

MARINA POLESANA GENERAL TERMS AND CONDITIONS

I. GENERAL PROVISIONS

Article 1.

The General Terms and Conditions shall apply to users of services provided by the nautical tourism port - MARINA POLESANA (hereinafter the "Marina"), including owners of vessels, persons authorised by the owner to use the vessel, the crew-members and other persons authorized by the owner to stay on the vessel, users of berths for transit vessels and charter vessels, as well as the crewmembers and other persons authorised to stay on these vessels.

The General Terms and Conditions shall regulate the mutual rights and obligations of the Marina and the users of its services.

Article 2.

Owners of vessels using a berth in the Marina, crew members and other persons authorized to stay aboard the vessels, i.e. all users of the Marina services, shall comply with these Terms and Conditions and the applicable Port Order Regulation of the Marina Polesana. In case of non-compliance with these regulations, the Marina may deny its services, particularly the use of berths or it may cancel a berth already provided for use, and shall be authorised to impose penalties envisaged by the indicated regulations.

Article 3.

It shall be prohibited, without the approval of the Marina Polesana (in accordance with the Contract on Business Technical Cooperation), to carry out works within the area of the Marina by companies or persons that have not signed a valid contract with the Marina Polesana.

All requests and inquiries for service works shall be submitted exclusively to the Marina reception desk.

Article 4.

The berth user can authorize-grant a power-of-attorney to only one person as a skipper, who needs to be registered as such in the applicable crew list.

A skipper authorised as such by the berth user can perform this duty for only one vessel located in the Marina Polesana.

Article 5.

The vessel owners or persons authorised by the owner to use the vessels located at a berth in the Marina shall keep the vessel and its equipment with due diligence and shall equip the vessel with high quality and adequate mooring ropes and fenders, throughout the stay of the vessel at the Marina. Furthermore, they shall also comply with all applicable rules regarding the stay and navigation within the borders of the coastal waters of the Republic of Croatia.

In case the vessel is not equipped with adequate mooring ropes, the Marina may equip the vessel with high quality ropes at the expense of the vessel owner or the authorized user of the vessel, without prior notice.

All vessels entering the perimeter of the Marina shall have all required certificates of seaworthiness and shall be maintained seaworthy in compliance with the applicable laws.

During navigation, the vessels must be operated by a qualified person holding a valid certificate and a sufficient number of qualified and licensed crew-members in compliance with the valid regulations. Otherwise, the Marina shall not accept any liability for them and may even deny them access

Article 6.

If any user of the Marina services causes damage to the Marina or other users of the Marina services, whether by act or omission, he shall compensate the damages in the full amount in compliance with the applicable regulations of the Republic of Croatia.

The owner of the vessel or user of the vessel authorised by the owner who is liable for damages caused to the Marina assets, vessels, vehicles, trailers, equipment and other assets of third persons located in the perimeter of the Marina, for the injury or death of a third person, and for environmental pollution, caused by the crew of the vessel or other persons authorised to stay on the vessel, or incurred as a

result of any deficiency on the vessel or vessel equipment as well as a result of bad maintenance of the vessel or equipment shall be the liability of the person who caused the damages by their act or omission. If regarding such damage, the marina bears any costs, including legal costs, or if it is obliged to pay any sums of indemnity to third persons, the liable vessel owner, and subsidiarily any authorised user of such a vessel, shall be liable to indemnify the Marina completely.

The owner of the vessel shall be obliged to indemnify the Marina for any damages caused by him or his vehicle or vessel, crew, persons authorised by him, his visitors and guests to any facility or equipment owned by the Marina or a third party, which is located in the area under the authority of the Marina.

Article 7.

The Marina guarantees that it meets all standards prescribed by applicable regulations of the Republic of Croatia and that it maintains the port, all its infrastructure, building structures, facilities and other port equipment with due diligence and due professional care.

Article 8.

All services of the Marina shall be charged per the applicable price list at the moment when the service is provided to the user.

Article 9.

Within the scope of its activities, in particular the obligations set out in these General Terms and Conditions, the Marina shall be liable for damages only when the damages are the result of the utter neglect by the Marina or its employees.

