

Agreement for Sale and Purchase of a 2021 Fountaine Pajot Isla40

BoatCo Isla40-1 Limited

Ownaship Limited

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Agreement dated 21 September 2020

Parties

- 1 **Ownaship Limited** of 29c Ngake Street, Orakei, New Zealand, trading as 'Ownaship' ('Seller')
- 2 **BoatCo Isla40-1 Limited** of 29c Ngake Street Street, Orakei, Auckland, New Zealand ('Buyer')

Background

- A The Seller has agreed to purchase the Vessel and certain assets associated with the Vessel from the Third Party Seller pursuant to the Head Agreement.
- B The Seller intends to on-sell the Vessel to the Buyer.
- C The Buyer wishes to purchase the Vessel on the terms and conditions set out in this Agreement.

Agreement

1 Interpretation

1.1 Definitions

In this Agreement unless the context otherwise requires:

'**Agreement**' means this agreement including the background recitals and Schedule as may be amended pursuant to clause 7.3;

'**Completion**' means completion of the sale and purchase of the Vessel pursuant to this Agreement;

'**Completion Date**' means the date that is five Working Days after the vessel is delivered by the Seller fully completed into the water at Auckland;

'**Condition Date**' means the date set out in the Schedule or such other date as the parties agree in writing;

'**Conditions Precedent**' means the condition contained in clause 3.1;

'**Delivery**' means delivery of the Vessel to the Buyer in accordance with clause 4.2;

'**Encumbrance**' includes any present or future mortgage (including a ship's mortgage), charge, hire purchase or chattel lease agreement, pledge or lien, hypothecation, security interest, retention of title claim, preferential right or any other encumbrance of whatever nature;

'**GST**' means goods and services tax payable under the Goods and Services Tax Act 1985;

'**Issue Rate**' means the rate at which the Shares are offered pursuant to the Offer;

'**Head Agreement**' means the agreement details in the Schedule pursuant to which the seller has agreed to purchase the Vessel from the Third Party Seller;

'Management Agreement' means the management agreement between the Buyer and the Seller;

'Offer' means the offer of the Shares to be made to prospective investors by the Buyer;

'PDS' means the product disclosure statement relating to the Offer to be prepared by the Seller;

'Purchase Price' means the purchase price set out in the Schedule;

'Shares' means 6 ordinary shares in the capital of the Buyer;

'Third Party Seller' means the seller under the Head Agreement;

'Warranties' means the warranties set out in clause 8.1;

'Working Day' means a day (other than Saturday or Sunday) on which registered banks are open for business in Auckland; and

'Vessel' means the Vessel set out in the Schedule together with certain assets associated with it, details of which are set out in the Schedule.

1.2 **General construction**

In interpreting this Agreement the following rules must be applied unless the context otherwise requires:

- a **Currency:** References to currency and a reference to '\$' or 'dollar' are, unless otherwise stated, to New Zealand currency;
- b **Parties:** References to a party are to a party to this Agreement and include that party's executors, administrators, successors in title and permitted assigns;
- c **Periods of Time:** All periods of time include the day on which the period commences and also the day on which the period ends;
- d **Non-Working Day:** Any date which is not a Working Day, upon or by which anything is due to be done by any party, will be deemed to be a reference to the next Working Day;
- e **Joint Obligations:** All warranties, representations, indemnities, covenants, agreements and obligations given or entered into by more than one person will be deemed to have been given or entered into jointly and severally;
- f **Payment:** Any reference to or any obligation in this Agreement which requires payment of money will be a reference to, or deemed to include an obligation requiring, payment in immediately available cleared funds and requiring payment be made free and clear of all deductions or withholdings unless the deduction or withholding is required by law; and
- g **Number and gender:** Words importing the plural include the singular and vice versa and words importing one gender include the other genders.

2 Sale and Purchase of Vessel

2.1 Agreement

The Seller agrees to sell and the Buyer agrees to purchase the Vessel free from any Encumbrances on the terms and conditions set out in this Agreement.

2.2 Purchase Price

Subject to the provisions of clause 2.3, the Purchase Price shall be paid by one instalment of \$300,000 including GST and a final payment of \$ 954,000, including GST (comprising \$1,239,000 for the Vessel and \$15,000 for reimbursement of costs associated with the offer of Shares) on the Completion Date.

