

AGREEMENT FOR THE SALE AND PURCHASE OF A SECONDHAND VESSEL

Sponsored by the Association of Brokers and Yacht Agents and the Yacht Brokers Designers and Surveyors Association

Not to be used for the sale of new vessels.

Note: The vendor and purchaser should initial the foot of each page where shown to indicate agreement with the clauses contained on the page and any amendments thereto.

* = Insertion or deletion required

*	NAME OF VESSEL	LENGTH	DESCRIPTION (APPROX.)	OFFICIAL NUMBER	PORT OF REGISTRY

* Vendor's Full Names, Address and Occupation

* Broker/Agent authorised to act on his behalf

The above mentioned person is a member of the Association of Brokers and Yacht Agents Ltd. (ABYA) YES/NO

An Affiliate AYBA member must state the fact here:.....

(Member Brokers work to the British Boating Industry Code of Practice for the Sale of Used Boats)

* Purchaser's Full Names, Address and Occupation

1 Purchase Price

* The Vendor agrees to sell and the Purchaser agrees to purchase the abovementioned vessel free from any encumbrances subject to the conditions and terms of the Agreement for the sum of

* say

* now lying ashore/afloat at

together with all her outfit, gear and equipment but not including stores or the Vendor's personal effects or as expressly defined in any Schedule hereto.

* The Vendor is/is not registered for the purpose of the regulations relating to Value Added Tax and Value

* Value Added Tax is included within /not included within /payable on/ not payable on the purchase price.

.....
Vendor's initials

.....
Purchaser's initials

2 Deposit and payment

On the signing of this Agreement a deposit of 10% of the purchase price is to be paid to the Broker as Stakeholders. (Note: Where the Vendor is an Executor or Trustee delete the word Stakeholder and insert the words "on behalf of the Vendor".)

The balance of the purchase price together with any Value Added Tax payable thereon shall be payable in accordance with Clause 7 hereof. (NOTE: Where payment is made by cheque, draft, letter of credit or other instrument, the terms of this Agreement shall not be deemed to have been fulfilled until such payment is cleared into the payee's account whereupon completion shall be deemed to have taken place providing all other documentation has been completed).

3 Warranties

- (a) The Vendor is not selling in the course of a business.
The Vendor is selling in the course of a business, and the usual statutory warranties therefore apply.
- (b) If the Vendor is not selling the vessel in the course of a business the Purchaser being at liberty to inspect the vessel and satisfy himself as to its condition and specification, all express or implied warranties or conditions statutory or otherwise are hereby excluded and the vessel its outfit, gear and equipment shall be taken with all defects and faults of description without any allowance or abatement whatsoever.

4 Inspection and/or survey and subsequent use of the vessel

The Purchaser may at a venue to be agreed, and at his own cost, haul, or place ashore or afloat and/or open up the Vessel and its machinery for the purpose of inspection and/or survey which, including any written report, shall be completed within days of the signing of this Agreement. In the event that any inspection requires more than superficial non-destructive dismantling and limited removal of anti-fouling the consent of the Vendor must be obtained before work commences. The Vendor agrees not to use the vessel after completion of the inspection/survey unless requested by, or with permission of, the purchaser. If the vessel is not accepted under the terms of the agreement and the contract be rescinded and become null and void. The Vendor may thereafter use the vessel.

5 Defects

Within days after completion of such inspection and/or survey if any material defect or defects in the vessel or its machinery, other than those disclosed to the Purchaser in writing, prior to signing this agreement shall have been found or if any material deficiencies have been found in any inventory hereto the Purchaser may give notice to the Vendor or the Broker specifying such material defects or deficiencies including a copy of the relevant extracts of the survey report, either:

