

## TERMS AND CONDITIONS FOR THE SALE OF GOODS AND SERVICES

The terms and conditions (“**T&C**”) set forth the T&C by which the Customer has agreed to purchase, and DIVE has agreed to supply, the products and services in the offer submitted by DIVE and accepted by the Customer and, unless the parties otherwise agree, each subsequent order between the parties.

### 1. DEFINITIONS

- (a) “**Customer**” means the entity identified on the Offer.
- (b) “**Customer Data**” means data and information Customer provides or makes available to DIVE in connection with the Offer or Customer’s use of the Software or the Product, including information concerning Customer’s patients, suppliers, employees, and agents. It includes Software usage data automatically collected through the Product.
- (c) “**DIVE**” means the Spanish commercial entity DIVE MEDICAL, S.L., with Spanish Tax Identification Number (NIF) B99565889.
- (d) “**DIVE Product**” means the Hardware, Software and ancillary material designed, manufactured, upgraded and/or marketed by DIVE, which are specified in the Offer and/or the Invoice.
- (e) “**Documentation**” means the instruction manuals and videos, service manuals and videos, and other similar materials DIVE provides or makes available to Customer and relating to a Product.
- (f) “**Equipment**” means medical devices such as a DIVE Product, and all Software embedded in, integrated with, or otherwise associated with the hardware products, and peripherals that are identified in the Offer and/or the Invoice.
- (g) “**Intellectual Property Rights**” means all copyrights, patents, trade secrets, trademarks, trademark rights, service marks, trade names, industrial designs, discoveries, inventions (whether patented or not), developments or other intellectual proprietary rights registered or recognized by the Laws of any country or state.
- (h) “**Law**” means all applicable laws, rules, statutes, decrees, decisions, orders, regulations, judgments, codes, ordinances, and requirements of any government authority (state, autonomic region, provincial, local, or international) having jurisdiction.
- (i) “**Offer**” has the meaning given in Section 2(b) below.
- (j) “**Product**” means Software, Hardware or Equipment.
- (k) “**Services**” means any and all delivery, installation, training, and support services provided to Customer by DIVE, in each case as specified by the Offer.
- (l) “**Software**” means the software program(s), firmware, program interfaces and any tools or object libraries embedded in the Product, identified on the Offer as being licensed to Customer by DIVE and

includes any customizations, updates, enhancements and error corrections to the Software.

- (m) “**User**” means the person who makes use of the device.
- (n) “**Warranty Period**” means the twelve (12) month period following the date of delivery.

### 2. CUSTOMER; OFFERS

- (a) Customer Data. Customer must provide DIVE with accurate information, including contact information, office location, payment card or other payment information, and shipping details.
- (b) Offer. The Offer will be deemed accepted when the Customer sends an email with said Offer signed, and only when DIVE confirms reception of such signed Offer document (such accepted Offer being referred to in these T&C as an “**Offer**”). Each accepted Offer will be deemed a separate agreement between the parties, governed by these T&C.
- (c) Cancellation; Returns. An Offer acceptance may be canceled by DIVE or Customer at any time before shipment of the applicable Product(s). Customer may return Products within thirty (30) days from delivery, provided that the Product is unopened and remains in its original packaging. Upon DIVE’s receipt of the Products, any payments will be refunded to the Customer, however subtracting a restocking fee covering cost of returning and handling to the applicable DIVE entity, which is equivalent to the initial shipping fee paid by Customer. Please contact support@dive-medical.com to speak to a customer support consultant for assistance.

