull Numbers for the purpose of this Agreement.

ARTICLE 6 - HULL NUMBERS

- 6.1 Kirby Inc. shall be responsible for issuing and assigning Hull Numbers to Licensee for use by Licensee in connection with Kirby Sailboats.
- 6.2 Kirby Inc. shall, within seven days of receipt of a written request, issue to Licensee such quantity of Hull numbers as Licensee shall from time to time reasonably request. Licensee acknowledges that Kirby Inc. may refuse to issue Hull Numbers to Licensee if any royalties due to Kirby Inc. for Kirby Sailboats manufactured by Licensee are unpaid on the date payment is due hereunder and have not subsequently been paid in full.
- 6.3 Kirby Inc. may designate an agent to issue and assign Hull Numbers subject to the Licensee's consent which consent shall not be unreasonably withheld or delayed.
- 6.4 Subject to Article 6.5 hereof, Licensee agrees to use only those Hull Numbers that are issued by or on the authority of Kirby Inc. to Licensee and to cause the appropriate Hull Number to be attached to or impressed on each Kirby Sailboat hull manufactured by Licensee. Each Kirby Sailboat hull shall have a separate and not previously used Hull Number.
- 6.5 If Kirby Inc. or its agents are in breach of the obligation to issue Hull Numbers under Article 6.2 hereof, and Licensee is not in breach of any of its obligations

under this Agreement, Licensee may upon written notice to Kirby Inc. require the IYRU to nominate a person to issue Hull Numbers as agent for Kirby Inc. If Kirby Inc. does not cure such breach within seven (7) days of Licensee giving said notice, Licensee shall be entitled to use Hull Numbers issued thereafter by said nominee of the IYRU as though such Hull Numbers were issued by Kirby Inc., until such time as the IYRU is satisfied that Kirby Inc. will honour its obligations under Article 6.2 hereof.

#### ARTICLE 7 - RECORDS

- 7.1 Licensee shall at all time keep or cause to be kept clear, accurate and comprehensive records of:
- a) the number of Kirby Sailboats manufactured, sold and delivered or otherwise disposed of by Licensee;
  - b) the average monthly selling price of each Kirby Sailboat sold by Licensee in sufficient detail to enable the payments due hereunder to be correctly calculated and verified; and
  - c) the Hull Number of each Kirby Sailboat sold by Licensee.

Such records shall be available on the premises of Licensee for inspection at all reasonable times to chartered or similarly qualified accountants appointed by Bruce Kirby or Kirby Inc. and consented to by Licensee which consent shall not be unreasonably withheld.

- 7.2 Within 30 days from the end of each calendar month during the term of this Agreement (and thereafter until all inventory of Kirby Sailboats has been sold), Licensee shall provide Bruce Kirby and Kirby Inc. (with copies to IYRU and ILCA) with a written report giving particulars of:
- a) the number of Kirby Sailboats manufactured, sold and delivered or otherwise disposed of by Licensee (whether to direct purchasers, distributors, dealers or other licensees of Kirby Inc.) and the number of credits and returns during the previous month; and
  - b) the average monthly selling price in force in the area of sale of each Kirby Sailboats sold by Licensee.

If no Kirby Sailboats were sold by Licensee during the previous month, the report shall so state. For the purpose of this Agreement, the time of sale or other disposition shall mean the time of shipment from the Licensee premises rather than the time an order is taken or signed.

ARTICLE 8 - ROYALTY PAYMENTS

- 8.1 In consideration of the grant of the license herein, subject to Article 8.2 hereof, Licensee shall pay:
- a) to Kirby Inc. a royalty payment in the United States Dollars equal to a percentage of Licensee's Dealer Wholesale Price for each Kirby Sailboat manufactured and sold or otherwise disposed of by Licensee after deducting the value of any returns or credits as follows:
    - (1) for each of the first 300 boats in each calendar year - 2.0%
    - (2) for each boat from number 301 to 1100 in each calendar year - 1.25%
    - (3) for each boat above number 1101 in each calendar year - 2.0%
    - (4) for each boat built by a sublicensee in each calendar year - 2.0%
  - b) to IYRU Holdings an IYRU fee of such amount as is established from time to time.
  - c) to ILCA a fee of such amount as is established from time to time.

