

**GENERAL TERMS AND CONDITIONS OF SALE OF  
SOCIETE D'EXPLOITATION DES PORTS DE MONACO (SEPM)**

**ARTICLE 1 - PURPOSE AND SCOPE OF APPLICATION**

**1.1** These Terms and Conditions constitute the basis of commercial negotiations and are addressed or handed over upon request to each buyer, whether a natural or legal person, hereinafter the "Client", of services provided by SEPM.

By default, when ordering, the Client confirms that he has read these Terms and Conditions. Hereunder, the status of Client is acquired after SEPM has agreed the sale of services it offers to the said natural or legal person requesting a purchase from it.

**1.2** These Terms and Conditions will apply automatically, except by specific agreement prior to the order agreed in writing between the parties, to all sales of services provided by SEPM or its contractors through it and, in particular, the following: mooring, right of use of electrical installations, right of use of the drinking water system, piloting, and sundry services.

**1.3** Accordingly, the placement of an order by a Client entails unconditional acceptance by the latter of the present Terms and Conditions, unless special conditions are agreed in writing by SEPM for the Client.

**1.4** All prices of services provided by SEPM are available at SEPM's headquarters and harbour masters' offices. "Passage" prices are available on SEPM's website. A monthly mooring fee and a daily mooring fee are applicable, as indicated in clause 6.5 hereunder.

**1.5** The sale of services will be deemed to have been completed on the date of acceptance of the order by SEPM. Prior to that date, these Terms and Conditions are available to any buyer for informational purposes on the website of SEPM. The french language version of this agreement shall be controlling in all respects and shall prevail in case of any inconsistencies with translated versions, if any.

**1.6** The invalidity of a contractual clause does not invalidate the Terms and Conditions.

SEPM has the right to amend these Terms and Conditions subject to publication available at its headquarters, harbour masters' offices, and on its website. These amendments will apply to current contracts, provided that the Client has not expressed any objection to them by due notice within seven days.

**1.7** If the order is confirmed, the Client has acknowledged having read and adhered unreservedly to the Terms and Conditions, which can be found online at: <http://www.ports-monaco.com> or consulted at SEPM's headquarters and harbour masters' offices.

**1.8** Any other document than the Terms and Conditions, including catalogues, flyers, advertisements, and notices, is merely informative, indicative and non-contractual.

**ARTICLE 2 - APPLICABILITY**

**2.1** SEPM reserves the right to supplement the present Terms and Conditions by Special Conditions. The General and Special Conditions will prevail over the Client's purchase conditions, except with SEPM's formal written consent. It is therefore expressly agreed that any contrary condition cited by the purchaser will be unenforceable against SEPM, regardless of when it may have been brought to its attention.

**2.2** The fact that SEPM does not at a given time make use of any of these Terms and Conditions will not be construed as a waiver of the right to make use of any of these Terms at a later time.

**ARTICLE 3 - ORDERS**

**3.1 Definition**

**3.1.1** An order means any order for products and services, in particular a reservation, accepted by SEPM, together with the payment of any deposit stipulated.

All orders are irrevocable for the Client without the written consent of SEPM.

The service contract is agreed for the term accepted by SEPM.

**3.1.2** If the request is made by an agent, it is binding on the agent and the Client, in particular for the proper settlement of this order or any services.

The agent, with a written power of attorney issued by the Client, must act under cover of a notice sent by the Client, which must specify the terms of the power of attorney, in particular its scope and duration. The power of attorney must be communicated to SEPM on request, if this is deemed necessary. If the applicant is the captain of the vessel concerned, he must have a power of attorney on the above-mentioned terms.

**3.1.3** All mooring reservation requests must mention the length, effective width, and draught of the vessel concerned. The Client or, if appropriate, his representative applicant, are jointly and severally responsible for the measures communicated to SEPM when applying for a reservation.

The length and the effective width of the vessel concerned is deemed after consideration of all the elements to correspond to a true length or width (including, but not limited to, the bowsprit, the rear deck, the presence of an off-engine board, etc.). In the event of dispute between the parties on these elements, the dispute will be resolved by an expert designated by SEPM, and the cost of said expertise will be met by the defaulting party.

**3.2 Change, cancellation, failure to appear ("No-Show")**

**3.2.1 Change** Orders are final and irrevocable, and therefore any request for a change in the delivery of an order placed by a Client will only be taken into account by SEPM if the request is made in writing, including by fax or email, 48 hours before noon (local time in Monaco) on the expected day of arrival. The Client will be charged for two nights by way of penalty for any late arrival and early departure, where at least 48 hours' advance notice has not been given, or for one night in the case of a reservation made for a period less than two days.

If the request is made by telephone, it must be confirmed in writing in the above form and deadline.

Requests to extend a stay made less than 48 hours before the date on which the stay was initially due to end will give rise to a new order.

In the event of change of the order by the Client, SEPM will be freed from the agreed deadlines for its implementation.

**3.2.2 Cancellation** When the cancellation of the order is received by SEPM more than 48 hours before noon (local time in Monaco) on the expected day of arrival, no penalty will be due by the Client.

Except in the event of force majeure as provided for in these Terms and Conditions, when the cancellation of the order is received by SEPM within 48 hours and before noon (local time in Monaco) on the expected day of arrival, the Client will be charged for two nights by way of a penalty, or one night in the case of a request for less than two days.

Cancellation requests must be made in writing, including by fax or email. If the request is made by telephone, it must be confirmed in writing in the above form and deadlines.

**3.2.3 Failure to appear ("No-Show")** In the case of a failure to appear ("No-Show") of the ship from the date of the reservation accepted by SEPM, the Client will be charged for two nights by way of a penalty and the said reservation may be cancelled automatically, except in the event of force majeure as provided for in these Terms and Conditions. The Client will be charged for one night by way of penalty for a reservation made for a period less than two days.

#### **ARTICLE 4 - SUSPENSION OF SERVICES**

In the event of non-payment in full of an invoice which has become payable after formal notice has had no effect within 48 hours, SEPM reserves the right to suspend any ongoing and/or future service and the Client shall not be entitled to claim any compensation for any reason whatsoever.

#### **ARTICLE 5 - PAYMENT**

##### **5.1 Cash payment**

**5.1.1** Invoices are produced on the basis of reservation dates and must be paid in cash, without discount. The invoice will be issued in the name of the Client.

**5.1.2** Any delay in payment will result in the immediate maturity of amounts billed and the application of a fixed penalty indemnity of 10% of the amounts due and unpaid.

Any delay in payment will also result in the application of a late fee in the terms set out in clause 7.3.1 of these Terms and Conditions.

**5.1.3** In the case of a Client acting through a representative appointed by him for that purpose, whether a natural or a legal person, the invoice will be sent to the Client through the care of the agent, who acknowledges having read these Terms and Conditions.

The agent and the Client are liable to SEPM for payment of the invoices corresponding to the order, both for mooring and for all other expenses whether related to the mooring or not. This also applies to all sundry sales requested by the Client or his representative, accepted and invoiced by SEPM.

**5.1.4** All orders that SEPM agrees to perform will be performed, on the assumption that the Client has offered sufficient financial guarantees deemed to be such by SEPM and actually settles the amounts due on maturity, in accordance with legislation. Similarly, if SEPM has serious or particular reason to fear payment difficulties on the part of the Client at the time of the order, or after it, or if the Client does not offer the same guarantees as on the date of acceptance of the order, SEPM may make the acceptance of the order or continuation of its service subject to a cash payment or the provision by the Client of guarantees in favour of SEPM.

**5.1.5** SEPM may also choose, without explanation, to accept the order placed by the Client only after payment has been received in advance for the services requested.

In the event that the Client refuses to make payment in advance, without offering any guarantee considered to be sufficient by SEPM, then SEPM may refuse to honour the order(s) placed or provide the services concerned. In this case, the Client shall not be entitled to cite wrongful refusal to sell or claim any compensation.

**5.2 Refusal of order** If a Client places an order with SEPM without having settled the invoice(s) stipulated, SEPM may refuse to honour the order or provide the service concerned. In this case, the Client shall not be entitled to claim any compensation whatsoever.

#### **ARTICLE 6 - TARIFF - PRICE**

**6.1 Tariff** The current tariff may be revised at any time by prior notice. Any tariff change will automatically apply on the date indicated on the new tariff.

**6.2 Price** Our prices are fixed by the tariff in force on the date of the submission of the order. They are all deemed to be in euros (€) and inclusive of tax (all taxes included) for pleasure craft and exclusive of tax (excluding taxes) for cruise vessels.

Regarding the wintering contract, the tariff applied on the day of order placement changes each year on 1 January.

**6.3** Any invoice issued is final. In the event that the Client or its representative requires special invoicing, for the request to be taken into account, it must be made before the ship's arrival, in the "remarks" section of the reservation request form on the Internet, particularly with regard to the application of VAT. In all cases, SEPM will verify the supporting documents before any invoicing, and Client or its representative undertake to provide the said documents to SEPM.

**6.4** The invoice for the mooring price relates to the port call period requested and accepted by SEPM. In the event of absence during a stay, the Client must pay for the entire period of absence.

**6.5** If, in a calendar month, and for a single reservation, the application of the daily tariff is less advantageous for the Client than the monthly fee, the latter will be applied.

**6.6** Where an extension to the port call period is requested less than 48 hours before the date on which the stay was initially due to end, and where this request is accepted by SEPM, a new invoice will be issued. However, the monthly tariff cannot be applied to this new invoice, if the duration of the extension added to the duration of the initial port call period reaches or exceeds one month.

**6.7** Depending on its commercial optimisation strategy, SEPM may apply special commercial discounts as it sees fit. These discounts shall apply only from the date on which proof of the discounts is produced, and shall under no circumstances apply retroactively.

#### **ARTICLE 7 - TERMS OF PAYMENT**

**7.1 Payment** Our invoices are payable on receipt.

**7.2** In any event and in accordance with Article 9.7 of the Rules of Procedure of the Ports of Monaco, amounts due to SEPM must always be settled before the ship's departure.

### **7.3 Non-payment**

**7.3.1** Any amount not paid when due will result in the payment by the Client of penalties set at 1.50% per month of delay. These penalties are due automatically and will be debited from the Client's account. Any recovery costs are the responsibility of the debtor.

**7.3.2** In addition, SEPM reserves the right to apply to the Court of competent jurisdiction to recover the amounts due, subject to a fine applicable per day of delay.

**7.4 Claims relating to services invoiced.** To be admissible, any claim must be submitted by the Client to SEPM in writing within fifteen days of the dispatch of the invoice.

**7.5 Prohibition of offset.** It is expressly understood that no offset between the claims of SEPM and the claims of the Client may take place.

**7.6 Provisional payment duty.** Any submission of a claim does not relieve the Client of its obligation to pay the entire invoice.

**7.7 Limitation.** All actions arising from the application of these Terms and Conditions will be subject to limitation within the period of one year.

### **ARTICLE 8 - FORCE MAJEURE**

**8.1** Force majeure is considered to mean events beyond the control of the parties, which they could not reasonably be required to anticipate and could not reasonably have avoided or overcome, insofar as the occurrence renders the performance of the obligations totally impossible, subject to the provision of proof.

**8.2** In particular, force majeure or fortuitous events discharging SEPM from its obligation to provide the services within the time originally planned include: strikes by all or part of SEPM's personnel, fire, flooding, war, inability to obtain supplies of raw materials, epidemics, interruptions to the supply of fluids for reasons not attributable to SEPM, and the unavailability of docks and pontoons.

**8.3** In such circumstances, SEPM will notify the Client in writing, including by fax or email, within 24 hours from the date of occurrence of the events, and the contract between SEPM and the Client will be suspended automatically without compensation as from the date of the occurrence of the event.

**8.4** If the event were to last longer than 30 days from the date of its occurrence, the contract concluded by our company and its Client may be terminated by either party, without any of the parties being entitled to the award of damages.

Such termination will take effect on the date of first presentation of the registered letter with acknowledgment of receipt cancelling said sales contract.

### **ARTICLE 9 - PARTIAL INVALIDITY**

If one or more provisions of these Terms and Conditions are held to be invalid or declared as such under any law or regulation or further to a final decision of a competent Court, the remaining provisions will retain their full force and scope.

### **ARTICLE 10 - NON-WAIVER**

The fact that SEPM does not at a given moment cite any provision of these Terms and Conditions cannot be regarded as a waiver of the right to cite these terms later.

### **ARTICLE 11 - JURISDICTION**

**11.1** SEPM designates address for service at its headquarters.

**11.2** In the event of a dispute or claim arising out of these Terms and Conditions or in connection with them or with the failure to perform them, the contracting parties will consult and negotiate and, recognising their mutual interests, will try to find a satisfactory solution.

**11.3** If the parties fail to reach a settlement within a period of sixty (60) days after notice given by either party by registered letter with acknowledgment of receipt, any dispute concerning the application of these Terms and Conditions and their interpretation, their performance and delivery contracts concluded by SEPM, or the payment of the price, may be brought before the Courts of Monaco, whatever the place of the order, delivery and payment and the method of payment, and even in cases of third-party claims or multiple defendants.

**11.4** Jurisdiction is general and applies both to a principal claim, an incidental claim, a substantive action or summary proceedings.

**11.5** In addition, in the event of legal action or other debt collection action by SEPM, court fees for summonses and legal and bailiff fees, plus any additional costs, will be charged to the defaulting Client, along with any expenses incurred in relation to or as a result of the Client's failure to comply with the payment or delivery terms applicable to the order in question.

### **ARTICLE 12 - APPLICABLE LAW**

Any questions relating to these Terms and Conditions or the services governed by them, and which are not covered by these contractual provisions, will be governed by the law of Monaco to the exclusion of any other law.

### **ARTICLE 13 - PERSONAL INFORMATION**

According to Act No. 1165 of 23 December 1993, as amended, on the protection of personal data, and taking into account Ministerial Decree No. 2014-176 of 28 March 2014 on the automated processing of personal data performed by legal persons of public law, public authorities, private bodies with a public interest function or the franchisees of a public service, the Client has the right to access, change, rectify and delete his personal data. To exercise this right, the Client must make the request by post or in person at the headquarters of SEPM, to the data controller or his representative.

### **ARTICLE 14 - ENTRY INTO FORCE**

These Terms and Conditions for services provided by SEPM come into force on 1<sup>st</sup> July 2020.