

Terms of Use – Dealers**§ 1 Scope / Definition**

- (1) The Terms of Use – Dealers (“*Dealer-Terms*”) shall apply to all legal relationships that arise through business transactions conducted between Boatshop24 Software GmbH, Kaiser-Friedrich-Promenade 89, D-61348 Bad Homburg (“boatshop24.com”) and a commercial seller (“Dealer”).
- (2) The term “Boat” used below shall apply to yachts, trailers, engines, motors, or moorings.
- (3) boatshop24.com reserves the right to amend these *Dealer-Terms* at any time without prior notice, whereby Dealers shall be notified of the amendments via e-mail four weeks before they take effect. The amended *Dealer-Terms* shall be deemed accepted, unless a Dealer files an objection within two weeks of receiving such notification. boatshop24.com shall in the e-mail containing the amended *Dealer-Terms*, draw Dealer’s attention specifically to the consequences of observing silence.

§ 2 License Agreement

- (1) Dealer, upon completing the registration form online or submitting it by fax, shall be deemed to have offered to license the database against payment. Acceptance of this registration and consequent execution of a contract shall be in the form of an e-mail confirmation issued at the sole discretion of boatshop24.com.
- (2) In the event Dealer’s registration information changes, Dealer shall be obligated to immediately notify boatshop24.com accordingly or to alter the information in the administration area directly.

§ 3 Database Use

- (1) boatshop24.com warrants accessibility to the database, provided it is technically and operationally possible. boatshop24.com shall not be held responsible for any temporary malfunctions arising from causes such as the loss of electrical power, overloading of the telecommunications network, breaks in lines, or other technical problems encountered by the provider, over which boatshop24.com has no influence.
- (2) boatshop24.com shall service and develop its database regularly, to maintain the security and integrity of the server and to avoid severe malfunctions. Accordingly, access to the database may be restricted temporarily, but due consideration shall be paid to Dealer’s legitimate interests.
- (3) boatshop24.com reserves the right to alter the database structure or to reduce or enhance its size without notice, provided such action does not significantly impede the potential success striven for through the subject contract.

§ 4 Advertisements

- (1) Dealer is obligated to place only proper offers for sale of boats in the database, and to enter these conscientiously and factually through the input mask made available, while including all significant facts, figures, and faults that may affect a decision to purchase.
- (2) Dealer shall not be entitled to set up any files containing images that are not exclusively of the Boat or of an equivalent model for sale.

§ 5 Fees

- (1) During the trial period, Dealer shall have free use of the platform.
- (2) The fees for the periods of use stated on the Web site at the time of contract conclusion shall apply. These fees are net rates subject to any statutory VAT due under the Laws of Germany.
- (3) boatshop24.com reserves the right to raise its fees following contract execution to reflect higher costs, especially for taxes, wage agreements, social security benefits, telecommunications, or due to changes in market conditions. Dealer shall be notified of any fee increases in writing or by e-mail at least four weeks in advance of their going into effect. Such an increase shall be deemed accepted, unless Dealer objects to the new fees before they become effective. boatshop24.com shall, in the e-mail or correspondence regarding the new fees, draw Dealer's attention specifically to the consequences of observing silence.
- (4) Dealer shall be entitled to rights of offset only if its counterclaims are established legally, or if boatshop24.com either does not dispute such claims or accepts them. Dealer may exercise a general lien only if its counterclaim is based on the same contractual relationship.

§ 6 Payment Terms

- (1) Fees shall be due and payable monthly in advance on the fifteenth (15) day of each month starting in the month following registration, whereby payment on an annual basis shall be due once a year on the fifteenth (15) day of the month following registration.
- (2) The method of payment shall be as contractually agreed. Dealer shall issue an automatic draft order for direct debits. In the event of insufficient funds to cover the direct debit, Dealer shall be responsible for all costs that arise as a consequence of nonpayment, provided Dealer is responsible for the lack of adequate funds in the account at the time of direct debit.
- (3) In the event of default of payment, boatshop24.com shall be entitled to block the sales offers placed by Dealer until the contractual payment due is received from Dealer (general lien). The rights of boatshp24.com to claim damages and to terminate the contract due to default of payment shall remain in effect.

