

MOBILE YachtBroker APP & WEBSITE END-USER LICENCE AGREEMENT

PLEASE READ CAREFULLY BEFORE DOWNLOADING OR STREAMING THE APP OR OTHERWISE CONTINUING TO USE THIS WEBSITE.

This end-user licence agreement (“**EULA**”) is a legal agreement between you (“**End-user**” or “**you**”) and BALASAILING Limited, a company registered in England under company number 09426014 whose registered office address is at Ocean Village Innovation Centre, Ocean Way, Southampton, SO14 3JZ, UK, trading as ‘MOBILE YachtBroker’ (“**us**” or “**we**”) in relation to your use of (a) the YachtBroker mobile application software together with any data supplied with or services available through the software and any associated media (“**App**”) and (b) the website at www.mobileyachtbroker.com (“**Website**”), which shall together be referred to as (“**MYB Content**”).

AGREED TERMS

1. GENERAL

- 1.1 The terms of this EULA apply to MYB Content including any updates or supplements to the MYB Content, save to the extent provided in any separate subscription agreement between us and you or a third party who has authorised you to access the Services on their behalf (“**the Trader**”), in which case the terms of that separate agreement will take priority in the event of any conflict with the terms of this EULA. If any open-source software is included in the MYB Content, the terms of an open-source licence may override some of the terms of this EULA.
- 1.2 By downloading the App or continuing to use the website you agree to the terms of this EULA including, in particular but without limitation, the Privacy Policy defined in Clause 3.3 and limitations on liability in Clause 8. If you do not agree to the terms of this EULA then we do not agree to license to you or permit your use of the MYB Content, and you must stop downloading the App and cease continuing to use the Website. You should print a copy of this EULA for future reference.
- 1.3 The MYB Content contains content and material that is proprietary to third parties such as other users and/or links to other independent third-party websites (“**Third-party Content**”). Third-Party Content is not under our control, and we are not responsible for and do not endorse its content. Your use or reliance upon the Third-party Content is at your own risk

and you are solely responsible for investigating the veracity, accuracy and completeness of the Third-Party Content. We are not responsible for any privacy issues applicable to any Third-party Content. You will need to make your own independent judgement regarding your interaction with any Third-party, including the purchase and use of any products or services accessible through them.

- 1.4 We cannot and will not monitor all of the postings of Third-party Content, but reserve the right (with no obligation) to delete, move or edit any postings that come to our attention that are considered unacceptable or inappropriate, whether for legal or other reasons. By posting, uploading or transmitting information or content to the MYB Content you warrant and represent that you own, or otherwise have all necessary licences to the rights in and to such content. We have no liability or responsibility to any end-user or Trader or any other person or entity arising out of any use of, or reliance upon, Third-party Content by users or Traders on the MYB Content including, without limitation, liability for any errors, omissions, unavailability or misrepresentations in any such materials.
- 1.5 Any words following the term **including**, or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

2. LICENCE

- 2.1 In consideration of you agreeing to abide by the terms of this EULA, we grant you a non-transferable, non-exclusive licence to use the MYB Content, solely for your personal purposes, subject to the terms of this EULA and any rules or policies applied by any appstore provider or operator from whose site the End-user downloaded the App ("**Appstore Rules**") subject to these terms, the Privacy Policy and the Appstore Rules, incorporated into this EULA by reference. We reserve all other rights.
- 2.2 Except as expressly set out in this EULA or as permitted by any local law, you agree:
- 2.2.1 not to copy the MYB Services except where such copying is incidental to normal use of the MYB Services or where it is necessary for the purpose of back up or operational security;
 - 2.2.2 not to rent, lease, sub-license or loan the MYB Content;
 - 2.2.3 not to make alterations to, or modifications of, merge, adapt or translate the whole or any part of the MYB Content, or permit the MYB Content or any part of it to be combined with, or become incorporated in, any other programs;

- 2.2.4 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the MYB Content or attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the MYB Content with another software program, and provided that the information obtained by you during such activities:
- a. is used only for the purpose of achieving inter-operability of the MYB Content with another software program;
 - b. is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
 - c. is not used to create any software that is substantially similar to the MYB Content,
- 2.2.5 to keep all copies of the MYB Content secure and to maintain accurate and up-to-date records of the number and locations of all copies of the MYB Content;
- 2.2.6 to include our copyright notice on all entire and partial copies you make of the MYB Content on any medium;
- 2.2.7 not to provide or otherwise make available the MYB Content in whole or in part (including object and source code), in any form to any person without prior written consent from us; and
- 2.2.8 to comply with all technology control or export laws and regulations that apply to the technology used or supported by the MYB Content ("**Technology**"),
- together "**Licence Restrictions**".

