

Boat retailers and brokers who are Members of the British Marine Boat Retailers and Brokers Association (“British Marine BRB”), a Group Association of the British Marine must adhere to the following terms:

1. Standard of Service

- a. Members are required to maintain the best practicable standard of service to Clients having regard to the nature and price of the goods and services supplied;
- b. Members shall comply fully with all statutory and regulatory requirements applicable to their business, products and services, including but not limited to all safety regulations; in particular with regard to the requirement to certificate (CE mark) craft in accordance with the Recreational Craft Directive 2003/44/EC as amended from time to time.
- c. Members shall act fairly and honestly in all their business dealings and will maintain a professional attitude at all times.
- d. Members shall not conduct their business in a manner which tends to bring either British Marine BRB or the British Marine or its membership into disrepute.
- e. Members shall provide Clients with bespoke accurate and reliable information being mindful of their requirements when making any recommendation; such information shall include but not be limited to price, specification and time of delivery of their products. Furthermore, Members shall not dishonestly misrepresent nor misdescribe their products or services.
- f. Members will at all times endeavour to act in an environmentally responsible manner, in full accordance with all laws or regulations as amended from time to time, observing the recommendations of the British Marine Environmental Code of Practice and any other special or group code of conduct or practice that may apply to the Member.
- g. Members shall offer Clients a list of at least 3 surveyors when craft are sold or brokered.
- h. Members shall use their best endeavours to verify the complete history of ownership of any craft offered for sale as well as the VAT status of craft, informing prospective clients of any known VAT liabilities.

2. Surveyors

- a. Members are advised that prior to including a surveyor on a list provided to a Client for them to make a selection at their ultimate discretion, it is best practice to obtain the following from the surveyor in question:
 - i. A copy of a previously commissioned report;
 - ii. An undertaking that they shall have and maintain membership of a relevant professional body, for which evidence should be provided at the time of admission to the list; typically IIMS, RINA or YBDSA for leisure boat surveys within the UK;

- iii. An undertaking that they shall have and maintain adequate Professional Indemnity and Public Liability insurance, for which evidence should be provided at the time of admission to the list .
- b. In the creation of any list Members may also wish to consider the surveyors particular specialism and geographical location.
- c. It is recommended that any list provided includes a statement outlining the status of the list, which may be similar to the following:
 - i. “This list is provided by way of suggestion only. Selection of the surveyor by the Client is at the Client’s ultimate discretion. We do however suggest that the surveyor selected hold appropriate insurance and be a Member of a relevant professional body; including but not limited to: IIMS, RINA or YBDSA, from whom a full list will be available”

3. Advertising

- a. Members shall represent their goods and services accurately to the best of their knowledge. To that end, no Member shall intentionally commission or use advertising which tends to misrepresent or mislead Clients, the industry or the public at large. In particular, Members shall not advertise vessels for sale without the consent of the owner or joint broker.
- b. Members shall observe the requirements of all laws, regulations as amended from time to time, and Codes of Practice applicable in the publication of advertising and the relevant area of circulation or broadcast.
- c. Any finding by a competent Court, enforcement authority or regulatory body against a Member in respect of the advertising requirements shall be deemed to be evidence of a breach of this Code.
- d. Members are encouraged to incorporate the British Marine and the British Marine BRB logos on their company literature and visual advertising material; provided that they comply with the British Marine Rules regarding use of the logo.

4. Privacy and Data Protection

- a. Members shall comply with the Data Protection Act 1998 and any other related and applicable legislation or regulation in force in their geographical area of operation.

5. Contracts with Clients

a. Contract Forms

- i. Members shall maintain proper written records of the basis of agreement between them and their Clients in respect of all transactions entered into; in the case of the sale of crafts this shall include a valid bill of sale transferring good title to the purchaser and evidence of VAT paid status, or alternatively any known VAT liabilities. It is also recommended that all

sales of second hand crafts are sold with an agreed inventory to manage purchasers' expectations.

