



1 **Interpretation**

1.1 In these Terms:

"Contract" means a contract between the Customer and the Supplier for the supply of Services sale and/or purchase of Goods and;

"Customer" means the person who accepts the Supplier's written quotation for the sale of Goods and Services or whose written order for Goods and Services is accepted by the Supplier;

"Document" includes, in addition to a document in writing, a map, plan, design, drawing, picture or other image, or any other record of any information in any form and any disc, tape or other device embodying any other data;

"Goods" means the goods (including any installment of the goods or any parts for them) which the Supplier is to supply in accordance with these Terms;

"Customer's Material" means any Documents or other materials, and any data or other information provided by the Customer relating to the Services;

"Order Form" means any order form for the provision of Goods and/or Services;

"Supplier's Material" means *any* Documents or other materials, and any data or other information provided by the Supplier relating to the Services;

"Services" means the dental equipment supply, fitting, maintenance and other services to be provided by the Supplier to the Customer and referred to in an Order Form and a Specification;

"Specification" means the Supplier's written job sheet setting out in detail the nature of the Services and/or Goods supplied;

"Supplier" means AG Dental (Equipment) Limited whose registered office is Unit 1, Northford Close, Shrivenham, Swindon SN6 8HL; AG Dental is a trading name of AG Dental (Equipment) Limited, Registered Company number in England 7007257 and

"Terms" means the standard terms of sale set out in this document and (unless the context otherwise requires) includes any special terms agreed in writing between the Customer and the Supplier.

1.3 The headings in these Terms are for convenience only and shall not affect their interpretation.

2 **Basis of supply of services and sale of goods**

2.1 The Supplier shall supply the Services and Goods to the Customer in accordance with the Order Form and the Specification, subject in each case to these Terms, which shall govern the Contract to the exclusion of any other terms subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.

2.2 If the Customer submits an instruction containing terms inconsistent with or purporting to override these Terms, the Supplier's acknowledgement or acceptance of such instruction shall constitute a counter-offer on these Terms.

2.3 No variation to these Terms shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.

2.4 The Customer shall at its own expense supply the Supplier with all necessary Documents or other materials, and all necessary data or other information relating to the Services, within sufficient time to enable the Supplier to provide the Services in accordance with the Contract. The Customer shall ensure the accuracy of all Customer's Material.

2.5 The Customer shall at its own expense retain duplicate copies of all Customer's Material and insure against its accidental loss or damage. The Supplier shall have no liability for any such loss or damage, however caused. All Supplier's Material shall be at the sole risk of the Customer from the time of delivery to or to the order of the Customer.

2.6 The Supplier's employees or agents are not authorised to make any representations concerning the Services and/or Goods unless confirmed by the Supplier in writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these Terms affects the liability of either party for fraudulent misrepresentation.

2.7 Any advice or recommendation given by the Supplier or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Supplier is followed or acted on entirely at the Customer's own risk, and accordingly the Supplier shall

not be liable for any such advice or recommendation which is not so confirmed.

2.8 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 the Supplier shall be subject to correction without any liability on the part of the Supplier.

3 **Orders and specifications**

3.1 No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's authorised representative.

3.2 The Customer shall be responsible to the Supplier for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving the Supplier any necessary information relating to the Services and Goods within a sufficient time to enable the Supplier to perform the Contract in accordance with its terms.

3.3 The Supplier may at any time without notifying the Customer make any changes to the Services which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Services.

3.4 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier and on terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation. In particular but without limiting the foregoing if an order for services is cancelled the following charges shall apply:

Notice given 6 - 30 days prior to commencement of the anticipated provision of the Services: 40% of the Supplier's quoted price

Notice given 3 – 5 days prior to commencement of the anticipated provision of the Specified Service: 60% of the Supplier's quoted price

Notice given 2 days or less prior to commencement of the anticipated provision of the Specified Service: 100% of the Supplier's quoted price

such cancellation fee being a genuine pre-estimate of the loss which will be suffered by the Supplier as a result of such cancellation.

4 **Price of the Services and Goods**

4.1 The price of the Services and Goods shall be the Supplier's quoted price on the Order Form or Specification. All prices quoted in advance of the provision of the Goods or Services are valid for 28 days or until earlier acceptance by the Customer, after which time they may be altered by the Supplier without giving

notice to the Customer.

4.2 Where the price of the Services and / or Goods to be supplied exceeds £1,000 inc VAT the Supplier reserves the right to require the Customer prior to delivery or commencement of works to make payment of a non-refundable deposit of 50% of the total price payable. If the supplier deems appropriate from previous trading history and/or credit reference checks, a higher deposit up to 100% of the total price may be requested.

4.3 The Supplier reserves the right, by giving written notice to the Customer at any time before delivery, to increase the price of the Services and Goods to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Services and Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions PROVIDED THAT the Customer shall have within 7 days of receipt of such written notice the right to cancel the relevant order if the increase is greater than 20% of the total price payable under that contract.

4.4 The price for the Services and Goods is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to the Supplier.

5 **Terms of payment**

5.1 Subject to clause 4.2 and any special terms agreed in writing between the Customer and the Supplier and appearing in the Order Form or Specification, the Supplier may invoice the Customer for the price of the Services and Goods on or at any time after performance of the Services and delivery of the Goods.

5.2 The Customer shall pay the price of the Services and Goods (without deduction or set off) within 14 days of the date of the Supplier's invoice. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only on request.

