

W9 Pty Ltd
ABN 828 001 747 271

Our Terms and Conditions

We welcome your interest in W9 Pty Ltd and to the use of our website. Please note that our trading terms are shown below and as set out in our website www.w9.com.au.

Our Trading Terms

1. Sole Terms

These terms apply to all sales of products by us to you and will prevail over all conditions, purchase orders, invoices or any other documents of the transactions, to the extent of any inconsistency unless varied in writing and signed by us. Products means all goods supplied by us to you as recorded in invoices, orders or other documents issued by us and include but are not limited to our dental products including but not limited to W9 products.

2. Payment

2.1 You will pay the full price of each order to us on or before the last working day of the calendar month following the month of supply. If payment is not made on or before the due date we may without notice enter any premises where the products may be stored, retake possession of the products and may sell the products on such terms and in such manner as we may determine and will be entitled to deduct all expenses incurred. For the purpose of recovering possession you hereby irrevocably authorise and licence us and our servants and agents to at any time and without notice and to retake possession of the products which have not been paid for in full.

2.2 All applicable taxes, duties or levies (including GST) on the sale of the products will be to your account.

2.3 If payment is not made on or before the last working day of the month following supply, we reserve the right to charge interest at the rate of 1.5% each month on overdue balances on your account and to recover all legal costs and other costs and expenses arising from the collection of any overdue accounts.

3. Pricing

All prices and price lists may change without notice due to changes in market conditions.

4. Delivery

4.1 While we endeavour to keep delivery dates, any delay of delivery, for any reason whatsoever, will not entitle you to claim for any consequential loss or damage or to cancel, rescind or terminate the agreement.

- 4.2 Should circumstances beyond our control prevent or hinder delivery, we will be free from any obligation to deliver products while such circumstances continue. For as long as such circumstances exist, we may, at our option, cancel, rescind or terminate all or any part of the contract or keep the contract on foot until such circumstances have ceased. Such circumstances beyond our control include, but are not limited to strikes, lockouts, rebellions, fire, acts of God, shortages of raw materials, government decrees, proclamations or orders, transport difficulties, and failures or malfunctions of computers or other information technology systems.
- 4.3 We will deliver the products to your preferred forwarder. If no forwarder is nominated by you, we will deliver the products to our forwarder. In both cases, liability for the costs of the freight and insurance will be to your account.
- 4.4 You must notify us within 24 hours of delivery of any shortfall in, or loss or damage to, the products delivered. If you fail to so notify us then, to the extent permitted by law, you shall not be entitled to any remedy in respect to the shortage, loss or damage.

5. Risk

- 5.1 Risk in each order will pass to you upon delivery of that order to you or upon collection of that order by your agent or courier as the case may be.
- 5.2 Where, in accordance with these terms, we accept return of any products, risk in those products will revert to us upon delivery of the products to us or upon collection of the products by our agent or courier as the case may be.

6. Retention of Title

- 6.1 Notwithstanding delivery of the products to you, until we have received full payment for the products and any other products previously supplied by us, legal title to the products will remain with us and you must store the products in such manner as to clearly show that they are our property.
- 6.2 Subject to the clause 7 below, until such time as the products have been paid for in full, you are at liberty to use or sell the products in the ordinary course of your business.
- 6.3 Notwithstanding the provisions above, we will be entitled to maintain an action against you for the purchase price.

7. Personal Property Securities Act 2009 as amended (“PPSA”)

- 7.1 The terms “Debtor”, “Collateral”, “Financing Change Statement”, “Financing Statement”, “Grantor”, “personal money security interest”, “Proceeds”, “Secured Party”, “Security Agreement” and “Security Interest” have the meaning given in the PPSA.