- (a) giving notice to the Vendor or the Broker of his rejection of the Vessel, or
 - (b) requiring the Vendor forthwith either to make good the recommendations of the Purchaser's surveyor and to his satisfaction, or make a sufficient reduction in the purchase price to enable the Purchaser to make good the same. All agreed items of work shall be completed without undue delay in all the circumstances and shall be carried out so as to satisfy the expressly specified requirements of the Purchaser's Surveyor in respect only of material defects mentioned in his report and notified to the Vendor.
- If
- (a) the Purchaser shall serve a notice under Clause 5(a) hereof, or
 - (b) the Purchaser shall service notice under Clause 5(b) hereof, and
 - i. the Vendor shall not within 21 days after service of the notice have agreed to make good without delay any material defects or deficiencies specified in such notice or,
 - ii. the parties shall not have agreed within 14 days after service of the notice upon the amount by which the purchase price is to be reduced then this Agreement shall be rescinded and any deposit paid shall be refunded in accordance with Clause 8 hereof.

In the case of any deficiencies in the vessel's inventory (if any) remaining or arising within 7 days of acceptance in accordance with Clause 6 hereof the deficiencies shall be made good or a reduction in purchase price shall be agreed failing which this Agreement shall be rescinded at the option of the Purchaser only.

6 Acceptance

The vessel shall be deemed to have been accepted by the Purchaser upon the happening of any of the following events:

- (a) Upon specific acceptance.
- (b) Upon the expiry of days from the date of this Agreement or such extended period as may be agreed between the parties providing that no inspection or survey has commenced.
- (c) days after completion of the survey provided that the Purchaser has not served notice under Clause 5(b) hereof.
- (d) Upon notification in writing by the Vendor or his Broker to the Purchaser of completion of the remedial works specified in a notice given to the Purchaser under the provision of Clause 5(b) hereof.
- (e) Upon a mutual agreement on a reduction in the purchase price in accordance with the provision of Clause 5(b) hereof.

7 Completion

Upon acceptance of the vessel by the Purchaser, the deposit shall be treated as part payment of the purchase price and within 7 days of acceptance:-

- (i) **The Vendor shall**
 - (a) **in the case of a Registered vessel** provide the Brokers with the Certificate of Registry, correct and updated, together with any other documents appertaining to the vessel and shall execute a Bill of Sale in favour of the Purchaser or his nominee, showing the vessel to be free from encumbrances and in such form as to ensure transfer on the Register. Should the purchaser so require, the vendor shall provide the Broker with a Deletion Certificate, or sufficient instructions to cancel the existing registry and enable the vessel to be re-registered by the purchaser.
 - or **in the case of an unregistered vessel** or vessel registered on the Small Ships Register, provide the Brokers with an executed Bill of Sale in favour of the Purchaser or his nominee showing the vessel to be free from encumbrances and such other title documents as are set out in the schedule to this Agreement, together with any other documents appertaining to the vessel.
 - (b) Deliver to the Brokers a Value Added Tax invoice, if applicable, and any necessary delivery order or other authority enabling the Purchaser to take immediate possession of the vessel.

.....
Vendor's initials

.....
Purchaser's initials

- (c) By delivery of documents in (a) and (b) of this Clause, be deemed to covenant that he has the power to transfer property in the vessel and that the same is free from encumbrances, duties, taxes, debts, liens and the like as are the responsibility of the Purchaser under Clause 4 and 8 hereof.
- (ii) **The Purchaser shall**, tender the balance of the purchase price to the Brokers who on receipt of the balance of the purchase price will hold the documents referred to in this Clause to the order of the Purchaser. Note: Where payment is made by cheque, transfer, draft, or other instrument, the terms of this Agreement shall not be deemed to have been fulfilled until such payment is cleared into the payee's account, whereupon providing all other documentation has been completed, Completion shall be deemed to have taken place.

8 Rescission

In the event of rescission by the Purchaser under the terms of this Agreement he shall, at his own expenses, reinstate the vessel to the condition and position in which he found it and shall pay all boatyard and surveyor's charges for this work. The Vendor shall thereupon return or procure the return of the deposit to the Purchaser without deduction and without interest save that he or his Brokers shall be entitled to retain such part of the deposit as shall be necessary to defray any boatyard or surveyor's charges not paid by the Purchaser. Neither party shall thereafter have any claim against the other under this Agreement.

