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1. Agreements

1.1 Scope of the General Terms and Conditions

This set of general terms and conditions (the “**General Terms and Conditions**”) governs and applies to, and is to be deemed as incorporated into, all supply agreements entered into between Atiu and its clients (each a “**Client**” and, together with “**Atiu**”, the “**Parties**” and each a “**Party**”) under which Atiu supplies coating, printing and sublimation services (the “**Services**”) to its Clients (each an “**Agreement**”).

1.1.1 After an Agreement will have been entered into between Atiu and a certain Client, these General Terms and Conditions will apply to all subsequent Agreements with the same Client even though the General Terms and Conditions are not delivered to, or specifically accepted by, the Client upon entering into any such subsequent Agreement.

1.1.2 Section 2 include certain defined terms applicable to these General Terms and Conditions.

1.2 Formation of the Agreements

1.2.1 Each Agreement is formed by:

- (a) these General Terms and Conditions
- (b) a print proof, including an indicative illustration of the Artwork and the Tolerance Sheet (the “**Print Proof**”);
- (c) a purchase order (the “**Order**”);
- (d) a confirmation of the Order (the “**Order Confirmation**”);
- (e) the First Specification Panoply, where applicable; and

(f) any Subsequent Specification Panoply, where applicable.

1.2.2 Formation and execution of any Agreement will occur as follows:

- (a) Atiu issues to the Client a Print Proof, attaching these General Terms and Conditions;
- (b) the Client returns to Atiu the Print Proof and the General Terms and Conditions duly executed for acceptance;
- (c) after completion of the sampling activity as set forth in Section 3.2, the Client delivers to Atiu an Order;
- (d) Atiu delivers to the Client an Order Confirmation, including any possible special conditions agreed upon between the Parties;
- (e) the Agreement will be deemed as effectively entered into once the Client returns to Atiu the Order Confirmation, duly executed for acceptance.

1.2.3 An Agreement will be in any event deemed as formed and effectively entered into if, after the completion of the sampling activity and acceptance of the relevant Samples, the Client delivers to Atiu an Order and then fails to return to the Client a signed Order Confirmation by 10 days of receipt of the Order Confirmation from Atiu and Atiu commences the pre-production or production activity according to the timing set forth in the Order Confirmation.

1.3 Withdrawal by the Client

1.3.1 Once an Agreement has been entered into between Atiu and the Client as set forth above, the Agreement is final and binding upon the

Parties and the Client will not be entitled to terminate or to withdraw from such Agreement, unless as specifically provided in the Agreement. In particular, the Client will be entitled to withdraw from any Agreement before the Commencement Date by serving a prior written notice to Atiu and, as applicable, upon payment of the following consideration:

- (a) if the withdrawal becomes effective between six months and three months before the Commencement Date: 5% of the Contract Price;
- (b) if the withdrawal becomes effective between three months and one month before the Commencement Date: 10% of the Contract Price;
- (c) if the withdrawal becomes effective within one month before the Commencement Date: 50% of the Contract Price

(in each case, initial date included and final date excluded).

1.3.2 The withdrawal will become effective on the date when the Client pays to Atiu the consideration indicated above and therefore the determination of the consideration actually due will be made accordingly. A withdrawal notice will in no case be effective if it is delivered, or if the relevant consideration is paid to Atiu, after the Commencement Date.

1.4 Prevalence

1.4.1 In case of conflict between any provisions of two or more Contractual Documents, the provisions of the Contractual Document following the other Contractual Documents in the list set forth in Section 1.2.1 will prevail, and therefore:

- (a) the Subsequent Specifications Panoply will prevail on all other documents (and the latest Subsequent Specifications Panoply will prevail on the pre-existing Subsequent Specifications Panoply);
- (b) the First Specification Panoply will prevail on the Order Confirmation, the Order, the Print Proof and the General Terms and Conditions;
- (c) the Order Confirmation will prevail on the Order, the Print Proof and the General Terms and Conditions

and so on.

1.4.2 Unless otherwise expressly agreed in writing, in case of conflict between any provision of any Contractual Document or, more in general, the Agreement and any provisions of any general or special terms and conditions of supply of the Client, the provisions of the relevant Contractual Document and, more in general, of the Agreement will prevail and, in such case, if the General Terms and Conditions have not been specifically accepted by the Client, they will nonetheless be deemed as accepted by the Client and as forming part of the Agreement to the maximum extent permitted by law.