Royalty payments and fees hereunder shall be paid to Kirby Inc., IYRU Holdings and the ILCA, as the case may be, monthly within 30 days from the end of each month with respect to all Kirby Sailboats sold or otherwise disposed of by Licensee during such month. In the event that the payment of royalties or the statements required by Article 7 hereof are not maintained on a current basis, Kirby Inc. shall be entitled to require prepayment of royalties to Kirby Inc. and/or fees to IYRU Holdings and ILCA as a condition precedent to Hull Numbers being assigned under Article 6 hereof, until such time as Kirby Inc. shall be reasonably satisfied that the royalties and/or fees will be paid by Licensee when due hereunder.

- 8.2 Licensee shall pay royalty payments and fees in respect of any Kirby Sailboat that Licensee sells to another licensee or Bruce Kirby and Kirby Inc. Licensee shall not be responsible to pay royalty payments and fees in respect of Kirby Sailboats that it purchases from other licensees of Bruce Kirby and Kirby Inc., it being the intention that such other licensee shall pay such royalty payments and fees.
- 8.3 Notwithstanding any other rights of Bruce Kirby and Kirby Inc. hereunder, Licensee agrees to pay interest to Kirby Inc. on any overdue royalty payment at the rate of twelve per cent (12%) per annum during the period, from and after the date the royalty payment is due to be paid hereunder to the date the same is actually paid. In the event that royalties are not paid within the 30 day period referenced in 8.1, said royalties shall bear interest as provided herein from the commencement of the 30 day period. For the purposes of this paragraph, royalties shall be deemed paid within the 30 day period if actually received by Kirby Inc. within said period or postmarked in Rhode Island no later than the 28th day of said 30 day period.

8.4 Omitted.

8.5 All payments to Kirby Inc. hereunder shall be made without deduction of any kind except for withholding taxes, if any, exigible on the payments hereunder provided the same are transmitted to the proper authorities by Licensee. Licensee agrees to provide Kirby Inc. with particulars of all withholding tax payments so withheld and to take all reasonable steps at the expense of Kirby Inc. to assist Kirby Inc.:

- a) to obtain the benefit of any applicable double taxation agreement relating to the payments hereunder; and
- b) to minimize the impact of any taxation in respect of such payments.

#### ARTICLE 9 - INTERNATIONAL STATUS

9.1 Each of Kirby Inc., Kirby and Licensee agree to use its reasonable efforts to maintain the Kirby Sailboat as a recognized international class of sailboat with the IYRU.

9.2 Licensee agrees to comply with and be bound by each of the terms and conditions of the IYRU Agreement to the same extent as if Licensee was a party thereto. In particular without limiting the generality of the foregoing, Licensee agrees:

- a) as required by the IYRU Agreement, to cause the manufacture of the plugs, production tooling and the Kirby Sailboat, including the sail, mast, boom, rudder, centerboard and fittings, to be in strict accordance with the Construction Manual and with the highest degree of uniformity in every respect;
- b) as required by the IYRU Agreement, to permit reasonable access to the Chief Measurer of the IYRU or his duly authorized nominee, to carry out such investigations, for the purpose of compliance with the IYRU Agreement, as the Chief Measurer shall see fit; and
- c) as required by the IYRU Agreement to cause the measurement of Kirby Sailboats to be carried out in accordance with the in-plant procedure set out in the Construction Manual.

#### ARTICLE 10 - EVENTS OF DEFAULT

10.1 The occurrence of any of the following events or circumstances shall constitute a "default" under this Agreement, namely:

- a) if Licensee makes any assignment or composition for the benefit of creditors;

