

General Terms

General Terms of Instradent Iberia S.L., Sucursal em Portugal regarding the ordering and delivery of Instradent products via the Instradent internet portal

The internet portal on the website “<http://instradent.pt/eshop>” (“Internet Portal”) is directed at persons (“customers”) in Portugal authorised based on their professional qualification for registered customers, especially for the exercise of odontology, dental restoration and prosthetic rehabilitation. Customers can order Instradent products via the Internet Portal to Instradent Iberia S.L., Sucursal em Portugal, with registered office at Lagoas Park, Edificio 11, Piso 3, P-2720-244 Porto Salvo (Portugal), with Tax Identification Number A-80219462 and duly registered with the Commercial Registry of Madrid under Volume 8, Sheet M-39-118 (“Instradent”). The Agreement regarding the delivery of Instradent products is executed between Instradent and the customer.

1. Scope of General Terms

For the orders of customers from Instradent through the Internet Portal, the following General Terms exclusively apply in the version that is valid at the time of the order. General Terms to the contrary or differing General Terms of customers will not apply, unless Instradent explicitly approves their use in writing.

2. Registration as user

2.1. The Internet Portal has an accessible informative section for all visitors. In order to be able to order via the Internet Portal, prior registration is required. The registration enables Instradent to collect the information necessary for a fast and smooth processing of the order. The pages of the Internet Portal concerning the ordering of products are only available for registered users of the Internet Portal.

2.2 Only professionally and commercially qualified persons for the practice of odontology, dental restoration and prosthetic rehabilitation who commercially deal with the products are authorised to register.

2.3 The user name and the password cannot be transferred to third parties.

2.4 The conditions applicable to the treatment of the data provided by the customer in the registration process or later generated during the relation with Instradent are governed by the Privacy Statement.

3. Execution of the Contract, right to modify

3.1 Customer places an order with Instradent by entering the required data into the order form included in the Internet Portal by registered users and by clicking the order button, respectively by sending off the information to the Internet Portal. The order of the customer is binding. Firstly, the customer will receive an electronic confirmation of the receipt of his/her order. Instradent thereafter verifies whether the information transmitted by customer is complete and appropriate for the processing of the order. If the verification is positive, the customer will receive a confirmation in writing of his/her order, which may be done by electronic means. The Contract becomes fully binding the moment the customer receives the order confirmation. Otherwise, the customer will receive an invitation to place a new order with the missing or correct information. The information provided in the order form by the customer should be true and complete.

3.2 Offers of Instradent on the Internet Portal are subject to confirmation and made without engagement. Instradent reserves the right to change constructions and materials if the usual and contractually agreed use of products is not materially or adversely impaired and the change is reasonable.

3.3 The customer acts as a professional, thus the parties revoke the provisions of articles 27 (identification equipment and correction of errors) and 28 (previous information) of Royal Decree 7/2004 of 7 January.

4. Prices and Payment Conditions, Default of Customer, Retention Right, Set-off

4.1 Unless otherwise explicitly agreed, the prices are determined according to the price list of Instradent valid at the time of the order. The price list of Instradent is published on the Internet Portal, respectively contained on the order form pages. All prices are given in EUROS. VAT and other applicable taxes will be assumed by the customer, who should pay them together with the price and in the same form chosen for the payment of the price. Unless otherwise explicitly agreed, the prices do not include transport costs, packing costs, insurance, custom charges and duties, etc., which respectively are calculated EX WORKS.

4.2 Unless otherwise explicitly agreed, the invoices from Instradent are due immediately and have to be paid, without any deductions, within thirty (30) days from the date of the invoice, which will be sent to the address provided in the registration data of the customer, unless the customer provides in writing another address for invoicing purposes.

4.3 In case of default of the acceptance of the customer, when the product is delivered at the registered address (unless the customer provides another in writing for delivery purposes), Instradent may - if legally required - set a period of grace for the customer and thereafter, without an obligation to deposit the product, waive the acceptance and instead claim damages in the amount of the agreed purchase price. Instradent is free to claim additional damages.

