

# **BRODICA d.o.o. PUNAT GENERAL TERMS AND CONDITIONS**

## **I. GENERAL CLAUSES**

### Article 1

General Terms and Conditions shall apply to the users of the services of the dry marina – BRODICA d.o.o. Punat (hereinafter referred to as Brodica), including vessel owners and the persons authorized by the owner to use the vessel.

General Terms and Conditions regulate mutual rights and obligations between Brodica and the users of its services.

### Article 2

Vessel owners with a dry berth in Brodica, i.e. all users of Brodica's services, shall abide by these General Terms and Conditions, as well as by the valid Internal Order Regulations of the dry marina Brodica d.o.o. In case of violation of the above acts, Brodica may deny the provision of services, that is, cancel the dry berth on land given for use, while the said acts also authorize Brodica to impose sanctions.

### Article 3

The owners or the persons authorized to use the place on land in Brodica by the owners are obliged to keep the vessel and her equipment with the care of a diligent owner, as well as to equip the vessel with good and suitable equipment during the entire time of the vessel's stay in Brodica. Furthermore, they are obliged to adhere to all valid rules regarding the stay and navigation within the borders of the Croatian coastal waters.

All vessels situated in Brodica's surrounding area shall carry all necessary certificates of seaworthiness and shall be maintained seaworthy in accordance with the valid regulations; while they are underway, they shall be run by a qualified person holding a valid certificate, and have a sufficient number of qualified and licensed crew members in accordance with the regulations. Should this not be the case, Brodica shall take no responsibility for them, and may even deny them the right of entry.

### Article 4

In case any of the users of Brodica's services cause damage to Brodica, to other related companies within the Marina Punat Group or to other users of Brodica's services, they are obliged to compensate for the damage in its entirety in accordance with the legal regulations of the Republic of Croatia.

Damage caused to Brodica's property, vessels, vehicles, trailers, equipment and to third person's other property located in the area of Brodica, damage as a result of a third person's injury or death, damage as a result of environment pollution caused by the crew of the vessel or other persons authorized to stay on the vessel, or damage caused by a deficiency on the vessel or on the vessel's equipment or by bad maintenance of the vessel or its equipment, is the responsibility of the vessel owner or the person authorized to use the vessel by the owner. If Brodica should bear any costs in relation to such damage, including legal costs, or if it should be obliged to compensate for any damages to third persons, the responsible vessel owner, and consequently the person authorized to use the vessel by the owner, shall indemnify Brodica in full.

### Article 5

Brodica guarantees to meet all standards proscribed by the valid regulations of the Republic of Croatia, and with the care of a prudent businessman, in accordance with the rules of the profession, keep the dry marina, including its entire infrastructure, its edifices and facilities and its other equipment, clean and in good condition.

The entire area of Brodica is open to the public, except certain structures and special areas, where access is limited to authorized personnel.

### Article 6

All Brodica's services are charged according to the tariff valid at the time the service in question is provided to the user.

#### Article 7

Within its area of operation, particularly within the framework of the responsibilities defined by these General Terms and Conditions, Brodica is responsible for damage arising as a consequence of the lack of due diligence by the Marina, or its staff.

Under no circumstances shall the Marina be responsible for:

- a) Damage owing to the loss of profit, time, delay, use of holidays, etc.;
- b) Damage to equipment or the disappearance of the vessel's equipment, if it was not locked in a closed space or if it disappeared without a break-in in that space;
- c) Damage to vessel equipment at the dry berth which is not enlisted on the inventory list;
- d) Damage owing to the presence of water in the vessel, whether fresh or sea water;
- e) Damage owing to the loss of or damage to works of art and items made of precious metals, money, securities, etc;
- f) Damage owing to the loss of or damage to personal items owned by the users of Brodica's services, or by other persons authorized to use the vessels located in Brodica;
- g) Damage to or disappearance of binoculars, cameras, radio sets, TV sets and other technical appliances on board;
- h) Damage incurred because of violation of customs, port and other administrative regulations;
- i) The loss of fenders, anchors, ropes, z-drives, propellers and other fittings which may be demounted from the vessel without a break-in;
- j) Damage which can be reduced to usual wear;
- k) Damage to parked cars, motorcycles and other means of road transport.