- b) if Licensee takes the benefit of any Act that may be available for bankrupt or insolvent debtors;
- c) if a receiver or similar officer is appointed either by a court of competent jurisdiction or under any indenture or instrument with respect to all or a substantial part of Licensee's property or business;
- d) if Licensee fails to give an accounting as provided for in Article 7 hereof, or if such accounting deliberately understates the quantity of Kirby sailboats sole or otherwise disposed of, or the Dealer Wholesale Price thereof;
- e) if Licensee fails to pay when due any royalty payment owed by Licensee to Kirby Inc. hereunder;
- f) if Licensee contests in any manner whatsoever the right and interest of Bruce Kirby and Kirby Inc. in and to the Licensed Design.
- g) if Licensee knowingly sells or distributes any Kirby Sailboat which does not have attached to or impressed on it, its authorized Hull Number;
- h) if Licensee sells fewer than 300 Kirby Sailboats during any of the first five (5) calendar years of this Agreement.
- i) if Licensee is in breach of its obligations under Article 3 or 9.2 hereof;
- j) if Licensee is in breach of its obligations to make payments under the provisions of the IYRU Agreement while the IYRU Agreement is in full force and effect or to make the ILCA fee payment as is established from time to time.
- k) if Licensee is not, or ceases to be, licensed to use the trade mark "LASER" in association with Kirby Sailboats;
- l) if IYRU Holdings (with the approval of IYRU) request Bruce Kirby and/or Kirby Inc. to cancel this Agreement pursuant to the provisions of the IYRU Agreement and Bruce Kirby and/or Kirby Inc. are required by the provisions of the IYRU Agreement to cancel this Agreement; and
- m) if Licensee is in breach of its obligations under Article 15 of this Agreement.

10.2 Upon the occurrence of any "default" under subparagraphs d), e), g), or j) of Article 10.1 hereof, and in addition to any other rights, remedies and powers which it might have at law or in equity, Kirby Inc. may at its option give written notice to Licensee of such event of default, and if Licensee does not cure such default within 30 days of the giving of said notice, this Agreement shall terminate upon Kirby Inc. giving to Licensee written notice of termination on the expiry of such 30 day period.



- 10.3 Upon the occurrence of any "default" under subparagraphs i), l) or m) of Article 10.1 hereof, and in addition to any other rights, remedies and powers which it might have at law or in equity, Kirby Inc. may at its option give written notice to Licensee of such event of default, and if Licensee does not cure such default within 30 days of the giving of said notice or if the event of default is one which requires more than 30 days to cure, and the curing has not commenced within such period and is not thereafter diligently pursued to the satisfaction of Kirby Inc., this Agreement will terminate upon Kirby Inc. giving to Licensee written notice of termination on the expiry of such 30 day period.
- 10.4 Upon the occurrence of any "default" under subparagraphs a), b), c), f) or k) or Article 10.1 hereof and in addition to any other rights, remedies and powers which it might have at law or in equity, Kirby Inc. may at its option give written notice to Licensee specifying the event of default and of the intent of Kirby Inc. to terminate this Agreement, and upon giving of such notice, this Agreement shall automatically terminate.
- 10.5 Upon the occurrence of any "default" under subparagraph h) of Article 10.1 hereof and in addition to any other rights, remedies and powers which it might have at law or in equity, Kirby Inc. may at its option, within 60 days from the end of the year of default, give written notice to Licensee of such event of default. Licensee shall have 60 days after the giving of such notice to pay to Kirby Inc. in United States Dollars an amount which shall be equal to an amount calculated to be two (2%) percent of the difference between the number specified in sub-paragraph 10.1(h) hereof for that year and the number of Kirby Sailboats sold or otherwise disposed of by Licensee in the year of default multiplied by the average Dealer Wholesale Price in force in the Licensed Territory at the end of said year, and if no Dealer Wholesale Price is so in force, the Dealer Wholesale Price last in force in the Licensed Territory. If Licensee does not pay to Kirby Inc. said amount within 60 days of the giving of said notice, Kirby Inc. may at its option give written notice to Licensee specifying the intent of Kirby Inc. to terminate this Agreement and upon the giving of such notice, this Agreement shall automatically terminate. If Licensee pays to Kirby Inc. the said amount prior to such automatic termination, the right of Kirby Inc. to terminate this Agreement as a result of such specific event of default shall cease with respect to that particular year at issue.
- 10.6 Subject to earlier termination as herein provided, this Agreement shall extend for an initial term commencing on the effective date hereof set out in Article 14.8 hereof and terminating on July 11, 2025, and shall be automatically renewed on an annual basis thereafter on the same terms and conditions as herein specified except if the parties hereto agree to the contrary, unless either of Licensee or Kirby Inc. by notice in writing at least 60 days before the expiration of the initial term of this Agreement or any renewal term thereof shall advise the other party of its desire to terminate.

