

Terms and Conditions of Sale

The terms of this sale between you (“customer”) and G&H Orthodontics (“G&H”) are governed by the Terms contained herein, unless there is a separate Agreement between the parties, in which the terms of the Agreement shall control. No verbal representations or promises nor anything contained in any PO or any other document shall amend, alter, or modify the Agreement unless it is specified in a written amendment signed by both parties. In the event that the Agreement is silent, then the Terms herein shall control. In the event that no Agreement is in place, or such Agreement is found to be defective or otherwise unenforceable, the following terms apply to this sale (“Sale Order Acknowledgement”):

CAREFULLY READ THE FOLLOWING TERMS OF SALE BETWEEN CUSTOMER AND G&H. CUSTOMER IS AGREEING TO BE BOUND BY AND ACCEPT THESE TERMS AND CONDITIONS OF SALE. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, CUSTOMER SHALL PROMPTLY NOTIFY G&H OF YOUR DESIRE TO CANCEL THIS ORDER OR PROMPTLY RETURN THE PRODUCTS. IF CUSTOMER DOES NOT OBJECT IN A SIGNED WRITING TO G&H ORDER MANAGEMENT WITHIN THREE (3) BUSINESS DAYS OF RECEIPT OF THIS SALES ORDER ACKNOWLEDGMENT, OR IF CUSTOMER ACCEPTS THE TERMS HEREIN EITHER BY EMAIL OR OTHERWISE, CUSTOMER WILL BE DEEMED TO HAVE ACCEPTED THE TERMS HEREIN.

G&H SHALL NOT BE BOUND BY ANY ADDITIONAL, INCONSISTENT, AND/OR CONFLICTING PROVISIONS IN ANY ORDER, RELEASE, ACCEPTANCE OR OTHER CORRESPONDENCE UNLESS EXPRESSLY AGREED TO IN A WRITING SIGNED BY A G&H’S OFFICER, AND IN NO EVENT SHALL G&H BE DEEMED TO HAVE ACCEPTED ANY TERMS IN YOUR PURPORTED OFFER OR OFFER DOCUMENTS.

1. **Prices.** The price of the products and services shall be that set forth in G&H’s price list in effect at the time G&H accepts your order, less any applicable discount. Prices do not include freight, insurance, sales tax, credit card fees or other similar charges. Any such charges will be added to the price or separately invoiced to customer.
2. **Payment; Taxes.** Unless specifically stated on the invoice or if prepayment is required due to payment status or credit limit, customer shall pay all invoices issued under this sale within (30) days from date of invoice. Shipments, deliveries and performance of services will be at all times be subject to the approval of G&H’s Credit Department and G&H may at any time decline to make any shipments or deliveries or perform any services, except upon receipt of payment or upon terms and conditions or security satisfactory to G&H. Customer will pay or reimburse G&H for all sales, use, valued-added and other taxes (except taxes on G&H’s net invoice) and all customs duties and tariffs now or hereafter claimed or imposed by any governmental authority upon the sale of the products or performance of the services.
3. **Complete Orders.** The terms of the Agreement and, secondarily, this Sale Order Acknowledgement, shall contain the complete terms and conditions of this sale. Any terms and conditions negotiated with any G&H agent, representative, or employee not listed on this Sales Order Acknowledgment will not be honored by G&H. Changes and provisions added to or taken from an accepted order could result in extra charges or fees to the Customer. Custom orders cannot be changed or cancelled. Orders submitted by the Customer will be treated as bids and converted to an actual order subject to fulfillment if and when the Sales Order Acknowledgement has been accepted, by G&H in its discretion, which will be subject to Customer’s financial compliance with agreed upon payment terms and related credit limits.
4. **Return Rights and Procedures.** All sales are final, and the product and services are not returnable, unless expressly permitted under the G&H’s Warranty policy included herein. Customer must obtain a return material authorization number from G&H’s repair facility prior to returning a defective product. Products not accompanied by a return material authorization form will be returned to you freight-collect. Replacement products will be covered under warranty for the remaining warranty period of the original product.
5. **Shipment of Products.** G&H will use commercially reasonable efforts to meet the shipment date specified in the POs accepted by G&H (in partial or full shipments); provided, that, shipment may be delayed without liability of G&H for reasons beyond G&H’s reasonable control. Shipping and delivery dates are approximate and are given by G&H in good faith, but are not guaranteed. Customer shall be responsible for all storage and other costs relating to customer’s failure to accept delivery pursuant hereto.
6. **Shipping/Transfer of Title/Risk of Loss.**
 - a) The shipping terms contained in any sales contract signed by G&H or PO for the product shall govern with respect to transfer of title and risk of loss of such product from G&H to customer. However, the following shipping terms shall apply only if the sales contract or PO is silent on shipping terms. For overland shipments, product will be delivered, and title and risk of loss shall transfer to customer in accordance with INCOTERMS 2010 FCA G&H’s shipping facility. For overseas shipments, product will be delivered, and title and risk of loss will pass, to customer in accordance with the INCOTERMS 2010 FCA G&H’s shipping facility.

b) Unless otherwise directed by customer, customer agrees that G&H shall select the carrier and pre-pay the freight and insurance, which shall be charged to customer plus an administrative fee. Unless specified otherwise, customer is responsible for the preparation of documents and compliance with regulatory requirements, submission of accurate commercial invoices, and clearance of the product through customs at the port of destination, along with all duties, taxes, fines and fees in connection therewith.

c) Title to product shall be deemed to pass concurrently with delivery in accordance with the applicable INCOTERMS 2010 designation. Delivery times are approximate and are dependent upon prompt receipt by G&H of all information necessary to proceed with the work without interruption. If products delivered do not correspond in quantity, type or price to those itemized in the shipping invoice or documentation, customer shall so notify G&H within ten (10) days after receipt in writing or via email to the G&H regulatory group at regulatoryrequests@ghortho.com or gh-orders@ghortho.com.

