

General Terms and Conditions (GTC)

Version 01.2023 / B2B

1. Subject matter of the Contract

1.1. The following General Terms and Conditions govern the use of the online advertising platform at www.boat24.com. The subject matter of the Contract is based on these Terms, as well as on the scope of services and fees agreed in the service package ordered.

1.2. The advertising platform is operated by Marine Classified Media AG, Langstrasse 134, 8004 Zurich, Switzerland («Boat24»). The participating sellers («advertisers») can set up advertisements regarding the sale of used boats subject to a charge, which can be searched and found by potential buyers («interested parties»). Interested parties can contact the advertiser using the contact details the advertiser has provided (e.g. email address, telephone number etc.) or directly using the message function on the advertising platform.

1.3. These Terms also apply to future business relationships without the need for Boat24 to refer to these Terms again. If the advertiser uses conflicting or supplementary terms and conditions, the validity of such terms is hereby rejected; such terms shall only form part of the Contract if Boat24 has expressly agreed to this.

2. Contracting parties

2.1. As the platform operator, Boat24 is responsible for the technical availability, functionality, and administration of the advertising platform, but not for the content of individual advertisements. It does not become a party to a purchase agreement concluded between the advertiser and an interested party.

2.2. The advertising platform may only be used by advertisers who are entrepreneurs. For the purposes of verifying the entrepreneurial status of the advertiser, Boat24 reserves the right to demand that its entrepreneurial status be proven by the provision of suitable and current proof, e.g. extract from the commercial register or business registration.

3. Conclusion of the Contract

3.1. The Contract shall be deemed to be concluded with effect from the time the final signature is provided.

4. Services, rights, and obligations of Boat24

4.1. Boat24 provides the advertiser with access to the online advertising platform. Boat24 does not guarantee that the advertising platform is always available, accessible, and free of errors. It will make commercially reasonable efforts to ensure annual platform availability of at least 98.5%, including maintenance related failures. However, due to technical difficulties beyond the control of Boat24, access and transmission delays or outages may still occur. This includes, in particular, actions by third parties that do not work on behalf of Boat24, internet technical conditions that cannot be influenced by Boat24 and force majeure.

4.2. Boat24 is responsible for the functionality and administration of the online advertising platform. Boat24 is entitled to make changes to the visual design of individual pages of the site, including the advertising page and the range of functions (e.g. availability of favourite lists) without prior notice, unless otherwise expressly agreed.

4.3. In addition to the information and pictures provided by the advertiser, the advertising pages also contain other components such as blog articles, service links, references to similar advertise-

ments by other advertisers, references to services offered by third party providers (financing, insurance etc.).

4.4. The advertiser grants Boat24 the right to duplicate, amend, publish and/or transfer to third parties the data that the advertiser has provided and/or the data created via the online services provided by Boat24 insofar as this is necessary for the execution of the Contract.

4.5. As part of what is known as standard sorting of the ads on the advertising platform, Boat24 carries out a relative highlighting of the ads or determines the relevance attributed to search results by using individual assessment or rating mechanisms or visual highlighting or other highlighting instruments or a combination thereof («ranking»). The main parameters determining the ranking on the ad platform are as follows:

- Region
- Identification as what is known as a «Top Offer» (additional service subject to payment)
- Publication date
- Provider (descending relevance: private ads, dealer ads)
- Condition of the advertised item (descending relevance: used goods, warehouse goods, new goods, catalogue goods)

4.6. Enquiries from interested parties submitted via the message feature of the advertising platform are displayed to the advertiser in their customer account. There is no entitlement to forward the enquiries to the email address of the interested party.

4.7. Boat24 takes various measures to promote the advertising platform and the individual advertisements, such as the publication of advertisements on partner portals via iFrame and other similar interfaces, the creation of other language versions of the advertisements set up on the system, the marketing and advertising of the platform by means of print advertising and other media as well as SEO and SEA measures. When the advertisements are published on partner portals, there will be no transmission of personal data to the partner portals. There is no entitlement to implementation of specific measures, to a particular quality of the measures or application by Boat24 with specific reference to the advertiser.

4.8. For the purposes of the previous paragraph, the advertiser grants Boat24 the simple right to use individual advertisements or extracts thereof and the brand names of the advertiser, which shall be limited to the duration of the particular advertisement, but in particular not exclusively to translate, duplicate, distribute, amend and publish. The advertiser may opt out from granting this right at any time for the future.

4.9. The further scope of services, including the term of the advertisements, is based on the project requirements document for the service package that has been purchased in the particular case.

5. Data exchange at the request of the advertiser

5.1. If Boat24 carries out a request by the advertiser to exchange data with other advertising portals via technical interfaces (so called automatic data import and/or data export) free of charge, Boat24 is not responsible for the accuracy of the transfer. The same applies if the advertiser carries out the data exchange itself via technical means (plugins and interfaces) provided by Boat24 free of charge. It is always the responsibility of the advertiser to check the results of the transfer and, if necessary, to manually adjust the data that has been stored or collected.

5.2. There is no entitlement to data transfer by Boat24 and/or the provision of technical means for the purpose of data transfer.

