

## BOATHOUSE AUCTIONS INC. TERMS OF SERVICE

*Last Modified: 1/25/2024*

Welcome to **Boathouse Auctions'** website (the "**Site**"), owned and operated by Boathouse Auctions, Inc., a Delaware corporation ("**Company**," "**Boathouse Auctions**", "**we**," or "**us**"). This page explains the terms and conditions which apply when you use the Site and our online and/or mobile auction platform, and software provided on or in connection with the service and all related services (collectively, the "**Service**"), including by (i) submitting bids for the purchase of yachts posted for auction by the Company as a "**Bidder**," and (ii) the highest Bidder at close of an Auction acknowledged by the Company as "**Buyer**" or (iii) submitting a Yacht (as defined below) description and any other related information in connection with the listing of a yacht for sale on the Site as a "**Seller**." By accessing or using the Service, you signify that you have read, understood, and agree to be bound by these Terms of Service (the "**Terms**"), to the collection and use of your information as set forth in the Boathouse Auctions Privacy Policy at <https://boathouseauctions.com/privacy-policy/> which is incorporated into these Terms by reference. These Terms apply to Buyers, Sellers, visitors, users, and all others who register for or otherwise access the Service or the Site (collectively, "**Users**").

The Service may be subject to additional terms and conditions announced by us from time to time, and your use of the Service is subject to those additional terms and conditions, which are hereby incorporated into these Terms by reference. For example, please refer to each yacht-specific web page on the Site for various Auction-specific details related to the sale of a specific yacht. The Terms and all other publicized elements of the Auction are subject to amendment by the posting of notices or by oral announcements made before or during the Auction. By participating in an Auction, you acknowledge and agree that you are bound by any additional terms that may be imposed or announced by the Company and the Seller prior to or at the Auction either on the specific vessel listing or web page or otherwise. The information on the vessel listing or web page may be updated regularly so please check back to that listing/page on a regular basis to be sure you are reviewing the most recent information regarding the Auction.

PLEASE READ THESE TERMS CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION AS THEY CREATE A BINDING CONTRACT RELATED TO THE SERVICE AND YOUR USE OF THE SITE. THESE TERMS CONTAIN A MANDATORY INDIVIDUAL ARBITRATION AND CLASS ACTION/JURY TRIAL WAIVER PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

### 1. USE OF OUR SERVICE

- a. **Eligibility.** These Terms are a contract between you and Company. You must read and agree to these Terms before using the Service. If you do not agree, you may not use the Service. You may use the Service only if you can form a binding contract with Company, and only in compliance with these Terms and all applicable local, state, national, and international laws, rules and regulations. Any use or access to the Service by anyone under 18 is strictly prohibited and in violation of these Terms. For the avoidance of doubt, notwithstanding anything in this Agreement to the contrary, the parties acknowledge and agree that these Terms are solely a contract between you and the Company and expressly do not govern any sale, transaction, or other relationship between you and any other User, including any Buyer or Seller.
- b. **Company Service.** The Company is an information service and auction website that connects Buyers and Sellers. COMPANY IS AN AUCTIONEER AND NOT A BROKER OR DEALER AND DOES NOT SELL, EXCHANGE, BUY, OR EXCHANGE AN INTEREST IN ANY YACHT LISTED FOR SALE ON OUR SERVICE. COMPANY DOES NOT HOLD OR POSSESS TITLE FOR ANY YACHT LISTED FOR SALE ON OUR SERVICE. Company does NOT offer other ancillary products and services such as financing, service contracts, mechanical breakdown insurance, yacht registration/titling, and yacht transfer or closing services and all such functions will be handled exclusively by third party brokers or other professionals. Subject to these Terms, you are hereby granted a non-exclusive, limited, non-transferable, freely revocable license to use the Service and the Site. Company reserves all rights not expressly granted herein in the Service and the Company Content (as defined below). Company may terminate this license at any time for any reason or no reason.
- c. **Company Accounts.** Your Company account gives you access to the Services and functionality that we may establish and maintain from time to time and in our sole discretion. We may maintain different types of accounts for different types of Users. If you open a Company account on behalf of a company, organization, or other entity, then (a) "you" includes you and that entity, and (b) you represent and warrant that you are an authorized representative of the entity with the authority to bind the entity to these Terms, and that you agree that the entity is bound by these Terms. You may never use another User's account without permission. When

creating your account, you must provide accurate and complete information, and you must keep this information up to date. You are solely responsible for the activity that occurs on your account, and you must keep your account username and password secure. You may be held liable for any losses incurred by the Company, its affiliates, officers, directors, employees, consultants, agents, and representatives due to someone else's use of your account or password. We encourage you to use "strong" passwords (passwords that use a combination of upper and lower-case letters, numbers and symbols) with your account. You must notify Company immediately of any breach of security or unauthorized use of your account. Company will not be liable for any losses caused by any unauthorized use of your account. By providing Company your email address or by using the Service or visiting the Site, you consent to our using the email address to send you Service-related notices electronically, including any notices required by law, in lieu of communication by postal mail or any other method. We may also use your email address to send you other messages, such as changes to features of the Service, special offers and newsletters as described in our Privacy Policy.