### 3. CUSTOMER DATA

- (a) Customer Data. DIVE acknowledges that the Customer Data is the Confidential Information of the Customer and the Customer Data is, and will, remain the sole and exclusively property of the Customer. Customer grants DIVE an irrevocable, perpetual, assignable, worldwide, royalty-free, fully paid right to use, modify, copy, process, display and prepare derivative works of the Customer Data (i) for purposes of DIVE performing its obligations under these T&C and the Offer, (ii) to standardize, validate, aggregate and process the data in Offer to create aggregated and summarized data of the Products that may be used by DIVE or its affiliates as a data source in connection with the provision of Services to Customer and other DIVE customers, and (iii) internally by DIVE for analytical purposes, including

to enhance and create DIVE proprietary algorithms, based on DIVE's legitimate interest in the improvement of its Services and Product; provided in no event will DIVE provide any third party with personally identifiable information (including personal health information and PHI originating from such Customer Data), and excluding from this processing personal data related to patients. Notwithstanding any other term of these T&C or the Offer, DIVE may access and use, and will retain all right, title and interest in transactional and performance data related to use of the Product collected by DIVE.

- (b) DIVE undertakes to process personal data in accordance with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (GDPR) and Organic Law 3/2018 of 5 December on the Protection of Personal Data and Guarantee of Digital Rights and with current Spanish legislation. The Client's personal data will be processed by DIVE for the purpose of executing and maintaining the contractual relationship that binds them and complying with the legal obligations arising from this relationship. The legal basis for the processing is the execution of the contractual relationship between DIVE and the Client, the legitimate interest of DIVE in processing the Client's contact details and compliance with legal obligations. The data will be kept for the duration of the contractual relationship with the Client, and for the years necessary to comply with the applicable legal obligations. The data may be communicated to third parties to whom DIVE is legally or contractually obliged to communicate. The Client may exercise their rights of access, rectification, deletion, limitation of processing, data portability and opposition by contacting DIVE following the instructions contained in clause 14.h) of these T&Cs. If you are not satisfied with the exercise of your rights, you may lodge a complaint with a competent supervisory authority, which in Spain is the Spanish Data Protection Agency ([www.aepd.es](http://www.aepd.es)).

#### 4. SOFTWARE

- (a) Software License. DIVE grants Customer a personal, nonexclusive, non-transferable license (with no right of sublicense or resale) under DIVE's Intellectual Property Rights to use (i) firmware and other Software embedded in, integrated with or otherwise supplied with Equipment solely for use with the Equipment, and (ii) the number of copies of the Software (if any) specified in the Offer solely for Customer's internal business purposes. The license will be for the object code only and will be further limited as provided by the Offer. DIVE may launch

new releases of the Software at any time at its sole and absolute discretion. Customer will be responsible for ensuring that all users it authorizes to access and use the Software comply with these T&C, and the Offer. Customer will be liable for any breach of these T&C, or the Offer by any such authorized user.

- (b) Limitations. Customer will not alter, modify, decompile, disassemble, reverse engineer, translate, or create derivative works based on the Software. Without limiting the foregoing, Customer will not reproduce, copy, translate, publish, or use the Software for the benefit of any third party, nor permit any third party to use the Software, without DIVE's prior written consent. Customer will not use the Software to process data for the benefit of any third party on a "service bureau" basis or otherwise.
- (c) Operating Environment. Customer acknowledges that the Software is designed to operate in an environment as specified in the applicable Software Documentation.
- (d) Beta versions. On limited cases, a given Client may be offered the possibility of accessing new functionalities, updates, tests or versions of software different from the main one that are in Beta or test phase and that, therefore, do not yet have the CE marking or the respective regulation according to the country in which the Client is located, with the sole purpose of evaluating its functionality and therefore cannot be used for diagnostic purposes or for making clinical decisions of any kind, being under the sole responsibility of the Client or User authorized by the Client any consequence derived from the inappropriate use of these versions.