1.4.3 The provisions of any Contractual Document and, more in general, the Agreement will also prevail on any non-mandatory provision of law that conflicts with any provision of any Contractual Document and, more in general, the Agreement.

1.5 Entire Agreement – Changes – Tolerance

1.5.1 The Agreement:

- (a) constitutes the entire agreement between the Parties with respect to its

subject matter and supersedes all prior agreements relating to the same subject matter; and

- (b) may not be waived, changed, modified or discharged orally, but only by an agreement in writing signed by the Party against whom enforcement of any such waiver, change, modification or discharge is sought.

1.5.2 Section 1.5.1(b) notwithstanding, changes made by Atiu to the General Terms and Conditions will automatically apply to all Agreements in force with a Client that have not expired, been completed or otherwise terminated, starting from the expiry of a period of 30 days after Atiu notifies the Client of such changes and delivers to the Client the new set of General Terms and Conditions, unless the Client expressly refuses in writing such changes within the 30-day period referred to above.

1.5.3 Any tolerance by a Party of any conduct of the other constituting a breach of, or in any event a deviation from, any provision of the Agreement will not be construed to represent a waiver of the rights arising from such provisions nor of the right to demand the exact performance of all the terms and conditions contemplated by this Agreement.

2. Definitions and Rules of Construction

2.1 Definitions

In addition to the other terms defined elsewhere in this General Terms and Conditions or in other Contractual Documents, the following terms as used in this Agreement have the meaning ascribed to them below.

2.1.1 **“Artwork”**: means the combination of images, text, symbols, QR codes, barcodes and other decorative or illustrative items that compose the overall decoration that Atiu will apply on each Vessel on the basis of the Agreement.

2.1.2 **“Atiu”**: means Atiu S.r.l., share capital of Euro 14.545,45, with registered office in Sona (VR), Via Verona 16/A, tax code no. 03728810239, registered with the companies’ registry of Verona under no.VR-360663.

2.1.3 **“Business Day”**: means any calendar day other than Saturdays, Sundays and any day in which banks are authorized to close in Verona, Italy.

2.1.4 **“Commencement Date”**: means the date on which the production phase of the Services will commence.

2.1.5 **“Contract Price”**: means the overall price to be paid by the Client to Atiu for the supply of the Services under the Agreement.

2.1.6 **“Contractual Document”**: means each of the Subsequent Specification Panoply, the First Specification Panoply, the Print Proof, the Order, the Order Confirmation and the General Terms and Conditions.

2.1.7 **“Defective Vessels”**: means Finished Vessels that are not compliant with the Technical Specifications due to any failure by Atiu to supply the Services in compliance with the Agreement.

2.1.8 **“Finished Vessel”**: means any Vessel in respect of which Atiu has completed the application of the Artwork and, more in general, the supply of the Services.

2.1.9 **“Minor Non-Compliance”**: means any circumstance identified as such in the Order Confirmation.

2.1.10 **“Non-Compliance”**: means a Critical Non-Compliance or a Minor Non-Compliance, as the case may be.

2.1.11 **“Critical Non-Compliance”**: means any circumstance identified as such in the Order Confirmation.

2.1.12 **“Tolerance Sheet”**: means the document, attached to the Order, including the base set of Technical Specifications that the Services must meet in respect of the relevant Vessels, including the applicable tolerance levels and ranges.

2.1.13 **“Technical Specifications”**: means the technical specifications and requirements for the Services as set forth in the Agreement, included in the Tolerance Sheet and as possibly amended and supplemented:

- (a) in the Order Confirmation, as a consequence of the sampling phase;
- (b) in the First Specification Panoply, as a consequence of the pre-production phase;
- (c) in any Subsequent Specification Panoply agreed in the course of the production phase.

2.1.14 **“Vessel”**: means each bottle, vase, jug, pot or other container in respect of which Atiu will provide its Services on the basis of the Agreement.

2.1 References to Defined Terms

The following terms as used in these General Terms and Conditions have the meaning set forth in the Section referred to against each of them below.