5.3 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to the Supplier, the Supplier may:

5.3.1 cancel the Contract or suspend any further work or deliveries or supplies to the Customer whether under this or any other contract without liability in respect of any loss or damage sustained by the Customer as a result PROVIDED THAT in such event the Customer shall not be released of its obligation to the Supplier;

5.3.2 appropriate any payment made by the Customer to such of the Goods (or the goods supplied under any other contract between the Customer

and the Supplier) or Services as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and

- 5.3.3 charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate set by the United Kingdom late payment reference rate plus eight percent as amended from time to time, until payment in full is made. Compensation amounts as set down in the Late Payment of Commercial Debts (Interest) Act 1998 (as amended) may also be charged.

6 Performance

- 6.1 Any dates quoted for the performance of the Services or delivery of the Goods are approximate only and the Supplier shall not be liable for any delay in performance of the Services or delivery of the Goods however caused. Time shall not be of the essence of the Contract unless specified in the Order Form. The Services may be performed or the Goods may be delivered by the Supplier in advance of the quoted delivery date on giving reasonable notice to the Customer.

7 Rights in Customer's Material and Supplier's Material

- 7.1 The property and any copyright or other intellectual property rights in:

7.1.1 any Customer's Material shall belong to the Customer;

7.1.2 any Supplier's Material shall, unless otherwise agreed in writing between the Customer and the Supplier, belong to the Supplier, but the Customer shall be entitled to use the Supplier's Material for the purposes of utilising the Services by way of a non-exclusive licence, subject to payment in full of all sums payable under the Contract and PROVIDED THAT the Customer shall not modify, alter or vary the Supplier's Material (or allow any such action) without the Supplier's prior written consent.

- 7.2 Any Customer's Material or other information provided by the Customer which is so designated by the Customer and any Supplier's Material shall be kept confidential by the Supplier, and all Supplier's Material or other information provided by the Supplier which is so designated by the Supplier shall be kept confidential by the Customer; but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.

- 7.3 The Customer warrants that any Customer's Material and its use by the Supplier for the purpose of providing the Services will not infringe the copyright or other rights of any third party, and the Customer shall

indemnify the Supplier against any loss, damages, costs, expenses or other claims arising from any such infringement.

8 Warranties and liability

- 8.1 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Specification and at the intervals and within the times referred to in the Specification. Where the Supplier supplies in connection with the provision of the Services and Goods (including Supplier's Material) any items supplied by a third party, the Supplier does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Customer the benefit of any warranty, guarantee or indemnity given by the person supplying the Goods to the Supplier.

- 8.2 The Supplier shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any Customer's Material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Customer.

- 8.3 A claim by the Customer which is based on any defect in the quality of the Services or quality of condition of the Goods or their failure to correspond with the Specification shall be notified to the Supplier within 48 hours of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If the Customer does not notify the Supplier, the Supplier shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Services had been performed and the Goods had been delivered in accordance with the Contract.

- 8.4 Where any valid claim which is based on any defect in the quality of the Services or the quality or condition of the Goods or their failure to meet specification is notified to the Supplier in accordance with these Terms, the Supplier may perform the Services again or replace the Goods (or the part in question) free of charge or, at its sole discretion, refund to the Customer the price of the Services or the Goods (or a proportionate part of the price) in which case the Supplier shall have no further liability to the Customer.

- 8.3 Except in respect of death or personal injury caused by the Supplier's negligence, or as expressly provided in these Terms, the Supplier shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of the Supplier, its servants or agents or otherwise) which arise out of or in connection with the provision of the Services (including any delay in providing or failure to provide

the Services) or their use by the Client, and the entire liability of the Supplier under or in connection with the Contract shall not exceed the amount of the Supplier's charges for the provision of the Services or the price of the Goods, except as expressly provided in these Terms.

- 8.4 The Supplier shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Services, if the delay or failure was due to any cause beyond the Supplier's reasonable control.

9 Termination

- 9.1 Subject to the other provisions of these Terms, the Contract between the Customer and the Supplier shall terminate automatically on completion of the provision of the Services or Goods.

- 10.2 Subject to clause 3.4, either party shall be entitled to terminate the Contract at any time by giving not less than one month's written notice to the other PROVIDED THAT the Customer shall pay for all Services supplied or contracted to be supplied and all Goods supplied or ordered up to and including the termination date and shall indemnify the Supplier in full for all loss (including loss of profit), costs, damages, charges and expenses incurred by the Supplier as a result of termination.

- 10.3 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Terms and (if capable of remedy) fails to remedy the breach within 28 days after being required by written notice to do so, or if the other goes into liquidation, becomes bankrupt, makes a voluntary arrangement with its creditors or has a receiver or administrator appointed PROVIDED THAT the Customer shall pay for all Services supplied or contracted to be supplied and all Goods supplied or ordered up to and including the termination date and shall indemnify the Supplier in full for all loss (including loss of profit), costs, damages, charges and expenses incurred by the Supplier as a result of termination.

11 General

- 11.1 A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

- 11.2 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

- 11.3 If any provision of the Contract is held by a Court or other competent authority to be invalid or unenforceable

in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected:

- 11.4 The Contract shall be governed by the laws of England, and the parties hereby submit to the exclusive jurisdiction of the English courts in respect of any dispute in connection with the Contract.

- 11.5 These Terms (together with the terms, if any, set out in the Order Form and the Specification) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

- 11.6 A person who is not a party to the Contract shall have no rights under the Contracts (Right to Third Parties) Act 1999 to enforce any of these Terms but this shall not affect any right or remedy of a third party which exists or is available apart from that Act.

- 11.7 The Supplier shall be entitled to sub-contract or assign the whole or part of its obligations hereunder without the prior written consent of the Customer.