



VESSEL PURCHASE AND SALE AGREEMENT

DATE: Oct 01, 2020

BUYER Name: First Last	SELLER Name: First Name Last Name
Address Address City LA 00000	Address Address City FL Zip
Citizen of: United States	Citizen of: United States
SELLING BROKER Company: Michael James, CPYB Murray Yacht Sales, Inc	LISTING BROKER Company: Michael James, CPYB Murray Yacht Sales, Inc
PURCHASE PRICE & DEPOSIT Purchase Price: \$100,000.00 USD	VESSEL INFORMATION Name: Sample
Deposit: \$10,000.00 USD	Builder: unknown
Balance - Purchase Price: \$90,000.00 USD	Model & Length: Sample - 40ft 0in
Attachment A describes the vessel's inventory Additional Provisions - Paragraph 8	Model Year: 2020
CLOSING Date: Oct 30, 2020	HIN: SAM123456789
Delivery Location: Current Location	Doc. No.: 0000000 Reg. No.: 00000
ACCEPTANCE OF VESSEL – Paragraph 4 Date: Oct 23, 2020	Flag or Country:
	State or Province:
	OFFER EXPIRATION – Paragraph 5 Date: Oct 02, 2020

- 1 **1. AGREEMENT:** BUYER agrees to purchase, and SELLER agrees to sell the VESSEL, subject to the terms and
 2 conditions set forth in this PURCHASE AND SALE AGREEMENT, and any Addendum(s)/Amendment(s) attached
 3 hereto, hereinafter collectively "AGREEMENT". Capitalized words below refer to the section above unless otherwise
 4 defined herein. SELLING BROKER and LISTING BROKER shall be referred to herein as BROKERS. Should either
 5 party fail to sign this AGREEMENT and deliver it to the other party or BROKER(s) on or before the OFFER
 6 EXPIRATION DATE, the AGREEMENT is null and void.
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- 8 **2. DEPOSIT:** The DEPOSIT shall be paid upon execution of this PURCHASE AND SALE AGREEMENT and
 9 delivered to the SELLING BROKER'S escrow account as the DEPOSIT towards the PURCHASE PRICE, held
 10 subject to the terms of this AGREEMENT. BUYER may proceed with survey and other inspections of the VESSEL
 11 once collected funds are in the BROKER'S escrow account. The balance of the PURCHASE PRICE will be paid in
 12 collected funds at the CLOSING.
 13 a. Should the SELLER and BUYER agree that payment may be made in any form other than collected funds,
 14 they agree to jointly and severally indemnify and hold harmless the BROKER(S) involved from any loss or
 15 liability resulting from reliance on use of such form of payment.
 16 b. Prior to transmittal of any funds by BROKER(s), BUYER or other agreed designated party, the transmittal
 17 instructions shall be confirmed to be accurate and true, either verbally, by fax or other secured means, prior to
 18 transmittal.
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- 20 **3. SURVEY:** The BUYER may have the VESSEL surveyed at his expense to verify the condition of the VESSEL and
 21 the accuracy of the attached inventory.
 22 a. The SELLER agrees that the BUYER or his agents may examine the VESSEL and its inventory in a
 23 nondestructive manner. The SELLER may stipulate at which boatyard the VESSEL will be hauled and agrees
 24 delivery to and from the boatyard for survey, which he hereby authorizes, is at the SELLER'S sole risk and
 25 expense.
 26 b. SELLER is responsible to make the VESSEL available for survey and is responsible for its operation during
 27 any trial run, unless otherwise agreed.
 28 c. The BUYER agrees that the surveyor(s) shall be employed by the BUYER, and to pay all direct costs associated
 29 with the survey, including returning the VESSEL to the same status it was in prior to the survey. BUYER
 30 further agrees that any and all claims that may arise regarding the accuracy of the survey in the transaction may
 31 not be asserted against the BROKER(S).
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- 33 **4. ACCEPTANCE OF THE VESSEL:** The BUYER shall notify the SELLING BROKER of his ACCEPTANCE of

INITIALS: BUYER: _____ BUYER: _____ DATE: _____ | SELLER: _____ SELLER: _____ DATE: _____

the VESSEL and its inventory in writing. If said notice is not received by the ACCEPTANCE DATE, the BUYER shall be deemed to have rejected the VESSEL and its inventory, subject to the terms, if any, of Paragraph 8. *IT IS THE BUYER'S RESPONSIBILITY TO OBTAIN ANY ASSURANCES HE REQUIRES REGARDING THE AVAILABILITY OF SATISFACTORY FINANCING AND INSURANCE PRIOR TO ACCEPTANCE DATE.*