“Agreement”	Section 1.2
“Atiu”	Section 1.1
“Client”	Section 1.1
“Disclosing Party”	Section 6.5.1
“First Specification Panoply”	Section 3.3.2
“General Terms and Conditions”	Section 1.1
“Non-Compliance Claim”	Section 4.1.3
“Order”	Section 1.2
“Order Confirmation”	Section 1.2
“Print Proof”	Section 1.2
“Party”	Section 1.1
“Production Sample”	Section 3.4.2
“Receiving Party”	Section 6.5.1
“Sample”	Section 3.2.1
“Second Specification Panoply”	Section 3.4.2
“Services”	Section 1.1
“Trade Secret”	Section 6.5.1
“Vessel Surplus”	Section 3.5.2

2.2 Construction

2.2.1 Unless otherwise expressly provided, for the purposes of this Agreement the following rules of construction will apply:

- (a) any word imparting the singular number only is to be deemed to include the plural and vice versa;
- (b) the provision of a table of contents, the division of these General Terms and Conditions into articles, sections, paragraphs and other subdivisions and the insertion of headings are for convenience of reference only and do not affect and must not be utilized in

construing or interpreting these General Terms and Conditions or the Agreement;

- (c) all references to any “paragraph”, “article” or “section” are to the corresponding paragraph, article or section, respectively, of these General Terms and Conditions, unless otherwise specified;
- (d) the word “including”, or any variation means “including, without limitation” and must not be construed to limit any general statement to the specific or similar items or matters immediately following it;
- (e) references to a “person” means any natural person, legal person (regardless of location of its registered office or place of registration), organizational unit without legal personality, association, foundation, trust, partnership, public authority, state or state agency;
- (f) the expressions “will cause” or “will procure that” and expressions of similar import must be construed as a promise of a third party’s obligation or action in accordance with Article 1381 of the Civil Code;
- (g) any obligation on a Party not to do something includes an obligation not to allow that thing to be done;
- (h) references to “law” must be construed as references to any piece of legislation, regulation, directive, order, decree, decision or ruling issued by any authority (whether Italian, European or foreign) binding upon or otherwise

applicable to the person in respect of which the reference is made and as in force from time to time;

- (i) in calculating a period of time within which, before which, or after which an act or activity is to be performed, the day referred to in identifying such period of time is to be excluded from the calculation. If the day on which the time period expires is not a Business Day, such time period is to be deemed to expire on the next succeeding Business Day. Any time period expressed in months will be calculated in accordance with Article 2963, fourth paragraph, of the Italian civil code.

3. Production Process

3.1 Design

- 3.1.1 Atiu will supply the Services in respect of the Vessels on the basis of the Artwork.
- 3.1.2 In order to establish the Artwork, the Client provides a digital version of the Artwork to Atiu and Atiu applies the technical fine tuning and adjustments required in consideration of the Services to be supplied and the nature of the Vessel.
- 3.1.3 If so required, Atiu can provide
 - (a) digitalization services of the Artwork starting from a physical example;
 - (b) more elaborated design and creation services of all or certain elements of the Artwork
- 3.1.4 The final version of the Artwork to be applied to the Vessel is included in the Print Proof.

3.2 Sampling

3.2.1 Atiu will produce a limited number of samples of Finished Vessels and deliver them to the Client (each a “**Sample**”). Atiu conducts the sampling process manually and solely for the purpose of confirming the feasibility of the concept to be applied to the Vessels.

3.2.2 It is the sole responsibility of the Client to examine the Samples, including the result of the application of the Artwork, and conduct on the Samples all tests referred to in the Print Proof and all other tests that the Client deems fit in consideration of the nature and expected use of the Finished Vessels, including, without limitation and as applicable:

- (a) tests in the Client’s filling lines and production processes;
- (b) specific tests related to any particular use to which the Finished Vessels are dedicated or related to any specific chemical or mechanical resistance or endurance requirement that the Finished Vessels are expected to meet;
- (c) tests in connection with the various accessories that will be used on the Finished Vessels;
- (d) review of the Artwork for any spelling errors in the text or issues with bar or QR codes or other marks or symbols included in the Artwork.

3.2.3 After receipt of the Samples, the Client will promptly notify Atiu of any correction or variations to be made to the Technical Specifications in order to meet the requirements of the Client. Atiu will assess the corrections and variations requested by the Client and, if it deems it feasible to implement them in the

Services in respect of the Vessels, will communicate so to the Client and, where Atiu deems it necessary, Atiu will provide a new set of Samples to the Client for further review and tests.

3.2.4 If the Client has specific requirements in respect of the Vessels that deviate from or supplement the specifications included in the Tolerance Sheet, the Client must clearly indicate them to Atiu before commencement of any pre-production of production phase following the sampling and they will only be binding for Atiu if they are specifically included in the Order Confirmation as finally agreed and accepted by the Parties.

