

## ASSOCIATED YACHT BROKERS

### LISTING AGREEMENT BETWEEN THE BROKER AND THE OWNER OF A SECOND-HAND YACHT

This document is intended to create a legally binding contract. If you are unsure of any of the conditions you are advised to take appropriate professional advice. The Owner and Broker should initial the foot of each page where shown to indicate agreement with the clauses contained on the page and any amendments thereto.

Unless otherwise specifically agreed, this Agreement to offer the vessel on brokerage does not replace any berthing, mooring or storage agreement which may apply to the same vessel

NAME OF VESSEL:

ASKING PRICE:

MODEL, DESCRIPTION and CONSTRUCTION MATERIALS:

BUILDER:

DATE OF BUILD:

NOW LYING AT:

FLAG and PORT OF REGISTRY:

REGISTERED STATUS: (Part 1 / SSR / Unregistered / Other )

HIN / CIN NUMBER:

or other registration number:

PRINCIPAL DIMENSIONS:

Length Overall: Beam: Draft:

ENGINES (make, model and power):

DATE OF PURCHASE BY OWNER:

DETAILS OF ANY MORTGAGEES / HIRE PURCHASE AGREEMENTS/ ENCUMBRANCES:

Approximate amount outstanding at date of agreement:

OWNER'S NAME AND ADDRESS - listing all parties to the ownership (hereinafter called "The Owner") including email and mobile no:

BROKER'S NAME AND ADDRESS: (hereinafter called "The Broker")

The Owner to delete \* as appropriate:

The sale of the vessel **is** /\* **is not** related to the owner's business, trade or profession \* The owner **is** /\* **is not** VAT registered

\* The vessel **is** /\* **is not** VAT paid in the EU

\* VAT **is** /\* **is not** chargeable on the selling price

\* The vessel **does** /\* **does not** comply with the EU RCD regulations or is exempt from compliance with these regulations

Owner's Initials:

Broker's Initials:

## 1 DECLARATION AS TO CORRECTNESS OF PARTICULARS BY THE OWNER

1.1 The Owner hereby instructs the Broker to act as Agent for the sale of the above vessel, and declares that to the best of his knowledge and belief the particulars attached hereto or otherwise signed or supplied by the Owner are correct and that he has power to dispose of the above mentioned vessel with the concurrence of any joint Owner or Mortgagee or Hire Purchase Company and that all known defects have been declared. He furthermore agrees to indemnify the Brokers should any of the information given prove to be incorrect in the event of any claim being proven by a Purchaser (including the cost of defending any such claim or resisting any such liability as may arise) or from any third party should any of the information provided by or on behalf of the Owner and subject to these declarations prove to be incorrect or misleading.

1.2 The Owner will accept that the Broker must qualify any particulars with the following disclaimer: "In this case we are acting as Brokers only. The Owner is / \* is not selling in the course of a business. Whilst every care has been taken in their preparation, the correctness of these particulars is not guaranteed. The particulars are intended only as a guide and they do not constitute a term of any contract. A prospective buyer is strongly advised to check the particulars and where appropriate at his own expense to employ a qualified Marine Surveyor to carry out a survey and/or to have an engine trial conducted which if conducted by us shall not imply any liability for such engine on our part."

1.3 The Owner to provide to the Broker satisfactory evidence of ownership, VAT status and RCD compliance, as applicable, on the signing of this Agreement.

2 AGREEMENT BY THE OWNER TO SIGN A CONTRACT ON A SALE BEING EFFECTED The Owner agrees to sell the vessel for the asking price or other agreed price and to sign a contract under the standard terms of AYB as required by the Broker on the introduction of a willing purchaser. A separate Director's indemnity may be required in the case of a company selling in the course of business. The Broker shall perform all actions required of the Broker in such a contract (whether or not signed by the Owner at the request of the Broker).

## 3 BROKERAGE COMMISSION PAYABLE

If the Broker shall introduce a prospective Purchaser for the vessel, on the happening of any of the following the Broker shall be entitled to his full commission at the rate stated in the attached schedule:

- (a) the sale is completed to the Purchaser;
- (b) the Purchaser wishes to proceed at the asking price or other price agreed with the Owner, but the Owner is subsequently unwilling to proceed;
- (c) where a sale falls through after survey and the Purchaser has not rejected the vessel and the Owner is unwilling to make allowance for material defects (unless such unwillingness has been previously stated in writing).

If the Broker shall introduce a prospective Purchaser for the vessel under the terms of this agreement, where a Purchaser defaults after agreement and his deposit/part payment is forfeit under the terms of the Sale & Purchase Agreement the Broker shall be entitled to half commission on the agreed selling price.

4 RETENTION BY BROKER OF COMMISSION AND OUTSTANDING CHARGES On completion the Broker may deduct commission and VAT thereon from the proceeds of sale, together with any monies due to other parties. When the Broker is entitled to half commission in accordance with clause 3 the Broker may deduct commission and VAT thereon from a deposit/part payment forfeited by the Purchaser.