- 5. **TERMINATION OF AGREEMENT:** If the BUYER gives notice of his intention to reject the VESSEL under the terms of AGREEMENT, such notice shall constitute termination of the BUYER'S obligation to purchase and the SELLER'S obligation to sell. The BUYER and the SELLER both authorize the SELLING BROKER to return the deposit to the BUYER, after deducting any fees and charges incurred against the VESSEL by the BUYER, or by the BROKERS on behalf of the BUYER, including the cost of the survey and related expenses.
- 6. **CLOSING:** The CLOSING shall take place on or before the CLOSING DATE and will be complete when:
 - a. BUYER confirms that they are prepared to close; and,
 - b. All documents necessary to transfer good and absolute title to the VESSEL are received by the BUYER, SELLING BROKER, or Documentation Service on behalf of the BUYER; and,
 - c. The balance of the PURCHASE PRICE is received in collected funds by the SELLER, or their designated agent.
- 7. **TIME OF ESSENCE:** The BUYER and SELLER expressly recognize and agree that time shall be of the essence with respect to any and all times, dates, and deadlines set forth in this agreement.
- 8. **ADDITIONAL PROVISIONS:** (If none, enter "NONE" below. If more space required, add Attachments)
Subject to: Financing; Trial Run.

OTHER RIGHTS, OBLIGATIONS AND MISCELLANEOUS PROVISIONS

- 9. **SELLER'S REPRESENTATIONS:** The SELLER warrants and/or agrees as follows:
 - a. The SELLER has full power and legal authority to execute and perform this AGREEMENT, will transfer good and marketable title to the VESSEL, and if necessary obtain permission, from any authority to sell the VESSEL. Any party, which is a legal entity, will provide the other prior to CLOSING; 1) Articles; 2) Operating Agreement/By Laws/Partnership Agreement, identifying the authorized representative who may enter/execute agreements/documents on behalf of the legal entity; 3) proof it is in good standing under the laws of the State or other jurisdiction under which the entity has been formed; and 4) a consent action or resolution duly authorizing the entity's decision to sell the VESSEL and execute the Bills of Sale.
 - b. The VESSEL will be sold free and clear of any mortgages, liens, bills, encumbrances, or claims whatsoever. If any such obligations remain outstanding at the closing, the SELLER authorizes the SELLING BROKER to deduct the funds necessary to satisfy such obligations from the proceeds of the sale.
 - c. If VESSEL traveled to any foreign jurisdiction and was issued a cruising permit/registration or other foreign documents, hereinafter "Cruising Permit", SELLER agrees to and is responsible, at SELLER's expense, to cancel the Cruising Permit and to provide proof of cancellation before Closing.
 - d. To deliver the VESSEL and its inventory as accepted in Paragraph 4, on or before the CLOSING DATE at the delivery location.
 - e. To pay any and all duties, taxes, fees, or other charges assessed against the VESSEL by any governmental authority prior to CLOSING, and to hold harmless and indemnify the BUYER and BROKERS against any claims or actions for such fees, and to provide validation of such payments at CLOSING, upon written request by the BUYER.
 - f. To hold harmless and defend the BUYER and BROKERS against any and all claims incurred prior to CLOSING that may impair or adversely affect the BUYER'S receipt, use, and possession of the VESSEL and

INITIALS: BUYER: _____ BUYER: _____ DATE: _____ | SELLER: _____ SELLER: _____ DATE: _____

SELLER'S possession of good and absolute title to VESSEL, and to assume all costs incident to defending the BUYER and BROKERS against such claims, including their reasonable attorney's fees.

- g. To pay BROKERS the commission at CLOSING. SELLER authorizes the BROKERS to deduct the commission from payments received directly or indirectly from the BUYER. Should the sale not be closed for any reason, and the SELLER transfers any interest in the VESSEL to the BUYER, directly or indirectly, within two (2) years of the CLOSING DATE in this AGREEMENT, except a charter of one month or less, then the SELLER agrees to pay the BROKERS an amount equal to the commission which would have applied to the sale of the VESSEL under this AGREEMENT.

10. BUYER'S REPRESENTATIONS: The BUYER warrants and/or agrees as follows

- a. That they have full power and legal authority to execute and perform this AGREEMENT and to obtain, prior to CLOSING, if required, the permission of any authority to buy the VESSEL. Any party, which is a legal entity, will provide the other prior to CLOSING; 1) Articles; 2) /By Laws/Partnership Agreement; and 3) a consent action or resolution duly authorizing the entity's decision to purchase the VESSEL, and
- b. To deliver the following at CLOSING:
 - i. Collected funds payable to the SELLER, or for the SELLER'S account, in an amount equal to the balance of the PURCHASE PRICE
 - ii. Collected funds payable to the BROKERS, in an amount equal to any charges incurred against the VESSEL by BROKERS on behalf of the BUYER, including costs related to any survey of the VESSEL.
 - iii. Any and all documents required to complete this purchase; and
- c. To pay all sales and/or use taxes, now or hereafter, imposed as a result of this sale, and to indemnify the SELLER and BROKERS against any obligations to pay such taxes, and to furnish proof of such payments, upon request by the BROKERS.
- d. The BUYER will have the right of possession of the VESSEL only upon completion of the CLOSING

