



## HRB BROKERAGE LISTING (SELLER) AGREEMENT

### DETAILS OF OWNER(S) AND VESSEL FOR SALE

Full Name of Owner(s):

Address:

Email address:

Home and mobile telephone:

Name of Vessel:

Asking Price (specify whether it includes all or any equipment detailed below and if not what additional amount is required for any particular equipment):

Finance company – identity and amount in the event of any outstanding loan:

Location/Mooring:

Construction Material(s):

Dimensions:

Registration:

Engine(s) No:

Manufacturer:

Hours Run:

Engines Last Serviced:

Petrol / Diesel:

Year:

Outboard(s)/Inboard

Winterised:

Hull/Keel:

Rig: (sailing only)

Sails:

Equipment (please indicate with a X from the list below which items are fitted (included) and in working order):

Radar

VHF Radio Autopilot

GPS

Echo Sounder

Fish Finder

Log Speedo

Steering Compass

Radar Reflector

Wind Speed direction indicator

Anchor Windlass

Anchor(s)

Chain/Warp

Life Raft

Life Jackets

Harnesses

Life buoy

Dan buoy

Flares

Extinguishers

Gas Detector

Fog Horn

Manual Bilge

Pump Electric Bilge

Pump  
Safety Equipment

Cockpit Cover

Winter Cover

Spray hood

Sail Covers

Trailer

Dinghy

## TERMS AND CONDITIONS

This Agreement (the "Agreement") sets out the the terms and condition of Brokerage between the vessel owner(s) as stated above (the "Owner") and Helford River Boats Ltd (the "Company") and incorporates the Details of the Owner (s) and Vessel as set out above.

In respect of the Vessel described above;

1. The appointment shall be a sole and exclusive appointment of the Company. The Owner agrees not to sell the Vessel privately or authorise any other broker to sell or list the Vessel.
2. The Asking Price is as stated above but is subject to amendment by agreement with the Owner (the "Asking Price")
3. The agreed commission is 5% plus VAT of the Asking Price (including any additional amount payable for specified equipment) subject to a minimum commission of £500 including VAT (the "Agreed Commission")
4. Advertising charges (as may be agreed) will be paid for by the Owner save for advertising on the Company's web site as referred to in clause 7.1.2.
5. Mooring and Storage Charges will continue to be payable if the Vessel is moored or stored by the Company, but the company will use reasonable endeavours to ensure that the Vessel is available for inspection by prospective buyers at all reasonable times and is a clean and tidy condition.

## **6. Declarations and Undertakings of the Owner:**

6.1 The Owner declares and warrants to the Company that:

6.1.1 The proposed sale of the Vessel is not related to the Owner's business, trade or profession and that VAT is not chargeable on the selling price (unless otherwise declared above);

6.1.2 The factual matters set out in the description of the Vessel and associated equipment above are true, accurate and complete;

6.1.3 He/she/they are the sole legal and beneficial owner of the Vessel and absolutely entitled to transfer title to the Vessel free and clear of any liens, charges, claims, mortgages and encumbrances of any kind (subject only to the agreement of any joint Owner, mortgagee or financier whose details and identity have been disclosed above); and

6.2 The Owner acknowledges that the Company is entitled to (and will) rely on the accuracy of the description of the Vessel, the declarations above and the information provided by the Owner to the Company from time to time in relation to the Vessel.

6.3 The Owner agrees and undertakes:

6.3.1 To provide the Company with specifications for the Vessel, an inventory of the equipment to be included in the sale and copies of all relevant registration and other certificates relating to it (confirming which originals he/she holds). Promptly thereafter and at the Company's request, the Owner shall provide any further information relating to the Vessel and its ownership which the Company may reasonably request;

6.3.2 To supply the Company with the names and details of all prospective purchasers who contact the Owner directly in relation to the sale of the Vessel;

6.3.3 To be responsible for the cost of all cleaning, maintenance, berthing, mooring, storage and security of the Vessel pending sale;

6.3.4 To insure the Vessel against usual marine perils and third party risks and to ensure that the Vessel remains insured until completion of a sale. Such insurance shall cover all viewing, inspection and sale arrangements, including slipping for survey;

6.3.5 To indemnify and hold harmless the Company against any claim or liability (including the cost of defending any such claim or resisting any such liability as may be alleged) from any third party should any of the above declarations or information provided by or on behalf of the Owner prove to be incorrect or misleading;

6.3.6 To sell the Vessel to any willing buyer who makes an offer to purchase at the Asking Price or, following negotiations, at such other price as may be agreed with the Owner; and

6.3.7 To negotiate reasonably with any willing buyer introduced by the Company and to enter into an agreement for the sale of the Vessel.

## **7. The Company's Obligations:**

7.1 The Company agrees:

7.1.1 To seek prospective purchasers for the Vessel through direct promotion of the Vessel;

7.1.2 To prepare information describing the Vessel and to publish this information on the Company's web site together with photographs of the Vessel. The cost of such publication will be fixed at £250, which amount will be payable in advance of publication but deducted from the commission due to the Company in the event of a sale of the Vessel. In addition, adverts will be placed in appropriate publications and web sites where requested providing all such advertising costs are paid for in advance by the Owner;

7.1.3 To submit promptly to the Owner every offer received for the Vessel, regardless of whether such offer shall be at the Asking Price or at a level known to be unacceptable to the Owner;

7.1.4 To qualify any particulars issued by it in relation to the Vessel with a disclaimer in the following or similar form:-

7.1.5 "The Company normally acts as broker for the vendor who unless otherwise stated is not selling in the course of a business. Whilst every care has been taken in the preparation of these particulars the correctness is not guaranteed and they are intended as a guide only and do not constitute a part of any contract. A prospective buyer is strongly advised to check these particulars and where appropriate and at their 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 on our part."