Agreement of Licensee on Termination

- 10.7 Licensee agrees that termination of this Agreement for any reason shall not relieve Licensee of the obligation to pay the royalty payments and fees as provided herein which have accrued up to the effective date of termination hereof and the obligation to pay the royalty payments and fees for all Kirby Sailboats manufactured prior to the effective date of termination hereof but not sold, delivered or otherwise disposed of until after such date.
- 10.8 Omitted.
- 10.9 Upon termination of this Agreement for any reason, Licensee shall forthwith discontinue manufacturing Kirby Sailboats and shall discontinue the use of and shall refrain from using the Construction Manual, production tooling, moulds and plugs particularly associated with the manufacture of Kirby Sailboats and all use of the Licensed Design. Notwithstanding the foregoing, Licensee shall be permitted (against a letter of credit or other similar assurance that royalties and fees shall be fully paid) to complete the manufacture, subject to all the terms and conditions of this Agreement, of all Kirby Sailboats in the course of manufacture, and to sell all such sailboats, together with any Kirby Sailboats in a finished state at the effective date of termination hereof provided that in each case Licensee pays all royalty payments and fees with respect to such Kirby Sailboats at the rate, time and manner provided for in Article 8 hereof.

Agreement of Kirby Inc. on Default

- 10.10 The occurrence of any of the following events or circumstances shall constitute a "default" under this Agreement:
- a) if Kirby Inc. is in breach of its warranty under Article 2.2 hereof;
  - b) if Bruce Kirby while he is living is in breach of warranty under Article 2.2 hereof; and
  - c) if Bruce Kirby or Kirby Inc. is in breach of his or its obligations under Article 15 of this Agreement.
- 10.11 Upon the occurrence of any "default" under subparagraphs a) or b) of Article 10.10 hereof, Licensee may at its option give written notice to Kirby Inc. of such event of default, and if Kirby Inc. does not cure said default within 30 days of giving said notice, or if the event of default is one which requires more than thirty (30) days to cure and the curing has not commenced within such period and is not thereafter diligently pursued, Licensee shall be entitled by notice in writing to terminate this Agreement subject to Article 10 hereof.

ARTICLE 11 - ASSIGNMENT AND SUB-LICENSING

- 11.1 Licensee acknowledges and agrees that Licensee does not have the power to and shall not grant sublicensees hereof without the express prior written consent of Kirby and Kirby Inc. but may sub-contract the manufacture of, or may purchase from any third party, any of the specified parts for Kirby Sailboats.
- 11.2 Subject to Article 11.3 hereof, Licensee acknowledges and agrees that this license is not assignable in whole or in part to any person including any corporation which is a successor corporation of Licensee without the prior written consent of Kirby Inc., which consent shall not be unreasonably withheld, provided that:
- a) such person or Corporation shall have sufficient net worth, working capital and bank lines of credit to enable such person to manufacture Kirby Sailboats;
  - b) such person or corporation shall agree to be bound by the terms of this Agreement;
  - c) Licensee shall have granted to such person or Corporation a license to use the trade mark "LASER" in association with Kirby Sailboats in the Licensed Territory; and
  - d) IYRU has approved of such person or Corporation to manufacture, sell and market Kirby Sailboats.
- 11.3 Licensee shall have the right to assign to another person or Corporation its rights under this Agreement for an area within the Licensed Territory provided that:
- a) Licensee agrees to restrict Licensee's Licensed Territory to exclude such area;
  - b) Kirby Inc. provides its prior written consent, which consent shall not be unreasonably withheld;
  - c) such person or Corporation shall have sufficient net worth, working capital and bank lines of credit to enable such person or Corporation to manufacture Kirby Sailboats;
  - d) such person or Corporation shall agree to be bound by the terms of this Agreement;
  - e) Licensee shall have granted to such person or corporation a license to use the trade mark "LASER" in association with Kirby Sailboats in such territory; and

- f) IYRU has approved of such person or Corporation to manufacture, sell and market Kirby Sailboats.

11.4 Neither Bruce Kirby nor Kirby Inc. shall assign any rights in the Licensed Design save to an assignee who shall enter into an agreement with Licensee on terms and conditions identical with the terms and conditions of this Agreement.

ARTICLE 12 - OMISSION OR DELAY

12.1 The failure of any party to insist upon strict adherence to any of the terms of this Agreement or of any agreement or covenant delivered pursuant hereto on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this agreement or of any agreement or covenant delivered by writing, signed by the party against which such waiver is sought to be enforced.

ARTICLE 13 - SUPPLEMENTARY PROVISIONS

Omitted.

