

General Conditions of Nikinc Dental B.V.

1. Definitions

Agreement	any Agreement effected between Parties for the purpose of sale and purchase and delivery of Items of Property by Nikinc Dental B.V. to the Other Party and/or by providing Services to the Other Party;
Conditions	These General Conditions of Nikinc Dental B.V.;
Items of Property	the items of property to be delivered by Nikinc Dental B.V. under the Agreement to or for the benefit of the Other Party, being items and/or property rights;
Nikinc Dental B.V.	the private limited company Nikinc Dental B.V. B.V. in Eindhoven, the Netherlands (Chamber of Commerce number Nikinc Dental B.V.) and (one or more) companies affiliated to it, in its capacity as user of the Conditions;
Offer/Proposal	every offer by Nikinc Dental B.V. to enter into an Agreement;
Other Party	Any natural person or persons, legal entity or entities, or company or companies with whom Nikinc Dental B.V. enters into an Agreement, or with whom Nikinc Dental B.V. negotiates on the formation of an Agreement;
Party/Parties	Nikinc Dental B.V. and the Other Party, jointly or individually;
Services	all services to be delivered by Nikinc Dental B.V. under the Agreement;
Written/In writing	by letter, electronic message, or bailiff's notification.

2. Applicability

- 2.1. These Conditions apply to and form an integral part of any requests for an offer made by the Other Party, to any Proposals and Offers made by Nikinc Dental B.V., to confirmations of the assignments given by Nikinc Dental B.V. and to any Agreements effected and to be effected between Nikinc Dental B.V. and the Other Party.
- 2.2. If the Conditions were applicable on any Agreement, these will automatically apply – without Parties having to agree to this separately – on any future Agreement effected between Parties, unless Parties explicitly agree otherwise In writing for a specific Agreement.
- 2.3. Nikinc Dental B.V. expressly rejects the applicability of the Other Party's general or special terms on any Agreement, unless and after Nikinc Dental B.V. declares these terms applicable to an Agreement, explicitly and In writing. Any acceptance of the applicability of the Other Party's terms on an Agreement does not entail the automatic acceptance of these terms on any future Agreement effected between Parties.
- 2.4. Should the competent court find any provision of these Conditions not applicable or contrary to public policy or law, said provision will be regarded void while the rest of these Conditions will remain in full force. Any voided provision will be deemed to have been adjusted in a way that corresponds as much as possible with the purport of the original purpose as intended by Nikinc Dental B.V. and the Other Party.
- 2.5. Should any provisions or parts of the Agreement and/or the accompanying appendix or appendices and/or the Conditions be at variance with each other, the following order applies: firstly the Agreement, secondly the appendix or appendices, thirdly the Conditions.
- 2.6. In the performance of [...] 's activities, personal data will be processed. The processing of personal data is subject to Nikinc Dental B.V. 's Privacy Statement (<https://www.nikincdental.com/privacy-statement>).
- 2.7. In the event that translations of these Conditions are issued, the Dutch language version of these Conditions will prevail.

3. Proposals

- 3.1. Unless explicitly stated otherwise, an Offer will be without obligation and valid for the period as stated in the Offer. If the Offer does not state a deadline for acceptance, the Offer will always expire fourteen (14) days after the date stated in the Offer.
- 3.2. All Proposals, quotations, order confirmations and comments made by or on behalf of Nikinc Dental B.V. are solely intended for the Other Party, may not be distributed, constitute a whole and cannot be partially accepted, and can be revoked by Nikinc Dental B.V. at any time, even after acceptance by the Other Party. Any details included therein are merely indicative.
- 3.3. If the Other Party provides any details, drawings and such in relation to the Offer, Nikinc Dental B.V. may rely on the correctness thereof and will base its Offer thereon. The Other Party indemnifies Nikinc Dental B.V. against any third party claims in relation to the use of any drawings and the like by or on behalf of the Other Party.
- 3.4. A price list or any other general overview of prices provided to the Other Party by Nikinc Dental B.V. does not constitute a Proposal.