Under no circumstances shall the Marina be liable for the following damages:	
a)	damages on the basis of loss of profit, time, delay, use of annual leave etc.;
b)	damages of equipment or loss of equipment of the vessel, if it was not locked in a closed space or if its disappeared without a break-in;
c)	loss or damages of personal belongings of the users of the berth, crew members or other persons authorised to stay on the vessel located in the Marina; due to loss or damages of paintings and objects made from precious metals, money, securities etc. ; loss of binoculars, cameras, radio devices, TV receivers and other technical devices on board;
d)	expenditures incurred for wreck removal;
e)	damages resulting from the non-compliance with customs, port and other administrative regulations;
f)	loss of fenders, anchors, rope, Z-drives, propellers and other equipment that can be removed from the vessel without a break-in;
g)	that can be common wear and tear;
h)	on parked cars, motorcycles or other road vehicles;
i)	damages incurred while the vessel was under surveillance by the user of the berth or other persons authorised by the user;
j)	damages incurred by force majeure (war, events similar to war, strike, civil unrest, political risks, terrorism and similar events);
k)	damages incurred as a consequence of the malicious acts or the lack of attention of berth users, crew members or other persons authorised to stay on the vessel in the Marina; damages incurred as a result of wrong or unprofessional conduct of the owner of the vessel, crew members or other persons onboard the vessel, sue to non-maintenance, neglect or worn-out state of the vessel or equipment;
l)	damages incurred as a result of a hidden defect or technical malfunction of the vessel or equipment;
m)	damages due to faulty electric or plumbing installations on the vessel or between vessels and the connection to the pier;
n)	damages incurred as a consequence of the rupture of the mooring ropes that belong to the vessel;
o)	damages incurred as a result of rodents;
p)	as a consequence of collision with another vessel;
q)	damages incurred due to non-compliance with the Marina Polesana Port Order Regulation by the user of the berth, crew members or persons authorised to use the vessel;
r)	bodily injury or death of the user of the berth, crew members or persons authorised to stay on the vessel in the Marina, which occurred on the area of Marina Polesana;
s)	damages incurred due to the pollution of the environment caused by the vessel;
t)	damages incurred due to a fire or explosion which were caused on the vessel of the user of the berth, as well as by the non-compliance with the safety measures prescribed by the Regulations of the Marina by berth users, crew members or other persons authorised to stay onboard the vessel;
u)	if the vessel, according to the manufacturer's specifications, legal regulations, technical requirements or according to a special decision of the Marina must continuously have a crew present on board, and the crew was not onboard the vessel at the time the damages occurred;
v)	for intentional harmful actions of third parties, including theft of vessels or equipment or other property located in the area of Marina Polesana;
w)	damage or accidents as a result of improper and negligent use of tools and equipment.

Article 10.

The Marina shall be liable for the damages for which it is liable under legal liability, i.e. for damages caused by the employees of the Marina, and for which it would be liable according to a court ruling

The Marina shall not be liable for damages and other results that occur due to the non-compliance with these General Terms and Conditions and the Marina Polesana Port Order Regulation.

II. PERMANENT BERTH AT THE MARINA

Permanent Berthing Contract

Article 11.

The subject of the Permanent Berthing Contract shall be the service of using the permanent berth in the Marina, both in the sea and on land, for the period of at least one month.

The permanent berth service shall be deemed provided when a Permanent Berthing Contract or invoice is executed between the Marina and the User or another person with the right to hold the vessel in possession (hereinafter: User of the vessel), in respect of the vessel in written form.

The Marina shall designate the permanent berth for each specific vessel according to the Port Order Regulations of the Marina Polesana and its berthing schedule. Where required the Marina shall, at its option, transfer the vessel subject to the Contract for Permanent Berthing to another berth within the Marina without need for a special approval by the User but shall notify the User about the relocation in due time. The change of berth within the Marina during the Contact term shall not affect the liability of the Marina.

In addition to the executed Permanent Berthing Contract, the User shall provide the Marina with a copy of a document serving as evidence of title or right of use, a navigation permit for the vessel (i.e. an appropriate document that allows leaving port in accordance with Croatian regulations), a copy of the insurance policy for the vessel, a copy of the passport or personal identity card of the natural person who is the user of the berth or the natural person who represents the user, the keys to the vessel as well as an application for placing the vessel under customs control (for non-EU vessels).

The vessel shall be considered to be under the surveillance of the Marina when it is tied to the berth and when the berth user submitted the documentation referred to in the previous paragraph of this Article and the keys to the vessel. When the berth user or person authorised by him takes over the documents that allow leaving port or the keys to the vessel, it shall be considered that the person has taken over full surveillance of the vessel, and the Marina shall be released of all liability, regardless of whether the vessel is at port or in navigation.