- d. **Service Rules.** We may, without prior notice, change the Service; stop providing the Service or features of the Service, to you or to Users generally; or create usage limits for the Service in our sole and absolute discretion. We may permanently or temporarily terminate or suspend your access to the Service without notice and liability for any reason, including if in our sole determination you violate any provision of these Terms, or for no reason. Upon termination for any reason or no reason, you continue to be bound by these Terms. You are solely responsible for your interactions with other Company Users. We reserve the right, but have no obligation, to monitor disputes between you and other Users. Company shall have no liability for your interactions with other Users, or for any User's action or inaction.

## 2. SELLER CONTENT

We do not claim ownership of Seller-generated content and material provided to us in connection with the Services or posted on the Site (collectively "**Seller Content**") and we have not independently verified the accuracy or completeness of any such Seller Content. By submitting any Seller Content including any vessel survey or inventory, you grant to Company and its affiliates a perpetual, irrevocable, royalty-free, worldwide, sublicensable and transferable license to copy, publish, translate, modify, reformat, create derivative works from, distribute, reproduce, sell, display, transmit, publish, broadcast, host, archive, store, cache, use or otherwise exploit all or any portion of the Seller Content, as well as your name, persona and likeness included in any Seller Content and your social media account handle, username, real name, profile picture and/or any other information associated with the Seller Content, in any commercial or noncommercial manner whatsoever, in whole or in part, in any and all distribution channels, forms, media or technology, whether now known or hereafter developed, including but not limited to in stores, printed marketing materials, emails, web pages, social media accounts and for any other marketing, advertising, public relations, sales or promotional purposes with or without attribution and without further notice to you. Neither you, nor any other person or entity, will have the right to (i) receive any royalty or consideration of any kind for the use of the Seller Content pursuant to these Terms or (ii) inspect or approve the editorial copy or other material that may be used in connection with the Seller Content. Company retains the right, in its sole discretion and without prior notice, to remove, revise or refuse to post any Seller Content for any reason or no reason. Subject to the licenses granted in these Terms, you retain ownership of any copyright and other rights you may have in the Seller Content.

By submitting Seller Content, you represent and warrant that (i) you own or control any and all rights in and to the Seller Content, and the right to grant all of the rights and licenses in these Terms, and if you are not the holder of such rights, the holder of such rights has completely and effectively waived all such rights and irrevocably granted you the right to use the Seller Content and to grant the licenses stated above without the need for payment to you or any other person or entity; (ii) you have obtained permission from any individuals or other third parties that appear in the Seller Content to use, and grant others the right to use, their name, image, voice and/or likeness without the need for payment to you or any other person or entity; (iii) you are 18 years of age or older; and (iv) the Seller Content does not (a) contain false or misleading information, (b) infringe on the intellectual property, privacy, publicity, statutory, contractual or other rights of any third party, (c) contain any libelous, defamatory, obscene, offensive, threatening or otherwise harassing or hateful content or (d) contain computer viruses, worms or other harmful files or malware. Upon request by Company, you will furnish Company any documentation, substantiation or releases necessary to verify your compliance with these Terms. You are solely responsible for the Seller Content and you hereby agree to defend, indemnify and hold Company and its employees, agents, affiliates, brokerages, brokers, surveyors, assignees and licensees harmless from any and all damages, claims, losses, expenses, costs or fees arising from or in connection with a breach of any of the foregoing representations or your violation of any law or rights of a third party.

Company does not guarantee the truthfulness, accuracy or reliability of any Seller Content or endorse any opinions expressed by the Seller, any broker, you or anyone else. By submitting the Seller Content you fully and unconditionally release and forever discharge Company and its officers, directors, employees, agents, affiliates, brokerages, brokers, and surveyors from any and all claims, demands, losses, expenses, costs and damages (actual or consequential, direct or indirect), whether now known or unknown, suspected or unsuspected, contingent or fixed, of every kind and nature relating to, arising out of or in any way connected with: (i) disputes between you and a Buyer or one or more Users or any other person or entity, or (ii) the use by Company or you of the Seller Content, including, without limitation, any and all claims that use of the Seller Content pursuant to these Terms violates any of your intellectual property rights, copyrights, rights of publicity or privacy, "moral rights," or rights of attribution and integrity. You acknowledge and agree that Company has no control over, and shall have no liability for, any damages or losses resulting from, the use (including, without limitation, re-publication) or misuse by you or any third party of any Seller Content. Company acts as a passive conduit for Seller Content and has no obligation to screen or monitor Seller Content. If Company becomes aware of any Seller Content that may not conform to these Terms, Company may investigate the allegation and determine in its sole discretion whether to take action in accordance with these Terms including but not limited to removing or deleting any Seller Content. Company has no liability or responsibility to Users for performance or nonperformance of such activities.

