



Terms and Conditions of Sale

1. Applicability. These terms and conditions of sale (these “**Terms**”) are the only terms which govern the sale of the dental implants and affiliated components (collectively, the “**Product(s)**”) by Argon Dental USA, LLC (“**Argon**”) to the buyer (“**Buyer**”) identified on the accompanying quotation or invoice (the “**Sales Confirmation**”). The Sales Confirmation and these Terms (collectively, the “**Agreement**”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase, regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.
2. Delivery & Shipping Terms.
 - 2.1 Subject to Products availability and Argon’s acceptance of an order, Argon generally ships Products the same day Argon receives an order for Products so long as Argon receives payment for such Products by 3:00 p.m. central; provided, however, Argon shall not be liable for any delays, loss, or damage in transit.
 - 2.2 Unless otherwise agreed in writing by the parties, Argon shall deliver the Products to Buyer’s address listed on the Sales Confirmation using Argon’s standard methods for packaging and shipping such Products. Generally, shipping costs will be the greater of \$12.50 or the actual cost of shipment, as determined by the shipping method selected and the shipment’s weight, utilizing a nationally recognized carrier of Argon’s choice (the “**Carrier**”).
 - 2.3 Argon may, in its sole discretion and without liability or penalty, make partial shipments of Products to Buyer.
3. Title and Risk of Loss. Title and risk of loss passes to Buyer upon Argon’s delivery of the Products to the Carrier.
4. Amendment and Modification. These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.
5. Third Party Products. Buyer acknowledges and agrees that products manufactured by a third party including, but not limited to, biologic products (collectively, the “Third Party Product(s)”) may constitute, contain, be contained in, incorporated into, attached to, or packaged together with, the Products.
6. Return Policy. With respect to Products and certain Third Party Products, Argon will accept a return for refund, credit, or exchange, only under the following terms and conditions (the “**Return Policy**”):
 - 6.1 Except for biologic products (“**Bone Products**”), Buyer will receive a full refund, credit, or exchange, in Argon’s discretion, for Products and Third Party Products returned to Argon within 30 days of the original “**Invoice**” date for such Products or Third Party Products. Bone Products returned within 30 days of the original Invoice date shall be subject to a restocking fee.
 - 6.2 Products returned within 31-180 days from the Invoice date are subject to a 15% restocking fee. Third Party Products, including Bone Products, returned over 30 days from the Invoice date will not be refunded, credited, or exchanged.
 - 6.3 Products returned over 180 days from the Invoice date will not be refunded, credited, or exchanged.
 - 6.4 With respect to Dental Implants (“**Dental Implants**”), Dental Implants will be eligible for exchange only in the event the Dental Implants have at minimum eighteen (18) months of remaining shelf life.
 - 6.5 The following terms and conditions apply to both Products and Third Party Products:
 - (a) In order to receive a refund, credit, or exchange, Products and Third Party Products must be in its intact original packaging (must be unopened, undamaged, unmarked, or otherwise altered, and in resalable condition).

- (b) Expired, discontinued, used, or Products or Third Party Products with missing parts will not be acceptable for returns.
- (c) Shipping fees are the responsibility of Buyer.
- (d) Products or Third Party Products purchased as part of a package may not be returned for credit and may be returned for exchange only.
- (e) Products or Third Party Products purchased in a kit or set cannot be returned and/or exchanged as individual components.
- (f) All returns are based on the pricing and terms of the Invoice.
- (g) Order or shipment discrepancies must be reported to Customer Service at 715-898-1434 or argon@argondentalusa.com or your Sales Representative within ten (10) business days of delivery or any such claims or discrepancies are waived.
- (h) Argon reserves the right, in its sole discretion, to (i) modify or terminate this Return Policy at any time in whole or in part, and (ii) terminate the eligibility of any Buyer from this Return Policy in the event of suspected abuse or fraud.

6.6 Buyer acknowledges and agrees that the remedies set forth in the Return Policy are Buyer's exclusive remedies for returns. Except as set forth in this Return Policy, Buyer has no right to return Products purchased from Argon except for certain Clinician Buyers and related to a Limited Warranty claim (as outlined below).

7. Price.

- 7.1 Buyer shall purchase the Products from Argon at the prices (the "**Prices**") set forth on the Sales Confirmation. Buyer acknowledges and agrees that any modification to package pricing may result in increased costs to Buyer for single-line items.
- 7.2 All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Argon's income, revenues, gross receipts, personnel, or real or personal property or other assets. Prices are subject to change at any time without prior written notice.

8. Payment Terms.

- 8.1 Unless otherwise agreed upon by Argon, Buyer shall pay all invoiced amounts due to Argon prior to shipment.
- 8.2 Buyer shall pay interest on all late payments at the rate of 1.5% per month or the highest rate permissible under applicable law. Buyer shall reimburse Argon for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees.

9. Limited Warranty for Products.

- 9.1 Limited Warranty. Argon provides solely to a Buyer that is also a treating clinician provider ("Clinician Buyer") a limited warranty on the Products ("**Limited Warranty**" or the "**Limited Warranty Program**"). The Limited Warranty is exclusively for the benefit of a Clinician Buyer and is not for the benefit of any other Buyer, including patients, laboratories, and other intermediate supplier. As such, there is no right, title, or interest in this Limited Warranty other than those expressly stated for a Clinician Buyer. For purposes of this Limited Warranty, the Clinician Buyer shall mean the individual that actually installed and purchased the Product. Products will be replaced if removal of said Product is due to the failure or defect of the Product itself, and if covered under the Limited Warranty set forth in this Section. The Limited Warranty shall only cover the costs of replacing the Product. Argon shall not cover any of the expenses included in the removal or installation of the Product. The total amount paid by or given in exchange for the Limited Warranty shall be limited and will not exceed the total amount the Clinician Buyer paid for the Product subject to the Limited Warranty claim. This Limited Warranty has no cash value and is not transferable to any third party.

