



# AUTHORITY TO SELL

## Reference Schedule

A. Date: \_\_/\_\_/20\_\_

**B. Brokerage Details:-**

**Broker Name:** DTM Boat Sales  
**Licence No:**  
**ABN:**  
**File No:**  
**Phone:** Mob: 0401 066 610  
**Fax:**  
**Email:** laurie@dtmboatsales.com.au  
**Address:** (H-96) Gold Coast City Marina, 76-84 Waterway Drive  
**Postal Address:** COOMERA QLD 4209

**C. Vendor Details:-**

**Company / Business / Individual (circle one) Name:**

**ABN / ACN (if vessel company / business owned):**

**Contact Name (if company / business):**

**Address (physical):**

**Address (Postal – if different)**

**Phone (landline):**

**Mobile:**

**Fax:**

**Email:**

**D. Vessel Details:-**

**Make:**

**Model:**

**HIN:**

**Rego:**

**Engine No 1:**

**Engine No 2:**

**Vessel Location:**

**Vessel Condition Report:** See attached "Vessel Condition Statement - Appendix 2"

**Vessel specifications:** see attached "Vessel Specification Form" – Appendix 1

**E. Brokerage Fees: (expressed as % of sale price & include GST)**

**Sale Price \$**

**Broker fee as % of Sale Price**

< \$100,000	= 11%	> \$250,000	= 7.7%
\$100,000 - \$250,000	= 9.9%	> \$1,000,000	= 5.5%

**F. Brokerage / Vendor Agency Arrangement:- (Circle One)**

What type of Agency is the Seller appointing to the Broker?

**Open:**  (Clause 6.1 applies)

**Central:**  (Clause 6.2 applies)

**Exclusive:**  (Clause 6.3 applies)

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**G. Term Of Agency Agreement;-**

If the Agency Agreement is Central or Exclusive, the term of the agreement is one hundred and twenty (120) days.

At the conclusion of this period it will revert to Open Agency unless otherwise stated here.

**H. Encumbrances;-**

Is there any current encumbrance on the vessel? **Yes / No**

**I. List Price of Vessel;-**

\$

**Note: If GST is applicable to the sale then the price listed here is exclusive of GST**

**J. GST on Sale;- (refer 9.2(a) and 9.2(b))**

- Is the sale of the vessel a taxable supply? **Yes / No**

- Is the sale of the vessel a going concern? **Yes / No**

NOTE: to be eligible for taxable supply sale, or as a going concern, the vendor must be registered, or be required to be registered for GST, and the sale made in the course of or for furtherance of an enterprise the vendor is carrying on.

**K. Place Of Delivery**

**L. Is your vessel registered on the Australian National Register **Yes / No****

- If Yes please provide i) Copy of Registration
- ii) Official No. ....

**BROKER:.....**  
Signature

**VENDOR:.....**  
Signature

**PRINT NAME.....**

**PRINT NAME.....**

**WITNESS:.....**  
Signature

**WITNESS:.....**  
Signature

**PRINT NAME.....**

**PRINT NAME.....**

**Date: \_\_ / \_\_ / 20\_\_**

**Date: \_\_ / \_\_ / 20\_\_**

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## Standard Conditions

### 1. Interpretation

In this agreement;-

<b>Broker</b>	means the party named in item B of the Reference Schedule
<b>Brokerage Fees</b>	means the sum calculated in item E of the Reference Schedule
<b>Date</b>	means the date on which the Authority commences as in item A of the Reference Schedule
<b>Encumbrances</b>	includes but is not limited to any hire purchase agreement, bond, mortgage, bill of sale, lien, maritime lien, statutory lien or other charge or encumbrances whatsoever as described in item H of the Reference Schedule
<b>Gear</b>	includes all appurtenances, gear and equipment affixed to and forming part of the vessel and all other gear and equipment on-board, ashore, in storage, and listed in the Vessel Specification Form as described in Item D of the Reference Schedule.
<b>GST</b>	has the same definition as the definition of that term in the GST Act
<b>GST Act</b>	means the A New Tax System (Goods and Services Tax ) Act 1999
<b>List Price</b>	means the sum stated in item I of the Reference Schedule
<b>Location Of Vessel</b>	means the place stated in Item D of the Reference Schedule
<b>Place Of Delivery</b>	means the place named in item K of the Reference Schedule
<b>Sale</b>	means any sale, transfer, assignment, conveyance or disposition of the Vessel for valuable consideration or in any exchange or trade as agreed between the Seller and a Buyer
<b>Seller</b>	means the party/parties named in Item C of the Reference Schedule
<b>Seller's Condition Statement</b>	means the Sellers Condition Statement named in Item D of the Reference Schedule
<b>Tax Invoice</b>	has the same definition as the definition of that term in the GST Act.
<b>Vessel</b>	the vessel described in Item D of the Reference Schedule and the Vessel Specification Form with all its outfit and stores as described therein subject to any deficiencies disclosed in the Sellers Condition Statement.