2.3 Issues of Shares

In the event that, on the Completion Date, there are Shares that have not been sold pursuant to the Offer ('**Unsold Shares**'), the Purchase Price shall be satisfied as follows:

- a an amount equal to the number of Shares that have been issued pursuant to the Offer multiplied by \$209,000 shall be paid by the Buyer to the Seller on the Completion Date; and
- b upon the issue of each of the remaining Unsold Shares, further amounts of \$209,000 shall be paid to the Seller (via the Buyer) within 5 Working Days of each issue by the eventual buyer of the Unsold Shares until such time as a total of 6 Shares have been issued and allotted and no Unsold Shares remain (at which point the Purchase Price shall have been met in full).

2.4 Buyer's Nominee

The Buyer shall have the right to nominate a third party to purchase the Vessel provided that the Buyer shall remain liable at all times for the obligations of such nominated party under this Agreement.

3 Conditions Precedent

3.1 Conditions

This Agreement is conditional upon completion of the Head Agreement.

3.2 Benefit of Conditions

The Condition Precedent in clause 3.1 has been inserted for the sole benefit of the Seller.

3.3 Termination

If the Condition Precedent has not been fulfilled or (to the extent that it is capable of waiver) waived by the Seller by the Condition Date, any party may by notice in writing to the other party at any time after the Condition Date terminate this Agreement. Upon such termination this Agreement will be of no effect, and any monies paid to the Seller on account of the Purchase Price must be refunded to the Buyer and, except as otherwise expressed or implied in this Agreement, no party will have any claim against any other party arising under or in connection with this Agreement.

4 Completion

4.1 Day and Place

Completion must take place on the Completion Date at the offices of the Seller.

4.2 Transfer of Vessel

On the Completion Date, against satisfaction of the Purchase Price in accordance with clauses 2.2 and 2.3, the Seller must (with effect from the close of business on the Completion Date) transfer the Vessel into the possession and control of the Buyer. In particular, the Seller must procure the delivery of:

- a the Vessel to the location specified in the Schedule;
- b a duly executed bill of sale or such other document or other assurance as may be required by the Buyer to transfer title in the Vessel to the Buyer;
- c a complete inventory for the Vessel (which will include the equipment listed in the Schedule);
- d original copies of the Vessel's registration and/or title documents (if any);
- e copies of all suppliers warranties, operating manuals, literature for onboard systems and equipment in the Seller's possession; and
- f the Vessel's owner's manual.

5 Risk

5.1 Prior to Completion

The Vessel will be the sole risk of the Seller in all respects until Completion.

5.2 Damage Prior to Completion

In the event that prior to Completion the Vessel is lost, destroyed or damaged and such loss, destruction or damage has not been made good by repair or replacement by the Completion Date, then the Buyer may:

- a complete the purchase for the Purchase Price, less a sum equal to the diminution in value of the Vessel; or
- b cancel this Agreement by notice in writing to the Seller whereupon the Buyer will be entitled to the return of any moneys paid by the Buyer to the Seller on account of the Purchase Price, and no party shall have any right or claim against the other parties.

5.3 Insurance

The Seller must procure that the Vessel is fully insured until Completion and must:

- a if required by the Buyer provide to the Buyer, on request, a true copy of the insurance policy held;
- b if required by the Buyer, on satisfaction of the Condition Precedent, obtain an endorsement of the Buyer's interest under this Agreement on the insurance policy; and

- c not change any policy to reduce the insurance cover or otherwise alter the terms of cover to the possible detriment of the Buyer.

5.4 **Takeover of Policies**

The Buyer will not be required to take over any insurance policies held by the Seller or the Third Party Seller on the Completion Date.

6 Clear Title

6.1 **Title**

The Seller must on Completion give to the Buyer clear title to the Vessel free from all Encumbrances of whatever nature and will on Completion remove all security interests registered against the Vessel on the Personal Property Securities Register and/or any other register under which security interests are registered against the Vessel.

7 General Provisions

7.1 **Entire Agreement**

To the maximum extent permitted by law, this Agreement contains all of the terms, representations and warranties made between the parties and supersedes all prior understandings, discussions, correspondence and agreements (whether written or oral) covering the subject matter of this Agreement.

