

Heka Dental A/S Standard terms of sale and delivery

1. APPLICATION

- 1.1. If the Seller or Buyer in his offers, orders, order confirmations, contracts or other documents relating to international sale of good refers to the Chamber of Commerce's Draft Model for Terms of Sale and Delivery for the International Sale of Goods the reference refers to the following Terms of Sale and Delivery, which will then be applied to the transaction, unless terms are contracted out of either wholly or in part in the parties' individual contract.
- 1.2. If the parties have entered into a contract for ongoing deliveries or a framework contract to which these Terms of Sale and Delivery shall apply, the Seller shall be entitled to give three months' notice in writing of any changes to the Terms of Sale and Delivery, whereupon the new Terms of Sale and Delivery shall apply to consignments delivered after the expiry of the three-month period.

2. ENTERING INTO CONTRACTS

- 2.1 A contract has been entered into when the Seller has submitted an offer for delivery of or the Buyer has submitted an order for goods (offer), and the recipient of the offer has sent his affirmative reply so that it reaches the offer or before the close of business 60 days after the offer date or, if no date is indicated, after the date of on the post stamps, facsimile message or e-mail. If no date is specified, acceptance shall be received within 14 days of the offer date in the case of posted offers, and within seven days in the case of offers given verbally, including by telephone and email.
- 2.2. An offer cannot be withdrawn within the acceptance deadline specified in subsection 2.1 above, unless the Seller specified in writing when submitting his offer that it is subject to the goods being unsold.
- 2.3. Once the final contract of sale has been entered into, it shall be governed by the following provisions:
 - i. The individual contracts entered into by the Seller and the Buyer;
 - ii. These Terms of Sale and Delivery.

3. PRIOR SALE, RIGHT OF CANCELLATION

- 3.1 If the Seller clearly makes the offer subject to the goods being unsold, it means that, until the Buyer's acceptance has reached the Seller, the latter shall be entitled to sell to a third party goods which he has offered to the Buyer. In so far as any such prior sale has taken place, the Seller shall not be bound by the offer submitted to the Buyer. Seller shall, without undue delay and normally on the same day that he receives the Buyer's acceptance, inform the Buyer in writing that the offer is no longer valid. In that case the Buyer shall be entitled to buy any goods not already sold by the Seller subject to the Buyer notifying the Seller thereof within one week. If the Buyer fails to submit such notification, both the Buyer and the Seller shall be released from their obligations vis-à-vis one another.

- 3.2. The Buyer shall not normally be entitled to cancel goods for which a binding order has been placed. However, in the case of goods which are manufactured or acquired specifically for the Buyer, the Buyer shall be entitled to instruct the Seller in writing to discontinue production or other preparations for delivery, unless such discontinuation of production or the preparations would cause significant inconvenience to the Seller or a risk of the Seller's not being reimbursed for any loss resulting from the cancellation. The Seller shall subsequently be entitled to claim compensation for the profit lost as a result of the cancellation, calculated as if the contract had been properly performed by the Seller.

4. SUBJECT OF SALE

- 4.1. The goods for which a contract of sale has been entered into shall be described in detail in the offers, orders, order confirmations and other documents drawn up by the parties.
- 4.2. The Seller reserves the right to change without notice the data submitted by the Seller as a result of general changes to the Seller's products or generally for technical reasons, provided that the subject of sale is not adversely affected whether generally or in any respect which is crucial to the Buyer, and provided that such change does not inconvenience the Buyer. The Seller shall inform the Buyer without undue delay of any such changes to the subject of sale in relation to the data which the Buyer was given when the contract was entered into.

5. SPECIFICATIONS

- 5.1. If the Buyer has reserved the right to impose specific requirements on the subject of sale after the contract is entered into and he does not submit such specifications by the agreed time or within a reasonable time after having received the Seller's request to do so if no deadline has been specified, the Seller shall be entitled to determine the specific properties by himself accordance with those of the Buyer's requirements which have already been submitted to him. This shall not in any way affect the Seller's other rights.