Brodica shall be released from responsibility if it proves that the damage was caused:

- a) During the time the vessel was under the surveillance of the Brodica services user or other persons authorized by him, pursuant to Article 8, paragraph 5;
- b) By an act of God;
- c) By war and similar events, strikes, lockouts, civil riots, political risks, terrorism and similar events;
- d) By ill-intentioned behaviour or negligence on the part of the dry berth user, or other persons authorized to use the vessel;
- e) By the incorrect or unprofessional behaviour of the vessel owner, or other persons authorized to use the vessel;
- f) Owing to the lack of maintenance, to the neglect or to the worn-out condition of the vessel or her equipment;
- g) By a hidden flaw or a technical malfunction of the vessel or her equipment;
- h) By defective electrical or water-pipe installation on the vessel or between the vessel and the electrical connection;
- i) By the aftermath of freezing;
- j) By rodents;
- k) Because of the violation of the Internal Order Regulations of the Brodica dry marina by the service users, or persons authorized to use the vessel;
- l) As a result of physical injury or death by service users, or persons authorized to use the vessel in Brodica, which happened on the vessel herself;
- m) Owing to environmental pollution caused by the vessel;
- n) Owing to a fire or explosion caused on the vessel belonging to the user of the berth on land, as well as owing to the violation of measures proscribed in Brodica Regulations by the users of the berth on land, or other persons authorized to use the vessel;
- o) If the vessel must have the crew continuously present on board, according to the manufacturer's specifications, to legal regulations, to technical demands or to a special decision by Brodica, but the crew was not on the vessel during the occurrence of the damage.

Brodica is not responsible for any intentional damage caused by third persons, including the theft of the vessel, of equipment or of other property located in the area of Brodica, unless such damage is proven to have happened because of the lack of due diligence by Brodica or its employees.

#### Article 7a

Brodica shall be liable for the damages for which it is responsible on the basis of legal liability, i.e. for the damages caused by Brodica employees, and for which Brodica would be held responsible by court decision. Brodica d.o.o. Punat has contracted liability insurance with the dry marina owner in relation to third persons. This insurance covers all damages for which the dry marina is liable to the person signing the contract on the use of dry marina services or third persons.

Brodica is not responsible for damage and other consequences caused by the violation of these Terms and Conditions, as well as the Internal Order Regulations in the dry marina Brodica d.o.o.

## II. THE SERVICE OF CONTRACTUAL VESSEL ACCOMMODATION IN BRODICA

### Contract of Dry Berth Use

#### Article 8

The subject of the Contract of Contractual Berth Use is the service of the usage of the berth on land in Brodica, for a period of at least six (6) months.

The service of providing a contractual berth shall be considered as realized if the Contract of Dry Berth Use has been signed for the accommodation of the vessel in written form between Brodica and the owner of the vessel or the other person entitled to the vessel (hereinafter referred to as the Berth User).

Brodica shall determine the dry berth for a certain vessel according to its berthing arrangement. If necessary, Brodica has the right to relocate the vessel with a signed Contract of Dry Berth Use, at its own discretion, to another dry berth within Brodica, without prior special approval by the Dry Berth User, but shall timely inform the User about the mentioned relocation. The change of dry berth in Brodica for the duration of the Contract shall have no influence on Brodica's responsibility.

Besides the signed Contract of Dry Berth Use, the Berth User is obliged to present to Brodica a copy of the document proving his ownership or another document entitling him to the vessel, the ship's passport (i.e. a suitable document enabling the vessel to set out in accordance with the regulations of the Republic of Croatia), a copy of the vessel's insurance policy, a copy of the passport or personal identity card of the physical person i.e. the Berth User, or of the physical person representing the Berth User, the keys to the vessel, and a properly completed inventory list (list of vessel's equipment).

The vessel shall be considered as being under the supervision of Brodica when the vessel is placed at her dry berth in Brodica and when the Berth User or other authorized persons are not on board or in the area of Brodica and when the keys of the vessel have been handed over at the Marina Punat doorman's booth and when the valid documentation is handed over at the Marina Punat reception desk. When the Berth User or a person authorized by him enters the area of Brodica (using the Membership Card – by car) or when Brodica employees see the owner/authorized persons on board, they are considered as being fully responsible for the vessel, and from that moment, Brodica is released from any liability for the vessel.

### Responsibilities of Brodica

#### Article 9

In the Contract of Dry Berth Use, Brodica commits itself to the Berth User to provide a dry berth for use, in accordance with Article 8, paragraph 3 of these General Terms and Conditions for the vessel specified in the Contract, for the duration of the Contract.