#### 5. FEES; PAYMENT T&C

- (a) Prices. The prices for the Products and Services will be as set forth in the Offer and always in euros (€).
- (b) Taxes and Fees. Customer will be solely responsible to pay when due any and all taxes, assessments, levies and fees, and any and all other charges, interest and penalties, now or hereafter imposed by any government authority relating to the license granted or services rendered to Customer, excluding taxes based upon the net income of DIVE.
- (c) Payment T&C.
- (i) Payment will be made by the payment method selected during the Offer acceptance process. DIVE will charge Customer's credit or debit card upon Offer acceptance completion or commencement of Services. DIVE reserves the right to verify and/or authorize credit or debit card payments prior to finalizing the Offer acceptance process. DIVE will have no obligation to process any Offer acceptance until it has verified Customer's payment method.

- (ii) Customer authorizes DIVE to charge Customer's credit card for the initial fees and any renewal fees for the Products and Services. Customer acknowledges that DIVE's third party payment provider receives and stores Customer's credit card information for this purpose. If DIVE is unable to process Customer's payment using Customer's designated payment method, DIVE reserves the right to charge any payment method it has on file for Customer or that DIVE obtains through a payment card "updater" service or other similar means.
- (iii) Where the Offer or Invoice contemplates that the payment will be done as a bank transfer, each invoice will be due and payable in full by the due date specified on the invoice, and if no date is specified on the invoice, within thirty (30) days of the date of invoice. If Customer fails to pay invoiced amount when due, unpaid amounts will accrue interest at the lesser of (A) one and one-half percent (1.5%) per month or (B) the maximum rate allowed by Law. Customer will reimburse DIVE for any and all costs and expenses (including but not limited to court costs, legal expenses and reasonable attorney fees, whether by inside or outside counsel and whether or not suit is instituted) incurred in collecting or attempting to collect any amounts due and outstanding from Customer to DIVE.
- (iv) DIVE will not be responsible for any misdirected payments by Customer as a result of cyber fraud (e.g., phishing) or Customer error.
- (v) Without limiting DIVE's rights and remedies under these T&C or Law, DIVE will be entitled to immediately suspend Customer's access to and use of Products and Services if DIVE does not receive payment of fees in full when due.

#### 6. DELIVERY; INSPECTION

- (a) Delivery. DIVE will make commercially reasonable efforts to deliver the Products specified by each Offer at the time and in the manner specified by the Offer. DIVE will promptly notify Customer if it becomes aware of any circumstances that may reasonably be expected to jeopardize the timely and successful delivery of any Product.
- (b) Shipping. Unless otherwise set forth in an applicable Offer, all shipments will be made DDP (Incoterms 2020 or the most recent at the time) at Customer.
- (c) Title; Risk of Loss. Title to the Equipment will pass to Customer upon delivery. Risk of loss or damage to the Equipment or any part of the Equipment will pass to the Customer upon delivery.
- (d) Inspection; Remedies.
  - (i) Customer or its agent will inspect and accept all Products within ten (10) days following delivery. If any Product does not conform to the Offer or its

Product specifications, Customer must notify DIVE, in accordance with Section 14(h) below, within such 10-day period, cf. section 14 (h).

- (ii) DIVE, on receiving Customer's notice of nonconformity, will provide Customer with instructions for the return of the nonconforming Product. Upon verifying that such Product is nonconforming, DIVE will, in its sole and absolute discretion, repair or replace such non-conforming Product. Shipping costs to return nonconforming Product(s) will be paid by DIVE, provided that DIVE determines that the returned Product conforms to the Offer and Product specifications, and DIVE will invoice Customer for the costs associated with the returned Product. This Section sets forth DIVE's sole obligation and Customer's sole remedy with respect to the delivery of non-conforming Products.

#### 7. SUPPORT SERVICES

- (a) DIVE commits to offer remote support. DIVE may at its discretion charge a fee for offering support and/or specific training services.
- (b) Customers must seek DIVE-authorized support and/or training from DIVE. Otherwise, DIVE will not be held responsible for any possible problems resulting from non-compliance with this clause.