3. PRIVACY, CONFIDENTIALITY & USE OF DATA

- 3.1 If user information is requested in the course of your use of the MYB Content you agree to provide accurate and complete information to us and we will take all reasonable steps to ensure that any such information you provide to us is kept confidential by us.
- 3.2 By sending us any such user information you are granting to us an unrestricted, perpetual, irrevocable and nonexclusive licence to use that information, and to pass that information to any third party trader that is a registered subscriber of MYB ("**Trader**") or other supplier we may use in connection with the MYB Content, for the purpose of facilitating the provision of, and improving our provision of, the MYB Content and where applicable the goods or services offered by the Trader.

- 3.3 Any information you provide to us shall be dealt with by us in accordance with the privacy policy which is accessible in the 'About' section of the App or at the URL <http://www.mobileyachtbroker.com/pdf/privacy.pdf> as amended from time to time (“**Privacy Policy**”) and, where such information constitutes Personal Data, we will comply with all our obligations under the Data Protection Act 1998 which arise in relation to such Personal Data and you shall render such assistance and co-operation as is reasonably necessary or reasonably requested by us in that respect.
- 3.4 Notwithstanding the foregoing, you acknowledge and agree that internet transmissions are never completely private or secure and you understand that any message or information you send, or Third-party Content you upload, using the MYB Content may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted. Accordingly, you are discouraged from sending any confidential information through the MYB Content which is not essential to your use of the services and we are not responsible for any harm caused to you or any other third party as a result of a breach of confidentiality in relation to your use of the MYB Content.
- 3.5 If you are a Trader and are given access to any end-user information in connection with your use of the MYB Content then you will comply with the provisions of this clause 3 as if they apply to you.

4. ACCEPTABLE USE RESTRICTIONS

You shall (and shall procure that anyone else you authorise to use the MYB Content shall) not:

- 4.1 use the MYB Content in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA;
- 4.2 act fraudulently or maliciously, for example, by hacking into or inserting malicious codes, including viruses, or harmful data, into the MYB Content or any operating system or infrastructure on which they are hosted;
- 4.3 reproduce, alter, modify, republish, copy, transmit or distribute for commercial use, for the creation of derivative works, or for public display in any form or by any means, except as otherwise permitted by this EULA;

- 4.4 infringe our intellectual property rights or those of any third party in relation to your use of the MYB Content, including the submission of any material (to the extent that such use is not licensed by this EULA);
- 4.5 transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the MYB Content;
- 4.6 use the MYB Content in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users;
- 4.7 collect or harvest any information or data from any MYB Content or our systems or attempt to decipher any transmissions to or from the servers running any MYB Content;
- 4.8 use the MYB Content in a manner which limits any other use or Trader from enjoying the benefit of the MYB Content;
- 4.9 transmit any Third-Party Content that contains any virus, Trojan horse or other computer code, file or programme harmful to the functionality of any computer hardware, software or infrastructure;
- 4.10 transmit any Third-Party Content that contains any worm, trap door, or back door that would allow unauthorised access to the MYB Content;
- 4.11 use any robot, spider, rover, scraper or any other datamining technology or automatic or manual process to monitor, cache, frame, mask, extract data from, copy or distribute the MYB Content, or any portion thereof, unless expressly authorise in writing by us;
- 4.12 use any programme, tool, application, protocol or device to perform automated entry of data into the MYB Content, including without limitation, automation of HTTP SUBMIT into any HTML form on the MYB Content or to copy, scrape or remove any data, information or other material from the MYB Content for any purpose, whether or not any of the MYB Content, data, information or other material taken is used, redistributed, transmitted, publicly displayed, altered, reformatted or discarded;
- 4.13 overburden or impose a disproportionately large load on our infrastructure;
- 4.14 use the App in connection with or for the benefit of any commercial enterprise or competing business including, without limitation, for profit and not-for-profit listing services;

- 4.15 remove, alter or obscure any copyright or trademark notice, name, mark, logo, URL, MYB Content or Third-party Content including, without limitation, company names, contact information, marks, logos or URLs, or frame any MYB Content;
- 4.16 In addition to the foregoing, you acknowledge that only Traders and their authorised agents may access password protected and trader-only areas of the MYB Content ("**Trader Only Areas**"). Traders are not permitted to share passwords with non-Traders or otherwise permit or facilitate non-Traders access to Trader Only Areas. Traders are prohibited from authorising third parties to act as their agent and thereby gain access to Trader Only Areas.

together "**Acceptable Use Restrictions**".

