

1. DEFINITIONS AND INTERPRETATION

1. "We" and "us" means the supplier of the Goods, the partners in Eclipse Dental Engineering
2. "You" means the person, firm, company, corporation, public authority or other body whose order for the supply of Goods is accepted by us
3. "Partner" of "Partners" means any one or more of the partners in Eclipse Dental Engineering when acting in that capacity a list of whom is available for inspection at our offices
4. "Sale of Goods" includes related Works
5. "Equipment" means any items in your premises (which may include Goods) where you request ad hoc maintenance and/or repair
6. "Goods" means the items (or any part or instalment of them) referred to in this Contract to be supplied by us to you
7. "Variation Order(s)" means any order which supersedes or varies the Contract
8. "Works" means the work of installation commissioning repair rectification or improvement referred to in this Contract to be provided by us to you
9. "Contract" means this agreement for the sale of Goods to you.
10. "Interest" means interest at the rate of 6% per annum above the base rate for the time being of the Bank of England calculated at monthly rests and compounded
11. Where you are more than one person your liability to us under this Contract is joint and several
12. "writing" includes fax or email

2. LAW

1. Any variation of these terms and conditions including any special conditions applying must be in writing between you and us
2. This agreement shall be governed by and construed in accordance with the laws of England and the parties submit to the jurisdiction of the English courts
3. Nothing in this Contract is intended to limit your statutory legal rights
4. We may assign the benefit and burden of this Contract to a third party but you may not
5. If any term in this Contract is held invalid it shall not affect the validity of the remaining terms
6. Any failure by us to enforce any or all of these terms and conditions shall not amount to a waiver of any of our rights

3. BASIS OF SALE

1. This Contract arises when you accept a quotation from us for the Sale of Goods (which shall be deemed an order for the Sale of Goods) or place an order in writing which we accept
2. Risk in the Goods passes to you upon delivery or if you wrongfully do not take delivery when delivery is tendered or if applicable on the date notified to you that the Goods are available for collection
3. Title in the Goods remains with us until full payment under this Contract has been made
4. Any representations to you concerning the Goods must be in writing and by entering into this Contract you agree that you have not done so in reliance on any representation made by us other than in writing
5. You may not rely on any advice or recommendations from us concerning the storage, application or use of the Goods unless it is in writing from us
6. We will not entertain any claim of loss or damage in transit unless
 - (a) you give us written notice within 24 hours of receipt of the Goods
 - (b) you have noted the appearance of damage on the carrier's delivery note
 - (c) you have complied with the carriers conditions of carriage for advising loss or damage.
7. You will be deemed to have accepted the goods and it shall be exclusively agreed that the goods are in accordance with the contract unless you give us written notice within 21 days of delivery of any apparent defect or malfunction
8. We may correct any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by us without any liability to you.
9. You must determine the suitability of the Goods and fitness for the purpose for which you require them prior to placing your order.

4. ORDERS AND SPECIFICATIONS

1. You are responsible for the accuracy of information or specification given in your order of any Goods or Works and the place of delivery
2. We will not be liable for any delay or loss arising from your failure to give accurate information or specification regarding the Goods or Works
3. You may not cancel this Contract without our agreement in writing and must pay and indemnify us against all losses (including loss of profit), costs (including the cost of all labour and material used or to be used), damages, charges and expenses incurred by us as a result of termination of this Contract at your request