### 2. Appointment Of Agent

- 2.1 The seller appoints the Broker as its agent to sell the vessel for the List Price and or such other price as directed or agreed to by the seller on such terms as the seller agrees in writing with the broker.
- 2.2 On the date of completion of a sale, the Seller will deliver possession of the vessel to the buyer at the Place Of Delivery in exchange for the Buyer paying the seller the List Price or such other price as directed or agreed to by the Seller.

### 3. Seller's Warranties

The Seller warrants that;-

- (a) The Seller is the Seller of the vessel
- (b) The Seller has unfettered power and capacity to appoint the Broker as its agent to sell the Vessel
- (c) The Vessel is free of all encumbrances other than those disclosed in Item H of the Reference Schedule.
- (d) The Vessel is insured for its full market value and as such insurance policy extends to the Vessel being held by the Broker at its premises or such other premises reasonably considered by the Broker as suitable for the purpose of marketing and selling the Vessel to prospective buyers.
- (e) There is no litigation current as at the date of this agreement by any person claiming any interest in the Vessel
- (f) There is no unsatisfied judgement or order affecting the Vessel
- (g) All the defects of the Vessel are disclosed in the Sellers Condition Statement in Item D of the Reference Schedule and there are no other defects known to the Seller
- (h) The details and specifications of the Vessel as described in Item D of the Reference Schedule are accurate and true.

### 4. Brokers Rights

4.1 The Seller grants the Broker permission to;-

- (a) Board the Vessel for inspection purposes
- (b) Operate the gear including engines and electronics for demonstration purposes, lifting, driving, mechanical and survey inspections.
- (c) Motor or sail the Vessel for demonstration purpose; and

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(d) Take such other reasonable steps in relation to the vessel as may in the Broker's reasonable opinion be necessary to further the prospective sale of the Vessel

(e) And will indemnify the Broker whilst lifting the Vessel for inspection, Sea Trials, Mechanical Inspection and working the Vessel on behalf of the Seller in an effort to sell the Vessel.

**4.2** The Broker is not liable for any damage or mechanical or other failure whatsoever and howsoever arising to the Vessel or its gear which occurs or becomes apparent while the vessel is under the Brokers control provided such damage is not caused by the Broker's negligence or deliberate acts or omission.

**4.3** The seller grants the Broker permission to engage other brokers to assist in selling the Vessel on a conjunction basis.

## **5. Broker Acting As Agent**

5.1 The Seller agrees that the Broker will act as an agent of the Seller to sell the Vessel.

5.2 The Broker is authorised to market the Vessel for sale at the list price as in Item I of the Reference Schedule or such other price as directed or agreed to by the Seller.

5.3 The Seller acknowledges that the relationship between the Seller and the Broker will not in any circumstance give rise to a bailment.

5.4 The Broker may store and display the Vessel at the location of the Vessel and may move the Vessel to any other place and operate the Vessel in any manner that is reasonably suitable, prudent and safe having regard to all the circumstances at the time.

## **6. Types Of Agency And Brokerage Fees**

### **6.1 Open Agency**

If Open Agency in Item F of the Reference Schedule is marked, this clause 6.1 applies. The Seller is liable to pay the Broker the Brokerage Fees if;-

(a) A sale is completed and the Buyer in the sale is introduced to the Seller by the Broker, or

(b) A sale is terminated and the Broker procured the sale and the sale is not completed due to the buyers default and the deposit, if any, paid by the buyer is forfeited to the seller.

The seller is not liable to pay the Broker, the Brokerage Fees if the buyer in the sale is found by the Seller or introduced to the Seller by a person other than the Broker.

### **6.2 Central Agency**

If Central Agency in Item F of the Reference Schedule is marked, this clause 6.2 applies. The Seller appoints the Broker as its agent to offer the Vessel for sale either directly or through other Brokers as the Broker may choose to appoint for the period referred to in Item G of the Reference Schedule from the date of this agreement referred to in Item A of the Reference Schedule.

The Seller is liable to pay the Broker the Brokerage Fee if;-

(a) A sale is completed and the Buyer in the sale is introduced to the Seller by the Broker or other Brokers appointed by the Broker under the agreement; or

(b) A sale is terminated and the Broker or other Brokers appointed by the Broker under this agreement procured the Sale and the Sale is not completed due to the Buyers default and the deposit, if any, paid by the Buyer is forfeited to the Seller.

The Seller is not liable to pay the Broker the Brokerage Fees if the Buyer in the Sale is found by the Seller or introduced to the Seller by a person other than the Broker or other Brokers appointed by the Broker under this agreement.

After the term of this Central Agency has expired the Agency will continue as an Open Agency until determined in accordance with clause 12.

### **6.3 Exclusive Agency**

If Exclusive Agency in Item F of the Reference Schedule is marked, this clause 6.3 applies. The Seller appoints the Broker as its agent to offer the Vessel for sale directly or through other brokers as the Broker may appoint for the period referred to in Item G of the Reference Schedule from the date of this agreement referred to in Item A of the Reference Schedule.