- 9.2 Eligibility and Claim Procedure. To receive benefits under this Limited Warranty, the Clinician Buyer must comply with all of the following:
- (a) a Limited Warranty claim must be reported to Argon within thirty (30) days from the date on which the claimed defect was discovered. Reporting shall fully comply with the procedure set out herein. Clinician Buyer shall contact Argon Customer Service at 715-898-1434 or argon@argondentalusa.com or its Sales Representative to request a complaint record form and receive instructions for Product return; and
 - (b) the completed complaint record form, documenting the cause of the claimed failure, must be returned to Argon, accompanied by the Product in question, within the time stated above. Any Product must be decontaminated prior to return to Argon. Clinician Buyers must mail the completed complaint record form and Product via certified mail return receipt requested to the attn of: Argon Dental USA. Failure to follow shipping instructions shall void the Limited Warranty; and
 - (c) Clinician Buyers submitting a complaint record form for surgical benefits must provide documentation of the case and demonstration that Products were indicated and that no contra-indicated conditions existed for that particular patient; and
 - (d) Clinician Buyers making a claim under this Limited Warranty must be current in all amounts owed to Argon at the time when the complaint record form is submitted; and
 - (e) all procedures using the Products – before, during and after implantation – must be performed in accordance with Argon protocols, guide lines and instructions, as well as generally accepted dental practices.
- 9.3 Shipping. Transport costs and transport risk of the alleged defective Product shall be borne by the Clinician Buyer. In cases covered by this Limited Warranty, the cost of return shipment shall be borne by Argon.
- 9.4 Regulatory Requirements. Independent from Limited Warranty claims, complaints should be reported as soon as possible to comply with regulatory requirements.
- 9.5 Warranty Exclusions.
- (a) Argon shall not provide benefits under this Limited Warranty if:
 - (1) the Product failure is caused by a trauma, an accident, or by any other damage caused by the patient or a third party; or
 - (2) the Product failure is caused by a clinical component placed in patients with accepted contra-indicated conditions to successful implant integration, including but not limited to diseases related to alcoholism, uncontrolled diabetes, and habitual drug dependency; or
 - (3) the Product failure is due to normal wear and tear; or
 - (4) the Product subject to the Limited Warranty claim is a single use instrument; or
 - (5) The Product subject to the Limited Warranty claim has been used in direct or indirect combination with a clinical component or instrument originating from another manufacturer than Argon's surgical instruments. Products consisting of surgical instruments should be replaced when they become worn, dull, corroded or in any way compromised. Surgical drills should be replaced after 20 to 25 osteotomies.¹
- 9.6 Modification or Termination of the Limited Warranty. Argon reserves the right to modify or terminate its Limited Warranty Program in whole or in part at any time without notice. Such modification or the termination of the Limited Warranty Program will not affect Products installed in patient, and fully paid by the Clinician Buyer to Argon, prior to the date of the modification or termination.
- 9.7 Disclaimer. **EXCEPT FOR THE LIMITED WARRANTY SET FORTH HEREIN, ARGON MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

¹Heat production by 3 implant drill systems after repeated drilling and sterilization. Chacon GE, Bower DL, Larsen PE, McGlumphy EA, Beck FM. *J Oral Maxillofac Surg.* 2006 Feb;64(2):265-9.

- 9.8 Third Party Products. Third Party Products are not covered by the Limited Warranty. For the avoidance of doubt, **ARGON MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.** Third Party Products shall be subject to any Third Party Product warranty, if any, provided and offered directly by the manufacturer of such Third Party Product.
- 9.9 Exclusive Remedy. **THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL BE THE CLINICIAN BUYER'S SOLE AND EXCLUSIVE REMEDY AND ARGON'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY.** For the avoidance of doubt, this Limited Warranty Program, and the benefits and remedies set out herein, shall exclude any other rights, benefits and/or remedies, such as laboratory and clinical treatment related fees.
10. Limitation of Liability. **IN NO EVENT SHALL ARGON BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, OR LOSS OF DATA, OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT ARGON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**
11. Assumption of Risk. Buyer assumes all risks and liability resulting from the use of the Products, whether used separately or in combination with Third Party Products. We strongly recommend completion of formal post-graduate implant education and strict adherence to the procedures described in any Argon instruction manuals and/or instructions for use.
12. Product Availability. Argon continually strives to improve its Products and therefore reserves the right to improve, modify, or discontinue Products at any time, or to change specifications without notice or incurring obligations.
13. Caution. Federal (USA) law restricts certain Products to sale by or on the order of a licensed dentist, dental professional, lab, or physician.
14. Compliance with Law. Buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.
15. Termination. In addition to any remedies that may be provided under these Terms, Argon may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.
16. Waiver. No waiver by Argon of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Argon. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
17. Confidential Information. All non-public, confidential or proprietary information of Argon, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Argon to Buyer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Argon in writing. Argon shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

18. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Argon hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("**Impacted Party**") reasonable control, including, without limitation, the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages, or slowdowns, or other industrial disturbances; (h) shortage of adequate power or transportation facilities; and (i) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within five (5) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.
19. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Argon. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.
20. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
21. No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.
22. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Wisconsin without giving effect to any choice or conflict of law provision or rule (whether of the State of Wisconsin or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Wisconsin.
23. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America located in Wisconsin or the courts of the State of Wisconsin, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
24. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
25. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.