#### 8. PROPRIETARY RIGHTS

- (a) DIVE (or third party licensor(s) having licensed such rights to DIVE) will retain all Intellectual Property Rights in and to the Products, Services and Documentation, and Customer during or at any time after the expiry or termination of these T&C and the Offer will not in any way question or dispute the ownership thereof by DIVE (or the third party licensor(s), as the case may be). Customer will not alter, obscure, remove, conceal or otherwise interfere with any eye-readable or machine-readable marking on or in the Products or its packaging which refers to DIVE as author or developer of the Products or otherwise refers to DIVE's copyright or other Intellectual Property Rights in the Products.

#### 9. EXPRESS WARRANTIES; DISCLAIMERS

- (a) Service Warranty. DIVE warrants that the Services provided by DIVE pursuant to these T&C and the Offer will be of a competent and professional quality and performed in a competent and professional manner. The sole and exclusive remedy for a breach of this warranty is for DIVE to re-perform the defective Services in a timely manner.
- (b) Limited Product Warranty. Except as otherwise provided in these T&C, DIVE warrants that any Product supplied by the Supplier under these T&C

and the Offer will during the applicable Warranty Period: (i) conform to the Product specifications; and (ii) be free from defects in materials and workmanship under normal use and service. This limited warranty will not extend to: (A) defects or problems caused by the Product (or parts of the Product) being or having been subjected to accident, acts of God, lightning, misuse, neglect, improper handling, improper transport, improper storage, improper use or application, improper installation, improper testing or unauthorized repair, or subjected to any alteration, modification, addition or customization not performed by DIVE or with DIVE's prior written consent; (B) cosmetic problems or defects which result from normal wear and tear under ordinary use of the Product; (C) the replacement cost of any consumable goods; or (D) problems caused by Customer's failure to install the most recent release of Software.

- (c) Limited Remedy. DIVE's sole and exclusive liability for breach of the limited product warranty set forth in Section 9(b) above will be, at DIVE's sole and absolute discretion, to repair or replace the defective Product or correct the problem by patch or new release of any Software or other software component.
- (d) Disclaimer of Warranties. Products require the involvement of professional personnel. The Services and information provided by DIVE to Customer and its authorized users is not intended to be a substitute for the advice and professional judgment of a professional clinical personnel, as applicable. Customer and its authorized users will use their best clinical/professional judgment when acting upon information provided through the Products, Services or Documentation. Neither DIVE nor its subcontractors are responsible for decisions made or actions taken or not taken in the use of the Products, rendering clinical care or for information provided to insurance companies, governmental agencies, or other payers.
- (e) DIVE is not responsible for any errors or omissions or for any loss or damage resulting from the Products, including Customer's reliance on the Documentation, technical advice, illustrations, representations as to quality or capabilities (whether oral or in writing), or any other information unless otherwise set forth in these T&C. SECTIONS 9(A), (B), (C) AND (D) SETS FORTH DIVE'S SOLE WARRANTY OBLIGATIONS WITH RESPECT TO THE PRODUCTS AND SERVICES, AND DIVE MAKES NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES OR ANY PRODUCT, WHETHER ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF

DEALING OR USAGE OF TRADE, AND DISCLAIMS ANY LIABILITY IN CONNECTION WITH ANY SUCH WARRANTIES, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTY OF NON-INFRINGEMENT OR ANY WARRANTY EXPRESS OR IMPLIED THAT THE PRODUCT WILL YIELD ANY PARTICULAR RESULTS OR BENEFITS FOR CUSTOMER.

- (f) No Oral Warranties. No employee, agent or representative of DIVE has the authority to bind DIVE to any oral representation or warranty concerning the Products or Services. ANY WRITTEN OR ORAL REPRESENTATION OR WARRANTY NOT EXPRESSLY CONTAINED IN THESE T&C WILL NOT BE ENFORCEABLE BY CUSTOMER.
- (g) In the event that the Customer suffers the loss of any component of the Product or any component becomes defective as a result of misuse, storage, or transport of the Product, DIVE will make all reasonable efforts to offer the Customer the possibility of acquiring the component again. The replacement of such component will be invoiced to the Customer.