4. Realization of agreements

- 4.1. With due observance of the other provisions in these Conditions, an Agreement is only effected:
 - (a) if a Written Agreement, signed by both Parties, is concluded between parties; or
 - (b) if Nikinc Dental B.V. sends a Written order confirmation to the Other Party, in which case the order confirmation will be deemed to correctly and completely reflect the Agreement effected between Nikinc Dental B.V. and the Other Party;
 - (c) by Nikinc Dental B.V. actually carrying out an instruction given by the Other Party. The invoice will then be considered a correct reflection of the Agreement between Nikinc Dental B.V. and the Other Party.
- 4.2. The Agreement will replace all previous propositions, correspondence, arrangements or other communication between Parties that have occurred prior to the conclusion of the Agreement.
- 4.3. Changes and/or additions to the Agreement will be valid only after they have been accepted by Nikinc Dental B.V. In writing. Nikinc Dental B.V. is not obligated to accept any amendments and/or additions to an Agreement and is entitled to require a separate Agreement for that purpose. Nikinc Dental B.V. is authorized to charge any costs arising from the amendment and/or additions to the Agreement to the Other Party.
- 4.4. Any commitments made by or arrangements made with employees or representatives of Nikinc Dental B.V. are only binding on Nikinc Dental B.V. to the extent that these commitments and/or arrangements were confirmed by Nikinc Dental B.V. to the Other Party In writing.
- 4.5. All (legal) acts and actions performed by an officer or employee of the Other Party in the context of the formation, execution and amendment of an Agreement between Nikinc Dental B.V. and the Other Party, are considered to have been performed in a duly authorized manner and shall bind the Other Party accordingly. The Other Party cannot claim a lack of competence to legally represent or bind the Other Party in these acts or actions.
- 4.6. Outside of the authorities granted to the Other Party in these Conditions, the Other Party is not entitled to fully or partially terminate the Agreement (including - but not limited to - giving notice, calling for termination, or (extrajudicial) nullification). Should the Other Party nonetheless proceed with full or partial termination, Nikinc Dental B.V. will remain entitled to charge the full amount under the Agreement.

5. Prices

- 5.1. All prices of the Items of Property and/or Services to be supplied by Nikinc Dental B.V. are expressed in euro and are - unless explicitly stated otherwise – exclusive of costs of packaging, transportation and other costs of shipping, import documents, (goods in transit) insurance(s), travel time, travel expenses and accommodation expenses and also exclusive of turnover tax and/or other government-imposed levies, of any nature.
- 5.2. Nikinc Dental B.V. is entitled to adjust the agreed on prices of the deliverable Items of Property and/or Services in the event that the agreed on price was based on incorrect information provided to Nikinc Dental B.V. by the Other Party (albeit unintentionally) and/or if the cost price of the elements that served as a basis for the price determination went up after the formation of the Agreement. These elements include, but are not limited to, raw materials and energy, public utility costs, maintenance costs, service contracts, wages, social insurance contributions, currency exchange rates, levies and conditions and obligations set or imposed by the government and/or the relevant sector. Nikinc Dental B.V. will inform the Other Party of any price increases In writing.
- 5.3. If the Other Party gives instruction to Nikinc Dental B.V. to perform a Service or supply Items of Property without Parties explicitly agreeing on a price, the instruction will be performed at the price applicable at the time of the performance, irrespective of any previous Proposals or prices used in the past.