5. INTELLECTUAL PROPERTY RIGHTS

5.1 You acknowledge that:

- 5.1.1 all intellectual property rights in the MYB Content and the Technology anywhere in the world, including all right, title and interest in the look and feel, information, text, graphics, images, sound and video materials, logos, designs, software, trademarks, service marks, trade dress, trade names, the URL and the compilation, coordination, selection and arrangement of any of these elements ("Content") remains our property or the property of our licensors;
- 5.1.2 use of the MYB Content is licensed (not sold) to you;
- 5.1.3 you have no rights in, or to, the MYB Content or the Technology other than the right to use each of them in accordance with the terms of this EULA;
- 5.1.4 You acknowledge that you have no right to have access to the MYB Content in source-code form; and
- 5.1.5 We cannot guarantee the accuracy or completeness of any of the Content available on the MYB Content.

6. TERMS RELATING TO THE APP

- 6.1 The App requires an iPhone device with sufficient amount of memory, Internet access and an operating system of iOS 8 or later.
- 6.2 From time to time updates to the App may be issued through the Appstore. Depending on the update, you may not be able to use the Services until you have downloaded or streamed the latest version of the App and accepted any new terms.

- 6.3 You will be assumed to have obtained permission from the owners of the Devices and to download or stream a copy of the App onto the Devices. You and they may be charged by your and their service providers for internet access on the Devices. You accept responsibility in accordance with the terms of this EULA for the use of the App or any Service on or in relation to any Device, whether or not it is owned by you.
- 6.4 Certain functions of the App may make use of location data sent from the Devices. You can turn off this functionality at any time by turning off the location services settings for the App on the Device. If you use these Services, you consent to us and our affiliates' and licensees' transmission, collection, retention, maintenance, processing and use of your location data and queries to provide and improve location-based and road traffic-based products and services. You may withdraw this consent at any time by turning off the location services settings on your Device.
- 6.5 By using App, you consent to us collecting and using technical information about the device(s) onto which you have downloaded the App or from which you access the App (“**Devices**”) and related software, hardware and peripherals for services that are internet-based or wireless, to improve the App and any other products we wish to provide.

7. LIMITED WARRANTY

- 7.1 Any such warranties offered in relation to the performance of the App shall be as set out in the Service Agreement, if any.
- 7.2 Any such warranty shall not apply if:
- 7.2.1 the defect or fault in the MYB Content results from you having altered or modified the App;
 - 7.2.2 the defect or fault in the MYB Content results from you having used the App in breach of the terms of this EULA;
 - 7.2.3 you breach any of the Licence Restrictions or the Acceptable Use Restrictions; or
 - 7.2.4 the defect or fault in the MYB Content is not caused by us.
- 7.3 You expressly acknowledge and agree that use of the MYB Content is at your sole risk and that the entire risk as to satisfactory quality, performance, accuracy and effort is with you. To the maximum extent permitted by applicable law, the MYB Content and any Services performed or provided by the MYB Content are provided “as is” and “as available”, with all faults and without warranty of any kind, and we hereby disclaim all warranties and conditions with respect to the App and any Services, either express, implied or statutory,

including, but not limited to, the implied warranties and/or conditions of merchantability, of satisfactory quality, of fitness for a particular purpose, of accuracy, of quiet enjoyment and non-infringement of third party rights. We do not warrant against interference with your enjoyment of the MYB Content, that the functions contained in, or Services performed or provided by, us will meet your requirements, that the operation of the MYB Content or services will be uninterrupted or error-free, or that defects in the MYB Content or services will be corrected. No oral or written information or advice given by us or any authorised representative shall create a warranty. Should the MYB Content or Services prove defective, you assume the entire cost of all necessary servicing, repair or correction. Some jurisdictions do not allow the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, so that above exclusion and limitations may not apply to you.

8. LIMITATION OF LIABILITY

8.1 You acknowledge that the MYB Content has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the MYB Content meet your requirements.

8.2 We only supply the MYB Content for domestic and private use. You agree not to use the App for any commercial, business or resale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

8.3 In no event will we, our officers, employees, contractors, subcontractors, suppliers, agents, subsidiaries, successors or assigns be liable to any party for any direct, indirect, economic, punitive, exemplary, special or consequential damages, loss of goodwill or loss of profits arising out of, or in connection with, the use of, or reliance upon, the MYB Content or use of, or reliance upon, any Third-Party Content including, without limitation, any liability arising out of breach of contract, negligence or any other statutory, contract and/or tort liability, even if we have been expressly advised of the possibility of such damages. The term "damages" includes, without limitation, solicitor fees, any lost profits, business interruption and loss of programmes or other data on an information processing system. We expressly disclaim any liability under criminal or civil laws relating to defamation, intellectual property infringement, privacy, obscenity, or any other area of law, arising out of the use or availability of Third-Party Content and end-user or Trader materials, or statements or opinions posted on the MYB Content.