Brodica obliges itself to make sure, with the care of a prudent businessman, in accordance with the rules of the profession, that the dry berth given for use shall be in good order and safe in the technical sense, as well as suitable for the specified vessel. This, in particular, includes Brodica's obligation to take care of the good working order of berthing equipment with the care of a prudent businessman, in accordance with the rules of the profession, and have a sufficient number of qualified employees trained for jobs related to maintenance, surveillance and to the care of the technical safety of dry berths.

Brodica guarantees to the Berth User, and persons authorized by him to use the vessel, to provide properly maintained and standardly equipped toilet facilities and other infrastructures intended for users.

Brodica shall issue to the Berth User an encoded card for a 24-hour access to the area of Brodica.

Brodica obliges itself to keep the vessel keys at the Marina Punat doorman's booth. The use of the vessel by persons who are not Berth Users is possible only with the written approval of the Berth User. Brodica shall present the keys of the vessel only to the Berth User or to persons holding a written approval to use the vessel signed by the Berth User.

From the moment Brodica takes over the supervision of the vessel, in accordance with Article 8, paragraph 5 of these General Terms and Conditions, Brodica commits itself to regularly check and maintain the technical safety of the dry berth, as well as to occasionally do external inspections in a standard way in order to check the state of the vessel. If any change to or disrepair of the vessel or equipment is noticed during such an inspection, Brodica shall immediately notify and warn the Berth User. If the Berth User does not take the necessary measures to upkeep the vessel and the equipment from deterioration and damage, or to remove the danger the vessel or the equipment represent to other vessels and property in the area of Brodica, Brodica may reasonably take measures necessary for upkeeping the vessels and equipment, or to remove the danger at the expense of the responsible Berth User. Brodica may take on the responsibility of performing additional services and works, if the contracting parties explicitly agree to such services and works.

During the time the vessel is situated at the dry berth under the surveillance of Brodica, Brodica guarantees that the on-call staff shall perform their duties of safety supervision over the vessel and pay due attention to deter third parties from unauthorized access to the vessel or from undertaking any kind of harmful operations on the vessel or her equipment. The contracting parties shall agree that the records of supervision performed by the on-call staff shall be stored in electronic form and can be delivered to the Berth User on request at any time.

Brodica shall notify the Berth User as soon as possible of the absence of the vessel from Brodica, about which it was not properly informed, or in case other provisions on taking over the vessel were not applied in accordance with these General Terms and Conditions. If Brodica establishes that the vessel did not leave with the approval of the Berth User, it has to report the vessel missing to the proper authorities and cooperate in their further operations.

#### Responsibilities of the Berth User

##### Article 10

The Berth User shall:

- a) Pay the agreed compensation for the use of the dry berth in Brodica in the way and at the time stipulated in the contract;
- b) With the care of a diligent owner take care of the maintenance of the vessel for the entire time the vessel is at the dry berth in Brodica; if Brodica considers that the Berth User does not treat the vessel as a diligent owner, it may take proper measures to upkeep the property at the expense of the Berth User;
- c) Equip the vessel with fire-fighting equipment which will operate efficiently on the vessel herself, moreover, the vessel shall have at least one automatic fire-fighting system in the engine room; Brodica may require additional fire-fighting means if the existing ones are not considered to be sufficient;
- d) Report all equipment on board the vessel in the written form of an inventory list, according to Article 8, paragraph 4 of these General Terms and Conditions, as well as any subsequent changes to the list;
- e) Keep all movable equipment mentioned in the inventory list in the closed and locked area of the vessel;
- f) Equip the vessel with a good quality tarpaulin;
- g) In order for requested jobs to be performed on the vessel, all technical documentation, which clearly shows the proper solution to a technical task, must be submitted; particular warning must be given about the equipment at the underwater part of the vessel, especially when lifting the vessel, and accurate information about its location must be provided;
- h) Report their arrival to Brodica at the reception desk or the doorman's booth;
- i) Insure the vessel and the equipment against the risk of the liability of the vessel owner or vessel user for damages caused to third parties and their property, including the insurance against the liability of the vessel owner or vessel user proscribed by law, which represents an important condition for making the Contract of Dry Berth Use. Dry berth at Brodica cannot be provided to vessels to which the said insurance does not apply. The insurance must be valid for

the entire duration of the Contract of Dry Berth Use, should this not be the case, Brodica may immediately cancel the Contract;

- j) Report to the Marina any change of address; Brodica's deliveries sent to the last known address of the Berth User shall be considered as properly delivered;
- k) Report any change of telephone numbers at which the user may be contacted in case of emergency to Brodica; Brodica shall take no responsibility for damage which could have been prevented if the owner had been contactable at the phone number stated in the contract.