If the berth user or any other person with the consent of the user takes over the vessel in the Marina without taking the documentation and keys and without previously informing the Marina, they shall be deemed liable for this, and the Marina shall be deemed released of any liability, regardless of whether the vessel is at port or in navigation. In the case described above, the berth user or person with the consent of the berth user shall be considered to have taken over the vessel in the marina from the moment that person enters the perimeter of the Marina. Within the meaning of this provision, any person that uses the encoded card of the berth user to enter the perimeter of the Marina as well as any every person that has the keys to the vessel shall be considered to have the consent of the berth user. Furthermore, in case it is determined via the daily surveillance carried out by the employees of the Marina or via any other method that the berth user or any other person with the consent of the berth user stayed onboard the vessel at the time of the occurrence of a damaging event , it shall be considered that vessel was taken over by the berth user or person with the consent of the berth user.

The Marina is especially released of all liability if the vessel in question performs any economic activity, especially leasing the vessel (charter).

Obligations of the Marina

Article 12.

With the Permanent Berthing Contract, the Marina shall be obliged to provide the berth user with a berth in accordance with Article 11 of these General Terms and Conditions for the vessel determined by the contract, for the entire duration of the contract.

The Marina undertakes that it shall take due care that the berth provided is in good order and safe in a technical and nautical sense as well as appropriate for the particular vessel in question, and that it shall be maintained for the entire duration of the contract. This particularly includes the obligation of the Marina to take due care of the proper functioning of the equipment, and that it has a sufficient number of qualified employees trained for activities related to the maintenance, supervision and care of the technical and nautical safety and proper functioning of the berth.

The Marina shall be obliged to provide the berth user and the persons authorised by the berth user to stay onboard the vessel with duly maintained and equipped toilet facilities and other infrastructure intended for users of the berth.

The Marina shall issue to the berth user an encoded card for 24-hour access to the perimeter of the Marina or an access will be allowed by entering the vehicle registration plates of the vessel owner.

The Marina shall be obliged to safeguard the documentation and keys to vessel of the berth user. The use of the vessel by persons who are not the berth user shall be allowed only with the written consent of the berth user. The Marina shall issue the key to the vessel and the documents that allow the leaving of port only to the berth user or to a person that has the written consent of the berth users for the use of the vessel.

From the moment the Marina takes over the supervision of the vessel in accordance with Article 11 paragraph 5 of these General Terms and Conditions, the Marina shall be obliged to regularly check and maintain the technical and nautical safety and security of the berth, and to periodically check, with a visual inspection, the state of the vessel and the mooring ropes. If the Marina determines with such an examination any changes on or poor condition of the vessel, equipment or mooring ropes, it shall be obliged to inform the berth user about this immediately. If the berth user fails to undertake the necessary measures for the vessel and equipment to be preserved from deterioration or damage, i.e. to eliminate the danger that the vessel or equipment represent for the other vessels and property in the perimeter of the Marina, the Marina can undertake reasonable measures necessary for the preservation of the vessel and equipment or for the elimination of the danger at the cost of the berth user liable. The Marina can take over the obligation for additional services and works if this is expressly agreed upon by the contracting parties.

The Marina shall be obliged to inform the berth user, as soon as possible, of any absence of the vessel from the Marina of which it was not duly informed or if other provisions on the take-over of the vessel in accordance with these General Terms and Conditions have been violated. If it determines that the departure of the vessel is not in agreement with the berth user, the Marina shall be obliged to immediately report the disappearance of the vessel to the competent state authorities and cooperate with these authorities in their further procedures.

Obligations of the Berth User

Article 13.