ARTICLE 14 - MISCELLANEOUS

14.1 The headings contained in this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

14.2 Licensee shall promptly give notice to Kirby Inc. of any change of Licensee's corporate name.

14.3 Any notice or other communication required or permitted to be given by the terms of this Agreement shall be given in writing and shall be well and sufficiently given if personally delivered, if transmitted by cable or telex, or if sent by pre-paid registered airmail, address:

- a) in the case of Licensee to:

PY SMALL BOATS INC.  
West Shore Road  
Portsmouth, Rhode Island 02871

or

- b) in the case of Bruce Kirby and Kirby Inc. to:

Bruce Kirby, Inc.  
213 Rowayton Avenue  
Rowayton, Connecticut  
06853 U.S.A.

Attention: Bruce Kirby, Inc..

If transmitted by cable or telex, then a confirmation copy shall be mailed by prepaid airmail promptly after transmission by cable or telex.

Any such notice, or other communication shall be deemed to have been duly given when personally delivered to an adult person during normal business hours at the address specified, and if cabled or telexed to have been duly given on the second business day following transmission, and if mailed, to have been given on the fourteenth business day following the day on which it was registered in post office. A party to this Agreement may, by written notice to the other party hereto, given as aforesaid, designate a changed address for such party.

- 14.4 Time shall be of the essence of this Agreement, provided, however, that the time or times within which moneys may or shall be expended hereunder or rights may be exercised hereunder shall be extended by a period of time equal to the total of all periods of time during which any party hereto or its representatives, agents, contractors or employees are prevented from or seriously impeded in doing work hereunder by reason of fire, power shortage, strike, lockout or other labour, war, acts of God or enemies of the state, governmental regulation, requirement or policy, inability to obtain or the non-issuance of any governmental approval, license, permit, undertaking or consent, or any other cause (whether or not similar to any of the foregoing) beyond the control of such party or its said representatives, agents, contractors or employees, it being agreed that the settling of any labour dispute is beyond the control of a party hereto and nothing herein contained shall obligate any party hereto, its representatives, agents, contractors or employees to settle any such dispute. The party hereto claiming the occurrence and duration of any event contemplated under the provisions of this paragraph 14.4 shall notify the other parties hereto accordingly, such notice to be prima facie evidence of the existence of such event and of the duration thereof. Upon the termination of such occurrence such party shall forthwith notify the other parties hereto accordingly.
- 14.5 Should any term or provision or part thereof of this Agreement be held unenforceable or in conflict with the law in any governing jurisdiction, the validity of the remaining parts or provisions or parts thereof shall not be effected by such holding.
- 14.6 The validity, construction and enforcement of this Agreement shall be governed in accordance with the laws of the State of Connecticut, U.S.A.
- 14.7 Nothing contained herein or done hereunder shall be construed as constituting a party as the agent or partner for or of the other parties hereto.
- 14.8 This Agreement shall take effect, and the representations and warranties shall take effect as and from the latter of:


- a) the date on which IYRU approves the designation of the Licensee as a Builder to evidence its approval of granting the subject license to Licensee;
- b) the date on which Licensee is assigned the trade mark "LASER" in association with Kirby Sailboats in the Licensed Territory; and
- c) the date of this Agreement.

ARTICLE 15 - MUTUAL RESTRICTIVE COVENANT

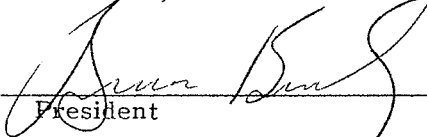
15.1 Commencing upon the signing of this Agreement and for five (5) years thereafter, Licensee and Kirby shall be at all times free to design other boats of any size or design and shall be free to enter into any agreements with any party or parties for the building of sailboats, and none of such activities shall be deemed a breach of any duty owed to Licensee or Kirby, provided that, within the Licensed territory Licensee and Kirby will not, alone or with others, design, manufacture, sell or contract for the commercial series production [three (3) or more boats] and sale of any sailboat from 13'6" - 14'6" in overall length that is a fiberglass, monohull, single sail (Cat boat), centerboard or daggerboard design. This limitation shall not apply to the designs of Licensee and Kirby existing prior to the signing of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date and year first above written.

