

TERMS AND CONDITIONS OF BUSINESS – SERVICE CONTRACTS

1. DEFINITIONS AND INTERPRETATION

1. "We" and "us" means the supplier of the Services, 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 Services is accepted by us
3. "Services" means the services referred to in this Contract to be supplied by us to you
4. "Contract" means this agreement for the supply of Services to you
5. "Equipment" means the equipment or any of it listed in the Schedule including any equipment added with our consent after the date of this Contract
6. "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
7. "initial Minimum Period" means 12 months from the date of this Contract calculated as in 3.1 below and after the initial Minimum Period "Minimum Period" means any subsequent period of 12 months under clause 4.4
8. "engineer" means anybody employed or contracted by us in connection with the fulfilment of this Contract
10. Where you are more than one person your liability to us under this Contract is joint and several
11. "writing" includes fax or email

2. LAW

1. Any variation of these terms and conditions 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 without our prior consent in writing
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. MAINTENANCE

1. We will provide maintenance between the hours of 08:00 to 17:00 Monday to Friday inclusive excluding public and Bank Holidays for the repair of faults that from time to time cause the Equipment to malfunction
2. Upon receipt of notification from you of a fault we will make all reasonable endeavours to provide an engineer within the agreed response time shown in the Schedule
3. Upon arrival at your premises, the engineer will proceed with fault diagnosis and repair of the Equipment; subject to your consent the engineer will continue working until the reported faults have been corrected
4. All time on your premises will be chargeable at our hourly rate in addition to travel charges

5. We will maintain the Equipment in good working condition, repairing or replacing defective parts as necessary. Parts removed and replaced shall belong to us and replacement parts shall belong to you unless you request otherwise at the time of replacement
6. We may, upon three months' prior notice in writing, remove any item of the Equipment from the Schedule provided that, acting reasonably, we consider that the item can no longer be effectively maintained due to excessive wear and tear or the lack of availability of spare parts

4. SERVICE

1. We shall provide routine care and attention of the Equipment necessary to maintain efficiently operating equipment
2. Routine maintenance will be in line with the manufacturer's recommendations in each case and may vary from item to item.
3. We will provide such routine maintenance between the hours of 08:00 - 17:00 Monday to Friday excluding public and Bank Holidays. Such maintenance may be provided outside of these hours at additional cost and by prior agreement
4. We will supply and fit free of charge such parts as may be required to keep the Equipment operating at the original specification but any parts required to enhance the specification at your request will be charged to you

5. ORDER AND SPECIFICATION OF SERVICES

1. We will not be liable for any delay or loss arising from your failure to give accurate information or specification regarding the Services you require
2. You may not cancel this Contract during the Minimum Period 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 materials used or to be used), damages, charges and expenses incurred by us as a result of termination of this Contract at your request
3. After the initial Minimum Period this Contract will continue for a further period of 12 months (which will then become the new Minimum Period under this Contract) unless you cancel it by giving one month's notice in writing to us within one month of the end of the relevant Minimum Period and upon expiry of such notice this Contract will come to an end provided that you have paid us in full for all Services supplied under it but without prejudicing either your or our rights in respect of any prior breach of this Contract.
4. If during this Contract you require additional services we will use our best endeavours to provide such services subject to your paying additional charges which may arise

5. PRICE AND PAYMENT

1. The initial annual charge for the Services is as set out in the Schedule and this may be increased by us with effect from the anniversary of this Contract (year on year) provided that we have given you one calendar month's prior notice of the amendment



before such anniversary and provided that such increase shall not exceed the percentage increase in the retail prices index published for the period from the date of this Contract or the date on which the preceding increase came into effect

- 2. We may agree payment terms with you in writing but in default of such agreement payment is due upon presentation of our invoice
- 4. 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 the provision of any further Services 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 this or any other Contract with you as we deem fit
 - (d) charge you Interest until payment in full is made whether before or after judgement
 - (e) after 30 days charge you an additional amount of 8% of the sum outstanding (including any accrued Interest) which will be added to the debt upon which Interest is charged

6. YOUR OBLIGATIONS

You must

- 1. Report faults promptly to us
- 2. Provide our engineer full and free access to the Equipment to carry out the Services
- 3. Make available to the engineer any items of consumable material that may be reasonably requested in order to perform the diagnostic tests
- 4. Not relocate or reposition the Equipment (unless portable by design) without our prior consent in writing
- 5. Ensure the Equipment is cared for and operated in accordance with manufacturer's recommendations
- 6. Adequately insure the Equipment to cover risks excluded by this Agreement

7. BREACH

- 1. Without prejudice to any other right or remedy we may have we may cancel this Contract or suspend the provision of any further Services to you without further liability to you if
 - (a) the Equipment is damaged beyond repair whether through your negligence or by accident
 - (b) you are in breach of your obligations under this Contract in way that cannot be put right or is not put right within 30 days of us giving notice of it to you
- 2. If we cancel this Contract or suspend the supply of further Services you must forthwith pay any balance outstanding under this Contract

8. DELAYS

- 1. To the extent permitted by law you may not make time of the essence of this Contract unless we previously agree in writing

9. FORCE MAJEURE AND TRANSIT DAMAGE

- 1. We shall not be liable for any failure to perform or delay in the performance of 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) Power failure where the Equipment is located
- 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. HEALTH AND SAFETY

It is your responsibility to ensure compliance with health and safety legislation in regard to the presence of our engineer on site 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

11. 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

12. INSURANCE

We are responsible for insuring our engineer and any equipment that we bring with us and use in connection with this Contract