6. Payment

- 6.1. Payment must be made within fourteen (14) days of the invoice date, unless otherwise agreed In writing. Payment must be made to the bank account indicated by Nikinc Dental B.V.. The time of payment is determined by the moment on which Nikinc Dental B.V. receives confirmation from its bank that the transfer has been received.
- 6.2. In the event that an invoice is not fully paid within the set term, the Other Party will be in default by operation of law, such without further notice of default being required, and will owe an interest of 1% per month (unless that statutory commercial interest rate is higher, which case, that interest rate applies) starting on the day after the due date of the invoice, with part of a month counting as a full month. Furthermore, all extrajudicial collection costs will be charged to the Other Party; these costs are hereby determined by Parties to be at least 15% of the outstanding claim with a minimum of € 150.00,-, without prejudice to Nikinc Dental B.V. 's right to compensation of the full and actual judicial and extrajudicial costs incurred. The aforementioned costs fall due at the moment that Nikinc Dental B.V. demands In writing that the Other Party meet its obligations.
- 6.3. If the Other Party is in default of payment of any invoice as intended in article 6.2, all other outstanding invoices immediately fall due and payable, such without further notice of default being required.
- 6.4. Payments made by the Other Party will always serve to settle all costs, interest due, and subsequently, those invoices that have been outstanding for the longest time, even if the Other Party states that a payment relates to a different invoice.
- 6.5. The Other Party will pay the invoiced amounts in a timely manner and will not be entitled to apply any deductions, discounts, or setoffs and may not suspend any payment obligation is has towards Nikinc Dental B.V..
- 6.6. Nikinc Dental B.V. is entitled to set off all claims it has against Other Party against any debt that Nikinc Dental B.V. may have towards the Other Party or towards any (legal) persons affiliated with the Other Party.
- 6.7. Complaints with regard to invoices sent must be filed with Nikinc Dental B.V. In writing at least two (2) days before the due date, in the absence of which the Other Party's right of complaint will lapse.
- 6.8. Nikinc Dental B.V. may at all times request a full or partial advance payment, as well as any form of security including - but not limited to - pledges and bank guarantees. If and as long as the Other Party is in default with regard to the requested security or full or partial advance payment, Nikinc Dental B.V. will be entitled to suspend its obligations towards the Other Party.

7. Performance of the Agreement

- 7.1. Any terms agreed on by Nikinc Dental B.V. under the Agreement will never be considered final deadlines. Failure to meet an agreed-on date will not give rise to any entitlement of damages or termination, with the exception of intent or gross negligence on the part of Nikinc Dental B.V..
- 7.2. Without prejudice to the provisions of the previous paragraph, Nikinc Dental B.V. 's liability towards the Other Party due to the exceedance of an agreed-on term as a result of intent or gross negligence, will at all times be limited to the amount paid out by Nikinc Dental B.V. 's liability insurance policies. In the event that, for whatever reason, the insurer does not pay out, Nikinc Dental B.V. 's liability will be limited to a maximum of 15% of the invoice amount that corresponds with the part of the Agreement from which the liability arises, with a maximum of €25.000,-.
- 7.3. The term indicated by Nikinc Dental B.V. will commence on the day that all necessary details and/or auxiliary materials are in Nikinc Dental B.V. 's possession and all necessary conditions for the performance of the Agreement have been met.
- 7.4. In determining the term, Nikinc Dental B.V. assumes that it can perform the Agreement under the circumstances as they were when the Agreement was concluded.
- 7.5. Nikinc Dental B.V. will only provide Services and Items of Property that were explicitly agreed on between Parties In writing. Should a description of the Services and/or Items of Property not be included, the Services and/or Items of Property will be provided in accordance with the common practice in the field of Nikinc Dental B.V.. The Other Party must provide all other deliveries, activities, permissions, licenses and dispensations at its expense.
- 7.6. Nikinc Dental B.V. is entitled to an extension of the term within which the Services and/or Items of Property must be delivered if circumstances at the expense and/or risk of the Other Party, or due to changes in the Agreement or the circumstances under which it should be performed, mean that Nikinc Dental B.V. cannot reasonably be expected to deliver within the agreed-on term. If the above entails that the activities cannot be fitted into Nikinc Dental B.V. 's planning, these will be performed or finished as soon as Nikinc Dental B.V. 's planning allows.
- 7.7. Should Nikinc Dental B.V. be unable to perform its activities (in a normal way) due to circumstances beyond its control, all costs arising as a result of this will be at the Other Party's expense.
- 7.8. Nikinc Dental B.V. is entitled to give instructions to third parties for the Performance of the Agreement, also on behalf of and at the expense of the Client. The applicability of Sections 7:404 and 7:407 Dutch Civil Code is explicitly excluded.

- 7.9. If Nikinc Dental B.V. 's obligations are suspended due to a failure on the part of the Other Party, the term will be extended by the duration of the suspension. If the above entails that the activities cannot be fitted into Nikinc Dental B.V. 's planning, these will be performed or finished as soon as Nikinc Dental B.V. 's planning allows.
- 7.10. Nikinc Dental B.V. may terminate the Agreement at its discretion at any time. In the event that Nikinc Dental B.V. has already commenced its performance, Nikinc Dental B.V. will compensate the Other Party for any reasonable extra costs it incurs in relation to the transition to another supplier, except in the event of force majeure as referred to in Article 14.

