



## 1. General

1.1 These terms and conditions shall apply to the Purchase Order:

- unless the Purchase Order refers to a specific contract in which case that specified contract shall apply in conjunction with these terms and conditions in the order of priority identified in the specified contract;
- subject only to any minor changes to these terms and conditions which are set out in the Purchase Order.

1.2 Any purchase by the Buyer is conditional upon acceptance of these terms and conditions by the Provider. If the Provider does not wish to accept these terms and conditions, then the Provider should not accept the Purchase Order, and should inform the Buyer immediately.

## 2. Definitions

'**Buyer**' means either, Eclipse Dental Engineering Ltd, or other Organisation, identified on page 1 of the Purchase Order.

'**Goods**' means all or any of the items set out in the Purchase Order which are to be supplied to the Buyer by the Provider.

'**Parties**' means the Buyer and the Provider.

'**Provider**' means the person, firm or company named as such on page 1 of the Purchase Order (or its successors in title).

'**Purchase Order**' means any Purchase Order placed by the Buyer under which the Provider agrees to supply Goods and/or Services to the Buyer.

'**Services**' means the Services to be performed by the Provider for the Buyer as described in the Purchase Order and anything created or produced as a result of the Services.

'**Specification**' means the requirements to which the Goods and/or Services supplied shall conform as detailed in the Purchase Order.

'**Working Day**' Means the Buyer's usual working days, which exclude weekends, bank holidays, some other days published by the Buyer, or such other days as may be notified to the Provider by the Buyer.

'**Delivery Date**' means the date or dates specified in the Purchase Order by which the Supplier is required to deliver the Work. This may be referred to in the Purchase Order as '**Date Required**'.

## 2. Assignment and Sub-contracting

2.1 The Provider shall not assign, transfer, sublet or subcontract in whole or in part any of the Purchaser Order without the prior written consent of the Buyer.

## 3. Compliance with Laws

3.1 Supplier represents and warrants that it will comply with all applicable local and national laws and regulations pertaining to its performance of its obligations under this Purchase Order. In particular and without limitation, Supplier shall not act in any fashion or take any action that will render Buyer liable for a violation of any applicable anti-bribery or corruption legislation (including the UK Bribery Act 2010), which prohibits the offering, giving or promising to offer or give, or receiving, directly or indirectly, money or anything of value to any third party to assist them or Buyer in retaining or obtaining business or in performing the Work. Supplier's failure to comply with this provision shall constitute a material breach of this Purchase Order.

## 4. Intellectual Property

4.1 Intellectual property and other rights in the Goods and/or Services shall vest in the party from whom the Goods and/or Services originate unless the Goods and/or Services are produced for the Buyer as bespoke. If the latter applies such rights shall vest in the Buyer upon their creation and the Provider shall do all such things and execute all such documents as the Buyer may require in order to perfect such vesting. The Provider shall ensure that it includes corresponding provisions in its contracts with its own sub-contractors and providers.

4.2 In the event of any breach of any such intellectual property rights the Provider shall indemnify the Buyer, unless the Buyer is responsible for the breach in question.

## 5. Confidentiality

5.1 Subject to legislative requirements, any confidential information supplied by the Buyer to the Provider or vice versa (including the details of the Purchase Order), shall be kept confidential and shall only be used by the Provider for the performance of its obligations under the Purchase Order. Upon request, and in any event upon expiry or termination of the Purchase Order for whatever reason, the Provider shall either, immediately destroy, or at the Buyer's written request, immediately return to the Buyer, any confidential information provided to it pursuant to the Purchase Order.





## 6. Price Variation

**6.1** The prices in the Purchase Order shall apply (without variation) for both the period and/or stated quantity of the Goods and/or Services, unless specifically otherwise agreed in writing by the Parties.

## 7. Liability

**7.1** The Provider's liability for breach of confidentiality or infringement of intellectual property rights shall be unlimited unless otherwise agreed in writing by the Parties.

**7.2** The liability of either party for direct loss of, or damage to, the tangible property of the other shall be limited to five million pounds per claim unless otherwise stated in the Purchase Order.

**7.3** The Provider will ensure that it has insurance in place and shall maintain such insurance throughout the period covered by this contract to cover its liabilities under the Purchase Order, to include professional indemnity insurance for £2,000,000 (where Services are to be provided) which must be in force for the duration of the contract, public liability insurance for £2,000,000, and employer's liability insurance (where relevant) for £5,000,000 (unless otherwise agreed in writing between the Parties).

**7.4** Notwithstanding anything else in the purchase order or otherwise, eclipse dental engineering ltd will not be liable to supplier with respect to the subject matter of the purchase order under any contract, negligence, strict liability or other legal or equitable theory for any amounts in excess in the amount Buyer paid to supplier in the six months preceding the event or circumstance giving rise to such liability.