Company has the absolute right to remove and/or delete without notice any Seller Content within its control that it deems objectionable or in violation of these Terms or applicable law. You consent to such removal and/or deletion and waive any claim against Company for such removal and/or deletion. Company is not responsible or liable for failure to store or to safeguard any posted content or other materials you transmit through the Service. You should take measures to preserve copies of any data, material, content or information you post on the Service or any other sites or platforms.

### **3. BIDDING AND BIDDER REGISTRATION**

To qualify to bid at an Auction, you must (1) agree to be bound by these Terms and any required deposit instructions and (2) wire the "**Bidder's Deposit**" into the Closing Agent's account per the deadline and instructions set forth on the applicable Yacht auction web page. The "**Closing Agent**" shall be identified on the applicable Yacht auction web page and in many cases will be the Listing or Selling Brokerage. Company may, in its discretion, extend this deadline. If you are the winning bidder, the Bidder's Deposit shall be handled in accordance with these Terms and the Purchase and Sale Agreement (described below). If you are not the winning bidder, then the Bidder's Deposit shall be refunded to you by 5:00 p.m. ET on the second business day following the Auction date.

Seller may choose to offer to Bidders an Opening Bid Credit. The Opening Bid Credit is offered on certain auctions to qualifying pre-auction bidders in the form of a credit to reduce the purchase price of the Yacht. To determine whether an Opening Bid Credit is offered and to qualify, the Bidder offering the highest final bid at auction must have submitted an Opening Bid Credit form prior to the start of auction as set forth in the Terms and as described on the specific webpage related to the sale of the subject Yacht.

All Auction bidding is open to the public without regard to race, color, sex, religion, familial status, disability or national origin. Company controls all aspects of the bidding process and reserves the right to accept or reject any bid in its sole discretion. Method of Auction, order of Auction, and bidding increments shall be determined exclusively by Company in its sole discretion, including, without limitation, Company's right to pause and resume bidding during the Auction. Company reserves the right to reject any bid that is only a minimal increase over the preceding bid, or that Company believes was made illegally or in bad faith. In a Reserve Auction, Company may place "counterbids" on Seller's behalf up to, but not to exceed, the Reserve price. Counterbidding is designed to bring the bids closer to an amount that is acceptable to the Seller. All decisions of Company are final as to bidding issues, cancellation or any other matters that may arise before, during or after the Auction. If Company perceives attempted collusion, Company will cancel the Auction or refuse to accept a bid. Collusion between bidders and/or sellers is prohibited by various applicable laws. Company reserves the right to deny any person admittance to the Auction or expel anyone who Company believes may disrupt, cause any nuisance or interfere with the Auction in any way or for any other reason in Company's discretion. The Auction does not begin until Company receives the first bid.

### **4. BIDDER DUE DILIGENCE AND INVESTIGATION**

Prior to the commencement of the Auction, it is the Bidder's sole responsibility to perform any inspections, investigations and due diligence Bidder deems pertinent to the purchase of the subject vessel, to be satisfied as to the condition of the vessel prior to bidding and to review all due diligence materials provided with respect to the vessel.

EACH BIDDER ASSUMES ANY AND ALL RISKS ASSOCIATED WITH ANY SUCH INSPECTION AND ITS DUE DILIGENCE ACTIVITIES. Company assumes no liability for errors or omissions in any Seller or Broker disclosures or any other vessel listings or advertising, promotional or publicity statements and materials which is why it is important to verify independently all such information. Although information has been obtained from sources deemed reliable, Company does not make any guarantee as to the accuracy or completeness of any such information.

All yachts are sold in existing "As-Is, Where-Is" condition and "With All Faults". No representation, warranty, or condition is expressed or implied by the Company and its employees, agents, affiliates, brokerages, brokers, surveyors, or the Seller as to description, quality, fitness for a particular purpose, condition of the yacht in any manner whatsoever and any such representation, warranty, and condition is expressly waived by the Buyer. Personal onsite inspection of the yacht is recommended, and Bidders are advised to independently verify all information they deem important. The Company and its employees, agents, affiliates, brokerages, brokers, surveyors or the Seller assume no liability for errors or omissions on any yacht listing or advertising, promotional or publicity statements and materials. Although information has been obtained from resources deemed reliable, neither the Company nor the Seller makes any guarantee as to the accuracy of any such information. All information contained on the Site or any promotional materials was provided by the Seller and is believed to be accurate and complete, however, neither the Seller or the Company makes any guarantee or warranty as to the accuracy or completeness of such information. THE BUYER SHALL BEAR THE SOLE RESPONSIBILITY TO CONFIRM ALL INFORMATION RELEVANT TO THE YACHT PRIOR TO BIDDING.