5. PRICE AND PAYMENT

1. The price of the Goods is as set out in our quotation to you or, where no price has been quoted (or a quoted price is no longer valid), the price listed in our price list current when we accept your order.
2. Our quotation prices are valid for 30 days only (or until earlier acceptance by you) and after that we may change them without notice to you
3. We may agree payment terms with you in writing
4. Subject to 3 above our standard payment terms for supply (and installation where applicable) are that you must pay 30% of the price plus VAT of the Goods when we accept your order or you accept our quotation or on the date notified to you that the Goods may be collected as may apply and the balance on tendered delivery of the Goods or, where we are carrying out installation, a further 60% seven days before the commencement date scheduled for installation and the remaining 10% on completion and in every case whether or not we have given you a written invoice
5. Subject to 3 above our standard payment terms for ad hoc maintenance/service are payment on presentation of invoice.
6. Without prejudice to any other right we may have, if you fail to make any payment on the due date, we may
 - (a) cancel this Contract or suspend any further deliveries to you
 - (b) demand payment of all moneys payable to us whether or not due and/or cancel any outstanding orders from you
 - (c) appropriate any payment made by you to such of the Goods under this or any other Contract with you as we deem fit
 - (d) charge you Interest from the date any payment under this Contract is due until payment in full is made whether before or after judgement
 - (e) when our invoice has been outstanding for 30 days additionally charge you 8% of the amount due to us (including accrued Interest) which shall be added to the debt upon which Interest is charged
 - (e) dispose of any Goods not yet delivered to you
7. Until full payment has been made you must hold the Goods on our behalf and must return them to us on demand and we may enter any land or premises of yours to recover any Goods supplied by us to you under this or any other contract with you and by this Contract you grant us, our servants and agents licence to do this

6. INSOLVENCY

1. Without prejudice to any other right or remedy we may have we may cancel this Contract or suspend any further deliveries to you without further liability to you if
 - (a) you make any voluntary arrangement with your creditors or become subject to an administration order or (being an individual or firm) become bankrupt or
 - (b)(being a company) go into liquidation (other than for the purpose of amalgamation or reconstruction) or
 - (c) your premises are repossessed, a floating charge crystallises or a receiver is appointed of any of your property or assets
 - (d) you cease or threaten to cease to carry on business or
 - (e) we have a reasonable expectation of any of the above
2. If we cancel this Contract or suspend further deliveries you must forthwith pay any balance outstanding under this Contract
3. If we cancel this Contract or suspend further deliveries we may sell any Goods otherwise contracted to be sold to you at the best price readily obtainable and, after deducting all reasonable storage and selling expenses and we shall account to you for the excess over the price under this Contract or may charge you for any shortfall below the price under this Contract

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7. DELAYS

1. Any dates we give you for delivery of the Goods are approximate only and we shall not be liable for any delay in delivery of the Goods howsoever caused
2. To the extent permitted by law you may not make time of the essence of this Contract unless we previously agree in writing
3. We may deliver the Goods to you before the quoted delivery date provided we give you reasonable notice
4. Where the Goods are to be delivered in instalments this Contract applies to each delivery and any failure by us to deliver any one or more of the instalments shall not entitle you to treat the whole of this Contract as repudiated
5. If you fail to take delivery of the Goods when tendered or you fail to give us adequate delivery instructions for delivery then we may
 - (a) store the Goods until actual delivery and charge you the reasonable costs (including insurance) of storage and/or
 - (b) if we cannot make reasonable alternative arrangements for delivery (at your expense), sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, insurance and selling expenses) account to you for the excess over the price under this Contract or charge you any shortfall below the price under this Contract

8. GUARANTEE

1. Insofar as not covered by manufacturer's warranty, we guarantee that we will in our discretion repair, replace or allow to you the cost of defective Goods where the defects appear under proper use within 12 months of delivery or such other shorter period or periods as we may agree in writing with you PROVIDED THAT
 - (a) you notify us promptly upon appearance of the defects and
 - (b) the defects arise (in our reasonable opinion) solely from our faulty design, workmanship or materials
2. We shall not be liable insofar as the law allows for any loss of profit, business, contracts, revenue or anticipated savings or for any special indirect or consequential damage of any nature whatsoever and our liability shall be limited to the price of the Goods specified under this Contract

9. FORCE MAJEURE and TRANSIT DAMAGE

1. We shall not be liable for any failure to perform any of our obligations under this Contract by reason of:
 - (a) Act of God, explosion, flood, tempest, fire or accident
 - (b) War or threat of war, sabotage, insurrection, civil disturbance or requisitions
 - (c) Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority
 - (d) Import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving our employees or a third party)
 - (e) Difficulties in obtaining raw materials, labour, fuel, parts or machinery
 - (f) Power failure or breakdown in machinery
2. We shall not be liable for damage to Goods or Equipment in transit, in storage at our premises or accidentally arising while we are working on them