**7.5** In no event will eclipse dental engineering ltd be liable to the supplier for any incidental, indirect, special, consequential damages or loss of profits arising out of, or in connection with, the purchase order, whether or not eclipse dental engineering ltd was advised of the possibility of such damage.

**7.6** The limitations will apply notwithstanding any failure of essential Purpose of any limited remedy provided herein. Nothing in the purchase order limits either party's liability for bodily injury of a person, death, or physical damage to property or any liability which cannot be excluded under applicable law.

## 8. Documents

**8.1** All advice notes, invoices and packing notes issued by the Provider shall be clearly marked by the Provider with the Provider's name and address, the Purchase Order number, the item code, date of despatch, a description of the Goods and/or Services, the address of their intended destination and the due delivery date.

## 9. Quality and Performance

**9.1** The Goods and/or Services shall conform with the Specification; be of sound design, materials and workmanship; be fit for the purpose for which they are procured by the Buyer and be capable of the required performance.

**9.2** All Services performed under the Purchase Order must be executed by the Provider in a timely, efficient and professional manner to the appropriate prevailing standards and to the reasonable satisfaction of the Buyer.

## 10. Inspection and Testing

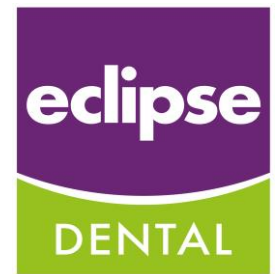
**10.1** Before dispatching the Goods, or commencing provision of the Service the Provider shall, if appropriate and if previously agreed by the Parties, allow the Buyer to inspect and test the Goods and/or Services for compliance with the Specification and/or any other provisions of the Purchase Order. If in the Buyer's reasonable opinion, the Goods and/or Services do not comply with the Specification, the Buyer shall inform the Provider (in writing, unless this is impractical) either, of the Buyer's intention to reject the Goods, or the remedial steps which must be undertaken by the Provider to ensure compliance with the Specification.

## 11. Delivery

**11.1** Time is of the essence in Supplier's performance of its obligations under Section 11 of the Purchase Order. Supplier will immediately notify the Buyer if Supplier's timely performance under the Purchase Order is delayed or is likely to be delayed. The Buyer's acceptance of Supplier's notice will not constitute the Buyer's waiver of any of Supplier's obligations.

**11.2** If Supplier delivers Work after the Delivery Date, the Buyer may reject such Work.





**11.3** The Provider shall deliver the Goods and/or Services as instructed in the Purchase Order and obtain a receipt for them from an authorised officer of the Buyer. Any requirements as to the manner, quantities or special requirements for delivery, specified in the Purchase Order, shall also be complied with by the Buyer.

**11.4** The Buyer will allow the Provider access to its premises as necessary for the delivery of the Goods and/or Services. The Buyer may refuse admission to the Provider's personnel or require such personnel to leave its premises at any time and shall not be obliged to give the Provider the reason(s) for its decision. The Buyer will not apply the provisions of this clause vexatiously.

**11.5** Whilst on the Buyer's premises, the Provider shall abide by the Buyer's rules and regulations relating to the premises.

## 12. Term and Termination

**12.1** Buyer may terminate this Purchase Order, at any time, for no reason or for any reason, upon 15 days written notice to Supplier. Upon receipt of notice of such termination, Supplier will inform Buyer of the extent to which it has completed performance as of the date of the notice, and Supplier will collect and deliver to Buyer whatever Work then exists. Buyer will pay Supplier for all Work performed and accepted through the effective date of the termination, provided that Buyer will not be obligated to pay any more than the payment that would have become due had Supplier completed and Buyer had accepted the Work. Buyer will have no further payment obligation in connection with any termination.

**12.2** Either party may terminate the Purchase Order, immediately by delivering written notice to the other party upon the occurrence of any of the following events: (i) a receiver is appointed for either party or its property; (ii) either makes a general assignment for the benefit of its creditors; (iii) either party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law, if such proceedings are not dismissed within 60 days; or (iv) either party is liquidating, dissolving, or ceasing to do business in the ordinary course.

**12.3** Buyer may immediately terminate the Purchase Order upon written notice to Supplier if there is a change in ownership representing 20 percent or more of the equity ownership of Supplier.

**12.4** Either party may terminate this Purchase Order, immediately by delivering written notice to the other party for any material breach not cured within 30 days of receipt of notice of the breach and Buyer shall have no further payment obligation to Supplier

**12.5** Any obligations or duties which, by their nature, extend beyond the expiration or termination of the Purchase Order shall survive the expiration or termination of the Purchase Order.

## 13. Risk and Title

**13.1** Risk and title in the Goods and/or Services shall only pass to the Buyer upon acceptance of the Goods and/or Services when delivered to the place and address specified in the Purchase Order, unless otherwise agreed in writing by the Parties.

