

Contract Considerations

There's no such thing as an industry-standard contract when buying a trawler.

Wouldn't it be great if you could buy the trawler you want by paying the owner, shaking hands to seal the deal, and then motoring away with a smile?

It may never be that simple. So, until things change, you're going to have to learn to work within the framework of the current trawler transaction system.

The business side of your purchase includes prices, dates and terms conveyed through contract documents. This legal paperwork dictates the path your negotiations will travel, and requires your full attention to reach a conclusion.

Your broker will prepare your offer to purchase using the contract paperwork that the brokerage company favors. These documents constitute legally binding commitments that outline payment performance, due dates and responsibilities for all parties. As part of your preparation, ask your broker for a copy of their offer package. Read it carefully, and ask questions if anything is unclear. It's prudent not only to know what to expect, but also to understand your obligations in advance.

Most states have regulations designed for consumer protection (and sales tax collection). Boat sales can be loosely compared to the residential real estate business, which is conducted by licensed agents who use uniform paperwork and procedures. If you have purchased or sold a house recently, then you know there is a tall pile of forms to complete before closing.

Unlike real estate, when it comes to used trawler sales, there is no "industry standard" contract. Brokerage boat sales are rather loosely governed compared to house sales. In fact, few states even require yacht brokers to be licensed and bonded. The boating business is not as sophisticated as it should be, so you need to look out for yourself. If you have questions that aren't being answered, retain a marine attorney for guidance, advice and explanations.

You will sign and initial a purchase and sale agreement (PSA) to submit your offer. This legal document is prepared to define and outline what both parties are agreeing to. Brokers at my company travel to different regions to conduct business. To support our clients and comply with local practices, our company is an active member of the four U.S. yacht broker associations. Each region has different priorities, procedures and requirements, with fill-in-the-blank templates. Our team is familiar with all four sets of forms: CYBA (California), NYBA (Northwest), IYBA (Florida/international) and YBAA (primarily East Coast). Look for the copyright date to ensure that you are using the latest version.

All association forms have been legally vetted and are used thousands of times each year. They cover the basics of buying and selling, and are intentionally general in design, to cover

requirements in a one-size-fits-all format. Depending upon price, location, age, equipment and condition of the trawler you want to buy, there may be additions or modifications you want to include in your offer.

I enjoy comparing the similarities and differences. Constant market changes and new developments require regular contract revisions to keep agreements current. The lack of a consensus suite of forms means you really must read every line to know what you are agreeing to.

Before inking any agreement, consider asking: What contract forms does your broker use? Is your broker a member of a regional yacht broker association and using those forms? If the brokerage is using in-house forms, then when were the forms last updated? Does the brokerage recommend adding any additions or addenda to your offer?

Most PSAs have an "other conditions" space to insert provisions, terms and special requests into the agreement. Knowing that the due-diligence phase is remarkably short, it's always better to ask questions up front than to learn the answers after the fact. Review any special concerns with your broker, and ask about adding an appropriate provision to address them. Remember, sellers are looking for the highest price and the quickest close. The more contingencies you add, the less appealing your offer will be.

Working with an accomplished broker can help you avoid potential pitfalls or surprises. It's incumbent upon all brokers to put their client's interests first. We view each purchase as if we are spending our own money. We don't push for the quick sale and fast buck. Instead, we are interested in finding the right trawler at a fair value that will help our clients fulfill their cruising ambitions.

In many ways, a trawler purchase is more complicated than a house sale. No two trawler transactions are the same. An informed buyer who is prepared and knows what to expect will have a better experience. There are a lot of documents and steps required to go from offer to closing, and it is essential that you review the process with your broker before you attach your electronic signature. ❁



Jeff Merrill has helped with hundreds of trawler transactions across the United States and abroad. For 20 years, he has shared trawler skills and tips at TrawlerFest, at JMYS.com and on his YouTube channel. Jeff is a certified professional yacht broker and a licensed managing broker in California and Florida.