11. INTERIM RESPONSIBILITIES: The SELLER shall bear all risk of loss or damage to the VESSEL, or to any person or property on said VESSEL, until CLOSING. Any damages to the VESSEL subsequent to ACCEPTANCE as set forth in Paragraph 4, and prior to completion of closing, shall be repaired by the SELLER at his expense, subject to approval of the BUYER who has the right to request a reasonable price adjustment or to cancel the sale if damages cannot be repaired to his satisfaction within a time frame acceptable to BUYER. The SELLER agrees not to use the VESSEL after completion of survey(s) and/or trial run(s) undertaken on behalf of the BUYER except to move the VESSEL to a suitable storage location and to conduct any trial run(s) requested by the BUYER.

12. DEFAULT BY SELLER: The SELLER'S failure to deliver the VESSEL to the BUYER or otherwise to perform the terms of the AGREEMENT, due to any reason (including loss of or substantial damage to the VESSEL caused by the SELLER'S negligence which prevents completion of the sale), shall obligate the SELLER to pay all costs and charges incurred in connection with any survey undertaken on behalf of the BUYER, and to pay the BROKERS the full brokerage commission which would have otherwise been due pursuant to Paragraph 9(g). The SELLER'S obligation is without prejudice to any other rights the BUYER might also have as a result of the SELLER'S default. However, if the sale cannot be completed by the closing date due to substantial damage to the VESSEL not caused by the SELLER'S negligence, the SELLING BROKER is authorized to deduct from the deposit any fees or charges incurred against the VESSEL by the BUYER, including the cost of the survey and related expenses, and return the balance to the BUYER.

13. DEFAULT BY BUYER: The BUYER and SELLER agree that the amount of damages sustainable in the event of a default by the BUYER is not ascertainable. Therefore, in the event that the BUYER, after accepting the VESSEL under the terms of this AGREEMENT, fails to fulfill any or all of the obligations set forth in Paragraphs 6 and 10, the DEPOSIT shall be retained by the SELLER as liquidated and agreed damages, and the BUYER and SELLER shall be relieved of all obligations under the AGREEMENT. This sum shall be divided equally (50%/50%) between the SELLER and the BROKERS after all expenses incurred against the VESSEL by the BUYER have been paid. The BROKERS' share shall not exceed the amount the BROKERS would have received had the sale been completed.

14. BROKER REPRESENTATION: The SELLER and the BUYER each acknowledge that the SELLING BROKER represents the BUYER, and the LISTING BROKER represents the SELLER, each representing the party that the respective BROKER has brought to this transaction. The SELLER and the BUYER also acknowledge and agree that in the case of a sole BROKER, such BROKER represents the interest of both the SELLER and the BUYER and that

INITIALS: BUYER: _____ BUYER: _____ DATE: _____ | SELLER: _____ SELLER: _____ DATE: _____

149 such representation shall not render this AGREEMENT voidable.

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15. **INDEMNIFICATION:** The SELLER and BUYER agree to indemnify and hold harmless the BROKERS from any and all claims, including those by any third party, which may arise from the sale of the Vessel, including reasonable costs and attorney’s fees. Should the BROKERS become party to any dispute, litigation or Arbitration involving this AGREEMENT, it is agreed that if the BROKERS are found not to be at fault, it is agreed that the BROKER(S) shall be reimbursed for costs and attorney’s fees by the party(s) found to be at fault.