3.2.5 If the Client fails to test the Samples for compliance with the Client’s specific requirements or in any event fails to communicate to Atiu any requests for corrections or variations to the Technical Specifications by 10 days of the receipt of the Sample, Atiu will be entitled to run the production phase (or, where applicable, the pre-production phase) of the Services on the basis of the existing Technical Specifications and will not be held responsible for any failure by the Finished Vessels to meet any other or different technical or other requirements of the Client.

3.2.6 Once the Sampling process is completed, the Client will issue an Order and the Parties will proceed with executing the Agreement as set forth in Section 1.2.

3.3 Pre-Production

3.3.1 If the Client so requires and as specified in the Order Confirmation, Atiu will conduct a pre-production phase by applying the Services in line to a certain number of Vessels as indicated in the Order Confirmation. The pre-production is

aimed at allowing the Client to confirm the final appearance and Technical Specifications of the Finished Vessels before commencing actual production.

3.3.2 Atiu will deliver to the Client the Finished Vessels realized in the pre-production phase or the Client will examine the same Finished Vessels at Atiu's premises, during normal working hours, as agreed from time to time between the Parties. Based on the outcome of the exam, Atiu and the Client will jointly determine any possible correction or variation required to the Technical Specification. On the basis of such determinations, Atiu will deliver to the Client a document describing in detail such set of variations or corrections (the "**First Specification Panoply**") and the Client will return a copy of the First Specification Panoply to Atiu duly executed for acceptance.

3.3.3 Atiu will be entitled not to commence the production until the Client returns to Atiu a First Specification Panoply duly executed for acceptance.

3.3.4 If the Client fails to so deliver an accepted First Specification Panoply by 10 days, Atiu will be entitled to terminate the Agreement pursuant to article 1456 of the Italian civil code by serving a written notice to the Client to such effect.

3.4 Production

3.4.1 After completion of the sampling phase and, where applicable, the pre-production phase, Atiu will commence production of the Services, in accordance with the Agreement.

3.4.2 If the Client so requires and as specified in the Order Confirmation, during the production phase Atiu will deliver, in one or more instances, to the Client additional samples of Finished

Vessels as realized in the course of the production phase (the "**Production Samples**") along with a document, per each separate delivery of Production Samples, including a specific set of items of Technical Specifications of the Productions Samples that have manifested in the course of the production (each a "**Subsequent Specification Panoply**").

3.4.3 The Client will be required to indicate its acceptance or non-acceptance in respect of each item of Technical Specifications included in each Subsequent Specification Panoply. Until and unless the Client has accepted each and all such items of Technical Specifications, Atiu will be entitled to suspend the production.

3.4.4 If the Client, pending acceptance of one or more items of Technical Specifications included in a Subsequent Specification Panoply, instructs in writing Atiu to proceed with the production, Atiu will do so on the assumption that all items of Technical Specifications included in the relevant Subsequent Specification Panoply have been accepted by the Client. Therefore, Atiu will not be responsible for any non-conformity or non-compliance of the Finished Vessels with any item of Technical Specifications included in the relevant Subsequent Specification Panoply that the Client should later declare not to accept and the Client will not be entitled to make any claim or refuse any Finished Vessels based on any such alleged non-conformity or non-compliance.

3.4.5 In addition to the above and even in the cases where the Agreement does not provide for a pre-production phase or the delivery or Production Samples, if during the production phase Atiu detects any production issue that, in its reasonable opinion, might cause the Finished Vessels not to fully meet the Technical Specifications or, in any event, not to satisfy the expectations of the Client, Atiu will be entitled

to deliver to the Client a certain number of Production Samples along with a Subsequent Specification Panoply, and the provisions of Section 3.2.3 and 3.2.4 will apply *mutatis mutandis*.

3.5 Delivery and Ownership of Vessels and Finished Vessels

3.5.1 The Client must ensure that a sufficient number of Vessels are at all times made available to Atiu timely in consideration of the needs of the production process. The Client will deliver to Atiu the appropriate number of Vessels at Atiu's premises not earlier than 30 days before the Commencement Date. Atiu will be entitled to reject any early delivery of Vessels.

3.5.2 The number of Vessels that the Client will deliver to Atiu is determined as the number of Vessels in respect of which the Services will be supplied, plus an additional number of Vessels to cater for any possible defects, malfunctions or otherwise losses of Vessels in the production process (the "**Vessel Surplus**").

3.5.3 Atiu will provide an indication of the Vessel Surplus that the Client will have to make available to Atiu in the Order Confirmation however the Client will timely make available to Atiu, at its own cost, Vessels also in excess of the Vessel Surplus if the need so arises in the course of the production process, as Atiu will indicate from time to time, unless the unavailability or loss of the Vessels is due to any breach by Atiu of its obligations under the Agreement.