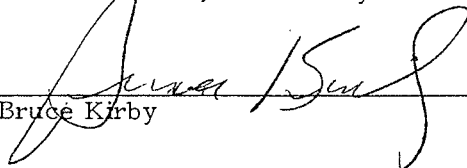
PY SMALL BOATS, INC.

By: 

BRUCE KIRBY, INC.

By:   
President

BRUCE KIRBY, Individually

  
Bruce Kirby

The IYRU, pursuant to the IYRU Agreement, signs this Agreement to evidence its approval and recommendation to Kirby Inc. to grant the subject license to Licensee.

Signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 1989.

INTERNATIONAL YACHT RACING UNION

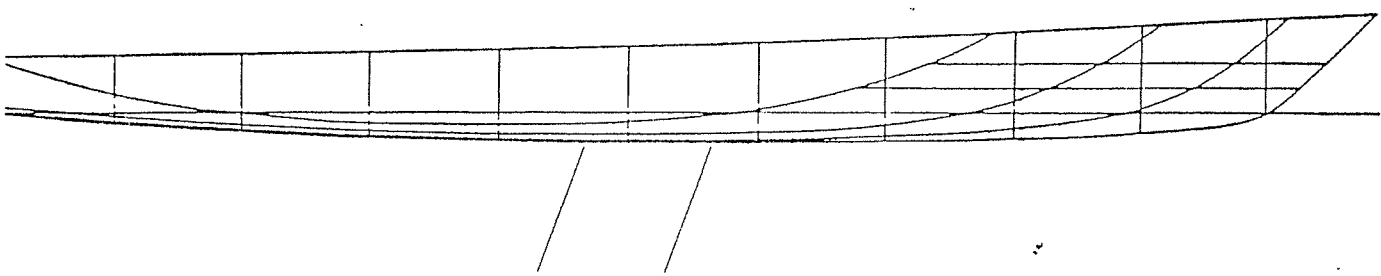
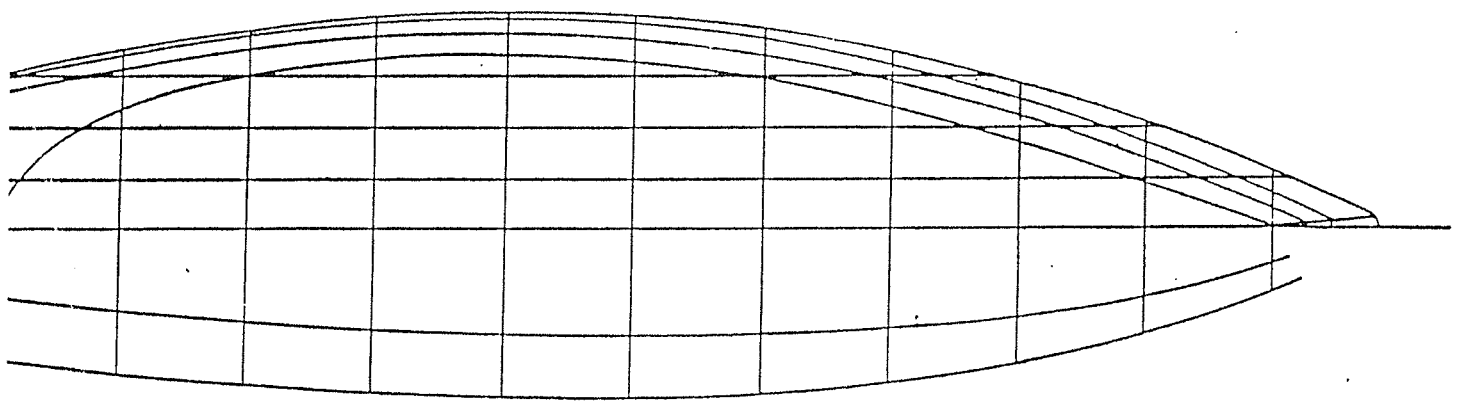
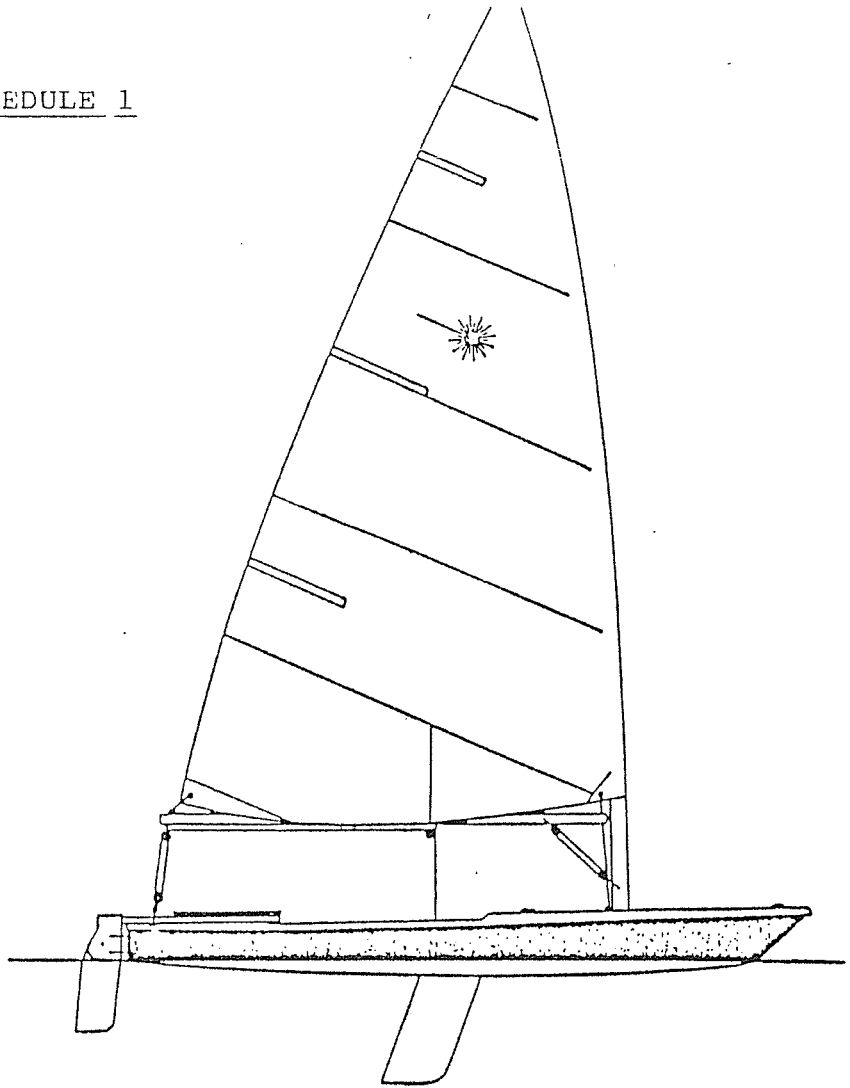
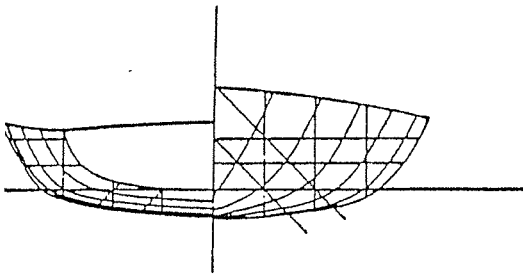
By: \_\_\_\_\_