16. **DISPUTE RESOLUTION:**

- a. **MEDIATION.** Any dispute, controversy or claim relating to this AGREEMENT, including but not limited to the interpretation thereof, or its breach or existence, which cannot be resolved amicably by the BUYER and SELLER, shall first be referred to mediation.
 - i. Within fifteen (15) days after receipt of a notice to mediate a dispute, the Parties shall agree to appoint a mediator. Parties are encouraged to contact a regional marine mediator(s). If Parties are unable to agree on a mediator, then BUYER and SELLER agree to use the first available mediator identified on the rolls of the Trial Court for the County of the LISTING BROKER.
 - ii. The mediation shall be conducted in accordance with the Rules for Mediation of the Society of Maritime Arbitrators, Inc., hereinafter “RMSMA”, and shall be held in the city and state of the LISTING BROKER’s office.
 - iii. The cost of mediation process will be equally shared by the parties for such dispute.
- b. **ARBITRATION.** Any dispute, controversy or claim relating to this AGREEMENT, including but not limited to the interpretation thereof, or its breach or existence, which has not been resolved by mediation, as provided in Paragraph 16(a) above within sixty (60) calendar days of the initiation of such procedure, shall be referred to arbitration, which shall be the sole and exclusive forum for resolution and settlement of any dispute, controversy or claim between the parties.
 - i. The arbitration shall be conducted in accordance with the Maritime Arbitration Rules of the Society of Maritime Arbitrators, Inc., hereinafter “RASMA”, as amended by this agreement, then in force and shall be held in the city and state of the LISTING BROKER’s office.
 - ii. Any award of the arbitral authority shall be final and binding upon the BUYER and SELLER with respect to all disputes, claims or controversies encompassed therein, and the BUYER and SELLER shall comply with the said award without delay. The arbitral authority shall in its award, fix and apportion the costs of arbitration. The award of the arbitral authority may be enforced by any court having jurisdiction over the party against which the award had been rendered.
 - iii. The BUYER and SELLER agree that the issuance of an award by the arbitral authority shall be a condition precedent to the right of either party to institute any legal action or proceeding in any court on a matter relating to this agreement.
 - iv. The BUYER and SELLER further understand and agree that arbitration shall be the sole and exclusive forum for resolving any dispute, controversy or claim relating to this AGREEMENT, which has not been resolved by mediation, and that neither party shall resort to any court except to compel arbitration, refer questions of law, or to confirm, vacate or modify any such award.

17. **MISCELLANEOUS PROVISIONS:** This AGREEMENT shall:

- a. Be construed and interpreted in accordance with, and the arbitral authority shall apply, the substantive and procedural law of the State of the LISTING BROKER’S principal office.
- b. Constitute the entire AGREEMENT between the BUYER and SELLER, and supersedes all prior discussions, agreements and understandings of any nature between them, and may not be changed or added to except by agreement in writing and signed by all parties to be bound.
- c. Be considered as jointly drafted and shall not be construed against the drafter since all signatories will have had ample opportunity and ability to make adjustments and changes.
- d. If any term, condition, or provision of this AGREEMENT is held to be unenforceable for any reason, it shall be interpreted to achieve the intent of the parties to this AGREEMENT to the extent possible rather than avoided. All other terms, conditions, and provisions of this AGREEMENT shall be deemed valid and enforceable
- e. Be binding upon and shall inure to the benefit of and be enforceable by the successors in interest of the BUYER and SELLER, including but not limited to heirs, executors, administrators or assigns.
- f. SELLER consents and acknowledges that this agreement is freely assignable by BUYER to any individual(s) or entity(ies), foreign or domestic, of their choosing.

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- g. Survive the CLOSING of the transaction and shall not be merged in or otherwise be affected by the execution, tender, delivery, or acceptance of the Bill of Sale or any other documents related to this transaction executed or delivered at or subsequent to the CLOSING.
- h. The parties may sign this AGREEMENT in any number of identical counterparts, each deemed original, including signatures evidenced via facsimile or electronic mail with the same effect as if the signatures were upon the same instrument.

18. NO WARRANTIES: THE BUYER EXPRESSLY AGREES THAT NO WARRANTIES OR REPRESENTATIONS, EXPRESSED OR IMPLIED, HAVE BEEN OR WILL BE MADE DIRECTLY OR INDIRECTLY BY THE SELLER OR BROKERS CONCERNING THE CONDITION OR USE OF THE VESSEL, INCLUDING, BUT NOT LIMITED TO, FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY AND/OR WORKMANSHIP. THE VESSEL IS SOLD "AS IS". THE BUYER FURTHER EXPRESSLY AGREES THAT HE HAS NOT RELIED UPON ANY ORAL REPRESENTATION BY THE SELLER OR THE BROKERS AS TO THE CONDITION OR CAPABILITY OF THE VESSEL OR ITS INVENTORY. THE BUYER ALSO RECOGNIZES AND ACKNOWLEDGES THAT VESSELS AND THEIR INVENTORY MAY HAVE BOTH APPARENT AND/OR HIDDEN DEFECTS, AND THE BUYER ACCEPTS RESPONSIBILITY FOR DETERMINING THE CONDITION OF THE VESSEL, ITS INVENTORY, AND THE EXISTENCE OF ANY DEFECTS.

IN WITNESS WHEREOF the BUYER and SELLER have hereunto placed their signatures as of the date written below.

BUYER _____ DATE _____
First Last

BUYER _____ DATE _____

SELLER _____ DATE _____
First Name Last Name

SELLER _____ DATE _____

SELLING BROKER ACKNOWLEDGES RECEIPT OF DEPOSIT

SELLING BROKER _____ DATE _____

INITIALS: BUYER: _____ BUYER: _____ DATE: _____ | SELLER: _____ SELLER: _____ DATE: _____