If the Seller determines the properties in greater detail by himself, he shall inform the Buyer thereof and indicate a reasonable deadline within which the Buyer may submit other property specifications. If the Seller has not expressly indicated a deadline for any objections by the Buyer to the Seller's specifications, the deadline shall be 14 days. The provisions of subsection 2.1 above shall also apply to calculation of the deadline. If, having received such notification, the Buyer does not submit alternative specifications within the deadline, the Seller's specifications shall be binding.

- 5.2. The Buyer shall also be entitled to define the specifications in greater detail or change them without having reserved this right, provided that this is done in good time before the delivery date. The Seller shall be entitled to demand that the Buyer pays all resulting costs in addition to the agreed purchase price. If the Seller would be considerably inconvenienced or delivery would be delayed by any such change to the specifications, the Seller may refuse to change the subject of sale from what was originally agreed.

6. DELIVERY, DELIVERY DATE

- 6.1. Delivery shall be in accordance with INCOTERMS 2010, clause FCA Seller's address, unless otherwise agreed.

- 6.2. The Buyer shall be entitled to request that the Seller makes arrangements with a carrier for the goods to be transported to the destination specified by the Buyer. Such transport arrangements shall be for the account and risk of the Buyer. If no such request has been made at least 14 days before the agreed delivery date, the Seller reserves the right to postpone delivery and demand that the costs involved are paid by the Buyer. Notwithstanding the fact that the Seller is assisting the Buyer in arranging transport, there shall be no change to the delivery address or the passing of risk.
- 6.3. If no delivery date has been specified, delivery shall be made within a reasonable time of the contract having been entered into. Unless otherwise dictated by the circumstances, delivery within one month shall be considered to constitute delivery within a reasonable time.

7. PACKAGING

- 7.1. The goods shall be supplied by the Seller in the packaging normally used. If the Buyer has asked the Seller to use other or additional packaging, and this is done in good time and with the necessary specifications being given to the Seller, the Seller shall be under an obligation to comply with the Buyer's request for the latter's account, unless doing so would inconvenience the Seller considerably.
- 7.2. Packaging shall only be accepted in return by separate contract.

8. PRICE, PRICE CHANGES

- 8.1. Unless another currency is expressly specified, all prices shall be in Danish Kroners (DKK) and exclusive of value-added tax.
- 8.2. The specified price includes the standard packaging mentioned in subsection 7.1. above. Other packaging, including additional packaging, shall be paid for by the Buyer, regardless of whether the Seller was aware of how the goods were to be packaged or undertook to package them before entering into the contract.

The price shall be exclusive of all duties and expenses incurred after delivery of the goods, all in accordance with the INCOTERMS 2010 clause agreed upon.

- 8.3. The Seller reserves the right to change the price if, after the Seller's final offer/acceptance but before the time of payment, documented new or increased costs are incurred by the Seller as a result of changes in customs duty, taxes, etc., including taxes payable to transport, terminal or port authorities, etc., to the extent that any such additional costs can be attributed to the consignment in question.
- 8.4. Increased costs other than those specified in subsection 8.3 above, including standard price increases, shall be for the Seller's risk, unless they are the result of war or warlike conditions which the Seller could not predict or avoid or whose consequences he could not have overcome. In this case the Seller shall be entitled to demand a price supplement to compensate him for the increased costs he has incurred.
- 8.5. The Seller can change agreed list prices with one month's prior warning

9. TERMS OF PAYMENT, PERFORMANCE GUARANTEES

- 9.1. Payment shall be made in cash no later than on the due date. If not payment date is specified, payment shall be made in case on receipt of goods.

The purchase price shall be paid at the Seller's business address C some other address specified by the Seller, unless otherwise dictated by the agreed form of payment.

- 9.2. If receipt of the subject of sale by the Buyer is delayed owing to circumstances for which the Buyer is responsible, the Buyer shall still be obliged to pay the purchase price or make other arrangements for the purchase price to be paid at the agreed or implied time.
- 9.3. If payment is not made on time, the Seller shall be entitled to charge interest from the due date but no later than one month after the invoice date on the amount due at any given time at a rate of 8% above the current official discount rate of the Danish National Bank.
- 9.4. The Buyer shall not be obliged to pay the purchase price until he has had the opportunity to inspect the goods, unless the agreed procedure for delivery or payment is incompatible with such inspection.
- 9.5. Counter-claim against the Seller can only be offset against the purchase price, if the counter claim is carried by a final judgement from a civil court.