By registering as a Bidder and bidding at the Auction, you shall be deemed to represent, warrant and agree with respect to each Yacht you bid on that: (a) you have reviewed all due diligence materials related to the Yacht, you have inspected the Yacht, you are familiar and satisfied with the condition of the Yacht and you have conducted such investigation of the Yacht as you deemed appropriate, (b) neither Company nor Seller, nor any affiliate, agent, officer, employee or representative of either of them, has made any verbal or written representation, warranty, promise or guarantee whatsoever to you, expressed or implied, and in particular, that no such representations, warranties, guarantees, or promises have been made with respect to the condition, operation, or any other matter or thing affecting or related to the Yacht and/or the offering or sale of the Yacht, (c) you have not relied upon any representation, warranty, guarantee or promise or upon any statement made or any information provided concerning the Yacht, including but not limited to information made available on-line at the Site, in Auction Advertising, in the Auction brochure, or provided or made available by Company or by Seller, or their respective affiliates, agents, officers, employees or representatives, (d) you have made your bid after having relied solely on your own independent investigation, inspection, due diligence, analysis, appraisal and evaluation of the Yacht and the facts and circumstances related thereto, (e) you have actual authority to enter a bid and to enter into the Purchase and Sale Contract, (f) you have the capacity to close the transaction pursuant to the Purchase and Sale Contract, (g) any information provided or to be provided by or on behalf of the Seller with respect to the Yachts including, without limitation, all information contained on the Site, in Auction advertising, or any other printed or online materials being made available to you by Seller and Company, was obtained from Seller and/or Seller's agents, and Company has not made any independent investigation or verification of such information, and makes no representations as to the accuracy or completeness of such information, (h) without limiting the generality of the foregoing, Company shall not have any obligation to disclose to any Bidder, and shall have no liability for its failure to disclose to any Bidder, any information known to them relating to any Yacht except as may be required by law, and (j) Company is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Yacht, or the operation thereof, made or furnished by any real estate broker, agent, employee, or other person.

WITHOUT LIMITING ANY OTHER PROVISION OF THESE TERMS OR THE PURCHASE AND SALE AGREEMENT, ALL BIDDERS ACKNOWLEDGE AND AGREE THAT THEY ARE BIDDING FOR AND, WHEN THE HIGH BIDDER IS CONFIRMED BY COMPANY, WILL ACQUIRE THE YACHT, IN ITS "AS IS" CONDITION AS OF AUCTION DAY, WITH ALL DEFECTS, BOTH PATENT AND LATENT, AND WITH ALL FAULTS, WHETHER KNOWN OR UNKNOWN, PRESENTLY EXISTING OR THAT MAY HEREAFTER ARISE (TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW). ALL PROSPECTIVE BIDDERS ACKNOWLEDGE AND AGREE THAT COMPANY HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATION, WARRANTY, PROMISE, COVENANT, AGREEMENT OR GUARANTY OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, CONCERNING OR WITH RESPECT TO THE YACHT, INCLUDING WITHOUT LIMITATION: (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE YACHT; (B) THE INCOME TO BE DERIVED FROM THE YACHT, IF ANY; (C) THE SUITABILITY OF THE YACHT FOR ANY AND ALL PURPOSES, ACTIVITIES AND USES WHICH BIDDER MAY CONDUCT THEREON; (D) THE COMPLIANCE OF THE YACHT OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (E) THE

MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE YACHT; (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE YACHT; (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE YACHT; (H) ANY OTHER MATTER WITH RESPECT TO THE YACHT, OR (I) THE STRUCTURAL INTEGRITY OF THE YACHT. BIDDER ACKNOWLEDGES THAT NEITHER SELLER, COMPANY NOR ANY OF THEIR REPRESENTATIVES OR AGENTS HAVE TESTED THE YACHT TO CONFIRM THAT IT IS IN SEAWORTHY CONDITION. ALL BIDDERS FURTHER ACKNOWLEDGE AND AGREE THAT, WITHOUT LIMITATION, SELLER AND COMPANY HAVE NOT MADE, DO NOT MAKE, AND SPECIFICALLY DISCLAIM ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY APPLICABLE LAW. EACH PROSPECTIVE BIDDER AND ANYONE CLAIMING BY, THROUGH OR UNDER THE SAME HEREBY FULLY AND IRREVOCABLY RELEASE SELLER AND COMPANY, AND THEIR RESPECTIVE OWNERS, AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND AGENTS, FROM ANY AND ALL CLAIMS THAT HE/SHE/IT OR THEY MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SELLERS AND/OR COMPANY, AND/OR THEIR RESPECTIVE AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND AGENTS, FOR ANY COST, LOSS, LIABILITY, DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM OR RELATING TO THE CONDUCT OF THE AUCTION AND/OR THE CONDITION OF THE YACHT, INCLUDING BUT NOT LIMITED TO ANY DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS AFFECTING THE YACHT, OR ANY PORTION THEREOF. THIS RELEASE INCLUDES CLAIMS OF WHICH PROSPECTIVE BIDDER IS PRESENTLY UNAWARE OR DOES NOT PRESENTLY SUSPECT TO EXIST IN HIS/HER/ITS FAVOR WHICH, IF KNOWN BY PROSPECTIVE BIDDER, WOULD MATERIALLY AFFECT PROSPECTIVE BIDDER'S RELEASE OF SELLERS AND COMPANY. EACH PROSPECTIVE BIDDER SHOULD CONSIDER THESE MATTERS WHEN REGISTERING AS A BIDDER AND BEFORE PARTICIPATING IN ANY AUCTION AND PLACING BIDS.