8. Means of delivery

- 8.1. The risk for the Items of Property to be delivered to the Other Party transfers to the Other Party Ex Works Nikinc Dental B.V., or from the warehouse of any third party involved by Nikinc Dental B.V. ('Ex Works', as included in most recent version of ICC Incoterms). All Items of Property will at all times be transported at the risk of the Other Party. Unless the Other Party timely requests that [...] insures the Items of Property during transport at the expense of the Other Party and/or unless otherwise specified in the Agreement, the Items of Property will be transported by or on behalf of Nikinc Dental B.V. uninsured.
- 8.2. Should any Items of Property be missing at delivery, the Other Party must inform Nikinc Dental B.V. of this in writing within five (5) working days. If notification is made after the expiry of this term, the missing Items of Property will not be credited to the Other Party, nor will the missing Items of Property be delivered to the Other Party at a later date.
- 8.3. Nikinc Dental B.V. has fulfilled its obligation to deliver the Items of Property when it puts the Items of Property at the disposal of the Other Party at the agreed-on time in its warehouse, or the warehouse of a third party engaged by Nikinc Dental B.V. The delivery document signed by or on behalf of the Other Party and/or any accompanying appendices of the carrier will constitute full proof of delivery by Nikinc Dental B.V. of the Items of Property listed in the delivery document and/or the accompanying appendices.
- 8.4. Presenting the ordered Items of Property to the Other Party for delivery is equivalent to the actual delivery of these Items of Property. Should the Other Party refuse to accept delivery of the Items of Property, Nikinc Dental B.V. will store the Items of Property involved at a location to be determined by Nikinc Dental B.V. for a period of fifteen (15) working days after the first delivery attempt. After the expiration of this term, Nikinc Dental B.V. will no longer be obligated to hold the Items of Property ordered by the Other Party for the Other Party and will be entitled to sell the Items of Property to a third party or dispose of them in any other way. The Other Party will nonetheless be held to its obligations under the Agreement and take possession of the Items of Property involved at the agreed-on price at Nikinc Dental B.V. 's first request, while the Other Party will also be obligated to compensate any damage incurred by Nikinc Dental B.V. arising from its previous refusal to accept delivery of the Items of Property, including storage and transport costs.

9. Retention of title

- 9.1. The title of any Items of Property delivered by Nikinc Dental B.V. will only transfer to the Other Party once the Other Party has fully met all its obligations towards Nikinc Dental B.V. under any Agreement, including claims as a result of penalties, interest and costs, or otherwise. Until that time, the Other Party will be obligated to keep the Items of Property separated from any other items and clearly identify them as property of Nikinc Dental B.V..
- 9.2. If the laws of the country of destination have farther-reaching possibilities for the retention of title of the Items of Property than provided for in Article 9.1 above, the Parties will be deemed to have stipulated these farther-reaching possibilities for the purpose of the seller with the proviso that, if it cannot objectively be determined to which these farther-reaching rules this provision applies, the provisions of Article 9.1 above will continue to apply.
- 9.3. If and for as long as the title to the Items of Property remains vested in Nikinc Dental B.V., the Other Party may not sell, rent out or allow use of, pledge or in any other way store the Items of Property, other than in the normal course of business.
- 9.4. Nikinc Dental B.V. is entitled to unhindered access to the Items of Property subject to the retention of title. The Other Party will offer full cooperation to Nikinc Dental B.V. in allowing Nikinc Dental B.V. to exercise its retention of title under Article 9.1 by repossessing the Items of Property. All costs incurred in the repossession of the Items of Property will be at the expense of the Other Party.
- 9.5. If and for as long as Nikinc Dental B.V. remains the owner of the Items of Property, the Other Party will immediately inform Nikinc Dental B.V. of any (pending) attachments or other claims on (any part of) the Items of Property. Furthermore, the Other Party must inform these third parties of the retention of title vested in Nikinc Dental B.V..
- 9.6. The Other Party is obligated to insure any Items of Property delivered to it under retention of title and keep these Items of Property insured against damage and theft and to provide Nikinc Dental B.V. with the relevant insurance policies and proof of payment immediately on request.
- 9.7. Should Nikinc Dental B.V. not be able to invoke its retention of title due to the fact that the delivered Items of Property were subject to confusion, specification or accession, the Other Party will be obligated to immediately pay the outstanding claim to Nikinc Dental B.V. or to provide alternative security equal to the value of the Items of Property that were confused, incorporated in another item (specification), or were subject to accession.