The berth user shall:	
a)	pay the agreed fee for use of the berth at the Marina in the manner and time period as set out in the Contract;
b)	provide for the maintenance of the vessel with due diligence throughout the period the vessel is berthed at the Marina; in case the Marina finds the user does not act with due diligence in respect of the vessel, it may take action to protect the property at the expense of the user;
c)	equip the vessel with fire safety means that will effectively function aboard the vessel; the vessel must have at least one automatic fire extinguishing system in the engine area; the Marina can request additional fire extinguishers if it considers the existing ones are insufficient;
d)	place an eco-sponge or similar device in the bilge of the vessel to collect the impurities that may result from a technical failure or lack of maintenance of the vessel, which may be discharged directly into the seawater with the bilge drainage system;
e)	keep all mobile equipment of the vessel indicated in the inventory list in closed and locked areas of the vessel;
f)	equip the vessel with suitable ropes for berthing and fenders and a high-quality cover;
g)	for the performance of required works on the vessel, submit the technical documentation that allows insight to the correct method of solving a technical task; particularly with the lifting of the vessel, warn about the equipment on the underwater part of the vessel and provide correct data in its position;
h)	inform the reception desk of the Marina of absence of the vessel that will last longer than 3 days; during the absence time period reported, the Marina can lease the berth to another user;
i)	report to the reception desk or gatehouse the arrival to the Marina;
j)	insure the vessel and its equipment from risks of liability of the owner or user of the vessel for damage caused to third persons and their property including the legally prescribed compulsory insurance for the liability of owners or users of vessels, which is an essential condition for the conclusion of the Permanent Berthing Contract. The Marina cannot provide a permanent berth to vessels that do not have a valid insurance policy. The insurance policy must be valid for the entire duration of the Permanent Berthing Contract; otherwise the Marina is authorised to terminate the Contract immediately;
k)	report to the Marina any changes of address; it shall be considered that consignment sent by the Marina to the last known address of the berth user have been delivered properly;
l)	report to the Marina any changes to the emergency contact telephone number of the berth user; The Marina shall not assume responsibility for damages that could have been prevented

	had the berth user been successfully contacted at the telephone number indicated in the Contract.
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The user of a berth in the Marina may not:

a)	lease the berth to third persons;
b)	use for commercial purposes any part of the port, facilities, vessels or vehicles located within the perimeter of the Marina, unless it has signed a special contract with the Marina for such an activity;
c)	perform any alterations and reconstructions on the equipment and installations of the Marina;
d)	point out any notifications or advertisements, unless he has an explicit permit of the Marina for this.

The Permanent Berthing Contract cannot be transferred to other persons, nor can it apply to other vessels. If during the validity period of the Permanent Berthing Contract, the berth user transfers or forfeit his ownership right to the vessel (e.g. due to change of ownership, the termination or conclusion of a new lease contract, possession of a vessel of a lien creditor, etc.), he shall be obliged, within 7 days from the date of the change in question, to inform the Marina in writing of this change and submit the name and address of the new owner. In this case, the Marina can unilaterally terminate the Contract.

in order to secure and collect overdue receivables, based on providing the service of berth, as well as the other services, the user agrees that marina trogir has the following rights:

- obtain from the competent court (at the place where the vessel is located) obtain a temporary measure prohibiting the departure of the vessel and/or prohibiting the disposal and alienation of the vessel
- retention of the vessel
- request entry in the appropriate mortgage register on the vessel, equipment and associated parts/items (whether located on the vessel or in an appropriate warehouse)
- initiate appropriate proceedings to settle its claims, as follows:
 - judicial sale of the vessel
 - out-of-court sale of the vessel
 - any court or other proceeding it deems appropriate or desirable to achieve the above purpose
- at the expense of the user, move the vessel to dry berth

III. DAILY BERTH (TRANSIT) IN THE MARINA

Daily Berthing Contract

Article 14.

The subject of the Daily Berthing Contract is the service for the use of the daily sea berth in the Marina. The Daily Berthing Contract is a short-term contract, it can last at least one (1) day, and its duration is determine according to the number of days the vessel really stays at the berth.

The service of the use of a daily berth shall be provided based on an informal contract / invoice which shall be considered concluded at the time when the vessel is berthed in the Marina, whereby the user of the daily berth service accepts these General Terms and Conditions completely and without a possibility of amendments. The user of the daily berth is the person who, at the time of the use of the daily berth, has the vessel in possession, and is represented by the master of the vessel.

The Marina determines the daily berth for a particular vessel in accordance with Marina Polesana Port Order Regulation and its berthing schedule, depending on the availability of transit berths at the time of the arrival of vessels to the Marina in such a way that at the vessel's arrival to the Marina, a member of the Marina staff shall receive the vessel and assign a berth.

When the vessel is berthed at the Marina, the master of the vessel shall be obliged to submit to the Marina the navigation permit for the vessel (or appropriate document allowing the leaving of port), the identity documents of the crew members and passengers on board the vessel as well as the crew list (i.e. a verified list of the members of the crew or list of persons onboard the vessel).

During the entire period of the use of the daily berth, the vessel shall be under the surveillance of the user of the daily berth service and shall at no point, in no sense and in no part be under the surveillance of the Marina.