## **8. Brokerage commission:**

8.1 Sale to party introduced by the Company after termination of this Agreement – if a sale of the Vessel is completed to a party introduced to the Owner by the Company, then the Company shall be entitled to the Agreed Commission on the actual price paid by the buyer.

8.2 Incomplete Sales – if:

8.2.1 A prospective buyer has entered into an agreement in relation to the Vessel but subsequently, in breach of that agreement, fails to complete the purchase;

8.2.2 The Company shall nevertheless be entitled to be paid one half (1/2) of the Agreed Commission on the Asking Price.

8.4 Owner's Default - If the Owner has entered into an agreement in relation to the Vessel but subsequently, in breach of that agreement, fails to complete the purchase, the Owner shall pay the Company the Agreed Commission in full on the Asking Price.

## **9. Commission Rate:**

9.1 The rate of commission to be paid by the Owner to the Company on the sale of the Vessel shall be the Agreed Commission which shall, unless otherwise indicated, be calculated on the net sale price of the Vessel together with any additional payments due in relation to equipment not otherwise included.

9.2 In addition, and where applicable, the Company shall be entitled to charge and recover VAT on the Agreed Commission, at the rate then prevailing.

## **10. Notification of alterations to price or location, withdrawal from sale or sale elsewhere:**

10.1 The Owner undertakes:

10.1.1 To advise the Company promptly of any changes in the Asking Price or intended change in location of the Vessel;

10.1.2 That the Vessel will not be offered at a lower price elsewhere; and

10.1.3 To notify the Company immediately if, whether in breach of this Agreement or otherwise, the Vessel is withdrawn from sale, or sold elsewhere, and in the latter case, to provide the Company with written confirmation of the name and address of the purchaser.

## **11. Care, Custody and Control of the Vessel:**

11.1 Responsibility for the care, custody and control of the Vessel remains entirely with the Owner. Although the company may recommend or provide display storage, maintenance, and other services, the final decision to employ such services remains with the Owner.

## **12. Access to the Vessel:**

12.1 Where applicable the Owner will give authority to any mooring or marina operator to permit the Company to access the Vessel on reasonable notice at any time and shall make keys available for this purpose.

## **13. Commencement of Services:**

13.1 Where the Owner is a consumer and this Agreement is an off-premises contract or distance contract, as defined in the Consumer Contract (Information, Cancellation and Additional Charges) Regulations 2013:-

13.1.1 The Owner may be able to cancel this contract within fourteen days of the date of the Agreement, without giving any reason, by informing the Company of the decision to cancel it by a clear written statement to that effect; and

13.1.2 Unless expressly instructed by the Owner not to do so, the Company will commence its service immediately upon verbal instruction; and

13.1.3 If the Owner subsequently exercises the right under Clause 15.1.1 to cancel this Agreement, the Owner will pay the Company a proportionate amount of the Agreed Commission to reflect the services the Company has performed prior to notification of cancellation.

#### **14. Termination on insolvency of either Party:**

14.1 This Agreement shall terminate automatically if either Party becomes insolvent or undergoes any formal insolvency process or compounds with his/her creditors.

#### **15. Notices:**

15.1 Any notice to be served under this Agreement on either Party shall be in writing and shall be sufficiently served if delivered personally or posted by recorded delivery to the address set out in this Agreement (unless the Party has by written notice to the other Party substituted a different address in England as the notice address). Any posted notice shall be deemed to have been received on the third business day after the time of posting.

**15.2** Notices may also be served by e-mail, in which case they shall be deemed received upon despatch if despatch was on a business day in the United Kingdom and within 0900-1700 hours and there was no delivery failure notice. If despatched before 0900 hours on a business day, the notice shall be deemed received at 0900 hours that day. If despatched after 1700 hours on a business day or on any non-business day, the notice shall be deemed received at 0900 hours on the next business day.

#### **16. Berthing/Mooring/Storage**

16.1 This Agreement does not replace any berthing, mooring or storage agreement(s) which may apply to the Vessel, unless otherwise specifically agreed by the Parties in writing.

#### **17. Third Party Rights**

17.1 A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

#### **18. Interpretation**

18.1 The word "Owner" shall include joint owners and any person acting with the written authority of the Owner or part Owners of the Vessel giving instructions for sale.

18.2 If any provision of this Agreement is deemed for any reason to be invalid, void or deleted, the Agreement shall nonetheless remain in full force and effect as if such provision had not originally been included. In such circumstances, the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the invalid, void or deleted provision. If such agreement cannot be reached, the Agreement shall remain in full force and effect without such provisions.

#### **19. Entire Agreement**

19.1 This Agreement constitutes the entire agreement between the Parties and supersedes any previous arrangement, understanding or agreement between the Parties relating to the subject matter of the Agreement.

19.2 Each Party acknowledges that, in entering into the Agreement it does not rely on any statement, representation, assurance or warranty of any person (whether a party to the Agreement or not) other than as expressly set out in the Agreement.

19.3 Nothing in this Agreement shall limit or exclude any liability for fraud, death or personal injury.

19.4 Any variations or alterations to this Agreement must be in writing and signed by the Parties.

19.5 This Agreement may be executed by the Parties in any number of counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same instrument and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

## **20. Law and Jurisdiction**

20.1 This Agreement and any non-contractual obligations arising out of, or in connection with, this Agreement shall be governed by and construed in accordance with English law.

20.2 Each of the Parties irrevocably agrees that any and every dispute (and any non-contractual obligations, as aforesaid) arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the English courts;

.....  
Signed by and on behalf of the Owner(s)

.....  
Signed by and on behalf of the Company