The seller is liable to pay the Broker the Brokerage Fees if;-

(a) A sale is completed and the buyer in the sale is found by the Seller or is introduced to the Seller by the Broker or any other Brokers appointed by the Brpker or the Seller; or

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- (b) A sale is terminated and the Broker or any other Brokers appointed by the Broker or the Seller procured the sale and the sale is not completed due to the Buyers default and the deposit, if any, paid by the Buyer is forfeited to the Seller.

After the term of this Exclusive Agency has expired, the Agency will continue as an Open Agency until determined in accordance with Clause 12.

#### **7. Indemnity**

The Seller will fully indemnify the Broker and hold the Broker harmless from and against any loss, damage or liability which may be sustained in respect of the Vessel including (but without limitation) loss suffered by the Broker as a consequence of the Sellers failure to keep full and proper insurance for the Vessel and the Seller's breach of any provision of this agreement.

#### **8. Inspection**

8.1 When an agreement for sale is entered into and the deposit, if any, is paid by the Buyer, the Seller will allow the;

- (a) Vessel to be slipped for inspection
- (b) Bottom of the Vessel to be cleaned and
- (c) Buyer to conduct sea trials.

8.2 The Buyer will pay the cost of slipping and inspecting the Vessel and the Seller will make the Vessel available for sea trials and pay for the operational costs of the Vessel during the sea trials

8.3 The Broker is not responsible for any cost associated with the berthing or slipping to allow any inspection and the Broker is not responsible for any damage to the Vessel during berthing or slipping.

#### **9. Goods and Services Tax**

##### **9.1 GST On Brokerage Fees**

(a) The Brokerage Fees includes GST and the Seller must pay the Broker GST on the supply of service when the Seller pays the Broker the Brokerage Fees.

(b) The Broker must provide a Tax Invoice to the Seller for the supply.

##### **9.2 GST On Price**

(a) This clause 9.2(a) applies if "No" is marked in Item J of the Reference Schedule. The Seller warrants that the supply of the Vessel is not a Taxable Supply within the meaning of the GST Act and there is no GST on the supply of the Vessel.

(b) This clause 9.2(b) applies if "Yes" is marked in Item J of the Reference Schedule. The Seller warrants that;

- i. the supply is a Taxable Supply within the meaning of the GST Act;
  - ii. The Seller is registered or required to be registered for GST and;
  - iii. The price at which the Vessel is sold does not include GST and GST is to be added to the price.
- (c) If GST is payable on the price at which the Vessel is sold, the Seller will issue a Tax Invoice to the buyer on the Date of Completion in respect of the supply of the Vessel.
- (d) If the sale of the Vessel is stated in Item J of the Reference Schedule to be a sale of a going concern there is no GST on the sale price and the Seller warrants that it is registered for GST.

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**9.3 Indemnity**

The Seller indemnifies the Broker for any loss it may suffer due to any breach of warranty by the Seller under this Clause 9.

**10 Applicable Law**

The laws of Queensland govern this Agreement. Any proceedings under it may be commenced in an appropriate court in the state of Queensland and each party unconditionally submits to the jurisdiction of the Court.

**11 Entire Agreement**

Subject to the provisions of this Agreement, this document comprises the entire agreement between the parties concerning the Brokers authority to sell the Vessel on behalf, and unless otherwise annexed under Item L of the Reference Schedule no further or other covenants, agreements, conditions, restrictions will be implied or held to arise between the parties by reason of any promise, representation or undertaking given by either party.

**12 Termination Of Agency**

12.1 The Seller may only terminate the agency created by this Agreement by giving the Broker two (2) months written notice in advance.

12.2 Termination does not affect the right of the Broker to claim any Brokerage Fees for introductions occurring during the term of this Agreement

12.3 In addition to any other rights accruing to the Broker, the Broker is entitled to recover from the Seller, marina berth fees, advertising, expenses and other expenses incurred if the Seller terminates this agency prior to the time specified in Item G of the Reference Schedule.

**13 Composition Of Agreement**

This agreement consists of;

- (a) Reference Schedule
- (b) Standard Conditions
- (c) Annexures
- (d) Appendix 1 – Vessel Specification Form and;
- (e) Appendix 2 and 2 (a) Sellers Condition Statement

**14 Inconsistencies**

If this agreement has any inconsistencies, the following descending order of precedence will apply to resolve such inconsistencies;

- (a) Reference Schedule
- (b) Appendix 1 Sellers Condition Statement;
- (c) Appendix 2 Vessel Specification Form;
- (d) Annexures and;
- (e) Standard Conditions

**15 Heading And Notes**

Headings and notes are only for guiding purposes and do not form part of this agreement

**16 Plurals**

Any reference to the singular includes the plural and vice versa

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**17 Genders And Parties**

Any reference to one gender includes the other gender and any reference to a person includes the company or body corporate and that person’s successor or executor.

**18 Joint Liability**

If any party to this Agreement consists of more than one person, this Agreement binds them jointly and each of them individually.

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