**13.2** The Buyer also reserves the right to take possession of all Goods to which it has title.

## 14. Damage or Loss in Transit

**14.1** Any Goods lost or damaged in transit shall be restored or replaced by the Provider at the Provider's expense and to the Buyer's satisfaction.

**14.2** Delivery shall not be deemed to have taken place until restoration has taken place to the satisfaction of the Buyer or replacement Goods have been accepted by the Buyer.

**14.3** Goods shall be deemed not to have been delivered by the Provider if a receipt from an authorised officer of the Buyer cannot be produced by the Provider.

## 15. Rejection

**15.1** Unless otherwise agreed in writing by the Parties, if, at any time within 3 months from the date of delivery, having regard to the nature of the Goods or Services, the Goods and/or Services fail to comply with the Purchase Order, the Buyer may, by notice to the Provider (which notice shall be confirmed in writing) reject the whole or any part of the Goods and/or Services. The Buyer may then (without prejudice to its other rights and remedies) accept replacement Goods and or re-performed Services from the Provider at the Provider's expense.





## 16. Terms of Payment

**16.1** The Buyer agrees to pay the Provider either, the total price for the Goods and/or Services which is stated in the Purchase Order (or otherwise agreed in writing between the Parties) within 30 days of the date of receipt of a valid and undisputed invoice, which (if the Provider determines that VAT is payable) must comply with the requirements of H.M. Revenue and Customs for VAT purposes.

**16.2** All prices and rates which are stated in the Purchase Order are exclusive of VAT (unless otherwise stated in the Purchase Order).

**16.3** If requested to do so by the Buyer, the Provider shall accept payment of monies due by electronic funds transfer through BACS Ltd or other electronic payment means, as good discharge of the Buyer's indebtedness under the Purchase Order.

**16.4** If any undisputed monies are not paid by the due date, then the Provider or the Buyer (as applicable) may charge interest on such undisputed monies on a day to day basis from the date falling 30 days from when payment fell due, (or such other date as may be agreed in writing between the Parties), to the date of payment (both dates inclusive) at the rate of two (2) per cent per annum over the base lending rate of the Bank of England from time to time. The Parties agree that this clause provides each of the Parties with a substantial remedy in respect of any late payment of sums due for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998).

**16.5** Unless otherwise specified in the Purchase Order, the price for the Work includes all taxes and other charges such as shipping and delivery charges, duties, customs, tariffs, imposts and government-imposed surcharges. Supplier will, at the Buyers request, break-out from the price all such taxes

## 17. Set Off

**17.1** The Buyer shall be entitled to set off against any sums due to the Provider under the Purchase Order any sums which become payable by the Provider to the Buyer in relation to the Purchase Order or any other contract between the Parties.

## 18. Compliance

**18.1** The Provider and its personnel shall at all times comply with all applicable laws, including statutes, regulations and bye-laws of local or other competent authorities.

## 19. Entire Agreement

**19.1** These terms and conditions and the Purchase Order shall (unless expressly agreed otherwise in writing by the Parties) comprise out the entire terms and conditions of the contract in relation to the subject matter of the Purchase Order (subject to clause 1.1) and the Provider's terms and conditions of contracting are expressly excluded. The Purchaser Order and these terms and conditions shall therefore take priority over any other arrangements, communications (whether verbal or written), or any other documents (including, but not limited to, other purchase orders, or other terms and conditions) except if the Purchase Order is displaced pursuant to an over-riding contract pertaining to the Goods and/or Services either, issued by, or referred to, by the Buyer.

## 20. Contracts (Rights of Third Parties) Act 1999

**20.1** The contract between the Parties which is referred to in clause 19.1 does not confer (and is not intended to confer) any rights on any third party, whether pursuant to the Contracts (Rights of Third Parties) Act 1999, or otherwise.





**21. No Agency**

**21.1** This contract does not either, create a partnership between the Buyer and the Provider, or make one of the Parties the agent of the other for any purpose.

**22. Publicity**

**22.1** The Provider shall not, without the prior written permission of the Buyer, advertise or disclose to any third party that it is providing Goods and/or Services to the Buyer.

**23. Governing Law**

**23.1** This contract shall be governed by English law and the Parties shall submit to the exclusive jurisdiction of the English courts.

**24. Dispute Resolution Procedure (DRP)**

**24.1** If any of the Provider's invoices are disputed by the Buyer, then unless otherwise agreed between the Parties, the Parties agree to refer the dispute in accordance with the Buyer's standard Disputes Resolution Procedure.

**25. CRB**

**25.1** When reasonably required by the Buyer, the Provider agrees to comply with the Buyer's standard requirements in respect of Criminal Records Bureau ("CRB") clearance.