YOU ACKNOWLEDGE AND AGREE THAT THIS RELEASE AND DISCLAIMER IS INTENDED TO BE VERY BROAD AND YOU HEREBY WAIVE AND RELINQUISH ANY RIGHTS OR BENEFITS YOU MAY HAVE UNDER ANY STATE OR FEDERAL LAW OR LEGAL PRINCIPLE DESIGNED TO INVALIDATE RELEASES OF UNKNOWN OR UNSUSPECTED CLAIMS TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW.

## 5. AUCTION PROCESS

In connection with the Services, Sellers choose between absolute auctions, selling without a reserve or minimum price, or reserve auctions, where the Yacht may be sold with a minimum price that may or may not be disclosed to bidders. If Seller chooses a reserve auction, they provide to Company a minimum price at which the Seller is willing to sell the applicable Yacht (the "**Reserve**") prior to the Company's publication of the Seller's listing. Should the Reserve not be met, the high Bidder agrees to leave their bid open for a period of 24 hours following the conclusion of the auction during which time Owner can accept, reject, or negotiate the high Bid. A high bid which is accepted or negotiated is bound by all Terms of Service. Seller may reduce or waive the Reserve prior to or during the auction by notifying the Company of such change via email. Company, in its sole discretion, reserves the right to withdraw a Yacht from auction at any time.

Unless otherwise noted on the subject Yacht webpage on the Site, the "**Yacht**" includes all gear, machinery, equipment, furniture, consumables, and all other tenders, dinghies, jet skis, toys, articles and appurtenances on board the vessel as of the date of its listing, except for items listed on Seller's Exclusions List, which items are not included in the sale of the Yacht.

Each Bidder acknowledges and agrees that (i) each bid submitted via the Service is irrevocable and binding on the Bidder, and (ii) Buyer is responsible for all applicable government fees and taxes for applicable yachts listed via the Service. Once a Final Bid is accepted, you are obligated to purchase the vessel for the amount of the Final Bid.

- a. **Final Bid.** Final bid means the highest bid acknowledged by the Company at the close of auction as determined by the Company. At close of auction the Company will privately disclose Buyer to Seller.
- b. **Purchase Price.** The final bid in accordance with the Payment Terms set forth in the next section below.
- c. **Bid Acceptance and Closing.** Within 48 hours of acceptance of the final bid by the Company, the Buyer and Seller must sign an "As-Is" Purchase and Sales Agreement substantially in the form made available to all parties prior to the auction on the Yacht webpage and must comply with all terms and conditions contained in the Purchase and Sales Agreement. Winning bidder shall deposit sufficient funds to bring the total deposit to ten percent (10%) of the Purchase Price and shall deliver and pay the Buyer's Premium required under the Purchase and Sale Agreement. All Bidders are strongly encouraged to review the Purchase and Sale Agreement prior to bidding and to consult with an attorney or other professional before participating in any auction. Buyer and Seller agree to execute all other documents considered necessary to convey the interest in the Yacht from the

Seller to the Buyer or its assigns. The final Closing will occur no later than 30 calendar days after the auction is completed (the “Closing”), unless agreed to in writing by both Seller and Buyer.

- d. **Delivery Location.** Unless otherwise agreed, the delivery of the Yacht to Buyer will be at its current stated location at time of Closing.
- e. **Possession; Risk of Loss.** The Yacht shall be, and remain, in the possession of the Seller until Closing. Pending completion of the sale, the Seller shall hold and maintain in full force and effect all insurance policies or proceeds thereof relating to the Yacht in trust for the parties as their interest may appear and, in the event of substantial damage to the Yacht as set forth in the Purchase and Sale Agreement, the Buyer may either (i) receive the proceeds of the insurance relating to the damage and complete the purchase of the Yacht or (ii) cancel the Purchase and Sale Agreement, in which case the Deposit will be returned to Buyer. Possession of and risk of loss of the yacht will pass to the Buyer at closing.
- f. **Default.** If the Buyer fails to comply with any of these Terms or with the Purchase and Sale Agreement, the Bidder’s Deposit and any other amounts paid by Buyer shall be forfeited to the Seller, Listing Broker, and Company in three equal amounts, and those parties may pursue any other legal or equitable remedies against Buyer available under applicable law.
- g. **Closing Costs.** The Buyer shall pay all Closing costs and taxes related to its purchase of the Yacht including, but not limited to, all sales and use taxes and any VAT or similar tax related to the payment of the Buyer’s Premium.
- h. **No Conditions or Contingencies.** All auctions are a cash transaction with no contingencies whatsoever, including, but not limited to, financing or due diligence. The Buyer may ultimately finance a portion of the Purchase Price, but the Buyer’s obligation to proceed with the purchase is not contingent upon the buyer obtaining financing. If the Buyer is unsuccessful in obtaining financing and is unable to close within the required time period, the Buyer will be deemed in default.
- i. **Cancellation.** The Company and the Seller reserve the right to cancel or postpone any auction or to withdraw a Yacht before, up to the start of the auction and during auction at their sole discretion.