5 PROCEEDS OF SALE TO BE DEALT WITH BY THE BROKER IN A PROPER MANNER The Broker shall hold any deposit or purchase funds in an account designated "Client Account" and shall distribute the net proceeds of sale in accordance with the registered Ownership of the vessel or as directed by all parties to Ownership, within 7 days of clearance of the final payment, or provision by the Owner of the Certificate of Registry, and a properly executed Bill of Sale in favour of the Purchaser or his nominee, showing the vessel to be free of encumbrances and, where applicable, on transfer of clear title, whichever is the later.

Owner's Initials:

Broker's Initials:

## 6. NOTIFICATION OF ALTERATIONS TO PRICE OR LOCATION OR CONDITION, WITHDRAWAL FROM SALE OR CHANGE OF OWNERSHIP

The Owner agrees to advise the Broker of any change in the asking price or location of the vessel or of any material change in the vessel's condition or inventory and undertakes that the vessel will not be offered at a lower price elsewhere and also undertakes immediately to notify the Broker if the boat is withdrawn, or sold elsewhere and, in the latter case, to advise the Broker of the name of the Purchaser. The Owner shall notify the Broker of the names of other brokers instructed at any time.

## 7 OWNER RESPONSIBLE FOR INSURANCE, CLEANING, BERTHING, ETC

The Owner confirms that the vessel is insured, and will remain insured until completion of a sale to a Purchaser, and such insurance shall cover all viewing and sale arrangements, including slipping for survey and sea trials. The Owner shall be responsible for all cleaning, maintenance, berthing, storage and security of the vessel until sold.

## 8 PROFESSIONAL INSURANCE OF THE BROKER

The Broker undertakes to maintain professional indemnity cover for himself, his employees and agents in respect of their prospective liability in respect of any breach by them of this agreement or any other act, omission or breach of duty giving rise to loss.

## 9 ACCESS TO VIEW AND KEY TO BE AVAILABLE

The Owner will instruct the proprietor of the mooring or marina where the vessel lies in writing in the form of a standard Access to View form provided by the Broker, to allow access by the Broker, and shall make a key available to the Broker or proprietor for this purpose at all times.

## 10 SUBMISSION OF OFFER

The Broker undertakes to submit promptly to the Owner all offers received for the vessel, regardless of whether such offer shall be at the asking price or at a level known by the Broker to be unacceptable to the Owner.

## 11 NOTICE OF TERMINATION OF THIS AGREEMENT

Without prejudice to the subsisting rights of the Broker or Owner under this agreement, either party may terminate this agreement on giving 14 days' notice in writing at any time to the other. If the Owner shall agree a sale outside the agreement to a Purchaser introduced by the Broker and within 12 months following the date of the agreement the Broker shall be entitled to his full commission at the agreed rate.

## 12 TERMINATION ON BANKRUPTCY OR LIQUIDATION OF EITHER PARTY OR ON BREACH OF THIS AGREEMENT

- (a) This agreement shall terminate if either party goes bankrupt or enters into liquidation whether compulsory or voluntary or compounds with his/its creditors or takes or suffers any similar action in consequence or debt;
- (b) Either party may terminate this agreement forthwith by notice in writing to the other if the other party commits a breach of any term of this agreement.

## 13 INTERPRETATION

The word "Owner" shall include joint Owners and any person acting with the written authority of the Owner or part Owners of a yacht or vessel giving instructions for sale, and the word "Broker" shall include any person or firm being a member of the Association of Brokers & Yacht Agents.

## 14 DECLARATION (Delete if inapplicable)

The Owner declares that this vessel is offered free of all import duties and other UK, EU or foreign taxes in respect of which the Owner agrees to indemnify the Broker, or that these will be settled by the Broker from the sale proceeds on completion of the sale.

## 15 JURISDICTION

- (a) This Agreement shall be construed according to and governed by the laws of England and Wales (or Scotland if the transaction 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).

Owner's Initials:

Broker's Initials:

16 THIRD PARTIES

For the purpose of the Contracts (Rights of Third Parties) Act 1999 this agreement does not and is not intended to give any rights to enforce any of its provisions to any person who is not a party to it.

17 NOTICES

Subject to express agreement to the contrary, all instructions written or verbal are accepted on the understanding that the foregoing terms of business shall apply to each and every transaction. Any notice under this Agreement shall be in writing and any notice to the Purchaser or Owner shall be sufficiently served if delivered to him/her personally or posted to his/her last known address or sent by email or facsimile. Any notice posted shall be deemed to have been received within 48 hours after the time of posting and any notice given by e-mail or facsimile transmission or in any other electronic manner shall be deemed to have been received within 48 hours after dispatch to the correct email address of the addressee.

Words denoting the masculine include the feminine and neuter and vice versa.

SCHEDULE OF RATES OF COMMISSION:

VAT is /\* is not chargeable on the commission at the current rate

SIGNATURE OF OWNER(S)  
(Authorised Signatory in the case of a company)

In the case of an appointed representative (e.g. an Executor) give details below:

Name:

Contact details:

Capacity:

SIGNATURE OF LISTING BROKER  
(Authorised Signatory)

(Stamp of Broker, Company or Firm)

DATE:

A copy of this Agreement to be given to the Owner or his Nominated Representative

Owner's Initials:

Broker's Initials: