

## 1. Definitions.

“**Affiliate(s)**” means, with respect to a party, any other entity who, directly or indirectly, controls, is controlled by, or is under common control with such party, where the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting or other securities, by contract or otherwise.

“**Agreement**” means the executed written agreement including but not limited to an Order, a Quote or offer submitted by Submer and accepted by the Client and any Supporting Material, that references these Terms and Conditions whereby the Client agrees to purchase and Submer agrees to sell or provide Products, Services, Projects and/or Project Deliverables.

“**Background IP**” means, with respect to both parties, Intellectual Property Rights owned by that party existing at the date the Order is made including any modifications made during the course of the Agreement to such Background IP.

“**Business Day**” means the days between and including Monday to Friday and does not include public holidays and weekends in Barcelona (Spain).

“**Certified Installation Partner**” means either Submer or Submer authorized third party who has been trained by Submer in installation and commissioning of the Products and/or Project Deliverables.

“**Client**” means the party who Submer will supply the Products, Services, Projects, and Project Deliverables, as specified in the Order.

“**Confidential Information**” means and includes any information of business, scientific, technical, commercial nature or any other nature disclosed by Submer including but not limited to, technical data, know-how, ideas, inventions, concepts, Intellectual Property, business plans, new products, chemical formulas, test samples, agreements, projects, documents, designs, logotypes, new technologies, maps, drawings, instructions, recommendations and any other information of a confidential nature.

“**Delivery Date**” means the date that Submer notifies the Client that the Products or Project Deliverables are ready to be shipped from the Delivery Point.

“**Delivery Point**” has the meaning given in Clause 4.2 of these Terms and Conditions.

“**Due Date**” means the date on which the payment in full of the Purchase Price as specified in the relevant invoice is due.

“**Force Majeure**” shall have the meaning ascribed in Clause 17 of these Terms and Conditions.

“**Intellectual Property Rights**” means all intellectual property rights recognized under any laws or international conventions or agreements, and in any country or jurisdiction in the world, including, without limitation, patents, patent applications, and patent rights, product configurations, and the goodwill connected with the foregoing, copyrights and copyright rights, copyright applications and registrations, mask works, know-how, business methods, franchises, licenses, trade secrets, confidential information, proprietary processes and technology, trade secrets, databases, licenses, source codes, inventions, discoveries, technical advances, and any manual, formulas and/or documentation constituting, describing or related to the foregoing. In addition, the term shall include trademarks, trademark applications and registrations, service marks, service mark applications and registrations, domain names, domain name applications and registrations, trade dress, logos and designs, trade names and brands, in all cases, to the extent they are used or have been used by Submer in its activities or it is foreseen that they will be used in the future.

“**Order**” means the Quote or offer submitted by Submer and accepted by the Client, including any supporting material which the parties identify as incorporated either by attachment or reference (“**Supporting Material**”). Supporting Material may include, by way of example, product lists, hardware or software specifications, standard or negotiated service descriptions, data sheets and their supplements, statement of work (SoW), published warranties and service level agreements.

“**Product(s)**” means any Submer products or such other third-party products, equipment, materials, supplies or items, as specified in the Order including software.

“**Project**” means a set of activities including the development, provision, modification, configuration, enhancement and integration of the Products and Services, by Submer to meet the Specifications.

“**Project Deliverable(s)**” means the Products and other deliverables required to be developed or integrated by Submer pursuant to a particular Project in accordance with agreed Specifications.

“**Purchase Price**” means the aggregate amount payable by the Client to Submer in relation to the Products, Services and Projects, as specified in the Order.

“**Quote**” means a proposal or quote provided by Submer relating to the Products, Services and Projects referred to in the Order.

“**Service(s)**” means any services Submer agrees to perform, as specified in the Order.

“**Site**” means the Client’s site or location where the Products are to be delivered (if specified in an Order) and or installed, where the Services are to be performed, or

where the Project is to be implemented as specified in the Order.

“**Site Acceptance Test**” or “**SAT**” means a test performed by Submer or its Certified Installation Partner to confirm that the Product(s) related to a respective Order meet(s) the specifications subsequent to installation at the Site, as further described in Clause 8. The SAT will be compulsory in order to validate the warranty.

“**Software**” means machine-readable computer programs that comprise a series of instructions, rules, routines or statements, regardless of the media in which recorded, that allow cause a computer, or other machine, to perform a specific operation or series of operations.

“**Specifications**” means the drawings, plans and/or specifications for the Products, Services and Projects as specified in the Order or otherwise agreed by the parties in accordance with Addendum I.

“**Submer**” means Submer Technologies S.L., or the entity listed on the Order.

“**Submer Products or Submer Project Deliverables or Submer Software**” means Submer’s proprietary products, including any and all products manufactured or developed by Submer, including software.

“**Support Request**” means any support enquiry, whether related to a failure of a Product as per its technical specifications, or any other Product-related topic such as functionality, operation, or configuration or any other enquiring questions.

“**Terms and Conditions**” means these terms and conditions.

“**Warranty Period**” has the meaning given in Clause 9.2 of these Terms and Conditions.

## 2. Applicability.

2.1. These Terms and Conditions are the only terms and conditions that govern the sale of Products, Projects, and Services by Submer Technologies, S.L., or its affiliates or subsidiaries. Notwithstanding anything to the contrary herein, if a written contract signed by both parties is in existence covering the sale of the Products, Projects and Services covered hereby, the terms and conditions of such contract will superseded and control to the extent that they are inconsistent with these Terms and Conditions.

2.2. The accompanying Quote and subsequent invoice and these Terms and Conditions (collectively, this “Agreement” comprise the entire understanding between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties and communications, both written and oral. These Terms and Conditions prevail over any of Client’s general terms and conditions of purchase regardless of whether or when

Client has submitted its purchase order or such terms. Fulfillment of Client’s Order does not constitute acceptance of any of Client’s terms and conditions and does not serve to modify or amend these Terms and Conditions.

2.3. Notwithstanding anything to the contrary contained in this Agreement, Submer may, from time to time, change the Services without the consent of Client, provided that such changes do not materially affect the nature or scope of the Services, or the fees or performance dates set forth in the Order or mutually agreed between the parties.

## 3. Quotes and Ordering.

3.1. Any Quotes provided by Submer are subject to the Products, Services and Projects being available at such time when the Client places an Order.

3.2. Unless indicated otherwise by Submer in writing, all prices referred to in any Quote are based on the quantity of Products, Services, Projects, and Project Deliverables described in the Quote and will only be valid for thirty (30) days from the date the Quote is submitted. In the event the Client changes the time required for delivery or the volume or scope of Products, Services and or Projects required or places an Order more than thirty (30) days after the Quote is submitted, Submer reserves the right to vary its prices.

3.3. Unless otherwise indicated in an Order or Quote in writing, an Order will not be considered binding on Submer or come into force until Submer has received from the Client payment for 50 % of the Purchase Price set out in the Order. If front payment of the 50 % of the Purchase Price is not executed within thirty (30) days from the acceptance of the Quote or Order, Submer has the right to terminate it.

3.4. Orders cannot be cancelled, terminated, changed, or postponed by the Client without the prior written authorization and agreement of Submer, and Client will indemnify Submer for any loss, cost or damage which arise as consequence of any breach in relation hereto.

3.5. Notwithstanding any Quote or Order, if at any time prior to delivery of any third-party products or services Submer’s costs have increased by 10 % or more, then Submer may cancel any accepted but undelivered Orders or condition the continuance of any Order on the Client’s agreement to a corresponding increase in the Purchase Price.

## 4. Delivery, Risk and Title.

4.1. Submer agrees to supply the Products, Services and Projects in accordance with these Terms and Conditions and in consideration of payment of the Purchase Price by the Client.

4.2. Unless specified otherwise, it will be presumed that delivery of Submer Products will occur Ex Works at a warehouse or address of Submer’s choosing

(the “Delivery Point”). In case the Client fails to collect the Products within ten (10) Business Days from Delivery Date at the Delivery Point, Submer will invoice the Client commercially reasonable storage fees.

4.3. If delivery of Submer Products does not occur Ex Works (if so specified in an applicable Order) and Submer is to arrange the shipping, Submer will invoice the Client a handling fee of one hundred and fifty (150) Euro, or a five percent (5%) of the Purchase Price, whichever is greater. All shipping charges shall be pre-approved by the Client in writing based on estimated shipping charges provided by Submer. The Client will reimburse pre-approved shipping charges invoiced by Submer within fifteen (15) days of such invoice. The Client agrees that any additional shipping charges such as, but not limited to, additional storage in transit fees resulting from Client’s lack of capability to receive Submer’s shipping, will also be subject to reimbursement by the Client to Submer.

4.4. Risk of any loss or damage to the Products and/or Project Deliverables passes to the Client on the Delivery Date at the mutually agreed destination for delivery as indicated in a respective Order (the “Delivery Point”).

4.5. Title in the Products or Project Deliverables (excluding Software, for which title does not pass at all) does not pass to the Client until the Client has made payment in full for the Products and/or Project Deliverables and, further, until the Client has made payment in full of all the other money owing by the Client to Submer pursuant to any other Orders. Whilst the Client has not paid for the Products supplied in full at any time, the Client agrees that property and title in the Products and/or Project Deliverables will not pass to the Client and Submer retains the legal and equitable title in those Products and/or Project Deliverables supplied and not yet paid.

4.6. Disclaimer: The Client acknowledges that the Products and Project Deliverables or part thereof are produced in, or otherwise sourced from, or will be installed in areas already affected by, or that may be affected in the future by, the prevailing COVID-19 epidemics/pandemic and that the situation may trigger stoppage, hindrance, or delays on Submer’s, or its subcontractors, capacity to produce, deliver, install, or service the Products and Project Deliverables. The Client therefore acknowledges that such circumstances shall be considered as a cause for excusable delay and shall not expose Submer to contractual sanctions.

## **5. Provision of Services and Client Responsibilities.**

5.1. Submer will provide suitably qualified, experienced, and competent personnel to carry out the Services and related tasks in accordance with these Terms and Conditions and any Specifications in a professional manner with due skill and care.

5.2. Submer will ensure the Services are provided in accordance with all applicable laws and regulations and general industry practice.

5.3. If an Order indicates that Submer is to perform Services at the Site, then:

5.3.1. The Client will at its cost prepare the Site and provide Submer with reasonable access to the Site and other associated necessary facilities to allow Submer to perform its obligations; and

5.3.2. The Client will ensure that Submer’s representatives attending the Site receive, where appropriate, all necessary safety site induction and personal protection equipment.

5.3.3. At the Client’s cost, in a timely manner and so as to avoid any delay to Submer, the Client will provide all information, approvals, permits, authorizations, customs clearances, materials, civil works and any other information or documentation which may be required in relation to the performance of Submer’s obligations and which are not expressly stated to be Submer’s responsibility.

5.4. The Purchase Price of Services is exclusive of out-of-pocket travel, hotel and meal expenses incurred by Submer or a third-party provider as applicable to provide such Services. All out-of-pocket expenses shall be pre-approved by the Client in writing based on estimated out-of-pocket expenses provided by Submer. The Client will reimburse pre-approved out-of-pocket expenses within fifteen (15) days from being invoiced for such expenses.

## **6. Software.**

6.1. Any Software or computer information, in whatever form that is provided with Products manufactured by Submer or as part of Services, is licensed to the Client solely pursuant to standard licenses of Submer or its supplier of such software or computer information which licenses are hereby incorporated by reference and are available upon request.

## **7. Purchase Price and Payment.**

7.1. The Client must pay the Purchase Price agreed by the parties in the Order.

7.2. Unless otherwise indicated in an Order, the payment terms are described as follows:

- (I) 50% of the Purchase Price at the execution of the applicable Order as described in Clause 3.3.
- (II) 50% of the Purchase Price upon Delivery Date.

7.3. Unless otherwise stated, all taxes including but not limited to, all sales taxes, value-added taxes, import taxes or duties, withholding taxes, and any other similar taxes imposed by any governmental entity are the responsibility of the Client.

7.4. Unless indicated otherwise in a Quote, an Order or relevant invoice, payments of the Purchase Price shall be made in Euro.

7.5. The Client agrees to pay an interest of one-point five percent (1.5 %) per month or the highest rate permissible under applicable law, calculated daily and compounded monthly, for any amount due and owing that has not been paid within thirty (30) days from the Due Date. The Client shall reimburse Submer for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. Submer shall be entitled to suspend the delivery of any Products, Services, Projects and/or Project Deliverables if Client fails to pay any amounts when due hereunder.

7.6. In the event Submer questions Client's financial capability for any reason whatsoever in Submer's sole discretion, Submer may suspend performance of its obligations under this Agreement in whole or in part until the Client provides adequate assurances of its ability to comply with its payment obligations under them. In the event the Client fails to provide adequate assurances of its ability to comply with its payment obligations as requested by Submer or fails to agree to payments in advance, such failure shall be deemed a material breach of this Agreement on the part of the Client.

## 8. Site Acceptance Test.

8.1. The SAT must be conducted by Submer or its Certified Installation Partner, as mutually agreed, within two (2) months from the Delivery Date.

8.2. The Client shall provide all reasonable cooperation in facilitating the SAT, including, but not limited to, ensuring access to the installation site, availability of necessary resources, and participation in required trainings.

8.3. The results of the SAT will serve as conclusive evidence of the test and its outcomes and, if measured results are favorable as per Submer standards, SAT will be signed with the date of performance of the test by Submer and the Client or its authorized representative.

8.4. If the Submer Product fails the SAT, Submer will determine in its discretion whether the reason of its non-conformity is covered by the Warranty.

8.5. Should the Client fail facilitate the SAT execution within the period described in Clause 8.1 then the Product will be deemed accepted.

8.6. In the event of delays due to unforeseen circumstances, including force majeure events, the SAT execution dates may be extended by a mutually agreed period evidenced in writing.

## 9. Warranties.

9.1. Submer warrants that for the duration of the Warranty Period (pursuant of Clause 8):

9.1.1. All Submer Products (excluding third party Products) will operate in accordance with their published specifications or the Specifications for the duration of the Warranty Period.

9.1.2. All Services will be performed in a professional manner with due skill and care, using appropriately skilled and qualified personnel and in accordance with all applicable laws and regulations.

9.1.3. Project Deliverable warranty. Provided a separate Project Deliverable warranty is indicated in the Order, then all Project Deliverables provided pursuant to the Addendum for the Supply of Projects shall perform in accordance with the Specifications agreed with the Client for the Warranty Period defined in the Order. For the avoidance of doubt, where there is no reference to an additional warranty period for Project Deliverables in the Order then this Project Deliverable warranty shall not apply.

### 9.2. Warranty Period

- (I) For all Submer Products (excluding Software), the earlier to occur of (i) twelve (12) months from the Site Acceptance Test or (ii) fourteen (14) months from the Delivery Date.
- (II) For all Projects, a period of ninety (90) days from the date of acceptance of the Project;
- (III) For all Project Deliverables, ninety (90) days from the Delivery Date.

### 9.3. Warranty claim request

9.3.1. If the Client wishes to place a Support Request pursuant to the Warranty Period or any other additional support and/or maintenance service as specified in the relevant Order:

- (I) The Client shall place the Support Request via the ticketing tool as described in Submer's Customer Care process found in: <https://submer.com/customer-care/>.
- (II) The Client shall place the Support Request via phone or email as found in Submer's web page: <https://submer.com/>.

9.3.2. Support Request(s) will be processed by Submer according to the following category levels:

- (I) Critical: There is a critical impact on Client's business operations.
- (II) High: Significant aspects of Client's business operations are negatively impacted; the Client is able to perform business operations, but such performances are degraded or severely limited
- (III) Normal: These are faults that have limited impact to business operations, while most business operations remain functional.
- (IV) Low: There is little or no impact on Client's business operations; includes information or assistance with Submer Products'

functionality, operation, or configuration or any other enquiring questions.

9.3.3. If the Client fails to follow the Support Request process as described in Clause 9.3.1 or fails to give the necessary support Submer may need during resolution of the Support Request, Submer reserves the right to reduce the priority level of the relevant Support Request.

9.3.4. Submer is not responsible for Client's failure to follow any instructions provided by Submer to resolve the Support Request and Submer reserves the right to close the Support Request accordingly.

#### 9.4. Warranty claim management:

9.4.1. In the case of Submer Products and Project Deliverables (where relevant), where there is a defect in such Submer Products, Submer will replace or repair or in the case of Software provide an update to address the nonconformance at its discretion and cost. Submer will decide, at its sole discretion and on a case-by-case basis whether it will be responsible for the cost, in whole or in part, of retrieving, removing, reinstalling, retesting, or transporting the Products or Project Deliverables to and from the location where they are located. If it is not practical to return the defective Submer Product to Submer, Submer will bear the cost of correcting the defects, by either attending the Client's Site or by remote means, as determined at the sole discretion of Submer and at a mutually agreed time.

9.4.2. In the case of Services, where there is a defect in the Services and no certificate of completion has been signed by the Client and Submer, Submer will re-perform the Services at a mutually agreed time.

9.4.3. All warranties for any Products repaired or replaced or Services resupplied during the Warranty Period will expire at the same time as the original warranty of the Products and Services that were replaced or resupplied.

9.5. The Client agrees that, unless otherwise agreed in writing, any warranty on any third-party products is limited to the warranty given by the manufacturer of those third-party products and, to the maximum extent permitted by law, Submer gives no additional warranties in relation to any third-party products.

9.5.1. The Warranty described by Clause 9 does not apply for any Submer Product that:

9.5.2. has been subjected to misuse, abuse, neglect, negligence, accident, improper testing, improper installation, improper storage, or storage of any Products for a period of longer than [x months], improper testing, improper handling, abnormal physical stress, abnormal environmental conditions, or use contrary to any instructions issued by Submer;

9.5.3. has been reconstructed, altered, or repaired, or altered by persons other than Submer or its authorized representatives;

9.5.4. has been subjected to power failure, power surge, lightning, flood, fire, accidental breakage or other events outside of Submer's reasonable control;

9.5.5. has been used with any third-party hardware, or product, including any third-party immersion cooling liquid, that has not been previously approved in writing by Submer;

9.5.6. The Submer Products being stored for more than eighteen (18) months prior to being put into operation; or

9.5.7. Any consumables; or

9.5.8. has suffered immaterial cosmetic damage to the Submer Products, including but not limited to scratches and dents that do not impair normal operation.

9.6. Submer makes no warranty that the Products, or Services will meet the Client's requirements or will operate uninterrupted or be secure or error free. Submer does not represent, warrant or guarantee that the Products or Services will be secure or free from vulnerabilities, corruption, attach viruses, interference, hacking or other security intrusions or cyber threats and Submer will not be liable for any such events. Unless otherwise agreed in writing, the Client agrees that by using the Products and Services it understands these limitations and agrees that it accesses and uses the Products and Services at its own risk and subject to the limitations set out in this Clause.

## **10. Conformity.**

10.1. The Client will be deemed to have accepted the Products or Project Deliverables upon its execution of the Site Acceptance Test or at the conclusion of the Inspection Period, whichever is earlier. If, prior to acceptance, as described in this Section 8, the Client notifies Submer of any damaged or defective condition regarding the Products or Project Deliverables, with such notice stating with specificity all purported defects and non-conformities, and furnishing such other written evidence or other documentation as may be reasonably required by Submer, and Submer determines, in its reasonable discretion, whether such Products or Project Deliverables are non-conforming, then, Submer shall, in its sole discretion, either (i) replace such non-conforming Submer Products or Project Deliverables with conforming Submer Products or Project Deliverables, (ii) refund to Client such amount paid by Client to Submer for such non-conforming Submer Products or Project Deliverables, or (iii) expedite repair personnel and equipment to cause such non-conforming Submer Products or Project Deliverables to become conforming Submer Products or Project Deliverables.

10.2. In the case of Services, after completion of the Services at the Site, the Client and Submer will sign a

certificate of completion, by means of which the Client will accept the completion of the Services, waiving any further claim against Submer for such Services.

### **11. Refund and Return of Products.**

11.1. On a case-by-case basis and at its sole discretion, Submer reserves the right to authorize a refund for the return of any purchased Products where the relevant refund request has been made by the Client within thirty (30) days from Delivery Date.

11.2. In such cases where a refund is approved, the Client will return the purchased Products to Submer at its own cost. Submer reserves the right to retain up to a twenty per cent (20 %) fee for any such returns.

### **12. Intellectual Property.**

12.1. Each party retains all Intellectual Property Rights in their respective Background IP. Subject to payment in full for Products, Services and Projects, Submer will grant to Client a non-exclusive, irrevocable and perpetual license to use Submer's Background IP necessary for Client to enjoy the benefit of the Products, Services and Projects for the purposes of or in connection with Client's business. Nothing in this Agreement permits the Client to copy, reproduce, modify, adapt, alter, translate, reverse engineer, 3D copy/print or create derivative works from any Products, Services or Projects of Submer's Intellectual Property Rights, in all or in part, without Submer's prior written consent. If the Client uses any of Submer's Intellectual Property Rights in breach of this Agreement, Submer may immediately terminate or revoke such rights, in all or in part in its sole discretion.

12.2. The Client acknowledges that Submer retains ownership of the Intellectual Property Rights of Submer used or created under the Agreement. To enable each party to perform their obligations under each Order, each party grants to the other party a non-exclusive, royalty free, irrevocable and perpetual license to use its Intellectual Property Rights for that purpose.

12.2.1. In the event that any claim is made against the Client for infringement of any person's Intellectual Property Rights arising of the Client's use of Submer's Products supplied under the Agreement, Submer will, at its own expense, conduct any ensuing litigation and all negotiations for a settlement of the claim. Submer will bear the costs of any payment made in settlement, or as a result of an award in a judgment provided that:

12.2.2. The Client promptly notifies Submer in writing of any such claim being made or action threatened or brought against the Client;

12.2.3. The Client grants Submer the right to assume sole authority to conduct the defense or settlement of such claim or any related negotiations; and

12.2.4. The Client provides Submer with all reasonable information, cooperation, and assistance.

12.2.5. The Client refrains from making any public disclosure, comment, or statement regarding any such claim, unless otherwise indicated by a relevant court of law.

12.3. Submer will not be liable in any case whatsoever where the claim is based on:

12.3.1. Specifications that the Client provided to Submer;

12.3.2. Where the Client has combined Submer's Products with non-Submer Products, data or business processes; and

12.3.3. Where the Client has altered or modified the Products.

12.4. The Client may not remove, change, or interfere with any trademark, trade name, insignia, copyright notice, serial number, label tag or other markings affixed to the Products or Project Deliverables (or any documentation, packaging or containers relating thereto) unless otherwise agreed in writing. The Client shall neither reproduce, modify, adapt, alter, translate, reverse engineer, or create derivative works from any Products, Services, Projects or Project Deliverables, in all or in part, without Submer's prior written consent.

### **13. Confidentiality.**

13.1. The Client agrees to hold in strict confidence all Confidential Information and not to disclose or permit or cause the disclosure of any Confidential Information to any third party or person except and solely to the extent necessary for the performance of the Client's obligations under the Agreement, unless the Client obtains the prior written consent of Submer.

13.2. Exclusions to Clause 12.1:

13.2.1. Information generally available to the public other than as a result of the breach of this Clause or any other confidentiality obligations imposed on the Client; or

13.2.2. Disclosure of information in order to comply with any applicable law or legally binding order of any court, government agency or recognizes stock exchange, provided that prior to such disclosure, the Client gives Submer written notice of the proposed disclosure.

13.3. When a non-disclosure agreement ("NDA") exists between Submer and the Client, the relevant NDA terms will govern each party's obligations related to Confidential Information.

### **14. Limitation of Liability.**

14.1. The Client shall hold Submer harmless of any loss or expense that the Client may sustain or incur as a consequence of:

- (I) the exhaustion of any third-party product's warranty used in combination with Submer Products.

- (II) the use of any third-party products in combination with Submer Products, such use not being pre-approved by Submer.

14.2. In no event shall Submer be liable to the Client or any third party for any loss of use, revenue or profit or loss of data or diminution in value, or for any consequential, indirect, incidental, special, exemplary, or punitive damages whether arising out of breach of contract, tort (including negligence) or otherwise, regardless of whether such damages were foreseeable and whether or not Submer has been advised of the possibility of such damages, and notwithstanding the failure of any agreed or other remedy of its essential purpose.

14.3. In no event shall Submer's aggregate liability arising out of or in connection to the Agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed the Purchase Price pursuant to the Order giving rise to such liability or Submer's insurance limit, whichever the lowest.

14.4. No personal liability. No officers, directors, members, managers, shareholders, agents, representatives, employees, affiliates, and their respective successors and assigns of Submer shall be personally liable to the Client under these Agreement. The Client agrees to look solely at the assets of Submer to satisfy Submer's obligations under this Agreement.

### **15. Termination.**

15.1. A party may terminate the Agreement by providing written notice to the other party if a party fails to remedy any breach of an essential obligation under the Agreement within thirty (30) days after receipt of written notice from the other party of details of the breach.

### **16. Dispute Resolution.**

16.1. The parties will attempt in good faith to resolve all disputes, disagreements or claims between the parties relating to an Order.

16.2. If the parties cannot resolve the dispute themselves, Submer, at its sole discretion may appoint an expert or mediator to help them resolve the dispute. In such event, both parties agree to jointly bear the costs of such expert or mediator. In the event the parties cannot resolve the dispute and:

16.2.1. The parties cannot agree upon an expert or mediator; or

16.2.2. A mediator or expert has been appointed but resolution has not been reached within six weeks of such appointment; then either party may initiate legal proceedings.

### **17. Force Majeure.**

17.1. Submer will not be liable for any delay or non-performance of any Order or any part of these Terms and Conditions if such delay or non-performance is due to a

Force Majeure event, whether foreseen or not, which delays, interrupts or prevents Submer from performing its obligations under these Terms and Conditions and any relevant Order. For the purposes of this Clause, Force Majeure means an event beyond the reasonable control of Submer and includes but is not limited to, hostilities, revolution, acts of war or terrorism, civil commotion, epidemic, pandemic, accident or quarantines or regional medical crisis, pandemic, cyber-attack, fire, flood, wind, earthquake, storms, strikes, shortage of materials at Submer or any of its suppliers, acts of god, acts of any government or governmental agency including laws regulation or ordinance and proclamation affecting the manufacture or delivery or the Products or Project Deliverables. Any delay resulting from such cause shall extend the date of delivery accordingly. Submer will take all reasonable steps to remove the cause of delay or non-performance and resume such performance. Submer reserves the right to cancel an Order if in its opinion such circumstances threaten or cause extended delay in the performance thereof.

### **18. Miscellaneous.**

18.1. Inclusion of Affiliates. If and to the extent any supply or delivery of Products, Services, Projects and/or Project Deliverables is made by or to an Affiliate of a party, any references herein to Submer shall automatically apply in the same way to all Submer Affiliates and all references herein to Client shall automatically apply in the same way to all Client Affiliates.

18.2. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

18.3. Relationship of the parties. Nothing contained or implied in the Agreement will create a relationship of partnership or agency between the parties and neither party has any authority to bind the other party to any obligations.

18.4. Export limitations. Client shall comply with all export and import laws of all countries involved in the sale of the Products and Project Deliverables or any resale of the Products and Project Deliverables by the Client. Submer shall not be liable for any Products or Project Deliverables exported without necessary licenses, authorizations, or consents.

18.5. Business Ethics. The parties undertake to comply with all treaties, conventions, laws, statutes and regulation regarding human rights, children's rights, business ethics, conflicts of interest, anti-bribery, and anti-corruption, including but not limited to the Declaration of Human Rights, the International Labor Organization and the United Nations Convention, UNICEF, the UN Convention against Corruption, the UN Security Council Sanctions Regimes, and any other relevant national and international standards that may be

applicable. The parties warrant not to participate in any activity, practice or conduct that constitutes an infraction of such national and international regulations.

18.6. Reverse Engineering. The Client shall not decompile, reverse engineer, decrypt, extract or disassemble the Confidential Information.

18.7. Data Protection and Privacy. In the event the Submer and/or the Client receive any personal data according to the regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of individuals regarding the processing of personal data and on the free movement of such data (“Personal Data”), each party warrants to comply with all applicable privacy and data protection laws in respect of the Personal Data.

18.8. Marketing. Submer may publicly refer to the Client as a customer of Submer and may use Client’s name, logo(s) and trademarks in Submer’s marketing materials. The Client shall not issue or use marketing materials, issue press release(s) or engage in any other marketing activity containing the name, Trademark or other Intellectual Property Rights of Submer without Submer’s prior written consent for each instance of use unless otherwise specified in writing by Submer.

18.9. Modification. Submer reserves the right to modify these Terms and Conditions at any time without prior notice. Said modifications will not be applicable to Orders dated prior to the entry into force of such modifications.

18.10. Assignment. Client shall not assign any of its rights or delegate any of its obligations under the Agreement without the prior written consent of Submer. Any purported assignment or delegation in violation of this Clause 18.10 is null and void. No assignment or delegation relieves the Client of any of its obligations under the Agreement. Submer may freely assign all or part of its rights or obligations hereunder.

18.11. No waiver. In no event shall any delay, failure or omission of Submer in enforcing, exercising or pursuing any right, claim or remedy under the Agreement or these Terms and Conditions be construed or operate as a waiver thereof, unless such right, claim or remedy has been expressly waived in writing, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy.

18.12. Survival. Notwithstanding any termination or expiry of the Agreement, any provisions which specifically or by their nature provide for rights or obligations for a party after any such termination or expiry of these Terms and Conditions are continuing and shall survive and remain binding upon the relevant party in accordance with its respective terms, in each case subject to any specified expiration date indicated therein.

18.13. Governing Law and Jurisdiction. The Agreement shall be governed by and construed in

accordance with the laws of Spain. The parties agree to submit to the exclusive jurisdiction of the courts of the city of Barcelona in relation to any dispute that may arise in the interpretation and execution of this Agreement.

18.14. If you are acting as a consumer and if mandatory statutory consumer protection regulations in your country of residence contain provisions that are more beneficial for you, such provisions shall apply. As a consumer, you may bring any judicial proceedings relating to these Terms and Conditions before the competent court of your place of residence or the competent court of Submer's place of business in Spain. If Submer wishes to enforce any of its rights against you as a consumer, we may do so only in the courts of the jurisdiction in which you are a resident. If you are acting as a business, you agree to submit to the exclusive jurisdiction of the city of Barcelona.

## **ADDENDUM I: SUPPLY OF PROJECTS**

### **A. Agreement on Specifications and Provision of Information.**

A.1 If the Products, Services and Projects involve preparing and agreeing Specifications with the Client, Submer will prepare the necessary Specifications in conjunction with the Client within thirty (30) days of acceptance of the Order, or such other time as is agreed between the parties. The Client will review and either provide amendments or approve the Specifications within five (5) Business Days of receipt of the Specifications. In the absence of any written comments within five (5) Business Days, the Client will be deemed to have approved the Specifications. Any changes to the approved Specifications will be considered a Variation in accordance with Clause C of this Addendum.

A.2 The Client will respond to any requests for further information or instructions from Submer within five (5) Business Days after the receipt of such request for further information or instructions by the Client. If the Client does not respond within that period, or such other period as agreed between the parties), Submer will have the right to claim an extension of time relating to such failure to provide the necessary information.

### **B. Variations.**

B.1 If the Client wishes to alter, amend, omit, add to or otherwise vary an Order, including suspend the delivery of the Order, it will issue Submer with a written Variation request (“**Variation**”). Submer will review the Variation request and provide a quote or offer to the Client setting out the cost and impact of the Variation.

B.2 Within ten (10) Business Days after receipt of the quote setting out the cost of the Variation from Submer, the Client will either accept the quote by signing and returning it to Submer or reject the quote in writing.

### **C. Testing and Acceptance.**



C.1 For all Project Deliverables, the following provisions will apply:

C.1.1 Submer will notify the Client in writing when the Project Deliverables are ready to be submitted for acceptance by means of tests agreed between the Client and Submer which are based on agreed objective criteria (“**Tests**”).

C.1.2 The Client, within ten (10) Business Days after receiving the notice in accordance with Clause C.1.1, will conduct the agreed Tests on the Project Deliverables and advise Submer in writing of whether the Project Deliverables have passed or failed such Tests.

C.1.3 If the Project Deliverables fail to pass the Tests, the Client must notify Submer in writing setting out the details of the known defects in the Project and permit Submer, within reasonable period of time taking into account the nature of the defects, which period shall not be less than ten (10) Business Days, to correct the defects and resubmit the Project to the Client to conduct Tests again.

C.1.4 The Project Deliverables will be deemed accepted upon the occurrence of the earlier of:

(a) The date on which the Client gives written notice to Submer that the Project Deliverables have passed the Tests; or

(b) The date that is ten (10) Business Days after completion of the Tests, provided that during the ten (10) Business Days period after completion of the Tests the Client did not notify Submer in writing of any defects in the Project Deliverables; or

(c) The date on which the Client makes commercial or operational use of the Project Deliverables other than for the purposes of conducting the Tests.