## 6. PAYMENT TERMS

**Buyer’s Premium.** A Buyer’s Premium equal to eight percent (8%) of the winning bid amount shall be paid by the Buyer to the Company in addition to the winning bid amount on the yacht paid to Seller. In addition, the winning bidder shall pay any and all closing costs, including, but not limited to, escrow fees, government fees and taxes, VAT, registration fees, documentation and titling fees, regulatory and electronic processing charges, inspection charges, and any other fees required by law. All amounts listed on the website are in U.S. dollars. If the sale of the Yacht is not consummated for any reason other than default by the Seller, the Buyer’s Premium shall nonetheless be due and payable to Company and you irrevocably instruct the Closing Agent to disburse those funds to Company. The Buyer’s Premium is not a brokerage commission; it is the fee that Company charges to bidders to bring the Yacht to auction.

Buyer acknowledges and agrees that the Buyer’s Premium is deemed earned upon conclusion of the Auction and shall be paid by Buyer to the Company within two business days after the conclusion of the Auction. If the sale of the Yacht is not consummated for any reason other than default by the Seller, the Buyer’s Premium shall be due and payable to the Company and you irrevocably instruct the Closing Agent to disburse those funds to us.

## 7. OUR PROPRIETARY RIGHTS

Except for Seller Content, the Service and all materials therein or transferred thereby (the “**Company Content**”), and all intellectual property and other proprietary rights related thereto, are the exclusive property of Company and its licensors. Except as explicitly provided herein, nothing in these Terms shall be deemed to create a license in or under any such intellectual property and proprietary rights, and you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any Company Content. Use of the Company Content for any purpose not expressly permitted by these Terms is strictly prohibited.

“Boathouse Auctions”, the Boathouse Auctions logo, and any other product or service name or slogan displayed on our Service are trademarks of Boathouse Auctions and its suppliers or licensors, and may not be copied, imitated or used, in whole or in part, without the prior written permission of Boathouse Auctions or the applicable trademark holder. You may not use any metatags or any other “hidden text” utilizing “Boathouse Auctions” or any other name, trademark or product or service name of Boathouse Auctions without our prior written permission. In addition, the look and feel of our Service, including all page headers, custom graphics, button icons and scripts, is the service mark, trademark and/or

trade dress of Boathouse Auctions and may not be copied, imitated or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned in our Service are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship, or recommendation thereof by us.

You may choose to, or we may invite you to submit comments or ideas about the Service, including without limitation about how to improve the Service or our products (“**Ideas**”). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place Company under any fiduciary or other obligation, and that we are free to use the Idea without any additional compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, Company does not waive any rights to use similar or related ideas previously known to Company, or developed by its employees, or obtained from sources other than you.

**8. Prohibited Uses.** You may use the Site only for lawful purposes and in accordance with these Terms. You agree not to use the Site:

- In any way that violates any applicable federal, state, local or international law or regulation (including any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material, including any “junk mail,” “chain letter” or “spam” or any other similar solicitation.
- To impersonate or attempt to impersonate the Company, a Company employee, another user or any other person or entity (including by using email addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone’s use or enjoyment of the Site, or which, as determined by us, may harm the Company or users of the Site or expose them to liability.

Additionally, you agree not to:

- Use the Site in any manner that could disable, overburden, damage or impair the site or interfere with any other party’s use of the Site, including their ability to engage in real time activities through the Site.
- Use any robot, spider or other automatic device, process or means to access the Site for any purpose, including monitoring or copying any of the material on the Site.
- Use any manual process to monitor or copy any of the material on the Site or for any other unauthorized purpose without our prior written consent.
- Use any device, software or routine that interferes with the proper working of the Site.
- Introduce any viruses, trojan horses, worms, logic bombs or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Site, the server on which the Site is stored, or any server, computer or database connected to the Site.
- Attack the Site via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Site.

**Linking to the Site and Social Media Features.** You may link to our homepage, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part.

This Site may provide certain social media features that enable you to:

- Link from your own or certain third-party websites to certain content on this Site.
- Send emails or other communications with certain content, or links to certain content, on this Site.
- Cause limited portions of content on this Site to be displayed or appear to be displayed on your own

or certain third-party websites.

You may use these features solely as they are provided by us solely with respect to the content they are displayed with and otherwise in accordance with any additional terms and conditions we provide with respect to such features. Subject to the foregoing, you must not:

- Establish a link from any website that is not owned by you.
- Cause the Site or portions of it to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site.
- Link to any part of the Site other than the homepage.
- Otherwise take any action with respect to the materials on this Site that is inconsistent with any other provision of these Terms and Conditions.

The website from which you are linking, or on which you make certain content accessible, must comply in all respects with these Terms and Conditions. You agree to cooperate with us in causing any unauthorized framing or linking immediately to cease. We reserve the right to withdraw linking permission without notice. We may disable all or any social media features and any links at any time without notice in our discretion.