In Brodica, the Berth User shall not:

- a) Rent the dry berth to third persons;
- b) Use any part of Brodica, of the structures, vessels, or vehicles located within or in the area of Brodica for commercial purposes, unless they have a special contract with Brodica for such kind of activity;
- c) Make any adjustments or modifications to Brodica's equipment and installations;
- d) Put up notices or advertisements, unless they have the explicit approval by Brodica's management;
- e) Use an open flame for preparing food;
- f) Leave the vessel connected to the electrical connection unless he/she is personally on board for the entire time the vessel is connected to the electrical cupboard
- g) Start the vessel engine in the area of Brodica without an authorized mechanic present.

The Berth User cannot transfer the Contract of Dry Berth Use to other persons, nor can the contract be valid for a different vessel. If during the validity of the Contract of Dry Berth Use the Berth User transfers or loses ownership right over the vessel (i.e. owing to the change of ownership, cancellation or making a new leasing or rental agreement, falling under the possession of an encumbrancer, etc.), he shall notify Brodica of the mentioned change within 7 days from the occurrence of the event, and deliver the name and the address of the new owner. In that case, Brodica may simply cancel the Contract one-sidedly.

Brodica gains the right to retain the vessel, security interest over the vessel and the equipment for all outstanding debts on the basis of provided services, measures taken at the expense of the Berth User, claims for damages according to Article 4 of these General Terms and Conditions, and other claims on the basis of these General Terms and Conditions, and the related documents - the valid Port Order Regulations in the Marina Punat, the valid Internal Order Regulations of the Marina Punat, and the valid regulations of the Republic of Croatia. The Berth User shall agree that Brodica may in the said cases, without any further questions or approval, practice its security interest and the right to retain the vessel. The Berth User shall take responsibility for all new expenses thus incurred.

#### Responsibility for the Damage on the Vessel and Equipment

##### Article 11

Within the range of its responsibilities, stipulated in these General Terms and Conditions, Brodica shall be responsible for damage to vessels and equipment for which there is a valid Contract of Dry Berth Use, provided the damage happened while Brodica was supervising the vessel in terms of Article 8 of these General Terms and Conditions, only if the damage was made as a consequence of the lack of due diligence by Brodica, or its employees.

In any case, the responsibility of Brodica per one harmful event cannot exceed the total amount of the equal value of € 1,000,000.00, except in cases when the damage was caused intentionally or by gross negligence on the part of the Marina.

The exemption from liability of Brodica stipulated in these General Terms and Conditions shall apply.

### III. VARIOUS PROVISIONS AND REGULATIONS

#### The Responsibility of Brodica

##### Article 12

Brodica shall be responsible exclusively for the technical condition and safety of the dry berth, as well as for the safety of vessel transport, and shall not take responsibility for the vessel.

In any case, the responsibility of Brodica per one harmful event cannot exceed the total amount of the equal value of € 1,000,000.00, except in cases when the damage was caused intentionally or by gross negligence on the part of a Brodica employee.

The exemption from liability of the Marina stipulated in these General Terms and Conditions shall apply.

#### **IV. FINAL CLAUSES**

##### Applicable Law, Court Jurisdiction and Interpretation of General Conditions

###### Article 13

These General Terms and Conditions and all contracts signed by service users with Brodica in accordance with these General Terms and Conditions, are governed by Croatian law.

It is hereby agreed that the competent court in Rijeka shall have jurisdiction over all disputes arising from contracts signed according to these General Terms and Conditions.

In case of dispute, the Croatian text of these General Terms and Conditions shall be relevant.

Titles of sections and paragraphs serve only to provide simpler managing and have no influence on the interpretation of the provisions of these General Terms and Conditions.

General and Final Clauses of these General Terms and Conditions shall apply to all users of Brodica's services, and special provisions in Part II and III of these General Terms and Conditions shall apply only to the corresponding contractual relations.

In case a particular provision is in collision with the General Clauses, the particular provision of these General Terms and Conditions shall have precedence over the General Clause.

##### Amendments to General Terms and Conditions

###### Article 14

Brodica may introduce one-sided amendments to the General Terms and Conditions, which Brodica shall publish in Marina Punat Group's official paper or on the Marina Punat Group's official web page, as well as notify all Dry Berth Users about them in written form at least 30 days prior to their entry into force.

##### Entry into Force of the General Terms and Conditions

###### Article 15

These General Terms and Conditions shall enter into force on 1<sup>st</sup> January 2011.

After these General Terms and Conditions enter into force, the former General Terms and Conditions are no longer valid.