#### 10. CONFIDENTIALITY

- (a) The term "**Confidential Information**" for the purposes of these T&C will mean all confidential and proprietary information and trade secrets (whether or not in writing and whether or not patentable or copyrightable), owned or possessed by either party (the "**Disclosing Party**") and disclosed by such party to the other party (the "**Receiving Party**") prior to the expiration or termination of these T&C and the Offer, including any data processes, computer or software products or programs, data, know-how, marketing or business plans, analytical methods and procedures, hardware design, technology, financial information, manufacturing information and procedures; provided, that Confidential Information will not include information supplied to the Receiving Party that (i) is or becomes available to the public other than as a result of disclosure by the Receiving Party or its employees in violation of these T&C; (ii) was known to the Receiving Party prior to disclosure pursuant to these T&C and the Offer, as shown by written record, and was not otherwise restricted by contract or Law; (iii) becomes available to the Receiving Party, as supported by documentary evidence, on a non-confidential basis from a third party not restricted by contract or Law regarding such information; (iv) is disclosed with the prior written consent of the Disclosing Party. The Disclosing Party has the right to

inspect the Receiving Party's records to determine the source of any Confidential Information claimed to be within any of the above exceptions. If the Receiving Party is directed to disclose Confidential Information pursuant to a judicial order or decree, it will first use reasonable efforts to provide the Disclosing Party with advance notice to permit the Disclosing Party to seek a protective order and otherwise restrict the disclosure of Confidential Information.

- (b) The Receiving Party will use the Disclosing Party's Confidential Information solely for the purposes contemplated in these T&C and the Offer and will use the same degree of care in safeguarding the Disclosing Party's Confidential Information as it uses for its own confidential or like information. The Receiving Party will not disclose the Confidential Information of the Disclosing Party to any other party or use the Disclosing Party's Confidential Information other than as required under these T&C or the Offer; provided, however, that such Confidential Information may be disclosed to or used by employees, consultants or agents of the Receiving Party who need to know or use the same for the purposes contemplated by these T&C and the Offer and who are subject to a contractual obligation not to disclose any of the Confidential Information obtained in the course of its relationship with the Receiving Party.
- (c) Except as otherwise provided in these T&C, upon written request of the Disclosing Party the Receiving Party will return to the Disclosing Party all electronic media and all written material in any form whatsoever that contains the Disclosing Party's Confidential Information, including all internal notes, memoranda, and all copies, extracts or other reproductions thereof.
- (d) The Receiving Party will promptly notify the Disclosing Party of any breach of these confidentiality provisions committed by any person to whom the Receiving Party has disclosed Confidential Information, will cooperate with the Disclosing Party in its efforts to remedy the breach, and will indemnify the Disclosing Party against all costs, expenses, and damages (including reasonable attorneys' fees) attributable to any such breach.
- (e) The parties acknowledge that remedies at Law may be inadequate to protect against a breach of the provisions of this Section and both parties consent to the grant of injunctive relief or a restraining order in favor of the other party without proof of actual damages for any breach of this Section.

## 11. TERMINATION

- (a) Termination. If either party commits a material breach of these T&C or the Offer, the other party by written notice may terminate the applicable Offer. Such termination notice will take effect on the fifteenth (15th) day following the breaching party's receipt of the notice unless the breaching party cures its breach within the applicable period, except that if the breach is not capable of cure within such period, termination notice will take effect immediately upon receipt by the breaching party.
- (b) Effect of Termination. Upon the effective date of termination: (i) DIVE may immediately terminate its provision of Products or Services; (ii) Customer will promptly pay DIVE any and all unpaid amounts due and owing; and (iii) DIVE may, at its sole and absolute discretion, terminate any and all Offers, including pending Offers, for Products and Services and refuse to accept any future orders from Customer. All provisions of these T&C that would, by its nature, be expected to survive termination of these T&C (whether or not so expressly stated), will survive the expiration or termination of these T&C.