6. Prices and terms of payment

6.1. The prices are valid at the time of the order. Special offers and vouchers cannot be redeemed at a later date.

6.2. The invoice amount is due ten days after receipt of the invoice.

6.3. In the event of late payment, the advertiser is obliged to pay the statutory default interest at the rate of nine percentage points above the base rate. Boat24 is also entitled to a lump sum payment of EUR 40. The right to claim further damages remains reserved.

6.4. Furthermore, in the event of failure to make payment despite a payment reminder, we shall have the right to limit or completely discontinue our contractual services until the invoice amount has been paid in full (for example by restricting the functioning of the customer account or blocking it). We reserve the right to claim further compensation for losses.

7. Setup, amendment, and deletion of advertisements by the advertiser

7.1. Advertisements must relate to the sale of used boats in accordance with the relevant categories available on the advertising platform. Setting up advertisements that relate to service provision (e.g. rental, purchase) is expressly prohibited.

7.2. The advertiser must place the product in the relevant product category. It may not set up multiple advertisements for the same product in different categories or one advertisement for multiple products unless the products being advertised are individual components, such as a main item and accessories and/or multiple parts of the same product. However, such individual components may only be used for the purpose of creating one advertisement. In particular, it is prohibited to use such components multiple times to generate a number of advertisements consisting of different combinations of individual components.

7.3. After the advertisement has been set up, it is only permissible to change the product description in cases where the identity of the product remains unchanged. Subsequent changes of the brand and the model are therefore not possible.

7.4. The advertisement title may only contain the name of the model and the manufacturer. Any additional information must be provided in the subtitle.

7.5. Product photos must always show the product being advertised. In particular, it is prohibited to use the same photo for several advertisements.

7.6. The advertiser must be able to immediately conclude and fulfil a legally binding purchase agreement for the product that is advertised during the term of the advertisement. The advertiser must delete the advertisement immediately if the product has been sold or is no longer available for other reasons. It is not permitted to retain the advertisement using additions such as «sold» or similar.

7.7. By deleting the advertisement before expiry of the agreed duration, the advertiser is not released from its obligation to pay in accordance with No. 6. Any fees already paid will not be refunded. This shall apply irrespective of whether the deletion is voluntary or takes place in accordance with No. 7 (6) Sentence 2.

8. Product description in the advertisement

8.1. In the context of the advertisement, the advertised product must be described completely and truthfully. The essential product characteristics (condition, in particular, including any defects) are to be provided.

8.2. If the advertisement contains prices, the total prices to be paid must be provided, inclusive of all mandatory fees, taxes (e.g. value added tax) and other price components.

8.3. If the advertisement contains a product image, the product image must correspond to the condition of the product that is being advertised and not mislead the interested party. It is not permissible to use images other than product images (e.g. company logos, lettering, telephone numbers, names, keywords).

8.4. The data provided by the advertiser may not contain any scripts or other elements that retrieve or download user data or other data, automatically open websites outside the advertising platform or send content to such websites. The use of scripts that override Boat24 scripts that modify entries in the Windows Registry or that otherwise write data to the user's hard drive is also prohibited. Concealment attempts regarding the source code, including the use of the Unescape function in JavaScript, are prohibited.

9. Compliance with applicable law, responsibility for the content of the advertisement and indemnification

9.1. The sale of the products being advertised must be legally permissible.

9.2. The advertiser ensures compliance with all relevant legal provisions when designing the advertisements. If the advertiser uses pictures, these may not be encumbered by third party rights or the advertiser must have a corresponding right of use.

9.3. The advertiser is solely responsible for the content of the advertisements and for the lawfulness, correctness and up-to-dateness of all content stored on the advertising platform. Boat24 does not undertake any content related review of the content stored on the advertising platform.

9.4. The advertiser indemnifies Boat24 from all claims that third parties assert against Boat24 regarding the infringement of their rights by the advertiser's advertisement or other use of the advertising platform. The advertiser will indemnify Boat24 against the costs of the necessary legal defence, including all court and legal fees. This does not apply if the infringement is not the responsibility of the advertiser.

10. Misuse through impermissible advertising measures

10.1. The advertising platform may only be used for the purposes specified in these GTC (see subject of the contract, section 1) and in accordance with these terms and conditions. Advertising of own products or services in the course of using the platform is only permitted with the use of the advertising materials explicitly designated for that purpose by Boat24. It is prohibited to contact other platform users via the contact form or other communication channels of the advertising platform for the purposes of promoting one's own products or services, particularly if they are similar to the services offered by Boat24 (e.g. agency services).

11. Violations of the contractual obligations, account suspension

11.1. Boat24 shall check compliance with the requirements provided for in sections 7 to 10 at regular intervals. If it identifies a breach thereof, it shall promptly inform the advertiser to that effect and set it a reasonable time limit to eliminate the breach. If the advertiser fails to comply with this request or fails to do so by the set deadline, Boat24 reserves the right to block or delete the content that breaches the provisions of the Contract and/or to provisionally exclude the advertiser from the advertising platform. Blocking takes place after appropriate consideration of the interests of the advertiser and other affected parties, in order to counter potential adverse effects and/or damages.