3.5.4 Once the production process is completed, Atiu will so notify the Client and will make available to the Client the Finished Vessels at the Atiu's premises for transportation. The transportation of the Finished Vessels will be made according to the EXW (Ex Works) Incoterms rule. All

transportation costs of the Finished Vessels from the delivery point of Atiu will be borne entirely by the Client.

3.5.5 The Vessels and the Finished Vessels will be at all times and throughout all phases of the process owned by the Client. All risks associated with the deterioration or the losses of the Vessels and the Finished Vessels stay with the Client, without prejudice to any claim the Client might have for deterioration or losses of Vessels or Finished Vessels caused by any breach of Atiu of its obligations under the Agreement.

3.6 Storage of Vessels

3.6.1 Atiu will at no time acquire ownership of the Vessels or Finished Vessels and will only act as a custodian (*depositario*) and will store the Vessels from the moment the Vessels are delivered to Atiu and until the Finished Vessels are collected by the Client. The custody of the Finished Vessels will be gratuitous for a period of 30 days after Atiu has notified to the Client of the completion of the supply of the Service. After such date, Atiu will apply a custody fee of Euro 10 (plus VAT) per each pallet per week.

3.6.2 The Client acknowledges that glass Finished Vessels will be stored in covered and enclosed but not heated warehouses and that storage in such conditions may affect the quality of the Finished Vessels and their packaging. Atiu will not be responsible for any damages resulting from such storage conditions beyond 10 days after Atiu has notified to the Client of the completion of the supply of the Services.

4. Non-compliances

4.1 Defective Vessels

4.1.1 If Atiu delivers to the Client Defective Vessels, the Client will be entitled to the remedies set forth below, depending on the nature of the defects and the number of Defective Vessels so delivered.

4.1.2 The Order Confirmation determines the circumstances under which the delivery of Defective Vessels determines a Non-Compliance and whether such Non-Compliance is a Critical Non-Compliance or a Minor Non-Compliance. In any event, delivery of a number of Defective Vessels lower than 5% of the overall agreed number of Finished Vessels to be delivered by Atiu will not be deemed as a Non-Compliance under this Agreement.

4.1.3 If the Client detects a Non-Compliance in a certain batch of Finished Vessels it must deliver to Atiu a written notice (a “**Non-Compliance Claim**”) within 30 days from the delivery of the relevant batch of Finished Vessels, under penalty of forfeiture. If the Client fails to notify to Atiu a Non-Compliance Claim by such term, all Finished Vessels included in the relevant batch will be considered as accepted, without any reservation, by the Client, including in respect of defects that are not immediately apparent or are hidden. It is the Client’s responsibility to run all checks, tests and sampling required to identify any Defective Vessels delivered to the Client and any consequent possible Non-Compliance.

4.1.4 The Order Confirmation can indicate different terms applicable to delivery of a Non-Compliance Claim, in general or in relation to certain specific defects and Non-Compliances.

4.1.5 Any Non-Compliance Claim must include:

- (a) the indication of whether the Non-Compliance is a Minor Non-Compliance or a Critical Non-Compliance;
- (b) the indication of the number of Finished Vessels that have been checked, the number of Defective Vessels so identified and the pallet and batch to which the Vessels pertain;
- (c) a detailed description of the defects so identified, including pictures that allow Atiu to assess and identify the claimed defects.

After receipt of a Non-Compliance Claim, Atiu and the Client will discuss in good faith to determine the existence and nature of the Non-Compliance. In this phase, Atiu will be entitled to request to, and receive from, the Client reasonable additional details and evidence related to the Non-Compliance, including the delivery of samples of Defective Products.

4.1.6 Once a Non-Compliance is finally accepted by Atiu or otherwise established by an enforceable court decision, the Client will be entitled to the following remedies, except where otherwise agreed with Atiu:

- (a) in the event of a Critical Non-Compliance, the Client will be entitled to reject the entire batch and receive a replacement batch of Finished Vessels from Atiu;
- (b) in the event of a Minor Non-Compliance, the Client, at its option, will be entitled to replacement of the identified Defective Vessels or a corresponding reduction of the Contract Price.