## 12. INDEMNIFICATION, LIMITATIONS OF LIABILITY, INSURANCE AND LEGAL COMPLIANCE

- (a) Indemnification. Customer, at its expense, will indemnify, defend, and hold DIVE and its affiliates and their respective officers, directors, employees, contractors, agents, successors and assigns, harmless from all costs, expenses, damages, liabilities, losses and judgments, including attorneys' fees and legal expenses (collectively, "**Losses**"), and threatened Losses relating to a third party claim arising from, or in connection with (i) Customer's breach of these T&C and the Offer, (ii) Customer's negligent acts or omissions and (iii) Customer's failure to comply with applicable Law, except to the extent that any such Losses arise out of, are based upon, or result from the gross negligence or willful misconduct of DIVE.
- (b) Limitations of Liability.
  - (i) DIVE WILL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST REVENUE OR LOST PROFITS, LOSS OF DATA, LITIGATION EXPENSE, DAMAGE TO REPUTATION, LOSS OF BUSINESS OR ANY OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS OR SERVICES, INCLUDING INSTALLATION, PERFORMANCE, FAILURE, USE OR INTERRUPTED USE OF THE PRODUCTS OR SERVICES OR ANY COMPONENT THEREOF, OR FROM DIVE'S NEGLIGENCE OR OTHER FAULT IN CONNECTION THEREWITH. DIVE'S

LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF OR RESULTING FROM THE PRODUCTS OR SERVICES, DIVE'S PERFORMANCE OR BREACH HEREOF, WILL NOT: (A) WITH RESPECT TO CLAIMS ARISING OUT OF THE SOFTWARE OR SERVICES, EXCEED THE TOTAL OF ALL SUMS PAID BY CUSTOMER TO DIVE FOR THE AFFECTED SOFTWARE OR SERVICE UNDER THE OFFER DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE THE CAUSE OF ACTION INITIALLY AROSE; AND (B) WITH RESPECT TO EQUIPMENT, EXCEED TOTAL FEES PAID BY CUSTOMER TO DIVE FOR THE EQUIPMENT UNDER THE OFFER, AMORTIZED OVER A PERIOD OF FIVE (5) YEARS.

- (ii) CUSTOMER ACKNOWLEDGES THAT THE DISCLAIMER OF WARRANTY IN SECTION 9 AND THE LIMITATION OF LIABILITY IN THIS SECTION ARE ESSENTIAL PARTS OF THESE T&C, WITHOUT WHICH DIVE WOULD NOT ENTER INTO THESE T&C. CUSTOMER ACKNOWLEDGES THAT THE LIMITATION OF LIABILITY CONTAINED IN THIS SECTION SETS FORTH AN ALLOCATION OF RISK REFLECTED IN THE FEES AND PAYMENTS DUE HEREUNDER.
- (c) Customer Insurance. Customer will maintain commercial general liability insurance and medical malpractice insurance in an amount that complies with the Laws of the jurisdiction in which the Products are used.
- (d) Compliance with Laws. Customer will comply with all Laws applicable to Customer's use of the Products, including but not limited to, promotional activities and all rules of the relevant authorities in Europe and specifically Spain. Customer acknowledges that applicable law requires that the Products may only be sold for use under the supervision of legally qualified healthcare professionals. Customer will permit DIVE to affix to the Equipment additional notices as it deems necessary or advisable. Customer will not remove or tamper with any such notices or labels affixed to the Equipment.

#### 13. APPLICABLE LAW; DISPUTE RESOLUTION; ATTORNEYS' FEES

- (a) Applicable Law and Jurisdiction. These T&C and the Offer will be governed by, and construed in accordance with, the laws of Spain without regard to conflict of law principles and the CISG (the 1980 United Nations Convention on Contracts for the International Sale of Goods), and unless otherwise stated the general rules of Spain law apply to the relationship between the Parties.
- (b) Dispute Resolution. Any dispute arising out of or in connection with these T&C and the Offer, including any disputes regarding the existence, validity or

termination of these T&C and/or the Offer, shall be settled by the Courts of the city of Zaragoza.