10. CONTRACTS FOR WORKS

1. We need only carry out Works during normal working hours. If we agree to work overtime you will pay us at the rate we stipulate
2. Unless otherwise specified in our Contract you must provide us with or procure the provision to us of:
 - (a) proper and safe storage and protection of all Goods, tools, plant, equipment and materials on site
 - (b) free and safe access to the site and the place where the Works are to be carried out
 - (c) all facilities and services necessary to enable the Works to be carried out safely and expeditiously
 - (d) for installation Works, unless detailed in this Contract, all builder's work, the preparation of services to our specifications, cutting away and making good required and the ready availability of all plant and equipment to permit the Goods being installed to be tested on completion of the Works
3. We do not accept liability to damage or loss of goods supplied, whether installed or not, caused by any other party than ourselves and our subcontractors

4. Any variations to the details specified in the order given to us by you must be the subject of a written Variation Order, and revised drawings must be agreed in writing by you before the work proceeds.
5. Any additional charges arising from a Variation Order must be accepted in writing by you before the Variation order is implemented.
6. Where Works to be carried out by us are dependent on building works being completed by you, we will not proceed with the works until you advise us in writing that the building works are completed.
7. Where Works cannot be carried out by us due to necessary building works not having been completed by the date advised to us by you, we reserve the right to raise charges for laying off workers.
8. We cannot be held liable for delays arising from Variation Orders or from our being unable to proceed because of other contractors work
9. Where we consider it appropriate in particular where building works require planning permission and/or building control approvals we will require you to enter into a separate small works contract in respect of those building works

11. AD HOC CONTRACTS FOR MAINTENANCE and REPAIR

1. Where you ask us to attend to a fault in any Equipment we will make all reasonable endeavours to provide an engineer between the hours of 08:00 – 17:00 Monday to Friday inclusive excluding public and Bank Holidays
2. You must provide our engineer full and free access to the Equipment to carry out the maintenance and/or repair
3. Upon arrival at your premises the engineer will proceed with fault diagnosis and repair of the Equipment; the engineer will continue working until the reported faults have been corrected or deems that such faults cannot be corrected
4. You must make available to the engineer any items of consumable material that may be reasonably requested in order to perform the diagnostic tests
5. You must pay us for such parts as may be required to keep the Equipment operational
6. We will not be liable for any delay or loss arising from your failure to give accurate information or specification regarding the service you require nor if the Equipment is beyond repair
7. All time on your premises is chargeable to you at our hourly rate in addition to travel charges

12. HEALTH AND SAFETY

1. It is your responsibility to ensure compliance with health and safety legislation
 - (a) in regard to the use of the Goods by you but we will, upon request in writing, provide you with such information as we have to evidence that the Goods themselves are reasonably safe and do not pose a risk to health when properly used
 - (b) in regard to the presence of our engineer on site in connection with maintenance and repair of Equipment but we will, upon request in writing, provide you with such information as we have that may be required to satisfy your health and safety procedures and insurers.

13. CONFIDENTIALITY

We will not disclose information you give us about your business which has not already been disclosed or published or is subsequently lawfully obtained by us from a third party

14. INTELLECTUAL PROPERTY

1. The copyright of all documents, drawings, specifications, designs, programmes or any other material prepared by us in any form belongs to us absolutely and may not be reproduced or used in their original or any translated form by you for any purpose other than that for which they were produced without our consent in writing
2. You are responsible for the accuracy of any drawings, patterns or specifications you supply.
3. You indemnify us against all claims damages costs and expenses for any infringement of patent or other intellectual property rights arising from our compliance with your express or implied instructions. This indemnity shall extend to any amount paid on a lawyer's advice in respect of any such claim.