10. INSURANCE

Unless there is another agreement, the Buyer shall take out insurance to cover the goods until they arrive at the destination or the purchase price has been paid. The Seller may request a copy of the insurance policy before the goods are delivered.

11. TITLE

- 11.1. The Seller retains his title to the subject of sale until the whole purchase price and the costs incurred by the Seller for the Buyers account in connection with delivery, shipment and insurance of the goods have been paid, or until the agreed performance guarantee has been provided. Until this happens, the Buyer shall not be entitled to sell on the goods to a third party or otherwise dispose of them in a manner which is in contravention of the Seller's retention of title.

In the case of conversion or processing of the subject of sale which does not cause it to lose its characteristics or identity, the retention of title shall persist in such a way that it also covers the converted or processed product at the value it had before conversion or processing.

- 11.2. Once the Buyer has paid or provided the agreed security for all moneys due, and the title to the subject of sale has passed to the Buyer, the Seller shall confirm this assignment of title at the Buyer's request.
- 11.3. Drawings, specifications, descriptions, etc., supplied by the Seller for the Buyer to use in his exploitation of the subject of sale shall remain the Seller's property and must not be passed on without written contract with the Seller or in any other way be utilized in contravention of the Seller's permission.

12. DELAYED DELIVERY

- 12.1. The delivery time shall be determined by the Seller applying his best judgement to the circumstances he was aware of at the time of entering into the contract. Unless otherwise agreed, any delay in delivery of up to two weeks from the agreed delivery date shall be considered to constitute delivery on time and shall not entitle the Buyer to exercise any sanctions against the Seller for breach of contract.
- 12.2. If a delay is caused by circumstances beyond the Seller's control as specified in subsection 17 below, the delivery time shall be postponed by the duration of the obstacle, regardless of whether the obstacle arose before or after the agreed delivery time. If, however, the obstacle persists for more than three months, each party shall be entitled to cancel the transaction without incurring any liability.
- 12.3. If further delay occurs which is not covered by the provisions of subsections 12.1 and 12.2 above, the Buyer shall only be entitled to cancel the transaction if the Seller fails to deliver the goods within a further, reasonable deadline determined by the Buyer after he has obtained the right to act on the delay, or if the Seller informs the Buyer that he will not be delivering the goods within that specified, further deadline. This deadline shall be 30 days, unless the Buyer can demonstrate that a shorter deadline is reasonable, or the Seller can demonstrate that the deadline should be longer in order to be considered reasonable. Unless the Buyer receives written notification from the Seller stating that the Seller will not be performing the contract within the specified deadline, the Buyer shall not be entitled to exercise any sanctions for breach of contract during the deadline. However, the Buyer does not lose his right to claim compensation for the delay.
- 12.4. Once the Seller has supplied the goods, the Buyer shall no longer be entitled to cancel the transaction unless he does so within a reasonable time and no later than eight days after he becomes aware that delivery has taken place.

13. DEFECTIVE SUBJECT OF SALE

- 13.1. If the goods are defective, the Buyer may request that the Seller rectifies the problem, e.g. by providing a replacement delivery within a reasonable deadline to be specified by the Buyer after the Buyer has ascertained the defect. This deadline shall be 30 days, unless the Buyer can demonstrate that a shorter deadline is reasonable, or the Seller can demonstrate that the deadline should be longer in order to be considered reasonable.
- 13.2. If the Seller fails to comply with the request mentioned in subsection 13.1 above or informs the Buyer that he will not be rectifying the problem or providing a replacement delivery within the deadline, the Buyer shall be entitled to cancel the transaction, provided that the defect must be considered serious. If the defect is not serious, the Buyer shall be entitled to claim a pro-rata reduction of the purchase price.
- 13.3. Unless the Buyer receives notification from the Seller to effect that the latter will not be performing the contract within the deadline, the Buyer shall not be entitled to exercise any sanctions for breach of contract during the deadline.