#### **Links from the Site**

If the Site contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to this Site, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

### **9. THIRD-PARTY LINKS AND INFORMATION**

The Service may contain links to third-party materials that are not owned or controlled by Company. Company does not endorse or assume any responsibility for any such third-party sites, information, materials, products, or services. If you access a third-party website or service from the Service on or through any third-party website or service, you do so at your own risk. You expressly relieve Company from any and all liability arising from your use of any third-party website, service, or content. Additionally, your dealings with or participation in promotions of advertisers found on the Service, including payment and delivery of goods, and any other terms (such as warranties) are solely between you and such advertisers. You agree that Company shall not be responsible for any loss or damage of any sort relating to your dealings with such advertisers.

### **10. INDEMNITY**

You agree to defend, indemnify and hold harmless Company, Seller, Listing Broker and their owners, surveyor and their owners, officers, directors, subsidiaries, employees, agents, representatives, licensors, managers, and other affiliated companies, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Service, including any data or content transmitted or received by you; (ii) your violation of any term of these Terms, including without limitation your breach of any of the representations and warranties above; (iii) your violation of any third-party right, including without limitation any right of privacy or intellectual property or proprietary rights; (iv) your violation of any applicable law, rule or regulation; (v) Seller Content or any content that is submitted via your account including without limitation misleading, false, or inaccurate information; (vi) your willful misconduct; or (vii) any other party's access and use of the Service with your unique username, password or other appropriate security code.

### **11. NO WARRANTY**

THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SERVICE IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY,



FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM COMPANY OR THROUGH THE SERVICE OR SELLER WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, COMPANY, ITS SUBSIDIARIES, ITS AFFILIATES, AND ITS LICENSORS DO NOT WARRANT THAT THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICE WILL MEET YOUR REQUIREMENTS; THAT THE SERVICE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICE IS FREE OF VIRUSES, MALWARE OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR YOUR USE OF THE SERVICE.

COMPANY DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICE OR ANY HYPERLINKED WEBSITE OR SERVICE, AND COMPANY WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

WHILE WE TRY TO MAKE SURE THAT ALL PRICES POSTED ON THE SERVICE ARE COMMUNICATED ACCURATELY, WE CANNOT BE RESPONSIBLE FOR THE TYPOGRAPHICAL AND OTHER ERRORS THAT MAY APPEAR ON THE SERVICE. IF THERE IS INCORRECT INFORMATION GIVEN ABOUT A BOAT, PRICE, AVAILABILITY, DESCRIPTION, OR CONDITION DUE TO A TYPOGRAPHICAL OR TECHNOLOGICAL ERROR, COMPANY IS NOT RESPONSIBLE FOR SUCH ERROR OR ITS CORRECTION; BUT WILL ATTEMPT TO CORRECT SUCH ERROR PROMPTLY. WE RESERVE THE RIGHT TO REFUSE OR CANCEL ANY AUCTIONS FOR BOATS LISTED AT AN INCORRECT PRICE.

THE SERVICE MAY BECOME INACCESSIBLE OR IT MAY NOT FUNCTION PROPERLY WITH YOUR WEB BROWSER, MOBILE DEVICE, AND/OR OPERATING SYSTEM. BOATHOUSE AUCTIONS CANNOT BE HELD LIABLE FOR ANY PERCEIVED OR ACTUAL DAMAGES ARISING FROM SERVICE CONTENT, OPERATION, OR USE OF THIS SERVICE.

THE COMPANY MAY ALLOW TELEPHONIC, ELECTRONIC, ABSENTEE OR PROXY BIDS AS A CONVENIENCE TO BIDDERS WHO ARE NOT PRESENT AT THE AUCTION AND/OR ARE NOT ABLE TO USE THE SITE. THE COMPANY IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN CONNECTION WITH SUCH BIDS, INCLUDING, WITHOUT LIMITATION, POOR CONNECTIONS, INTERNET OUTAGES, POOR RECEPTION, DROPPED CALLS, RECORDING FAILURES, BUSY SIGNALS AND MISSED CALLS.

## **12. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY'S LIABILITY FOR ANY AND ALL DAMAGES OF WHATEVER KIND OR NATURE SHALL BE LIMITED TO THE COMPENSATION THAT WOULD HAVE BEEN DUE TO THE COMPANY IN THE EVENT OF A SUCCESSFUL AUCTION SALE. THIS LIMITATION SHALL APPLY REGARDLESS OF WHETHER THE DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT, OR ANY OTHER LEGAL THEORY OR FORM OF ACTION. IN NO EVENT SHALL COMPANY, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATING TO THE USE OF, OR INABILITY TO USE, THIS SERVICE. UNDER NO CIRCUMSTANCES WILL COMPANY BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICE OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (II) PERSONAL INJURY OR YACHT DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF OUR SERVICE; (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICE; (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICE BY ANY THIRD PARTY; (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICE; AND/OR (VII) SELLER CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY. IN NO EVENT SHALL COMPANY, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, SELLERS, BROKERAGES, BROKERS, SURVEYORS, OR LICENSORS BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

