

HANHAM DENTAL LABORATORY TERMS OF BUSINESS

The following terms will apply to the order for and provision of any pressure and vacuum formed dental appliances which are manufactured and supplied to the Customers specification.

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Conditions: these terms and conditions as amended from time to time in accordance with clause 16.7.

Contract: the contract between the Supplier and the Customer for the supply of Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from the Supplier. For the avoidance of doubt, this shall include only dental practitioners/clinicians.

Deliverables: the deliverables set out in the Order produced by the Supplier for the Customer.

Delivery Location: has the meaning given in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 15.

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any relevant plans, drawings, measurements, Impressions, or other requirements of the Customer, that is agreed in writing by the Customer and the Supplier.

Impressions: any measurements or recordings taken by a Customer and which together with the Goods Specification, shall be relied upon to form the basis of the Order.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for



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and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's order for the supply of Goods as accepted by the Supplier on receipt of the Goods Specification and/or Impressions.

Supplier: Hanham Dental Laboratory Ltd registered in England and Wales with company number 09611529.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Warranty Period: has the meaning given in clause 5.1.

2. Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Goods in accordance with these Conditions.

2.2 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods contained in the Supplier's catalogues, brochures or on their

website are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract nor have any contractual force.

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.4 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 20 Business Days from its date of issue.

3. Goods

3.1 The Goods are described in the Supplier's catalogue and/or on their website as modified by any applicable Goods Specification.

3.2 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

3.3 The Customer acknowledges that the Goods shall be made to order



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by the Supplier who shall rely on the accuracy of the details given by the Customer in the Goods Specification and/or Impressions. For this purpose, the Customer warrants that accurate information will be given, and that Impressions will be checked for any drags, bubbles or holes as the Supplier will not be responsible for Goods that do not fit due to distorted Impressions or inaccurate details supplied on the Goods Specification.

4. Delivery of Goods

4.1 The Supplier shall ensure that:

- (a) each delivery of the Goods is preceded by an invoice sent in accordance with clause 8.3 and will be accompanied by a copy of the Goods Specification including handling instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (b) it provides any return instructions for the Customer to use in the event of returns.

4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**)

4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.4 If the Supplier fails to deliver the Goods, and the Customer has not paid for the Goods, the Supplier shall not be liable for any amounts. If the Customer has paid for the Goods, the Supplier shall provide a full refund in the event that it fails to deliver the Goods.

5. Quality of Goods

5.1 Without prejudice to the remaining terms of this clause, any defect in the Goods must be reported to the Supplier by the Customer within 5 days of delivery.



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5.2 Subject to clauses 3.3 and 5.3, the Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Goods shall:

- (a) conform in all material respects with their description and any applicable Goods Specification.
- (b) be free from material defects in design, material and workmanship.

5.3 Subject to clause 5.4, if:

- (a) the Customer gives notice in writing to the Supplier during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not fit or are defective;
- (b) the Supplier is given a reasonable opportunity of examining such Goods;
- (c) the Customer returns such Goods to the Supplier's place of business; and
- (d) the Customer returns with the Goods, the model/impression the Goods were made on and any new impression or

scan with an explanation of the defect

the Supplier shall, at its option and at its cost, repair or replace the defective Goods, or refund the price of the defective Goods in full only where after inspection, the Goods do not fit the model obtained from the original Impression submitted by the Customer.

5.4 Notwithstanding clause 5.3, the Supplier shall not be liable for the Goods' failure to fit or to comply with the warranty in this clause if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following any drawing, design measurement, Impression or other



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specification supplied by the Customer;

- (d) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on delivery.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full for the

Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.1(a) to clause 13.1(c); and
- (e) give the Supplier such information as the



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Supplier may reasonably require from time to time relating to:

- (i) the Goods; and
- (ii) the ongoing financial position of the Customer.

manufacture and delivery of the Goods until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

7. Customer's obligations

7.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in the Goods Specification are complete and accurate;
- (b) comply with all applicable laws, including health and safety laws;
- (c) comply with any additional obligations as set out in the Goods Specification.

- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 7.2; and

7.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend

8. Charges and payment

8.1 The price for Goods:

- (a) shall be the price set out in the Order or, if no price is



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quoted, the price set out in the Supplier's published price list as at the date of the order; and

- (b) shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.

8.2 The Supplier reserves the right to:

- (a) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

- (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered,

or the Goods Specification; or

- (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

8.3 In respect of Goods, the Supplier shall invoice the Customer on or at any time after delivery.

8.4 The Customer shall pay each invoice submitted by the Supplier:

- (a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.



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8.1 For the avoidance of doubt, responsibility for payment will rest with the Customer who placed the Order. If this was a dental practitioner/clinician on behalf of a patient, that practitioner/clinician will be and shall remain responsible for payment.

8.2 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.

8.3 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 14, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.3 will accrue each day at 4% a year above the Bank of England's base

rate from time to time, but at 4% a year for any period when that base rate is below 0%.

8.4 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9. Intellectual property rights

9.1 All Intellectual Property Rights in or arising out of or in connection with the Goods (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

10. Data protection

10.1 The following definitions apply in this clause 11:

(a) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI/2003/2426) and the



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guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

- (b) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.

10.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

11. Confidentiality

11.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party except as permitted by clause 11.2.

11.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors or

subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 11; and

- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

12. Limitation of liability

12.1 References to liability in this clause 12 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.



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12.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
- (d) defective products under the Consumer Protection Act 1987.

12.3 The Supplier's total liability to the Customer shall not exceed the cost of the Goods.

12.4 This clause 12 shall survive termination of the Contract.

13. Termination

13.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party takes any step or action in connection with its

entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business [or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- (b) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

- (c) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

13.2 Without affecting any other right or remedy available to it, the Supplier



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may terminate the Contract with immediate effect by giving written notice to the Customer if:

(a) The Customer fails to respond in good time to any request to update the Goods Specification/Impressions ;

(b) the Customer fails to pay any amount due under the Contract on the due date for payment.

13.3 Without affecting any other right or remedy available to it, the Supplier may suspend all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 13.1(a) to clause 13.1(c), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

14. Consequences of termination

14.1 On termination of the Contract:

(a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding

unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

14.2 Termination of the Contract shall not affect any rights, remedies, obligations, and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

14.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

15. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such



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obligations shall be extended accordingly.

16. General

16.1 Assignment and other dealings

(a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

(b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

16.2 Notices.

(a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at

its registered office (if a company) or its principal place of business (in any other case); or

- (ii) sent by email addresses used/agreed by the parties.

(b) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal, or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 16.3, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

16.4 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to,



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establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

16.5 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

16.6 Third party rights.

- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

16.7 Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

16.8 Governing law. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

16.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