The user of the service of the daily berth retains full and autonomous possession and surveillance of the vessel, and in case he physically leaves the vessel for the period it is berthed in the Marina, he does this at his own risk.

Obligations of the Marina

Article 15.

The Marina shall provide the user of the daily berth services with a berth determined in accordance with Article 15 paragraph 3 of these General Terms and Conditions. The berth shall be in good order and safe in a technical and nautical sense and be suitable for the vessel in question, and as such properly maintained during the entire period of the use of the berth. This particularly includes the obligation of the Marina to take due care of the proper functioning of the equipment of the berth (water and electricity connections, the mooring), and that it has a sufficient number of qualified employees trained for activities related to the maintenance, supervision and care of the technical and nautical safety and proper functioning of the berths.

The Marina shall be obliged to provide the user of the daily berth and the persons authorised by the berth user to stay onboard the vessel with duly maintained and equipped toilet facilities and other infrastructure intended for users of the berth.

The Marina shall be obliged to safeguard the documentation of the berth user, and shall be entitled to retain it for the entire period of the vessel's berthing in the Marina, until the invoice for the daily berth service provided is completely paid.

Obligations of the User of the Daily Berth

Article 16.

The user of the Daily Berth shall:

a)	pay the fee for the use of the daily berth at the Marina according to the applicable price list, immediately after the Marina issues the invoice, and in any case before leaving the Marina;
b)	keep the vessel and provide for its maintenance with due diligence throughout the period of its berthing at the Marina;
d)	place an eco-sponge or a similar device in the bilge of the vessel to collect the impurities that are the result of a technical failure of lack of maintenance of the vessel, which may be discharged directly into the seawater with the bilge drainage system;
e)	in case of physically leaving the vessel while berthed, keep all mobile equipment of the vessel and the personal property of the crew members and passengers stored in closed and locked areas of the vessel;
f)	report the arrival of the vessel will to the Marina by phone or radio communication link (channel 17);
g)	report, without delay, the arrival of the vessel to the Marina and submit identity documents of the crew members and other persons onboard the vessel, navigation permits, crew lists and insurance policies to the reception desk of the Marina;
h)	moor the vessel in a safe way, according to the instructions of the Marina staff, with suitable ropes of appropriate dimensions and equip the vessel with a sufficient number of fenders;
i)	comply with these General Terms and Conditions and the applicable Marina Polesana Port Order Regulation.

The Marina shall acquire the right to retain the vessel and a possessory lien of the vessel and its equipment for all unsettled receivables for the services provided, measures undertaken at the expense of the daily berth user, receivables for the indemnification of damages referred to in Article 6 of these General Terms and Conditions and for any other receivables in accordance with the applicable Marina Polesana Port Order Regulation and regulations of the Republic of Croatia. The berth user agrees that the Marina can, without any further inquiries and approvals in the indicated cases, exercise its right of lien and right to retain the vessel.

Liability of the Marina

Article 17.

The Marina shall be liable only and exclusively for the technical and nautical proper functioning and safety of the berth and its equipment and shall not assume liability for the vessel.

The exclusions of liability of the Marina indicated in these General Terms and Conditions apply.

IV. FINAL PROVISIONS

Governing Law, Court Jurisdiction and Interpretation of General Terms

Article 18.

The governing law for these General Terms and Conditions and for all contracts concluded under these General Terms and Conditions between the service users and the Marina is the Croatian law. The contracting parties shall submit to the jurisdiction of the materially competent court in Pula for all disputes arising from the contracts concluded under these General Terms and Conditions.

In case of a dispute, the Croatian text of these General Terms and Conditions applies.

The titles of the sections and names of articles serve only for orientation purposes and shall have no effect on the interpretation of the provisions of these General Terms and Conditions.

The general and final provisions of these General Terms and Conditions apply to all users of the Marina services, and the special provisions of part II and III of these General Terms and Conditions apply only to the corresponding contractual relations. In case a special provision is in conflict with the general provisions, the special provision of these General Terms and Conditions shall prevail.

The General Terms and Conditions have been drawn up in Croatian and other three world language (english, german, italian).

In the event of a conflict or discrepancy in the translated versions of these General Terms and Conditions, the Croatian version of these General Terms and Conditions shall prevail.

Amendments to the General Terms and Conditions

Article 19.

Unilateral amendments to the General Terms and Conditions are possible, and the Marina shall be obliged to publish these on the notice board located at the reception desk and report them in writing to all users of the permanent berth service at least 30 days before their entry into force.

In Pula, 14.03.2022