7.2 **Further Assurances**

Each party will, at its own expense and when requested by another party, promptly sign and deliver, execute, procure, pass and do all such further documents, acts, matters, resolutions and things as may be necessary or desirable for effecting the transactions contemplated by this Agreement.

7.3 **Amendments**

No amendment to this Agreement will be effective unless it is in writing and signed by all the parties.

7.4 **Waiver**

Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Agreement or under any of the documents delivered in connection with this Agreement by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Agreement or other document. Any waiver or consent given by any party under this Agreement will only be effective and binding on that party if it is given or confirmed in writing by that party. No waiver of a breach of any term of this Agreement will operate as a waiver of any subsequent breach of that term or of a breach of any other term of this Agreement.

7.5 **Non-Merger**

The agreements, obligations, indemnities and warranties contained in this Agreement will, notwithstanding any rule to the contrary, not merge on completion of the transactions contemplated by it but will remain in full force until satisfied.

7.6 **No Assignment**

No party may assign or be relieved of its rights or obligations under this Agreement without the prior written consent of all parties.

7.7 **Time of Essence**

Time will be of the essence in the performance by any party of its obligations under this Agreement.

7.8 **Notices**

Any notice given pursuant to this Agreement must be in writing and (with the exception of email) signed by a person duly authorised by the sender. Any such notice will be deemed to be validly given if personally delivered, posted, or forwarded by facsimile transmission or email to the address of the party set out in the Schedule or to such other address as the party to be notified may designate by written notice given to all other parties.

7.9 **Costs**

Except as may be otherwise provided in this Agreement, each party shall bear its own costs in relation to the negotiation, preparation, execution and performance of this Agreement.

7.10 **Choice of Jurisdiction and Law**

This Agreement will be governed by and construed in accordance with the laws of New Zealand and the Shareholders submit to the non-exclusive jurisdiction of the New Zealand Courts.

8 Warranties


- 8.1 In addition to any rights available to the Buyer under this Agreement, upon the passing of the title in the vessel from the Seller to the Buyer under this Agreement, the Buyer shall be entitled to all Maritimo Guarantees applicable to the Vessel, (subject to the terms of that Guarantee) to which the Seller would have otherwise been entitled.

Execution

Signed for and on behalf of **Ownaship Limited**
by its sole director in the presence of:




Ownaship Limited


Witness signature _____


Maria Taylor
Solicitor
Auckland

Signed for and behalf of **BoatCo Isla40-1 Limited**
by its sole director in the presence of:



BoatCo Isla40-1 Limited

Witness signature _____


Maria Taylor
Solicitor
Auckland

Schedule 1

Name of Vessel:	TBA
Description of Vessel:	2021 Fountaine Pajot Isla40
Equipment being sold:	As per the attached specification sheet
Purchase Price:	\$1,254,000 including GST (comprising of \$1,239,000 for the vessel and \$15,000 for reimbursements of costs associated with the offer of Shares)
Place of Delivery:	Westhaven Auckland
Condition Date:	1 August 2021
Addresses for Notices:	Seller: Email: Simon@ownaship.co.nz Attention: Simon Barker Buyer: Email: Simon@ownaship.co.nz Attention: Simon Barker
Head Agreement	Agreement between the Third Party Seller and the Seller dated 21 September 2020

ISLA 40

INVENTORY LUCIA 40 "Grand Large"

General characteristics:

Length overall: 11.93m

Beam 6.63m

Draught 1.2m

Light displacement: 9200kg approx.

Sail area:

- Genoa: 36m²

- Mainsail 59m²

Engine 2x20HP

Tanks Capacity:

Fresh water 2x265l

Diesel 300l

Interior layout:

General points:

- Woodwork with Alpi
- Saloon/cabin interiors: laminated floor
- Lining on rot proof glass felt
- Fabric seat cushions
- Mattresses made of polyester foam

Layout of mess:

Saloon:

- Level access from the cockpit
- Saloon accessible by 1 sliding perspex door with entrance carpet
- Panoramic view through bay windows and sliding bay of aft facade
- Natural lighting through 1 ceiling bay
- 1 spotlight coffee table
- 6 places bench seat.
- Large storage box under the wall seat
- Ventilation through 2 portholes with forward openings
- Lighting by LED spotlights