11.2. The right to extraordinary termination for good cause and the assertion of further claims remain unaffected.

12. Privacy and data protection

12.1. Each user is responsible for making backup copies of its data. Information about inactive advertisements will not be given to interested parties.

12.2. Users are obliged to protect their access data (username and password) against unauthorised use by third parties and to keep their passwords secret. You must notify Boat24 immediately if you suspect that your access data has been misused.

13. Liability

13.1. Boat24 shall always have unlimited liability for claims due to damages caused by Boat24, its legal representatives or vicarious agents

- in the event of loss of life, physical image, or damage to health
- in the event of intentional or grossly negligent breach of duties
- in the event of guarantees, if agreed
- insofar as the scope of product liability law is relevant.

In the event of a breach of significant contractual obligations, the fulfilment of which makes the proper execution of the Contract possible and on the compliance with which the contracting party may regularly rely (cardinal obligations), due to slight negligence on the part of Boat24, its legal representatives or vicarious agents, liability shall be limited to the amount foreseeable at the time of conclusion of the Contract which is typically to be expected.

13.2. Other claims for damages shall be excluded.

14. Contract duration

14.1. The minimum contract duration is 12 months. The Contract is extended for a further 12 months, if it is not terminated before the end of the contract period. The right to immediate extraordinary termination for good cause remains unaffected.

14.2. Boat24 is entitled to terminate the contract for good cause without notice and on an extraordinary basis, in particular in the event that

- the advertiser does not comply with an obligation under paragraphs 7 to 10 despite warning and after the deadline has passed (repeatedly) or seriously and finally refuses to perform these obligations or
- the advertiser is in default of payment by at least 30 days despite a warning.

15. Flat-rate compensation for damages

15.1. Should Boat24 have to terminate the Contract extraordinarily, it is entitled to demand flat-rate compensation for damages from the advertiser in the amount of 60% of the fee that would have been payable by the end of the contract period. The compensation claim shall be valid on notice of termination. The advertiser shall remain entitled to prove that no damages were incurred or that the resulting claim for damages is lower than the lump sum.

15.2. This shall not affect claims for damages relating to unauthorised use of the brand names of Boat24 and the content provided by it.

16. Internal complaints procedure and mediation

16.1. The advertiser has the possibility of making use of Boat24's internal complaints management procedure at any time by sending a message to (support@boat24.com). Complaints from the advertiser will be carefully examined and processed quickly. Boat24 will inform the advertiser of the outcome of the complaints procedure within a reasonable period of time following receipt of the complaint.

16.2. Should a dispute arise between Boat24 and the advertiser that cannot be resolved or cannot be resolved satisfactorily within the internal complaints management procedure as defined in the previous paragraph, an out-of-court settlement of the dispute can be achieved through the following mediators:

Ponschab + Partner Mediatoren PartG
München PR 1396
Kirchplatz 9a
DE-82049 Pullach i. Isartal
<https://www.ponschab-partner.com>
info@ponschab-partner.com

Dr. Philipp K. Wagner, LL.M., Dr. Joseph Schwarz, Julian Bickmann
WAGNER Arbitration Partnerschaft von Rechtsanwälten mbB
Hegelplatz 1
DE-10117 Berlin
<https://wagner-arbitration.com>
pw@wagner-arbitration.com

17. Access to data and information

17.1. When using the advertising platform, the advertiser receives technical and contractual access to personal or other data, or both, which advertisers or interested parties make available for the use of the respective online brokerage services or which are generated in the course of providing the online platform.

17.2. Following the termination of the contract, Boat24 retains technical and contractual access to the information provided or generated by the advertisers for a period of twelve months after the end of the contract.

18. Changes to the Terms and Conditions of Business

18.1. Boat24 reserves the right to amend, adjust or change the Terms and Conditions of Business, as well as any regulations included therein, concerning any existing contractual relationships even after conclusion of the contract, provided this appears necessary to safeguard the legitimate interests of the platform, is not unreasonable for the advertisers, and the advertisers are not, contrary to good faith, disadvantaged by this.

18.2. Boat24 will inform advertisers of the proposed changes in text form at least 15 days before the new conditions come into force. Longer periods of time will be granted on an individual basis if this is necessary to enable advertisers to make the technical or commercial adjustments required by the change. The changes will only be implemented following the expiry of the aforementioned period(s). The advertisers have the right to terminate the contract with Boat24 before the expiry of the period(s). Such termination will take effect within 15 days of the receipt of notification.

18.3. If no notice of termination is given, the changes will be deemed to have been approved after the expiry of the period(s) specified in 18.2. Boat24 will inform the advertisers in the notification of the right to terminate and the effect of silence.

18.4. The advertisers can waive the period(s) referred to in 18.2 at any time following receipt of the notification referred to in 18.2, either by means of a written statement or a clear confirming act.

19. Text form requirement

19.1. Declarations relating to the Contract are only valid when provided in text form.

20. Applicable law and place of jurisdiction

20.1. Swiss law applies excluding the UN sales law.

20.2. The place of jurisdiction for all disputes arising from the contractual relationship between Boat24 and the advertiser is Zurich.