- 7.2 You acknowledge and agree that by accepting these terms and conditions, the contract between us forms a Security Agreement that covers the Collateral for the purposes of the PPSA, so that:
- (a) we hold (as Secured Party) a Security Interest over all of the present and after acquired products supplied by us to you and any Proceeds of sale of those products;
 - (b) any purchase by you on credit terms from us or retention of title supply will constitute a purchase money security interest (“**PMSI**”);
 - (c) the PMSI granted herein will continue to apply to any products coming into existence or proceeds of sale of products coming into existence and supplied by us to you;
 - (d) we shall continue to hold a Security Interest in the products in accordance with and subject to the PPSA, notwithstanding that the products may be processed, co-mingled or become an accession with other products;
 - (e) any Security Interest held by us will be a continuing and subsisting interest in the Collateral with priority to the extent permitted by law over all registered or unregistered Security Interest;
 - (f) until title in the products pass to you, you will keep all products supplied by us and ensure all such products are kept free of any charge, lien or other security interest and not otherwise deal with the products in a way that will or may prejudice any rights we may have under these terms and conditions or the PPSA; and
 - (f) in addition to any other rights under these terms and conditions or otherwise arising, we may exercise any and all remedies afforded to us as a Secured Party under Chapter 4 of the PPSA including, without limitation, entry into any building or premises owned, occupied or used by you to search for and seize dispose of or retain those products in respect of which you have granted a Security Interest to us.
- 7.3 In order to secure our interests under these terms and conditions, you undertake to:
- (a) sign any further documents and provide such information which we may reasonably require to register, amend or update the Financing Statement or Financing Change Statement in relation to a Security Interest on the Personal Property Securities Register established under the PPSA (“**PPS Register**”);
 - (b) indemnify and, on demand, reimburse us for all expenses incurred in registering a Financing Statement or a Financing Change Statement on the PPS Register or releasing any Secured Interest;
 - (c) not register or permit to be registered a Financing Change Statement in the Collateral without our prior written consent;
 - (d) give us 7 days prior written warning of any change in your name, address or contact details to enable us to register a Financing Change Statement if required.
- 7.4 We agree that sections 96, 125, 132(3)(D), 132(4) and 135 of the PPSA do not apply to these terms and conditions.

- 7.5 You hereby waive your right to receive notices under sections 95, 118, 121(4), 130, 132(3)(D), 132(4) and 135 and your rights as Grantor under sections 142 and 143 and your right to receive a verification statement under section 157 of the PPSA.
- 7.6 You shall unconditionally ratify any actions taken by us under this clause 7.
- 7.7 This clause 7 will survive termination of any contractual relationship between us arising under these terms and conditions, to the extent permitted by law.

8. Acceptance of Products

- 8.1 You will inspect the products immediately upon delivery to you or upon collection of that order by your agent or courier, as the case may be.
- 8.2 Subject to the obligation under clause 4.4, all claims against us regarding the products must be made in writing to us within 7 days of delivery. We do not accept liability for any such claim not made in accordance with these terms.
- 8.3 In the event of a justified claim notified by you to us in accordance with these terms, we may, at our option, to the extent permitted by law:
- (a) reduce the purchase price by agreement with you;
 - (b) accept the return of the products and, subject to the products being returned in the same condition as when they were delivered to you, refund to you the purchase price; or
 - (c) replace the products,
- and no additional claims of any nature whatsoever may be made against us.
- 8.4 No return of the products will be accepted unless you obtained from us a service call reference number. Products returned with such a number will attract a handling fee of 15% of the invoiced value of the products. Products returned without such a number will attract a handling fee of 25% of the invoiced value of the products. No handling fee will apply if products are returned following receipt by us of notification by you of a justified claim together with a service call reference number. You are responsible for payment of freight and insurance. Returns will be accepted only if the products are returned in the same condition as when they were delivered to you.

9. Advice and Information

Any advice, recommendation, information, assistance or service given by us in relation to products sold or manufactured by us or their use or application whether given on this web site or otherwise is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given, but, subject to any warranty that is implied by law, is provided without any warranty or accuracy, appropriateness or reliability and we do not accept any liability or responsibility for any loss suffered from your reliance on such advice, recommendation, information, assistance or service.