- ii. Members are strongly encouraged to transact their business upon the British Marine standard form contracts and terms of business wherever practicable and should only depart from such terms in the case of contracts with consumer Clients where they are accepting an equivalent or higher standard of contractual responsibility toward the Client than provided by the standard form, or by the standard forms of other trade bodies relevant to the particular trade.
- iii. Members shall not trade upon edited or amended copies of the British Marine standard form contracts or Terms of Business without making the extent of such editing or amendment clear to the Client before entering into any contractual arrangements.

b. Warranties

- i. Where a Member supplies a contractual warranty or guarantee free of charge to consumer Clients it shall comply with any relevant legislation under the law of the contract.

6. Handling Client Monies (Brokerage)

- a. Pursuant to Clause 1.1.4 of the British Marine Rules:

Members acting as brokers or intermediaries who hold Clients' funds on their behalf must do so in a separately operated designated client money trust account and will operate such account only for the purpose for which the funds were intended and in a manner which protects the trust status of the account.

Therefore, British Marine BRB Members undertaking brokerage of craft must protect client monies by using either:

A solicitor's trust account (escrow account); whereby:

A solicitor holds the money until the transaction is completed. This will require an agreement between the parties and the account will require all party signatures for funds to be released.

Confirmation of use of this method will be required by BRITISH MARINE from the Member's solicitor that such an arrangement is in existence initially and then at any such intervals as the BRITISH MARINE may decide. Members are also required to sign a declaration that such an account is being used to hold brokerage monies. Members will then be required to declare that such arrangements continue to be in place and that such an account is used to keep third party monies on an annual basis through the BRITISH MARINE turnover declaration form.

OR;

A separate client bank account; whereby:

The Member will set up a bank account exclusively for holding client monies held by the broker on behalf of the parties for the completion of the brokerage transaction. This account should preferably be held at a separate bank to that which holds the Members other business accounts.

Confirmation will be required from the Member's bank that such an account is in existence upon admission to BRITISH MARINE BRB Membership and then annually by way of written declaration or at any such intervals as the BRITISH MARINE may decide. Members will then be required to declare that such arrangements continue to be in place and that such an account is used to keep brokerage monies on an annual basis through the BRITISH MARINE turnover declaration form.

Suggested wording acceptable to the British Marine for confirmation from the bank is shown in appendix A or available directly from the British Marine.

Guidance:

Client or Client monies for the purpose of this code are defined as any and all deposits and sale proceeds held by the Member as stake holder and for the benefit of the parties, being the purchaser and seller, to facilitate the completion of the transaction. All such monies must be held in one of the two above described accounts or pass through these accounts before being passed on to the vendor or back to the purchaser in order to ensure that all such monies are clearly identified as monies belonging to clients. At no time, should any such monies be held or passed through any other business account save for debit and credit card transactions which may be paid into a company's general account and must be transferred immediately from that account to the client account in order to remain distinct as client monies. Where the majority of card transactions are for brokerage, credit and debit transactions should be set up to go directly into the client account and any non brokerage monies transferred out of the client account to the other account immediately.

You must not hold any money other than client money in the designated client account. In addition to the satisfaction of debts, liens and charges to be paid on the sale from the client monies, legitimate deductions only, including for example, VAT, agreed commission, and interest may be withdrawn from the client account and transferred to another business account when these deductions are due.

7. Governing Law

- a. A Member shall not attempt to oust the application of relevant consumer protection legislation by nominating a governing law for the contract other than the law of the country with which the transaction has the closest connection, or the law of the states in which the Member and the Client are domiciled.