§ 7 Contract Term

- (1) The free trial period shall be for one month from the registration date and shall terminate automatically without notice.
- (2) The contract term against payment shall be for a period of twelve (12) months, commencing upon receipt of a confirmation e-mail from boatshop24.com sent after submission of the registration form. This term may only be cancelled effective the end of the term.
- (3) The contract shall renew automatically for an additional year, unless terminated with a notice of six (6) weeks before expiry of the existing or extended contract term. The right to immediate termination for just cause shall remain in effect.
- (4) The contract may be terminated by sending notification via e-mail to *info@boatshop24.com*, or in writing to *Boatshop24 Software GmbH, Kaiser-Friedrich-Promenade 89, D-61348 Bad Homburg*, or by fax at +49 (0)6172 / 676 155.

§ 8 Warranty / Liability

- (1) Dealer's warranty rights require Dealer to evaluate the services provided by boatshop24.com and to notify the latter, either in writing or by e-mail, no later than four working days of observing any relevant malfunctions.
- (2) For any damage claims by Dealer, boatshop24.com shall be liable for acts of misconduct or gross negligence as prescribed by law, which are attributable to boatshop24.com or any of its representatives or vicarious agents. If boatshop24.com does not willfully breach the contract, its liability for claims shall be limited to foreseeable damages.
- (3) boatshop24.com shall be liable as prescribed by law for any culpable breach of contract, whereby its liability for claims shall be limited to foreseeable damages.
- (4) Any liability for culpable endangerment to life or bodily injury or health or absolute liability under the product liability act shall not be affected.
- (5) boatshop24.com shall not be liable in any form whatsoever, except as stated in the preceding provisions.

§ 9 General Liability

- (1) Any liability beyond the damage claims stated under §10 shall be precluded, without regard to the legal nature of the claim. This applies in particular to damage claims for default on contract execution, or due to other breaches of duty, or due to claims for offenses under § 823 of BGB (German Civil Code).
- (2) In the event boatshop24.com is held harmless or its liability is limited in respect of any damage claims, the same conditions shall apply to the personal liability of its staff, employees, representatives, or vicarious agents.

§ 10 Responsibility for the Content

- (1) Dealer shall be solely responsible for the correctness and legitimacy of any information provided. Dealer shall be obligated to ensure that such information or content, directly or through boatshop24.com, does not infringe upon these *Dealer-Terms*, applicable national or international laws, and/or rights of third parties, in particular with respect to copyrights, trademarks, rights to a name, personal rights, or patent rights, etc.
- (2) The liability or responsibility of boatshop24.com for third party content shall be governed by §§ 8, 11 of *Teledienstgesetz* (TDG).
- (3) Dealer shall hold boatshop24.com harmless against any third party claims of infringement in respect of the offers and content provided by Dealer via the Web site operated by boatshop24.com. Dealer shall assume any attorney or court costs incurred by boatshop24.com for the legal defense against any such claims, unless the subject infringement is not attributable to Dealer.
- (4) boatshop24.com reserves the right to block the content provided by Dealer, if there are reasonable grounds to believe that the content is in gross violation of the law or these *Dealer-Terms*.

§ 11 Rights

- (1) boatshop24.com is the rightful owner of and holds exclusive rights to the Web site and the database, and all copyright, trademark, and other intellectual property rights in respect of the Web site, database, content, information, and other elements. Any rights held by Dealer shall not be affected by this provision.
- (2) Any content, images, or other information on the boatshop24.com Web site – even if such material is not protected under copyright laws, registered designs, or trademarks – may not be copied, distributed, or used in any manner whatsoever without the prior consent of the rightful owner.

§ 12 Data Protection

- (1) The information provided by Dealer shall be treated in compliance with German Data protection laws, such as the *Teledienstschutzgesetz* (TDDSG) and the *Bundesdatenschutzgesetz* (BDSG), whereby boatshop24.com is entitled to process personal information necessary for handling contract information, providing services (usage / license), and invoicing.
- (2) Dealer shall be entitled to view its personal information saved by boatshop24.com at no charge and at any time.

§ 13 Governing Law

All legal relationships between the parties shall be construed in accordance with the Laws of Germany, under exclusion of all material and procedural legal norms of other jurisdictions. The UN Convention on Contracts for the International Sale of Goods (CISG) is hereby excluded.

§ 14 Place of Jurisdiction

The place where boatshop24.com is seated shall be the place of jurisdiction for all disputes in connection with these *Dealer-Terms*, provided Dealer is a businessperson. This shall also apply if Dealer is not generally domiciled in Germany or moves its domicile outside of Germany after contract execution. boatshop24.com shall be entitled to file charges at Dealer's place of business.

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