

# YACHT & DINGHY PURCHASE & SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (the “Agreement”) dated and effective as of the last date a signature is affixed to this document (the “Effective Date”) is by and between \_\_\_\_\_, a \_\_\_\_\_ resident, (“Buyer”), and the United States Marshals Service (“Seller”) (each a “Party” and collectively, the “Parties”).

## RECITALS

WHEREAS, on April 18, 2023 a Declaration Of Administrative Forfeiture was issued, a copy of which is attached hereto, resulting in Seller’s authority to sell a 2003 Sea Ray 460 Sundancer, Hull ID Number SERP5694I203, Registration Number 1205192 (the “Yacht”); and

WHEREAS, on April 18, 2023 a Declaration Of Administrative Forfeiture was issued, a copy of which is attached hereto, resulting in Seller’s authority to sell a 2017 Achilles HB350DX Dinghy, Serial Number ACH0093A717 (the “Dinghy”); and

WHEREAS, Seller is conducting an auction for the sale of the Yacht and Dinghy, together in one lot, (the “Auction”) to determine the winning bid amount, as applicable; and

WHEREAS, Buyer has placed a bid in connection with the Auction (the “Official Bid”); and

WHEREAS, Buyer has remitted a good faith deposit, in advance of the Auction closing, in connection with the issuance of required credentials necessary for Buyer to place Auction bid(s) (the “Bid Deposit”); and

WHEREAS, G. Robert Toney and Associates Inc. dba National Liquidators, a Florida entity (“National”), has been designated by Seller to conduct the Auction, collect the Bid Deposit and other funds from Buyer on behalf of Seller; and

WHEREAS, the Parties wish to enter into this Agreement to establish the terms of the sale of the Yacht and Dinghy to Buyer, should Buyer be named the Auction’s winning bidder.

NOW, THEREFORE, for the consideration and pursuant to the mutual covenants hereinafter set forth, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

## BID DEPOSIT, PURCHASE PRICE AND REQUIRED DEPOSITS

The purchase price equals Buyers final bid amount, as approved by Seller.

Seller shall notify Buyer, in writing, if Buyer is determined by Seller, at its sole discretion, to be the Auction’s winning bidder (the “Notification”).

No later than 5 business days after receipt of Notification, Buyer shall deliver the remainder of unpaid purchase price (the purchase price less Bid Deposit) to Seller (the “Remaining Funds”).

The Bid Deposit and Remaining Funds described herein shall be remitted by wire transfer as follows:

Paradise Bank  
2420 North Federal Highway  
Boca Raton, Florida, USA 33431  
ABA Number 067015795

For further credit to  
National Liquidators Escrow  
5401 North Marginal Road  
Cleveland, Ohio 44114  
Account Number 22101XXXX  
Call +1 (216) 539-2145 for last 4 digits

Buyer's failure to remit Remaining Funds, as described herein, will result in Buyer's forfeiture of Bid Deposit.

## **CLOSING**

The closing shall occur within one business day of Buyer's remittance of Remaining Funds.

At the time of closing, Buyer shall take possession of the Yacht and Dinghy at Wilmington, California.

## **BUYER ACKNOWLEDGEMENTS & DELIVERABLES**

Buyer accepts both Yacht and Dinghy as is, where is, as defined herein.

Buyer shall pay all sales or use taxes owed resulting from the transaction contemplated herein.

Buyer is responsible for all costs associated with the Yacht and Dinghy upon taking delivery of the Yacht and Dinghy.

Buyer is not a prohibited party, as defined herein.

Buyer shall comply with prohibited party guidelines, as defined herein.

## **SELLER DELIVERABLES**

Seller shall deliver to Buyer executed United States Coast Guard Bills of Sale Form CG-1356 at closing.

## **AS IS, WHERE IS**

Yacht and Dinghy are sold with no warranty or guarantee whatsoever and is sold exactly as it appears at auction/sale. Yacht and Dinghy are sold based on their appearance only. "As is" is a disclaimer of warranties or representations. "Where is" denotes that the buyer takes the Yacht and Dinghy as found and must remove it from the point of sale.

## **PROHIBITED PARTIES**

USMS Policy Directive 13.7, Persons Prohibited from Purchasing Forfeited Property stipulates that certain individuals are prohibited from purchasing forfeited property in the Department of Justice (DOJ) Asset Forfeiture Program, directly or indirectly (through another person or agent) and are therefore barred from placing bids to buy such property:

- a. U.S. Department of Justice employees, including U.S. Marshals Service employees, except as further restricted below;
- b. U.S. Marshals Service employees directly involved with the Asset Forfeiture Program, and their immediate family members;
- c. Contractors, sub-contractors and the employees of contractors and sub-contractors of the Asset Forfeiture Division and their immediate family members, U.S. Marshals Service, who provide contract/management services for personal and real properties and complex assets, including, but not limited to, any person who has received compensation, directly or indirectly, from the Government in connection with the custody, management, and care of the assets;
- d. Defendants in a Criminal Case - Titles 18.U.S.C. Section 1963(f) and 21 U.S.C. Section 853(h) of the Comprehensive Crime Control Act of 1984 prohibits the United States Government from reverting to a defendant or any defendant's conviction on charges, or violations of 18 U.S.C. Section 1962 or 21 U.S.C. Section 841 et.seq;
- e. As a matter of policy, the USMS extends the purchase restrictions of a criminal case to any person whose conduct gave rise to a civil forfeiture of the property or to anyone acting in concert with or on behalf of, such a person. This general prohibition may be lifted in civil forfeiture actions on a case by case basis due to extenuating circumstances, as determined by AFD and the relevant United States Attorney's Office (USAO), with concurrence of the Ethics Officer, Office of General Counsel (OGC);
- f. Other Third Parties: Any person, in the reasonable judgment of the USMS, in consultation with the United States Attorney's Office or the Money Laundering and Asset Recovery Section, as appropriate, who may have received, from a prohibited purchaser, material, non-public,

information, about the property to be sold, or whose purchase may give rise to the appearance of impropriety; and

- g. Anyone acting in concert with or on behalf of any of the above persons.

Buyer shall also represent at closing:

- a. Buyer warrants that he/she is not: (a) an employee of the USDOJ; (b) an employee of any Federal, State, or Local Governmental Agency which participated in investigations that led to the forfeiture of property to the United States subject to this sale; (c) an employee of any contractor or subcontractor whose contract or subcontract provides goods or services to the USDOJ's Asset Forfeiture Program; (d) an agent or member of the immediate family/household of any employee described in (b), (d), or (e) above; or
- b. If Buyer is an employee of the USDOJ, that he/she has complied with the provisions of 5 CFR 3801.104(a), and shall provide as part of his/her offer a copy of the written determination by the Agency designee required by 5 CFR 3801.104(a).

### **OTHER CONTRACT TERMS**

Time is of the essence as to the Parties' obligations herein.

In determining business days herein, the Parties shall consider US Federal holidays only.

Seller has the right to cancel the Yacht and Dinghy's sale at any time, provided this is done in good faith.

In the event of any dispute between the Buyer and the Seller, National shall act as a fiduciary agent only and all funds held by the National shall be retained in its custody until the dispute is resolved or National is directed by the parties jointly (in writing), or court order, to disburse the funds. National shall be entitled to payment of its attorney's fees and costs by the non-prevailing Party in any legal proceeding in which National is involved.

Buyer shall have the option to assign its rights under this Agreement to a special purpose entity, provided Buyer is the ultimate beneficial owner of the entity, Buyer remains liable under this Agreement, and the assignee is not otherwise prohibited by law or USMS policy from buying the Yacht and Dinghy.

Seller makes no representations to Buyer regarding the Yacht and Dinghy other than those contained herein.

The enforcement, interpretation, and construction of this Agreement, and all matters relating hereto, will be governed by United States federal law, and in the event that United States federal law is silent or inapplicable, and as federal law permits, the laws of the State of California will apply, without giving effect to the conflict of laws principles thereof. Seller's waiver of sovereign immunity shall be governed by the Tucker Act and the Federal Tort Claims Act. Any dispute arising out of or in connection with, or concerning the carrying into effect of, or the enforcement of, this Agreement, including non-contractual disputes or claims, shall be subject to the exclusive jurisdiction of the United States District Court for the Southern District of California, and the Parties hereby submit to the exclusive jurisdiction of that court for these purposes.

This Agreement constitutes the entire agreement between the Parties with respect to the transactions contemplated hereunder and supersedes all prior arrangements or understandings with respect thereto, written or oral. Further, this Agreement is not binding until signed by all Parties.

This Agreement shall be binding upon Buyer's heirs and successors.

Buyer hereby releases the Seller and all its agencies and contractors and agrees to hold them harmless against all claims and losses associated with the Yacht and Dinghy.

Buyer waives all remedies in equity but shall retain all remedies at law which are allowed by United States law.

This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument. This Agreement may be signed and/or exchanged electronically and digital copies shall be treated as originals.

The Parties agree that notices can be sent to each other by email, as follows:

**TO SELLER**

RobertM@NatLiq.com  
with a copy to Christine.Vo-Barnert@usdoj.gov

**TO BUYER**

\_\_\_\_\_

**SIGNATURES**

The Parties may sign this Agreement in counterparts, in original or facsimile form. The Parties have read, understand, approve, and accept the foregoing terms and conditions and have fixed their respective signatures hereto.

**BUYER**

By: \_\_\_\_\_

Witness: \_\_\_\_\_

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**SELLER**

By: \_\_\_\_\_

Witness: \_\_\_\_\_

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**COPY OF PERTINENT DECLARATION OF ADMINISTRATIVE FORFEITURE FOLLOWS**