However, the Buyer does not lose his right to claim compensation for the defect.

- 13.4. Once the Seller has supplied the goods, the Buyer shall no longer be entitled to cancel the transaction unless he does so no later than eight days after he becomes aware of the defect or should have become aware of it, or after expiry of the deadline specified by the Buyer in accordance with subsection 13.1 above.

14. LATE PAYMENT OF THE PURCHASE PRICE

- 14.1. If the Buyer fails to comply with all the agreed terms of payment or fails to document that a performance guarantee has been provided as agreed, the Seller reserves the right to suspend the contract for the Buyer's account, including stopping goods in transit and instructing the carrier that the goods may not be handed over to the Buyer until the terms of payment and any performance guarantee have been complied with. In the event of Buyer not complying with these obligations, the Seller may demand security for future payments or demand payment in advance, even though credit has previously been granted without security for amounts of that order.
- 14.2. The Seller shall be entitled to cancel the transaction if the Buyer does not fulfill his obligations pursuant to subsection 14.1 above within a reasonable time after the delay occurred, to be determined by the Seller, or if the Buyer informs the Seller that he will not be fulfilling his obligations within the deadline. This deadline shall be eight days, unless the Seller can demonstrate that a shorter deadline is reasonable, or the Buyer can demonstrate that the deadline should be longer in order to be considered reasonable. Unless the Seller receives notification from the Buyer to effect that the latter will not be performing the contract within the deadline, the Seller shall not be entitled to exercise any sanctions for breach of contract during the deadline. However, the Seller does not lose his right to claim compensation for the delay.
- 14.3. If, however, the Buyer has paid the purchase price, the Seller shall no longer be entitled to cancel the transaction, unless he does so before becoming aware that the contract has been performed. However, the Seller does not lose his right to claim compensation for the delay.

15. COMPLAINTS ABOUT DEFECTS

- 15.1. The Buyer shall inspect or arrange for inspection of the goods. This inspection shall take place as soon as possible and shall be as thorough as the circumstances permit. If the goods are to be collected from the Seller's address by the Buyer or someone acting on behalf of the Buyer, this inspection must take place on collection of the goods. A carrier is not considered to act on behalf of the Buyer, even if the carrier has received his instructions from the Buyer. Defects which should have been ascertained during the initial inspection carried out on collection or on arrival of the goods at the destination cannot be cited more than eight days after the time when such initial inspection could have been carried out.
- 15.2. If the goods are defective and the defects should have been ascertained during the inspection mentioned in subsection 15.1 above, the Buyer shall no longer be entitled to claim compensation for those defects unless he notifies the Seller of the nature of the defect in writing within a reasonable time after he ascertained or should have ascertained the defect. The deadline for this shall be 14 days, unless the Seller can demonstrate that a shorter deadline is reasonable or the Buyer can demonstrate that the deadline should be longer in order to be considered reasonable. At the same time or within a deadline of a further 14 days, the Buyer shall inform the Seller whether he wishes to cancel the transaction.
- 15.3. The Buyer shall lose the right to demand compensation for defects unless he notifies the Seller thereof within six months of the delivery date, unless this deadline is incompatible with an agreed warranty period.
- 15.4. If the Seller has rectified a defect within the time allocated after having been asked to do so, possibly in the form of a replacement delivery, the above deadlines for the defects which were rectified shall run from the time when the faultless goods are handed over or delivered to the

Buyer; but never with the deadline specified in subsection 15.3 above exceeding one year from the original delivery date for the goods, unless this deadline is incompatible with an agreed warranty period.

16. COMPENSATION. LIMITATION OF LIABILITY

16.1. In the event or breach of contract, the injured party shall be entitled to claim compensation from the guilty party for any loss suffered as a direct consequence of the breach to the extent that the guilty party could reasonable be expected to have foreseen this loss when the contract was entered into and bearing in mind the circumstances he knew or should have known could result from the breach.

However, neither party shall be entitled to claim compensation if the breach is caused by circumstances beyond the other party's control pursuant to section 17 below.