4.4 Bills of exchange, cheques and similar payment methods are only accepted on account of performance and are only valid after a payment is unconditionally credited to Instradent. All related costs will be assumed by the customer.

4.5 Claims by Instradent may only be set-off by the customer against his own undisputed or legally ascertained claims deriving from the same contractual relationship.

5. Partial performance. Delivery period. Force majeure. Self-delivery. Default in delivery. Bearing of risks. Shipment. Transport insurance

5.1 Instradent is entitled to partial delivery in as far as this is reasonable for the customer.

5.2 Delivery periods, respectively delivery dates, are only binding if they have been explicitly agreed in writing upon execution of the contract. General information on the Internet Portal will be merely informative and does not constitute a representation of delivery periods or dates. Delivery periods, respectively delivery dates, are deemed to be observed if the product has left the factory or the storehouse of Instradent at the time of their expiration or if the customer has been informed of the readiness for shipment of products.

5.3 In the event of occurrence of force majeure circumstances or other circumstances beyond the reasonable control of Instradent, e.g., breakdown, strike, lockouts, war, bans on import or export, shortage of energy or raw material, governmental acts, etc., which temporarily prevent Instradent from delivering products within the agreed periods and deadlines, the periods/deadlines are extended for the duration of these circumstances and interferences. This also applies in cases of default in delivery. If these circumstances and interferences continue for more than three months, both parties may withdraw from the contract.

5.4 If a supplier of Instradent does not deliver or does not deliver in time, Instradent will not be in default vis-à-vis the customer, unless Instradent is responsible for the non-delivery, respectively the delay in delivery. Instradent is entitled to withdraw from the contract if the non-delivery or delayed delivery of its suppliers does not fall within the scope of its responsibility.

5.5 In case of default in delivery by Instradent, the customer is entitled to request delivery or, after the expiration of a reasonable grace period, withdraw from the contract. Customer may only ask for damages caused by the delay, respectively damages for non-performance, if the default in delivery is caused by wilful misconduct or gross-negligence of Instradent. In cases of slight negligence of Instradent all liability is excluded.

5.6 Unless otherwise agreed, the delivery of products is made at customer's risk and expense. The risk is transferred to customer as soon as products have left the factory or the storehouse of Instradent or the factory or storehouse of the producer mandated by Instradent, respectively as soon as products have been handed over by Instradent or the producer to the forwarding agent, carrier or any other person entrusted with the shipment of products. If the shipment is delayed for reasons beyond Instradent's control or if the customer does not accept the products in time, despite the products being offered to him, the risk is transferred to customer with the receipt by him/her of a notification of readiness to make delivery.

5.7 Instradent determines the mode and type of shipment as well as the consigner at its own discretion, unless no other agreement has been reached. Upon the customer's request, Instradent will contract a transport insurance policy at the customer's cost. Transport damages have to be immediately notified to Instradent and the forwarding agent in writing, at the latest, within five days as from delivery.

6. Notification of Defects, Liability for Defects

If the cause of the defect already existed at the time of the transfer of risk according to section 5.6, Instradent will be liable for defects only according to the following provisions:

6.1 In accordance with the applicable legislation, the client has a right of voluntary dismissal of seven (7) working days after the reception of the order, without incurring in any penalty or cost, including that corresponding for the return of the product.

6.2. Regardless of what is established in 6.1, customer has to examine the products immediately upon receipt for quantitative and qualitative conformity with the order or for other defects. The examination has to be carried out before the further processing of products. Obvious defects have to be immediately notified to Instradent in writing, at the latest, within seven days as from delivery of products. Hidden defects have also to be immediately notified to Instradent in writing, at the latest, within seven days as from their discovery. If no notification is received within these time limits, the delivery is deemed to be faultless and accepted.