- 4.1.7 All delivery costs of samples of Defective Vessels will be borne by the Client and subsequently reimbursed if a Non-Compliance is finally established. All delivery costs of Defective Vessels or batches of Finished Vessels that the Client is entitled to return to Atiu because of a Non-Compliance will be borne directly by Atiu. All costs of replenishment of Finished Vessels required to replace Defective Vessels will be borne by Atiu.
- 4.1.8 The Client will not be entitled to any remedy whatsoever (including, any reduction of the Contract Price) in respect of Defective Vessels the number, or the nature of the defects, of which does not determine a Non-Compliance under the Order Confirmation. In such cases, the entire batch to which such Defective Vessels belong, including the same Defective Vessels, will be deemed as accepted by the Client and Atiu will be entitled to the payment of the full portion of the Contract Price for the relevant batch.
- 4.1.9 In no event Atiu will be liable for the damages due to an improper transportation or storage of the Vessels or the Finished Vessels, a failure by the Finished Vessels to meet Client's requirements that were not expressly part of the Technical Specifications and, in general, for any damages due to fact of the Client, its personnel or any third party that is not a supplier or subcontractor of Atiu.
- 4.1.10 The rights and remedies granted to the Client under this Section 4.1 in connection with Defective Vessels and Non-Compliances, to the maximum extent permitted by law, will be exclusive and *in lieu* of any other right, action, defence, claim or remedy of the Client, provided by law or otherwise, including the right to terminate the Agreement.
- 4.2 Number of Vessels**
- 4.2.1 The Client is entitled to receive and pay for the Services related to such number of Finished Vessels for which the Agreement has been executed, subject to the following quantitative tolerance:
- (a) in respect of Agreement related to 30,000 Finished Vessels or less, the quantitative tolerance is $\pm 15\%$ of the agreed number;
 - (b) in respect of Agreement related to more than 30,000 Finished Vessels, the quantitative tolerance is $\pm 10\%$ of the agreed number.
- 4.2.2 If the Client receives an aggregate number of Finished Vessels within the above quantitative tolerances, the Client will not be entitled to raise any claim related to the number of Finished Vessels so received under the Agreement and will have to pay for the pro-rata of the Contract Price for the number of Finished Vessels actually received.
- 4.2.3 If the Client receives an aggregate number of Finished Vessels in excess of the maximum amount of the applicable above quantitative tolerance, the Client will only be obliged to pay for the maximum number of Finished Vessels in the relevant quantitative tolerance.
- 4.2.4 If the Client receives an aggregate number of Finished Vessels below the minimum amount of the applicable above quantitative tolerance, the Client will be entitled to receive from Atiu an additional number of Finished Vessels equal to the relevant shortfall.

5. Price and Payments

- 5.1 The Contract Price and the relevant terms of payment are indicated in each Order Confirmation.
- 5.2 In case of delay in payment with respect to the agreed terms of payment, Atiu will be entitled to interest for late payment calculated pursuant to article 5 of the Italian Legislative Decree n. 231/2002.
- 5.3 The Client will not be entitled to refuse or delay any payment of any portion of the Contract Price on account of any defects in the supplying of the Services or, more in general, any actual or alleged breach by Atiu of its obligations under the relevant Agreement.
- 5.4 Should the Client fail to effect any payment within the due term, Atiu will be entitled to suspend immediately performance of all Agreements in force with the Client until all delayed due payments are made. Once all payments will have been made, Atiu will resume the supply as soon as practicable in consideration of the planning already made for the supplying of any service to the other Clients.
- 5.5 If the Client delays payment more than three times under a certain Agreement and Atiu has, in each case, sent a notice of delayed payment to the Client, the payment conditions for all future Agreements with the Client will be deemed as automatically changed into “advance payment for 100% of the Contract Price”.
- 5.6 If the Client delays one or more payment for, in the aggregate, more than 30 days, Atiu will be entitled to terminate the Agreement pursuant to article 1456 of the Italian civil code by serving a written notice to the Client to such effect.

- 5.7 All the rights of Atiu under this Section 5 are without prejudice to its right to claim for damages and terminate the Agreements under the applicable provisions of law.

6. Other Provisions

6.1 Performance of the Services

- 6.1.1 Atiu will supply the Services in a workmanlike manner (*a regola d'arte*) and with the level of diligence and care required by law in relation to the nature of the Agreement.

- 6.1.2 Atiu will supply the Services in compliance with applicable provisions of law, in particular in respect of relationships with its employees and subcontractors.

6.2 Subcontracting

Atiu will be entitled to subcontract any part of the Services and, more in general, to avail itself of any supplier, at its own costs and expenses and responsibility and without the need to obtain any consent from the Client in respect to, or to notify the Client of, any such subcontract or supply.