#### 14. GENERAL PROVISIONS

- (a) Independent Status of Parties. Nothing contained in these T&C or the Offer, nor in the relationship created by the Offer, will be interpreted to evidence a joint venture, partnership or principal-agent relationship between DIVE and Customer. Neither party will have any right or authority to act on behalf of, or incur any obligation for, the other party. DIVE will have sole responsibility for the withholding of all federal, state and local income taxes, unemployment insurance tax, social security tax, and other withholding with respect to payments made by DIVE to DIVE's employees and other persons performing services pursuant to these T&C.
- (b) Nonexclusive Agreement; Assignment. It is expressly understood and agreed that these T&C and the Offer do not grant to Customer any exclusive right to do business with DIVE. Customer may not assign its rights or obligations under any Offer or these T&C without DIVE's prior written consent.
- (c) Force Majeure. DIVE will not be responsible for delays or failure in performance resulting from acts beyond the control of DIVE, including acts of God, terrorist attacks, strikes, lockouts, riots, acts of war, epidemics, pandemics, public health crises, fire, communication line failures, power surges or failures, earthquakes, or other disasters.
- (d) Sole Agreement. These T&C and the Offer, including any attachments to the Offer, constitutes the complete agreement between the parties and supersedes all previous communications and representations or agreements, either oral or written, with respect to the subject matter hereof. If there is a conflict between a provision of these T&C and the Offer, these T&C will control except as to T&C specifically identified in a particular Offer as modifying or amending a specific provision of these T&C, which T&C will control over that particular provision in these T&C for that Offer only.
- (e) Amendment. DIVE may amend these T&C at any time by notice provided to Customer, and Customer's continued use of the Products at any point at least thirty (30) days after the notice date will constitute Customer's acceptance of the amended T&C.
- (f) Waiver; Severability. No waiver of any breach of any provision of these T&C and the Offer by either party or the failure of either party to insist on the exact performance of any provision of these T&C or the Offer will constitute a waiver of any prior, concurrent, or subsequent breach of performance of the same or any other provisions of these T&C or the Offer, and no waiver will be effective unless made in writing. If

any of the provisions of the Offer or these T&C will be deemed to be or become invalid or contrary to public policy or unenforceable under applicable law, the provision will be deemed removed and neither party will be bound by the provision. Such removal, however, will not invalidate or render unenforceable the remaining provisions of the Offer or these T&C. Instead, the entire Offer and these T&C will be construed as though it never contained the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties will be construed and enforced accordingly.

- (g) Interpretation. In these T&C, (a) any T&C defined in these T&C may, unless the context otherwise requires, be used in the singular or the plural, (b) any use of the masculine, feminine or neutral will be deemed to include a reference to each of the other genders, (c) the words "includes" or "including" will be construed as followed by the words "without limitation," and (d) references to section numbers are to sections of these T&C unless the context otherwise requires.
- (h) Notices. All notices, requests, demands and other communications that are required or permitted to be given under these T&C and the Offer will be in writing. Any notice provided to Customer by DIVE will be sent via electronic mail to the address set forth in the Offer and will be deemed to have been duly given that same day if sent on a business day, otherwise, the following business day. Any notice to DIVE must be in writing and will be deemed to have been duly given (i) upon receipt if delivered in person, or (ii) within three business days of mailing, if mailed first class certified, registered mail, return receipt requested and postage prepaid, or (iii) the following business day if sent by recognized courier, with proof of delivery requested and charges prepaid, to the attention of Marta Ortín Obón at DIVE Medical S.L. or to such other address as DIVE may specify by written notice to Customer.
- (i) No Third Party Beneficiaries. There are no third party beneficiaries to these T&C or the Offer.