Galley:

- Galley open to the outside via a sliding bay
- Synthetic resin worksurface
- 1 stainless steel hob with 3 gas burners with saucepan holder
- 2 stainless steel sinks
- Pressurised hot and cold fresh water by mixer tap
- 1 large low cupboard under sink
- 1 dustbin by vertical access, evacuation of bags by independent door
- 4 drawers, 1 of which with cutlery tray
- 1 storage cupboard on worksurface
- 1 x 144L cold storage volume with drawers using 12V cold system
- 1 large corner cupboard above fridge unit
- Lighting by LED spotlights

Chart table:

- Wood chart table and storage with flap
- High navigation instruments console
- 12V electrical panel
- Lighting via 1 reading lamp for the chart table

Hull layout: "QUATUOR" version

2 double cabins + 1 bathroom in each hull

Aft cabin:

- Access via a wooden door in the companionway
- Double bed (approx. 1,50 x 2 m)
- 1 drawer under the bed with front access
- 1 shelving on side of bed
- 1 hanging cupboard
- Ventilation by 1 deck hatch and 1 hull porthole
- Rear panoramic bay
- 1 large picture window on hull side
- Curtains to all windows
- 1 Coat hook
- General lighting by 1 LED spotlight and 2 bedside reading lights

Bathroom:

- Access by spotlight door from the cabins
- Washbasin with worktop and mirror
- Hot and cold water by mixer tap and integrated shower unit
- Shower with electric drainage pump
- Manual W.C.
- 1 Coat hook
- 1 storage unit under the basin
- Ventilation by 1 deck hatch
- Lighting by 1 LED spotlight

Fore cabin:

- Access by the wooden door in the passageway
- Double bed (approx. 1,40 x 2 m)
- 1 drawer under the bed with front access
- 1 hanging cupboard
- 1 shelving on side of bed
- 1 Coat hook
- Ventilation by 1 hull porthole + deck hatch
- 1 fixed bay with outside plating
- Curtains over all the openings
- General lighting by 1 LED spotlight and 2 bedside reading lights

Forepeak:

- Access from a deck hatch
- Gel-coat finish
- Buoyancy tank under half-height shelf

Deck layout:

Cockpit fully protected by a rigid bimini. Circulation without step towards the saloon.

Cockpit:

- 1 Bench seat
- 1 teak cockpit table for 8 persons
- Serving hatch linked to galley by sliding bay
- 1 fainting sofa
- 1 large storage in the aft seat
- 1 large storage in the bench seat
- Natural lighting and ventilation by 1 deck hatch
- Lighting by waterproof LED spotlights

Helm station:

- Access by stair from the cockpit
- Helmsman seat for 2 persons
- Instrument control panel
- Halyards bag
- Stair to access to the fly bridge

Fore deck:

- 1 large forward anchor locker and gas locker
- Access for technical compartment and fresh water tanks

2 Engine rooms:

- Access by polyester deck hatch in cockpit
- Acoustic insulation
- Neon lighting

MOTORIZATION

Engines and equipment:

- 2 x 20 HP sail drive engines
- 2 fixed bladespropellers
- Sea water filter
- Engine cooling by heat exchanger
- Complete engine panel and dual controls at helm station
- Hour meter

Diesel circuit:

- 1 Fuel tank with filling by plug hole on deck equipped with a anti- overflow
- Electrical gauge (indicator in 12-volt panel)
- 1 fuel pre-filter / water separator +1 engine fuel filter/engine
- Fuel stop valves

Plumbing system

- 2 x fresh water tanks with electric gauge
- 1 electric pump and pressure accumulator
- 1 x 24L water-heater
- 1 electric bilge pump (2m³/h) in each engine hold
- 1 electric pump (2m³/h) in each hull.
- 1 manual exterior bilge pump
- 1 holding tank on each W.C

Electricity/Electronics

Power circuit:

- 2 x 115A/12V engine alternators
- 1 port set of service/engine AGM batteries 345Ah
- 1 x 50Ah starboard AGM engine battery
- 1 power relay for charge
- 1 Manual back up link

12V electrical switchboard:

- General 12V distribution panel at chart table protected by circuit breakers
- Voltmeter showing state of service batteries
- Spare sockets for extra equipment