6.3 If the customer notifies a defect in time, Instradent has the right to either correct or eliminate the defect or to subsequently deliver a product free of defects (supplementary performance). Instradent may refuse certain types of supplementary performance or completely refuse any supplementary performance, if it involves unreasonable costs.

6.4 If the supplementary performance fails, the customer may, at his/her discretion, either withdraw from the contract or ask for a reduction of the price. The customer has no claim for damages. The supplementary performance is deemed to be failed after three unsuccessful attempts of supplementary performance.

6.5 A Product is not considered defective if Instradent has acted (frameworks etc.) in accordance with the information transmitted by the customer. Similarly, immaterial discrepancies are not regarded as a defect.

6.6 Customers cannot claim any expenses or costs in connection with the supplementary performance (e.g., transport, work, raw material costs, etc.). Expenses and costs of customer in connection with the collection of product, the processing of product, etc., are not borne by Instradent; in particular, these costs are not borne by Instradent, if the measures triggering the costs are taken by customer without the prior consent of Instradent.

6.7 The customer is not entitled to any claims for a defect if and in as far as a defect results from improperly made changes to or from inappropriate processing of the delivered product by the customer or third parties mandated or instigated by him/her.

6.8 Claims for defects fall under the statute of limitation within twelve months as from delivery of the product, unless the defect has been fraudulently concealed or concerns a durability guarantee.

6.9 Customer may only claim damages for defects in as far as the liability of Instradent is not excluded or limited according to the following or other provisions. Further claims or other claims regarding a defect of quality other than those set out in this chapter are excluded.

7. General Liability

7.1 Instradent shall only be liable for wilful misconduct and gross negligence.

7.2 In case of initial impossibility of delivery, Instradent shall only be liable if the impediment of performance was known to Instradent or if the lack of knowledge is due to Instradent's gross negligence.

7.3 The above exclusions of liability do not apply in case of fraudulent concealment of defects and in as far as the exclusion is legally possible.

7.4 Any exclusion or limitation of liability of Instradent in these General Terms also apply to the personal liability of the employees, staff, representatives, assignees and vicarious agents of Instradent.

8. Retention of Title

All products delivered by Instradent remain the property of Instradent until the complete payment of the purchase price plus any interest and costs by customer. If customer defaults with a payment, Instradent is entitled – after reminding the customer – to register the retention of title at the expense of the customer in the corresponding retention of title register and/or to demand the return of the delivered products and to claim all its rights granted for non-performance under this contract.

9. Governing Law. Place of delivery. Jurisdiction. Partial Nullity

9.1 PORTUGUESE LAW SHALL EXCLUSIVELY APPLY. THE APPLICATION OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED.

9.2 The exclusive place of delivery for all delivery and payment obligations deriving from the contracts executed with Instradent shall be the registered office of Instradent.

9.3 EXCLUSIVE PLACE OF JURISDICTION FOR ALL DISPUTES ARISING OUT OF ANY CONTRACTS WITH INSTRADENT SHALL BE THE REGISTERED OFFICE OF INSTRADENT, S.A. HOWEVER, INSTRADENT IS ENTITLED TO BRING ANY ACTION AGAINST THE CUSTOMER BEFORE ANY OTHER STATUTORY PLACE OF JURISDICTION.

9.4 If any or several of the above provisions of these General Terms are or become entirely or partially void, the remaining provisions will continue to be effective. The invalid provision shall be replaced by the valid provision closest to the intended economic purpose of the invalid provisions. The same applies to an omission contained in the contract.

November 2014

Contact in Portugal

Iberia S.L., Sucursal em Portugal,
Lagoas Park, Edificio 11, Piso 3,
2720-244 Porto Salvo (Portugal)

Contact in Spain

Intradent Iberia S.L. ,
Avda. Bruselas nº38, planta 1
Edificio Arroyo,
28108 Alcobendas
Madrid, (España).

Plan and implementation

Intradent AG
Peter Merian-Weg 12
4052 Basel (Switzerland)