8. Complaints

- a. In the event of a complaint by a Client, Members shall make every reasonable effort to reach a swift and fair solution.

b. Transactions and Correspondence

- i. In the event of a dispute between a Member and a Client, all correspondence shall, wherever possible, be dealt with within the following time limits:
- ii. An acknowledgement shall be sent not later than 7 days from notification of the complaint and 21 days from the date of receipt of correspondence: and
- iii. A detailed reply, or a reply containing a detailed explanation for any delay, shall be sent not later than 28 days from the date of receipt of correspondence.
- iv. If a matter that comes within the scope of this Clause is dealt with other than in writing, the Member shall nevertheless produce evidence in writing or other appropriate form that the matter has been dealt with in accordance with the time limits stated above.
- v. Where a transaction has taken place “on-line” Members shall accept “on-line” complaints from Clients and deal with them within an appropriate period of time, which time period shall be no longer than that set out above
- vi. Retailers shall make every reasonable effort to deal with complaints of a minor and general character with a view to avoiding recourse to suppliers. When complaints are of such a nature that reference to the supplier is necessary, a Retailer shall use his best endeavours acting as an intermediary to bring about a satisfactory conclusion.

c. Dispute Resolution

- i. Members shall use best endeavours to resolve Client complaints fairly and objectively and where appropriate Members shall encourage their Clients to refer disputes which arise between them, and which cannot be amicably settled, for resolution under the BRITISH MARINE’s Dispute Resolution Scheme.

9. GENERAL CONDUCT

a. Misleading Use of the British Marine Logo, etc.

- i. A Member shall not, directly or indirectly, cause, permit, assist, encourage or in any other way provide any person, company or firm not in membership of the British Marine with the opportunity to represent itself as a Member or as being associated with or connected to the Member or the British Marine in any way that is likely to mislead any person by the use of the British Marine logo.
- ii. Where a Member is alleged to be in breach of this provision the Member shall comply with any requirement placed upon it by the British Marine within any time limit that may be specified.

b. Payment of Debts

- i. Members shall settle all debts properly due without any undue delay or within any period agreed with the creditor.

c. Insurance

- i. Members shall conduct prudent risk assessments of their liabilities and carry adequate levels of insurance cover with insurers of repute, authorised to conduct such business in the Members' geographical area of operation so as to comply with:
 - a. Their statutory obligations to insure all persons and property in respect of Employer's Liability and motor risks, and;
 - b. Any additional requirements made by a professional body they are registered with in respect of professional indemnity insurance – see 14a
- ii. Members shall also shall conduct prudent risk assessments of their liabilities and carry adequate levels of insurance cover with insurers of repute with regard to Public Liability, Occupiers' liabilities, Product liabilities and Bailee's liabilities.
- iii. Appropriate Professional indemnity insurance to cover errors and omissions occurring in the course of their normal business and broking activities where advice is given and relied upon.

d. Intellectual Property Rights

- i. Members shall respect the intellectual property rights of third parties' and shall not market, sell or facilitate the sale of counterfeit goods or pirated material; nor shall they abuse or infringe trademark, patent or design right registrations in any jurisdiction.
- ii. They shall supply Clients with an appropriate licence and or good title to all intellectual property rights reasonably necessary to use the goods or services they supply in the manner intended and advertised without infringing the rights or interests of any third party in those goods or services.

e. On-line

- i. In addition to the other provisions of this Code any Member transacting business or transferring data on-line (including the use of Email) shall use commercially reasonable security procedures to protect Client information and payment details and to guard against the distribution of electronic viruses.

f. All Members shall have and/or will offer;

- i. Staff training and development – maintaining minimum standards of staff development and on-going training.

APPENDIX A

The British Marine will require confirmation from the broker's bank that a separate client account is in existence from time to time as the British Marine may decide.

Below is suggested wording that will be accepted by British Marine from the broker's bank. It is suggested that members forward this wording to the bank when requesting confirmation:

" In respect of the money standing to the credit of the account held by the account holder the Bank is not entitled to combine any account with any other account or to exercise any right of set-off or counter claim against money in that account in respect of any sum owed to it by any other account of the account holder and that the title of the account sufficiently distinguishes that account from any account containing money that belongs to the account holder, and is in the form requested by the account holder. "

If the member is using a Solicitor's trust account instead, a confirmation will be requested from the solicitor that such an arrangement is in place and being used by the member.