Electronics:

- 1 V.H.F. antenna at the top of the mast

Rigging and sails

Mast and boom:

- Mast and boom in anodised aluminium
- Complete standing rigging
- Ball bearing mainsail luff car
- 1 tackle on mainsail halyard
- 1 boom topping lift
- 3 reef pennants
- Automatic n°1 reefline
- 1 genoa halyard
- 1 spinnaker halyard
- Lazy jacks
- clutches on all halyards for genoa, spinnaker and topping lift
- 2 flag halyards
- Navigation, running and mooring lights
- Deck lighting

Sails:

- Full batten CSR mainsail
- Genoa with U.V band
- Roller genoa fuller

Fittings

Mainsail and genoa:

- 1 mainsheet tackle led aft to coach roof
- 1 for the mainsail sheet
- 1 clutch for mainsail halyard
- 3 x clutches for reef
- 1 ball bearing traveller for mainsheet
- 2 x tackle on mainsheet traveller clutches with back on roof
- 2 x genoa tracks with load block
- 2 genoa sheets
- 3 x size 45, self-tailing winches for genoa sheets, halyards, mainsheet and mainsail traveller

Other equipment:

- Leather covered steering wheel helm
- 2 rudders linked mechanically by stock arm + transversal tube
- Emergency tiller
- 1 steering compass
- 2 winch handles and 2 pockets
- 2 x tender stainless steel davits (max load per davit: 100 Kg)
- Pulpit and pushpit, stanchions with upper and lower guardrails
- Access to transom
- 1 swim ladder starboard
- 1 cold water shower in starboard transom
- Support for life raft with direct exit to the sea
- 7 stainless steel mooring cleats (2 foredeck + 2 middle + 2 astern + 1 in anchor well)
- 4 fenders
- 2 x 15m long mooring lines
- 1 x 1000W electric windlass with circuit breaker protection
- Anchor fairlead under bridge deck with built-in bridle
- 1 roller on forward beam
- Net on forward beam

All dimensions are given for indication only.

Additional Add-ons

Version configuration:

- Curtains in cabins
- Mooring kit + 4 fenders
- CST mainsail full batten
- Lazy jack
- Electrical windlass (1000 Watts)
- VHF mast head antenna prewired
- Double clutche for reefs 2 and 3
- Interior 12V outlet and waterproof exterior 12V outlet
- Deck shower (hot water)
- Auto. switch for bilge pumps
- Lazy bag
- Dralon protective cover for wheel
- 1 Electric winch for mainsail
- Interior courtesy lighting
- Pressurized seawater system
- Fusion audio pack Bluetooth 4 Sp.
- Main grid 220V 50HZ or 110V 60HZ
- 2000W Inverter/charger / 220V 50HZ or 110V 60HZ
- Video TV/HIFI pack
- TV/radio antenna
- Upgrade Bose
- Outdoor cushions
- Additional electric freshwater pump
- Cockpit courtesy lighting

Engines:

- 2 VOLVO 30HP D1 engines
- 3-blade folding props/VOLVO 30HP

Saddlery:

- Carpet hull Quatuor

Exterior Equipment:

- Cockpit tent
- Fabric closing the access to the helm station
- Bimini for helm station
- Enclosure for bimini helm station
- Protective strip on both transoms
- 2 bow seats

Interior Equipment:

- Saloon curtains
- Saloon table convertible into berth
- Beds with slatted base + 4 cabin

Electronic TV and HiFi:

- GARMIN 3 Smart Cruising : Autopilot, VHF, AIS, 2*GPS 8412/8410, 2*multi GMI20

Household Appliances and Comfort:

- 12V 90L Freezer
- Cockpit fridge
- 220V Microwaves oven
- 2 Electric head large bowl
- 12V fan (max. 6)
- 6KW 220V 50HZ genset

Electricity and Lighting:

- Underwater lighting 2x21 W
- Interior 12V outlet

Navigation:

- Automatic mainsail HOOK
- Add. windlass control chain counter
- Antifouling, primary epoxy

Safety:

- Chain + 20KG Anchor
- EPIRB
- Life jackets
- Coastguard membership
- Flares

Safety:

- Dinghy + Outboard
- Extended engine warranty
- Lines
- Cutlery etc.