8.4 Our maximum aggregate liability under or in connection with this EULA (including your use of any Services) whether in contract, tort (including negligence) or otherwise, shall in all

circumstances be limited to the aggregate value of any licence fees paid or payable by you to us. This does not apply to the types of loss set out in condition 7.5.

- 8.5 Nothing in this EULA shall limit or exclude our liability for:
 - 8.5.1 death or personal injury resulting from our negligence;
 - 8.5.2 fraud or fraudulent misrepresentation; and
 - 8.5.3 any other liability that cannot be excluded or limited by law.

9. INDEMNIFICATION

You agree to indemnify, defend and hold us, our agents, officers, employees, successors and assigns harmless from and against any claims, demands and liability, including, but not limited to, reasonable legal fees arising out of (i) any information, howsoever provided by you to us or uploaded to the MYB Content (ii) any third party claims arising out of your use of the MYB Content, other than in accordance with this EULA and any Service Agreement or (iii) any misrepresentations, negligence, wilful misconduct, breach of warranty or non-performance of any of the covenants or obligations under this agreement or any misrepresentation or omissions made by you or any third party authorised by you in connection with the MYB Content.

10. TERMINATION

- 10.1 We may terminate this EULA immediately by written notice to you at our discretion for any reason including (without limitation):
 - 10.1.1 if you commit a material or persistent breach of this EULA;
 - 10.1.2 if you breach any of the Licence Restrictions or the Acceptable Use Restrictions; or
 - 10.1.3 in the event of a termination of the Service Agreement.
- 10.2 On termination for any reason:
 - 10.2.1 all rights granted to you under this EULA shall cease;
 - 10.2.2 you must immediately cease all activities authorised by this EULA, including your use of any of the MYB Content;
 - 10.2.3 you must immediately delete or remove the App from all Devices, and immediately destroy all copies of the App then in your possession, custody or control and certify to us that you have done so; and
 - 10.2.4 we may cease providing you with access to the MYB Content.

11. COMMUNICATION BETWEEN US

- 11.1 If you wish to contact us in writing, or if any condition in this EULA requires you to give us notice in writing, you can send this to us by e-mail to app@mobileyachtbroker.com, or by prepaid post to MYB Enquiries, c/o BALASAILING Limited – MOBILE YachtBroker, Ocean Village Innovation Centre, Ocean Way, Southampton, SO14 3JZ, UK. We will confirm receipt of this by contacting you.
- 11.2 If we have to contact you or give you notice in writing, we will do so by e-mail to the address you provide to us.

12. EVENTS OUTSIDE OUR CONTROL

- 12.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this EULA that is caused by any act or event beyond our reasonable control, including failure of public or private telecommunications networks ("**Event Outside Our Control**").
- 12.2 If an Event Outside Our Control takes place that affects the performance of our obligations under this EULA:
- 12.2.1 our obligations under this EULA will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control;
and
- 12.2.2 we will use our reasonable endeavours to find a solution by which our obligations under this EULA may be performed despite the Event Outside Our Control.

13. OTHER IMPORTANT TERMS

- 13.1 We reserve the right, in our sole discretion, to revise this EULA at any time. In the case of the App, such revisions will be notified by sending you an SMS with details of the change or by notifying you of the change when you next use the App. In the case of the Website, no notification will be sent. You are responsible for regularly reviewing the EULA and any alterations to the same. By using the MYB Content you agree to become bound by any revisions made to this EULA or to the MYB Content themselves from time to time. If you do not wish to be bound you should immediately cease using the MYB Content.

- 13.2 We may transfer our rights and obligations under this EULA to another organisation, but this will not affect your rights or our obligations under this EULA.
- 13.3 You may only transfer your rights or obligations under this EULA to another person if we agree in writing.
- 13.4 If we fail to insist that you perform any of your obligations under this EULA, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 13.5 Each of the conditions of this EULA operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 13.6 Please note that this EULA, its subject matter and its formation, are governed by English law. You and we both agree that the courts of England and Wales will have non-exclusive jurisdiction.

This EULA has been entered into on the date that you clicked to confirm your acceptance of its terms and/or downloaded the App.