16.2. The Seller cannot be held liable for any consequential loss, loss of profits or any other indirect loss suffered by the Buyer as a result of delayed delivery or defects in the subject of sale. Nor can the Seller be held liable for other losses over and above the invoice amount exclusive of value-added tax.

16.3. The Buyer cannot be held liable fur any loss suffered by the Seller as a result of him being unable to use the liquidity which the Seller was expecting to receive on payment of the purchase price, except for interest as mentioned in subsection 9.3 above.

17. CIRCUMSTANCES BEYOND THE PARTIES' CONTROL

17.1. Circumstances which preclude any claim for compensation and postpone the delivery date and/or payment date exist when breach of contract is caused by an obstacle beyond the control of the party in question which he could not reasonable be expected to have taken into consideration or avoided at the time of entering into the contract, nor could reasonable be expected to have overcome.

17.2. The party whose ability to perform the contract is affected by an obstacle as set out in subsection 17.1 above shall inform the other party in writing thereof without undue delay, specifying the consequences of the obstacle in relation to his ability to perform the contract. Failure to do so shall oblige him to compensate the other party for the loss resulting from the other party not receiving such timely notification.

18. PRODUCT LIABILITY

18.1. If the goods supplied by the Seller cause injury or damage to the Buyer or his belongings, or a third party or his belongings, the Seller shall compensate the Buyer for his loss subject to the limitation specified in subsection 18.2 below. This includes indemnifying the Buyer for any claim brought against him by an injured third party, even if the injury or damage was not by the negligence of the Seller or anyone for whom he is responsible.

18.2. Notwithstanding the provisions of subsection 18.1 above, the Seller cannot be held liable for damage caused to objects intended for commercial use, nor can the Seller under any circumstances be held liable for any consequential loss, loss of profits or other indirect loss suffered by the Buyer as a result of the supplied subject of sale being defective.

- 18.3. If the Buyer has contributed to the damage to the product through negligence or has failed to take reasonable precautions to limit the scope of damage, the Seller may, however, demand that the Buyer pays a proportion of the compensation which is commensurate with his conduct.
- 18.4. In the event of legal action being taken against the Seller or the Buyer with a claim for compensation based on the rules governing product liability, each party undertakes to let himself become involved in a pending case against the other party at the latter's request. The relationship between the Seller and the Buyer shall, however, be settled by arbitration pursuant to section 21 below.

19. RETURNS

- 19.1. The Buyer shall not be entitled to return goods he has taken delivery of unless he has cancelled the contract in advance, or unless the Seller has accepted to provide a replacement delivery and the Buyer has asked the Seller in advance whether the latter wishes to have the goods returned or wants to make arrangements concerning the goods at their present location or at the delivery address and at least 14 days have passed without the Buyer having received the Seller's instructions and security for any outlays required to comply with the Seller's instructions. The Buyer shall be entitled to withhold goods in so far as necessary until he has secured a replacement delivery, costs and compensation for the breach of contract.
- 19.2. Return of the goods sold shall generally only be accepted by the Seller subject to prior agreement.
- 19.3. In all cases where goods are returned to the Seller; it is a condition that they are returned in the original packaging and are shipped for the Buyer's account and risk, If the goods are returned in order for the Seller to repair them or provide a replacement delivery, the repaired or new goods shall be delivered in the same manner as the original consignment.

20. ASSIGNMENT OF RIGHTS AND OBLIGATIONS

The Seller shall be entitled to assign performance of the contract entered into to a third party either wholly or in part. If performance is assigned wholly to a third party, the Seller shall be entitled to assign all rights and obligations under the contract to that third party, and the Buyer shall subsequently only be entitled to make claims for breach of contract against that third party.

21. APPLICABLE LAW. ARBITRATION AND LEGAL VENUE

- 21.1. Sale of goods contracts shall be governed by the general rules of Danish law, including the English version of the UN Convention on contracts for the International Sale of Goods (CISG), supplemented by the current practices and customs.
- 21.2. Any dispute arising out of or in connection with this contract, including any disputes regarding the existence, validity or termination thereof, shall be settled by arbitration arranged by The Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration and in force at the time when such proceedings are commenced.