### 13. GOVERNING LAW, ARBITRATION, AND CLASS ACTION/JURY TRIAL WAIVER

- a. **Governing Law.** You agree that: (i) the Service shall be deemed solely based in FAIRFIELD, CONNECTICUT; and (ii) the Service shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than FAIRFIELD, CONNECTICUT. These Terms shall be governed by the internal substantive laws of the State of CONNECTICUT, without respect to its conflict of laws principles. The parties acknowledge that these Terms evidence a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, any arbitration conducted pursuant to the terms of these Terms shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16). The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. You agree to submit to the personal jurisdiction of the federal and state courts located in CONNECTICUT for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of our copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. You agree that CONNECTICUT is the proper forum for any appeals of an arbitration award or for trial court proceedings in the event that the arbitration provision below is found to be unenforceable.
- b. **Arbitration.** Read this section carefully because it requires the parties to arbitrate their disputes and limits the manner in which you can seek relief from Company. For any dispute with Company, you agree to first contact us at support@boathouseauctions.com and attempt to resolve the dispute with us informally. In the unlikely event that a dispute has not been resolved after sixty (60) days, we each agree to resolve any claim, dispute, or controversy (solely excluding any claims for injunctive or other equitable relief as provided below) arising out of or in connection with or relating to these Terms, any auction or Yacht, including the breach or alleged breach of these Terms (collectively, “**Claims**”), by binding arbitration before the International Yacht Arbitration Council (“**IYAC**”). The arbitration will be conducted in the location of the Company’s choice. Each party will be responsible for paying any IYAC filing, administrative and arbitrator fees pursuant to and in accordance with IYAC’s rules, and the award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys’ fees and reasonable costs for expert and other witnesses. Nothing in this Section shall be deemed as preventing Company from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, intellectual property or other proprietary rights.
- c. **Class Action/Jury Trial Waiver.** With respect to all persons and entities, regardless of whether they have obtained or used the Service for personal, commercial or other purposes, all claims must be brought in the parties’ individual capacity, and not as a plaintiff or class member in any purported class action, collective action, private attorney general action or other representative proceeding. This waiver applies to class arbitration, and, unless we agree otherwise, the arbitrator may not consolidate more than one person’s claims. You agree that, by entering into this agreement, you and Company are each waiving the right to a trial by jury or to participate in a class action, collective action, private attorney general action, or other representative proceeding of any kind.
- d. ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS, THE WEBSITE OR AN AUCTION MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

### 14. GENERAL PROVISIONS

- a. **Assignment.** These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Company without restriction. Any attempted transfer or assignment in violation hereof shall be null and void.
- b. **Notification Procedures and Changes to these Terms.** Company may provide notifications, whether such notifications are required by law or are for marketing or other business-related purposes, to you via email

notice, written or hard copy notice, or through posting of such notice on our website, as determined by Company in our sole discretion. Company reserves the right to determine the form and means of providing notifications to its Users, provided that you may opt out of certain means of notification as described in these Terms. Company is not responsible for any automatic filtering you or your network provider may apply to email notifications we send to the email address you provide us. Company may, in its sole discretion, modify or update these Terms from time to time, and so you should review this page periodically as all changes are binding on you. All changes are effective immediately when posted and apply to all access to and use of the Site and the Services thereafter. We also reserve the right to withdraw or amend this Site, and any Service we provide, in our sole discretion without notice. Your continued use of the Site and the Services following the posting of revised Terms means that you accept and agree to the changes. If at any time you find these Terms unacceptable, you must immediately leave the Site and cease all use of the Services and the Site.

- c. **Entire Agreement.** These Terms, together with any amendments and any additional agreements you may enter into with Company in connection with the Service, shall constitute the entire agreement between you and Company concerning the Service.
- d. **Severability.** If any provision of these Terms is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be enforced to the maximum extent permissible to affect the intent of these Terms, and the remainder of these Terms shall continue in full force and effect.
- e. **No Waiver.** No waiver of any term of these Terms shall be deemed a further or continuing waiver of such term or any other term, and Company's failure to assert any right or provision under these Terms shall not constitute a waiver of such right or provision.
- f. **Site Functions and Availability.** We will not be liable if for any reason all or any part of the Site is unavailable at any time or for any period.
- g. .
- h. **Force Majeure.** Neither party will be liable or responsible nor be deemed to have defaulted or breached this Agreement for any failure or delay in performance under this Agreement when and to the extent such failure or delay is materially interrupted or caused by or results from acts or circumstances beyond such party's reasonable control, including, without limitation, acts of God, flood, hurricane, typhoon, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lockouts, strikes or other labor disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, linking to the website and social media features.

**Your Comments and Concerns.** All feedback, comments, questions, requests for technical support and other communications relating to the Site should be directed to [support@boathouseauctions.com](mailto:support@boathouseauctions.com).