By: \_\_\_\_\_

SCHEDULE 1

Designed by Bruce Kirby

length overall	4,23 m	13'10½"
length waterline	3,81 m	12'6"
beam	1,37 m	4'6"
sail area	7,06 m <sup>2</sup>	76 sq ft





SCHEDULE 2

LICENSED TERRITORIES

Canada, the United States of America, Venezuela, Bermuda, Bahamas, the Caribbean Islands, Greater Antilles, Lesser Antilles, Trinidad, Tabago, Barbados, Panama, Honduras, Costa Rica, Belize, El Salvadore, Guatamala and Mexico.

## **EXHIBIT 9**

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AMENDMENT TO LICENSE

THIS AGREEMENT made as of the 25th day of March, 1997

BETWEEN:

BRUCE KIRBY, INC., a corporation incorporated under the laws of the State of Connecticut, United States of America ("Kirby Inc."); and BRUCE KIRBY, an individual of Rowayton, Connecticut, United States of America ("Kirby")

and

SUNFISH/LASER INC., a corporation incorporated under the laws of the State of Rhode Island, United States of America ("Sunfish/Laser")

WHEREAS, Kirby and Kirby Inc. entered into a license agreement ("License") with PY Small Boats, Inc. ("P.Y.S.B.I.") dated March 31, 1989, and

WHEREAS, in 1991 Sunfish/Laser acquired some of the assets of P.Y.S.B.I. including but not limited to the rights of P.Y.S.B.I. under the License, and

WHEREAS, since 1991 Kirby, Kirby Inc. and Sunfish/Laser have operated according to the terms of the License and have enjoyed the benefits and been subject to the obligations of the License, and

WHEREAS, Kirby Inc., Kirby and Sunfish/Laser have, for good and valuable consideration and for good and sufficient reasons, agreed to amend the License.