6.3 Variations to the Services

Except where and to the extent expressly set forth in the Agreement, without the express consent of Atiu, the Client will not be entitled to request any variation or supplement to the Services nor to terminate the Services or any part of the same.

6.4 Intellectual Property Rights

- 6.4.1 The Client must ensure that it is the owner or the legitimate user of any copyright or other intellectual property on the Artwork, or any

element of the Artwork, that has been developed or otherwise made available to Atiu for the purposes of carrying out the Services.

6.4.2 The Client will acquire ownership of any copyright and other intellectual property right on any element of the Artwork that Atiu has developed, to the extent that any copyright or other intellectual property right is actually generated by the development carried out by Atiu, and Atiu will not retain any right in such respect, except as set forth below.

6.4.3 The above notwithstanding, once the Client has publicly advertised or placed on the market the Finished Vessels, Atiu will be entitled, at its discretion, to use pictures, images and reproductions of the Finished Vessels and any logos of the Client in any promotional materials and on Atiu's website for the purposes of promoting and marketing the Services and, more in general, its activity and displaying the nature, variety and quality of its Services. If the Client deems that the use of such materials has a detrimental effect on the commercial interests or reputation of the Client, it is entitled to request Atiu to discontinue such use by delivering to Atiu a motivated written request, in which case Atiu will discontinue the use of such materials and remove them, if and when possible, from existing controllable materials, such as the website, within 30 days of receipt of the objection notice. This will not apply to materials for which removal is not commercially practicable at reasonable costs, including materials that have already been distributed or are in non-editable formats, such as archived or printed newsletters.

6.4.4 The Client is responsible for any infringement of any third party right related to the Artwork and its use, with the exception of any material specifically sourced, used or developed by Atiu

in any design and creation activity supplied to the Client in relation to the creation of the Artwork, and will keep Atiu fully harmless and indemnified from any claims by any third party in such respect.

6.4.5 Without prejudice to the above provisions, nothing in this Agreement will vest on any Party any right on any intellectual property owned, used or developed by the other Party in the implementation of this Agreement or otherwise.

6.5 Protection of Trade Secrets

6.5.1 For the purposes of this Section 6.5, "**Trade Secret**" means any information derived from documents or other items bearing the indication that they contain "trade secrets" - that is, bearing the words "secret", "confidential" or other equivalent information - that a Party (the "**Disclosing Party**") has made available to the other Party ("**Receiving Party**").

6.5.2 It is also considered to be Trade Secrets any other information that, based on the representation received, even orally, from the Disclosing Party, or the treatment given to it by the Disclosing Party, the Receiving Party knew, or should have known by ordinary diligence, to be (i) secret - as a whole or in the precise configuration and combination of its elements, not generally known or easily accessible to experts and practitioners; (ii) having economic value as secret; (iii) subject to appropriate measures to keep it secret. In particular, the following are considered for this purpose as Trade Secrets:

(a) information that is patentable, but has not yet become the subject of published patent applications, or although not patentable is nonetheless innovative from a technical point of view, such as

the source and executable code of any type of software, the algorithms and principles underlying it; discoveries; chemical formulas and innovative recipes; new methods and processes of production; new methodologies for testing plant and machinery or the use and properties of products, technical specifications for the manufacture of new products; designs, drawings, prototypes, etc;

- (b) data and data collections on customers; documentation on technical and economic bids in public or private tenders; data on the operation of machinery and plant or the use and properties of products, production cost structure, sales of products and spare parts; business plans, market analysis and research, other statistical data of a confidential nature relevant to the conduct of business internal organization procedures; price lists not yet applied or published; innovative marketing strategies, business methods and advertising ideas not yet implemented; new brands and product layouts not yet used or registered; prices and characteristics of products or prototypes not yet launched on the market, etc.

6.5.3 The Receiving Party agrees to maintain the secrecy of the Trade Secrets disclosed to it by the Disclosing Party for the purpose of implementing any Agreement, refraining from disclosing or otherwise communicating them to third parties without the prior written consent of the Disclosing Party.

6.5.4 The Receiving Party is authorized by the Disclosing Party to use the Trade Secrets to the

extent strictly necessary to pursue the purpose of (and so inter alia, to execute and perform) this Agreement and undertakes to refrain from any use of the same Trade Secrets - whether direct (so inter alia: in its own business organization or professional activity) as well as indirectly through subsidiaries and/or affiliates and/or contractual counterparties (such as, but not limited to: customers, technology suppliers, consultants of any kind, partners in research and development projects, manufacturers for third parties) - that is not strictly necessary to pursue the purpose of this Agreement.