9 Risk

Until the vessel has been accepted or shall be deemed to have been accepted by the Purchaser she shall be at the risk of the Vendor who shall make good all damage sustained by her before the date of completion. If the vessel be lost or become a constructive total loss before such acceptance this Agreement shall be null and void except that the Purchaser will be liable for the cost of all work authorised by him under Clauses 4 and 8 and undertaken before such loss took place and the deposit shall be returned to the Purchaser without interest but less any deduction made under Clauses 4 and 8 and otherwise without deduction and the Purchaser shall have no claim against the Vendor for damages or otherwise. After acceptance the vessel shall in all respects be at the risk of the Purchaser notwithstanding that the ownership of an unregistered vessel shall not pass to the Purchaser until payment of the full purchase price in accordance with Clause 7 hereof even though the Purchaser has insured his risks under the provisions of this Clause. The Vendor should continue his own insurance until such time as he shall receive the proceeds of the sale from the Broker.

10 Default

- (a) Should the Purchaser make default in paying the balance of the purchase price as herein before stipulated, the Vendor shall be at liberty to give notice in writing to the Purchaser requiring him to complete the purchase within 14 days of service of the notice. If the Purchaser shall not comply with the said notice then the Vendor shall be at liberty to re-sell the vessel either by Public Auction or by Private Treaty and any deposit shall be forfeit to the Vendor without prejudice to his right to claim from the Purchaser the amount of any loss on re-sale together with all his reasonable costs and expenses due allowance being made for the forfeit of deposit. On expiry of the said notice the vessel shall be at the Vendor's risk.
- (b) If the Vendor shall default in the execution of his part of this Contract the Purchaser shall without prejudice to any other right he may have hereunder be entitled to the return of his deposit. Unless such default by the Vendor shall have arisen from events over which the Vendor has no control the Vendor shall pay interest upon the amount of the deposit for the period during which he has held it at the rate of 4% per annum above Finance House Base Rate, together with compensation for any loss which the Purchaser may have sustained as a result of the Vendor's default.

11 Arbitration

All disputes that cannot be resolved between the parties arising out of or in connection with this Agreement, shall be referred by either party for conciliation to the President or Chairman of such Federation or Association to which the Brokers mentioned herein belong and in the event of failure of such conciliation to arbitration by a single arbitrator to be appointed in default of agreement by the President of the BMF or failing him the Chairman for the time being of the Royal Yachting Association and the provisions of the Arbitration Act 1996 or any amending legislation shall apply to any reference under this clause. Should any dispute be referred to a third party the Broker shall, when a deposit is held as Stakeholder, be empowered to pay same into a designated account until the determination of the dispute. All decisions concerning whether or not the dispute is to be resolved by Arbitration must be made in writing.

12 Brokers charges

The Brokers charges shall be paid by the Vendor and shall become due when the Purchaser shall have accepted or be deemed to have accepted the vessel and may be retained by the Brokers out of the deposit.

13 Notices

Any notice under this Agreement shall be in writing and any notice to the Purchaser or Vendor shall be sufficiently served if delivered to him personally or posted by recorded delivery to his last known address. Any notice posted shall be deemed to have been received 48 hours after the time of posting and any notice given in any other manner shall be deemed to have been received at the time when in the ordinary course of post it may be expected to have been received.

14 Jurisdiction

- (a) This Agreement shall be construed according to and governed by the law of England (or of Scotland if the Vendor's address shall be in that Country) and the parties hereby submit to the jurisdiction of the Courts of the same countries.
- (b) The construction of this Agreement is not to be affected by any Note as used in text or clause title
- (c) Subject always to the Statutory Rights of the parties, this Agreement forms the entire agreement between the parties unless otherwise specifically agreed in writing between them.
- (d) Reference to any Statutory Provision includes a reference to that Provision as amended, extended or re-enacted and to any statutory replacements thereof (either before or after the date of this Agreement).

.....
Vendor's initials

.....
Purchaser's initials