Alternative security is understood to include - but is not limited to - the creation of a pledge and the provision of a bank guarantee. Should Nikinc Dental B.V. request security by way of an (undisclosed) pledge, the Other Party is obligated to sign a deed of pledge.

10. Inspection and complaints

- 10.1. The Other Party is obligated to inspect the Items of Property delivered and Services performed for defects immediately after their delivery or performance.
- 10.2. In the event of any observable defects, a Written and adequately substantiated complaint must be sent to [...] promptly after discovery but always within eight (8) days after the delivery of the Items of Property and/or the performance of the Services. Nikinc Dental B.V. must be notified of any other defects In writing and with substantiation within eight (8) days after discovery.
- 10.3. After a defect is discovered, the Other Party must do or refrain from doing everything reasonably possible and necessary to prevent (further) damage. Furthermore, the Other Party must comply with any instructions provided by Nikinc Dental B.V..
- 10.4. All rights and entitlements available to the Other Party based on the defect will lapse if the Other Party does not submit its complaint within the period of time specified in this article and/or has not given Nikinc Dental B.V. the opportunity to repair the defects.
- 10.5. In the event of an unjust complaint, all costs in relation to said complaint will be a the expense of the Other Party.
- 10.6. If Parties cannot reach agreement on whether something qualifies as a defect, an independent expert will be brought in. The expert will be appointed by Nikinc Dental B.V. in consultation with Other Party. The costs of this expert examination will be at the expense of the (more) unsuccessful Party.
- 10.7. Complaints of any nature in regard to the performance of the Agreement on the part of Nikinc Dental B.V. will never be grounds for a suspension of the Other Party's payment obligations and can only be submitted to Nikinc Dental B.V. In writing.
- 10.8. On the condition that the complaint was submitted in accordance with the foregoing and was found just, Nikinc Dental B.V. may adjust the invoice amount, repair or redo the work that has been carried out free of charge, supply new or replacement (parts of) Items of Property, repair (parts of) the Items of Property free of charge, of fully or partially terminate the Agreement upon proportional repayment of the amount paid by the Other Party, such at Nikinc Dental B.V. 's discretion. By fulfilling one of the acts above, Nikinc Dental B.V. will be fully released of its (guarantee) obligations.

11. Expiry period

Legal actions must be brought within 1 (one) year after the timely complaint, at the risk of such a claim lapsing.

12. Rescission and suspension

- 12.1. Without prejudice to its right to claim damages and without notice of default or judicial intervention being required, Nikinc Dental B.V. will be entitled to immediately (1) suspend the performance of the Agreement and/or (2) fully or partially rescind the Agreement, if:
 - a. the Other Party does not, not fully or not adequately fulfill its obligations under the Agreement;
 - b. a petition of bankruptcy or suspension of payment is filed against the Other Party, or, if the Other Party is a natural person, a petition for debt restructuring is submitted;
 - c. the Other Party's company is dissolved, wound up or shut down;
 - d. when (a significant part of) the Other Party's capital is seized under a warrant of execution;
 - e. Nikinc Dental B.V. has valid reason to fear that the Other Party will not be able to meet its obligations under the Agreement effected with Nikinc Dental B.V..

13. Liability and guarantee

- 13.1. Nikinc Dental B.V. will not be liable for any damage suffered by the Other Party or any third parties, unless the damage is the direct result of intent or deliberate recklessness on the part of Nikinc Dental B.V..
- 13.2. Without prejudice to the provisions of the previous paragraph, Nikinc Dental B.V. 's liability towards the Other Party will at all times be limited to the amount paid out by Nikinc Dental B.V. 's liability insurance policies. In the event that, for whatever reason, the insurer does not pay out, Nikinc Dental B.V. 's liability will be limited to a maximum of 15% of the invoice amount that corresponds with the part of the Agreement from which the liability arises, with a maximum of [€ 25.000,00.