6.5.5 The Receiving Party undertakes not to copy, reproduce, translate, modify, adapt, develop, process, decompose, separate, disassemble, decompile or perform reverse engineering on documents, databases, projects, products, prototypes or other objects containing the Disclosing Party's Trade Secrets.

6.5.6 Even without the prior written consent of the Disclosing Party, Trade Secrets may be disclosed by the Receiving Party within its business organization, provided that:

(a) the recipients of the disclosure are employees of the Receiving Party who are subject to appropriate nondisclosure obligations and use restrictions; and

(b) the disclosure is limited to the extent necessary to pursue the purpose of this Agreement.

6.5.7 In any event, the Receiving Party will procure that its employees use the Disclosing Party's Trade Secrets known as a result of the performance of this Agreement in compliance with the provisions of this Section 6.5 and do not carry out any unauthorized disclosure, dissemination or use of the same.

6.5.8 The provisions of this Section 6.5 do not apply to information that:

- (a) at the time of its disclosure is or subsequently (for causes other than the conduct of the Receiving Party) becomes generally known or readily accessible to experts and practitioners in the field;
- (b) the Receiving Party can prove were already known by it (without having assumed any obligation of confidentiality with respect to its dissemination and/or use) prior to receipt of the same from the Disclosing Party;
- (c) has been the subject of a disclosure or dissemination order imposed on the Receiving Party by a public authority. In the latter case, the Receiving Party will disclose the Trade Secrets to the strictest extent possible in order to comply with the order of the public authority.

6.5.9 The acquisition for the Receiving Party's benefit of the Disclosing Party's knowledge of the Disclosing Party's Trade Secrets as a result of the execution of this Agreement does not generate any rights of the Receiving Party to them, which remain the sole ownership and, as applicable, the subject of intellectual property rights (including the trade secret rights provided for in Articles 98-99 of Legislative Decree 30/2005 and any similar provision of any other law in the world) belonging only to the Disclosing Party.

6.5.10 The obligations assumed by the Receiving Party to the Disclosing Party under this Section 6.5 remains in effect beyond the time of termination of the effect of the other provisions contained in this Agreement, until such time as

the Trade Secrets become generally known or readily accessible to experts and practitioners in the field due to a fact not attributable to the Receiving Party and in any event for at least five years of the date of execution of the Agreement.

6.6 Personal Data

6.6.1 Each Party undertakes to process the personal data collected and/or processed, for the purpose of the execution and performance of the Agreement (the "**Personal Data**") in accordance with the provisions contained in Regulation (EU) 2016/679 on the protection of individuals with regard to the processing of personal data (the "**GDPR**"), as well as in compliance with the Code on the Protection of Personal Data (Legislative Decree 196/2003 as amended).

6.6.2 Each Party will process the Personal Data of the other Party's employees and legal representatives for the purpose of finalizing and signing this Agreement as an "autonomous data controller". Any disclosure by any Party of Personal Data of which it is an autonomous data controller will be done in accordance with applicable privacy laws and following the data subjects being informed about the possibility of disclosing their Personal Data to the other Party for the purpose of the execution and performance of this Agreement. The Parties therefore acknowledge that, having already informed the data subjects of the potential processing of their data related to the performance of this Agreement and carried out by the other Party, Article 14(5)(a) GDPR applies and the Party receiving the relevant Personal Data necessary for the execution and performance of the Agreement will not have to further inform the data subjects.

6.7 Notices

- 6.7.1 Any communication or notice required or permitted to be given under this Agreement must be made in writing by registered mail, return receipt requested, certified email or regular email and will be deemed to have been duly and validly given (i) in the case of notice sent by registered letter, upon execution of the return receipt by the recipients, (ii) in the case of notice sent by certified email, upon receipt by the sender of a delivery report, or (iii) in the case of sent by regular email, upon receipt by the recipient, addressed in each case to the respective addresses of the Parties indicated in the Order Confirmation or at such other addresses as either Party may furnish to the other by written notice in accordance with this Section 6.7.1.
- 6.7.2 The Parties designate their respective addresses for the giving of notices as set forth above as their respective domiciles at which service of process may be made in any legal action or proceedings arising under the Agreement.

7. Applicable Law and Jurisdiction

- 7.1 This Agreement is governed by, and must be construed and interpreted in accordance with, Italian laws, with express exclusion of any conflict of law provisions.
- 7.2 Any dispute relating to this Agreement shall be subject to the exclusive jurisdiction of the Court of Verona.