10. Limitation of Liability arising from your trading with us

- 10.1 These trading terms, to the extent that they exclude or limit our liability, will apply only to the extent permitted by law.
- 10.2 Our liability will be limited, to the extent permitted by law, at our option, to,:
- (a) the replacement of the products or the supply of equivalent product;
 - (b) the repair of the products;
 - (c) the payment of the cost of replacing the products or of acquiring equivalent products; or
 - (d) the payment of the cost of having the products replaced.
- 10.3 You acknowledge, agree, represent and warrant that:
- (a) as the use of the products is outside our control, you are satisfied that the products when supplied in accordance with a purchase order and/or standard specifications for such products, will have the conditions, characteristics, quality and attributes that will make them suitable or fit for any ordinary or special purchase required for those products, even if that purpose is made known to us at any time;
 - (b) you have or will, in a timely manner, conduct all mandatory or prudent tests and apply all mandatory or prudent quality control checks and procedures to ensure the products and any product that is produced from them will be without defect and suitable or fit for any purpose required for them;
 - (c) you have not relied on any statement, representation, warranty, guarantee, condition, advice recommendation, information, assistance or service provided or given by us or anyone on our behalf in respect of the products, other than those representations expressly contained in these terms and conditions;
 - (d) you release and indemnify us and our officers, employees and agents from and against all actions claims proceedings and demands (including those brought by third parties) which may be brought against us or them whether on our own or jointly with you whether at common law, under tort (including negligence), or equity, pursuant to statute or otherwise, in respect of any loss, death, injury, illness, cost or damage arising out of any breach by you of any warranty provided by you under these terms and conditions.
- 10.4 To the extent permitted by law:
- (a) all conditions, warranties, guarantees terms and obligations, express or implied by law, or otherwise relating to these terms and conditions or our performance of the obligations under these terms and conditions, or to any products supplied by us to you, are excluded; and
 - (b) without limiting the generality of the provisions of this clause, we give no condition, warranty or guarantee whatsoever as to the suitability, performance or fitness of the products for their ordinary or any special use or purpose and the description of the products in any contract or any other document shall not import any such condition, warranty or guarantee on our part.

11. Proprietary Rights in Site

The proprietary rights in this site and the information, images and material within it including the copyright in the design and layout of this site, are owned by us. Except as expressly permitted by us, you must not copy, modify, disseminate, publish or otherwise purport to own or dispose of any such proprietary rights.

12. Links

This site may at times contain links to other web sites. Such links are not an endorsement by us of those other web sites nor do we have any control over or responsibility for those other web sites. You should read the terms of use and privacy statements on linked web sites before using the services provided by them.

13. Disclaimer

To the extent permitted by law, our company will not be responsible or liable for:

- (a) any loss or other damage including but not limited to incidental, indirect, consequential, special or other damage suffered or incurred by you or any other person using this site; or
- (b) the acts or omissions of other customers or other users of this site including the breach of these terms and conditions;

and you waive all claims and rights which you may otherwise have had arising out of such matters.

14. Privacy Policy

Please see our [Privacy Policy](#) for the manner in which we gather, use and update personal information concerning our customers.

15. Term

If you breach any of the terms and conditions contained in this web site then we may at any time and without prior notice suspend or terminate any agreement that we have with you.

16. Variation

We may vary these terms and conditions by posting on this site notice of the variation and such variation will take effect on the date 7 days (or such other period specified by us in the notice) after such notice is posted on this site. You are responsible for reading and keeping yourself up to date in relation to any changes to these terms and conditions posted on this site.

17. Communication with you

We may at times need to communicate with you. In such case we will communicate with you generally either through the email address or telephone number you have provided to us. You will advise us of any changes in that email address or telephone number.

18. Communication with us

If you have any comments regarding our products or services we can be contacted at sales@w9.com.au. The address is

Unit 1
27-29 Salisbury Road
Hornsby
NSW 2077

19. Governing Law

These terms and conditions shall be governed by, and construed in accordance with, the laws of the State of New South Wales. The courts of the State of New South Wales and of the Commonwealth of Australia shall have the exclusive jurisdiction to determine any proceedings which may arise and we and you irrevocably submit to the jurisdiction of such courts.