- 13.3. Nikinc Dental B.V. will never be liable for any indirect damage such as - but not limited to - trading loss, consequential damage, damage to property in the care, custody or control of, but not owned by [...], loss due to delays, and lost profits or lost sales, unless in the event of intent or gross negligence on the part of Nikinc Dental B.V..
- 13.4. The Other Party will indemnify Nikinc Dental B.V. against all third party claims that are directly or indirectly related to (the use of) the Items of Property and/or Services and will compensate [...] for any damage suffered by Nikinc Dental B.V. as a result of such claims.
- 13.5. Without prejudice to the provisions of the previous paragraphs, Nikinc Dental B.V. retains the right, if and where possible, to remedy or limit the damage suffered by the Other Party by repairing or replacing the Services and/or Items of Property provided within a reasonable period of time.
- 13.6. Nikinc Dental B.V. shall not issue any guarantee on the Items of Property and Services beyond the guarantee agreed on In writing with the Other Party. In case of errors in the design, faulty material and manufacturing faults, the Other Party will be entitled to repairs only, unless Nikinc Dental B.V. decides to replace the Items of Property.
- 13.7. Nikinc Dental B.V. can never be liable for compensation of (damage) if:
- (a) the defects in the Items of Property result from incompetent and/or incorrect use or other actions, always including adjustments, modifications, assembly, repairs, and transport of the Items of Property. Incorrect use will be understood to include: not following Nikinc Dental B.V. 's maintenance instructions for the Items of Property, or the Items in which the Items of Property were incorporated. In the event that the Other Party claims compensation under the guarantee or because of nonconformance, it must prove that it maintained the Items of Property in accordance with Nikinc Dental B.V. 's instructions;
 - (b) the cause of the defect in the Items of Property cannot be established;
 - (c) not all instructions provided for the use of the Items of Property and other specifically applicable guarantee provisions have been promptly and fully complied with;
 - (d) these defects fully or partially result from government regulations with respect to the quality or the nature of the materials used or related to the manufacturing;
 - (e) Other Party, at its own initiative, made alterations and/or repairs to the delivered Items of Property within the guarantee period, or had these done by third parties;
 - (f) Other Party has not fully and timely fulfilled all its obligations towards Nikinc Dental B.V. (both financial obligations and any other obligations).

14. Force majeure

- 14.1. Force majeure is understood to mean every circumstance beyond Nikinc Dental B.V. 's control that fully or partially decreases or prevents the performance of its obligations towards the Other Party or due to which Nikinc Dental B.V. cannot reasonably be expected to fulfill its obligations, irrespective of whether said circumstance could be foreseen at the time of the formation of the Agreement.
- 14.2. Force majeure within the meaning of article 14.1 will include, among other things – but is not limited to – problems at and/or severe interruptions of the production process of its suppliers (including public utility companies), operational failures, failure in the supply of necessary materials by third parties, strikes, calamities at Nikinc Dental B.V., excessive absenteeism of Nikinc Dental B.V. 's staff, fire, special weather conditions (including floods), measures taken by government agencies at a national or international level (including but not limited to import and export bans and import and export barriers), threats of war, mobilization, disturbances, riots, state of siege, sabotage, traffic congestions, machinery breakdown, transport delays, pandemics and epidemics.
- 14.3. Nikinc Dental B.V. will inform the Other Party of any (threat of) force majeure without delay. In that event, Nikinc Dental B.V. will be entitled to suspend the Agreement for the duration of the force majeure situation by means of a Written notification without any obligation to pay damages.
- 14.4. In the event that the force majeure situation exceeds thirty (30) days, or if it can be determined that the situation will exceed thirty (30) days, Nikinc Dental B.V. will be entitled to terminate the Agreement without the Other Party being able to assert any right to compensation (of damages).

15. Production tools

In the event that Nikinc Dental B.V. forms a new item from items such as (but not limited to) dies, molds, stamps, prototypes, special tools and drawings (the 'production tools') that are owned by third parties, it will form these items for itself and will become the owner of the new item.