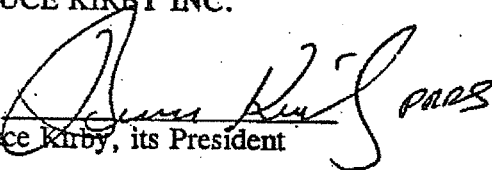
NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. Article 8 paragraph 8.1 a) is deleted in its entirety.
2. Article 8 paragraph 8.1 a) is replaced with the following:
  - "a) to Kirby Inc. a royalty payment in the United States Dollars equal to two (2%) percent of Licensee's Dealer Wholesale Price for each Kirby Sailboat manufactured and sold or otherwise disposed of by Licensee or an approved sub-licensee after deducting the value of any returns or credits."

3. The License as amended by this Amendment to License shall constitute the entire agreement of the parties with regard to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date and year first above written.

BRUCE KIRBY INC.

By:   
Bruce Kirby, its President

BRUCE KIRBY, Individually

By: 

SUNFISH/LASER INC.

By:   
Pres.

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of the 25<sup>th</sup> day of March, 1997 by and between PY SMALL BOATS, INC., a Rhode Island corporation and SUNFISH/LASER, INC., a Rhode Island corporation (the "Assignors"), and QUARTER MOON, INC., d/b/a VANGUARD RACING SAILBOATS, a Rhode Island corporation (the "Assignee"), is executed pursuant to that certain Purchase and Sale Agreement dated as of the 3rd day of March, 1997 (the "Purchase Agreement"), to which reference is made herein for the definition of terms not otherwise defined herein, by and between Assignor and Assignee, and is related to Assignor's business as defined therein.

WITNESSETH:

1. For good and valuable consideration, the receipt of which is hereby acknowledged, and pursuant to and in accordance with the terms and conditions of the Purchase Agreement, Assignor hereby assigns, transfers and conveys and Assignee hereby agrees to assume, pay, discharge, satisfy, and observe, promptly, punctually, faithfully, and completely all of the liabilities, duties, and obligations of Assignor, as they become due and payable under that certain agreement or agreements listed on Exhibit A attached hereto and made a part hereof.

2. Except as expressly provided herein or in any separate agreement executed by Assignee, the Assignee shall not be obligated to assume or become liable for any of Assignor's liabilities, obligations, debts, contracts or other commitments of any kind whatsoever, known or unknown, fixed or contingent.

3. The Assignee shall indemnify the Assignor against and hold it harmless from any and all liabilities in respect of suits, proceedings, demands, judgments, damages, expenses and costs (including, without limitation, reasonable counsel fees) which the Assignor may suffer or incur by reason of (i) the Assignee's

failure to pay, discharge or perform any of its liabilities or obligations which are expressly assumed by the Assignee under this Assumption Agreement or the Purchase Agreement; and (ii) breaches of or inaccuracies in the covenants, representations and warranties made by the Assignee in this Assumption Agreement or the Purchase Agreement.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

WITNESS:

Shm M. McI

ASSIGNOR:

PY SMALL BOATS, INC.

By: Peter Blunstone  
Title: Pres.

WITNESS:

Shm M. McI

ASSIGNOR:

SUNFISH/LASER, INC.

By: Peter Blunstone  
Title: Pres.

WITNESS:

Shm M. McI

ASSIGNEE:

QUARTER MOON, INC.  
d/b/a VANGUARD RACING SAILBOATS

By: [Signature]  
Title: President

EXHIBIT A

Agreement dated November 30, 1983 among International Yacht Racing Union, International Laser Class Association, IYRU Holdings, Ltd., Bruce Kirby, Inc., Bruce Kirby and Laser International Holdings (1983), relating to the Laser sailboat.