16. Confidentiality

- 16.1. The Other Party and its (hired in) personnel, as well as any third parties it has engaged and their (hired in) personnel, have a duty to maintain confidentiality with respect to all information the Other Party knows or may reasonably know to be confidential and to only use this information in the performance of the Agreement.
- 16.2. Confidential information always includes (but is not limited to): personal data, information that can be traced back to clients of Nikinc Dental B.V., procedures, pricing, advice, offers, communication on the (performance of the) Agreement and company data of Nikinc Dental B.V. and any

(intellectual) rights and items including designs, concepts, advice, simulations, models etcetera which serve as a basis for the Items of Property provided by Nikinc Dental B.V..

- 16.3. A breach of the provisions in this article will result in the Other Party being liable to pay an immediately payable penalty of EUR 25,000,- to Nikinc Dental B.V. for each breach, without prejudice to Nikinc Dental B.V.'s right to claim full compensation.

17. Intellectual property rights

- 17.1. All intellectual property rights in relation to the Items of Property and/or the outcomes of the Services including (but not limited to) copy, models, drawings, designs, documentation, photographic recordings, films, information carriers, equipment and software (in object and source code), data and data files, molds and dies, will exclusively be held by Nikinc Dental B.V.. Should Nikinc Dental B.V. develop any Item(s) of Property at the instruction of the Other Party, the intellectual property rights relating to that development accrue to Nikinc Dental B.V.. The Other Party acknowledges these rights and guarantees that they will refrain from any infringement on these rights.
- 17.2. For the duration of the Agreement only, the Other Party will acquire a non-exclusive and (both in a contractual and proprietary sense) non-transferable, revocable user right for the aforementioned intellectual property right, solely for the purpose of the Agreement and under the condition of the Other Party's complete fulfillment of its obligations under the Agreement and under these Conditions. The Other Party cannot and may not (sub) license this user right (to third parties) unless otherwise agreed In writing.
- 17.3. The Items of Property delivered by Nikinc Dental B.V. may not be reproduced, made public or made known to any third parties without Nikinc Dental B.V.'s prior permission, other than in its intended use under the Agreement.
- 17.4. Nikinc Dental B.V. will be entitled to provide the Items of Property with names, (figurative) marks, codes and/or other statements in order to trace the origin of the Items of Property.
- 17.5. Nikinc Dental B.V. indemnifies the Other Party against any claims in relation to the Items of Property delivered and/or provided by Nikinc Dental B.V. relating to claims based on the infringement(s) of intellectual property rights valid in the Netherlands, provided that the Other Party (a) will immediately inform Nikinc Dental B.V. of the existence and the contents of the legal claim; and (b) will leave the handling of the case, including any settlement negotiations, entirely up to Nikinc Dental B.V.. The Other Party will provide full cooperation with the necessary formalities, and, to the extent this is necessary, allow Nikinc Dental B.V. to raise a defense against these legal claims on its behalf. This obligation to indemnify will lapse if the infringement is related to any adjustments made to the Items of Property by the Other Party, or by any third parties, as well as in the event of an infringement of these Conditions by the Other Party.
- 17.6. If it is irrevocably established in court that Nikinc Dental B.V.'s Items of Property infringe on any intellectual property right owned by a third party, or if Nikinc Dental B.V. feels there is a reasonable chance that infringement will occur, Nikinc Dental B.V. will, if possible, ensure that the Other Party can continue to use the Items of Property delivered or provided, for instance by adjusting the infringing parts or by acquiring a user right for the benefit of the Other Party. If it is Nikinc Dental B.V.'s opinion that the Other Party's undisrupted use of the item delivered cannot be guaranteed or can only be guaranteed under financially unreasonable circumstances, Nikinc Dental B.V. will take back the item delivered and credit the Other Party for the acquisition costs after deducting reasonable a usage fee. Nikinc Dental B.V. will consult with the Other Party before deciding on a course of action. Any other or farther-reaching liability or obligation to indemnify on the part of Nikinc Dental B.V. as a result of a breach of any third party intellectual property rights is excluded.

18. Applicable law and competent court

- 18.1. Dutch law will govern all Agreements concluded by Nikinc Dental B.V. with the exclusion of the Vienna Sales Convention.
- 18.2. If judicial proceedings are decided in Nikinc Dental B.V.'s favor, all costs incurred by Nikinc Dental B.V. in connection with these proceedings will be borne by the Other Party.
- 18.3. All disputes between Parties will exclusively be settled by the Court of Oost-Brabant, location Eindhoven, the Netherlands.