7. Customer's Commitments.

a) Inspection. Customer shall within ten (10) days of delivery inspect product shipments for any damage to packaging, shortage or non-conformance to these terms. All claims for damage to packaging, shortage or non-conformance which could reasonably be discoverable in the course of such investigation shall be waived unless customer notifies G&H in writing within ten (10) days of delivery in writing or via email to the G&H regulatory group at regulatoryrequests@ghortho.com or gh-orders@ghortho.com.

b) Indemnity. Customer will indemnify and hold G&H harmless for all claims, damages and related costs, including prompt payment of reasonable legal fees and costs, arising out of customer's noncompliance with any of its commitments, including those in section 7.(c).

c) No Reselling. Unless otherwise agreed to in writing between G&H and Customer, Customer understands and acknowledges that it is not engaged as a distributor, reseller, repackager, or relabeler of the product(s), and that any distributing, reselling, repackaging, or relabeling the product(s) by customer is strictly prohibited, unless otherwise agreed in writing by G&H.

8. Changes to Terms. From time to time, G&H reserves the right to increase prices included in the Customer contract or the G&H catalog, change transportation terms, change payment terms, and/or change the notice provision.

9. Limited Warranty. Product(s) manufactured by G&H are warranted to be free of defects in materials and manufacture for ninety (90) days from date of delivery. Any material or manufacture defect covered by this limited warranty which occurs during normal use and is reported to Seller in writing during the period of ninety (90) days from the date such products are shipped to customer. G&H's obligation hereunder, upon verification of the defect or error, shall be to provide one of the following, in G&H's sole discretion: (i) replacement at no charge to customer; or (ii) credit the purchase price to customer. If, upon the inspection of G&H product to which this warranty applies, G&H determines that a claimed defect was not due to its manufacture or materials, G&H will invoice customer for the value of product and services at customer's expense. This warranty shall not apply to any product that has been subject to misuse, misapplication, neglect (including but not limited to use of unauthorized parts or attachments), adjustment or repair and/or improper handling and storage. Identifiable items manufactured by others but installed in or affixed to G&H products, or distributed by G&H to customer, are not warranted by G&H but bear only the express warranty, if any, of the manufacturers thereof. No representative of G&H has any authority to waive, alter, vary or add to the terms hereof without prior approval in writing, to customer, signed by an officer of G&H. G&H's liability for its products, whether for breach of contract, negligence, strict liability in tort, or otherwise, shall be limited, in G&H's sole discretion, to the replacement of the products or parts thereof or a credit to the purchase price to customer. G&H will not be liable for any other injury, loss, damage or expense, whether direct or consequential, including but not limited to loss of use, income, profit or production, or increased cost of operation, or spoilage of or damage to material, arising in connection with the sale, installation, use of, inability to use, or the repair or replacement of, or late delivery of, G&H products.

10. Limitation of Liability. IN NO EVENT WILL G&H BE LIABLE TO CUSTOMER FOR ANY SPECIAL INCIDENTAL CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS AND LOST SAVINGS, HOWEVER CAUSED. WHETHER FOR BREACH OF CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE, WHETHER OR NOT G&H WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. G&H'S TOTAL LIABILITY TO CUSTOMER ARISING FROM OR IN RELATION TO ANY AND ALL SALES HEREUNDER SHALL BE LIMITED TO THE TOTAL AMOUNTS PAID BY CUSTOMER TO G&H UNDER SUCH SALE(S). IN NO EVENT WILL G&H BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES.

11. Force Majeure/Executed Performance. Performance is excused when (a) there is any contingency beyond the reasonable control of G&H or customer including, for example, war or hostilities, acts of God, accident, fire, explosion, public protest, breakage of equipment, pandemic, acts of terrorism, activity of a governmental authority (including, for example, the passage of legislation or the failure to grant an export license), or labor difficulties and/or labor strikes which interferes with G&H's or customer's production, supply, transportation

or consumption practice; or (b) G&H is unable to obtain products, power or energy on terms G&H deems commercially acceptable. During times when performance is excused, all quantities of affected product will be eliminated from the PO without liability and G&H will allocate its supplies of and product among their various uses in any manner that G&H determines is fair and reasonable, but this Sale Order Acknowledgement will otherwise remain in effect. G&H will not be obligated to obtain product from other sources or intermediaries or product from G&H's internal use. The foregoing provisions shall in no event relieve customer of its obligation to timely pay in-full a product invoice.

12. Assignment.

a) This Sale Order Acknowledgement is not transferable or assignable by either party without prior written consent of the non-assigning party except that customer hereby consents, without further notice from G&H, to G&H's potential future assignment or delegation of (i) some or all of G&H's obligations hereunder to any Affiliate, in which case the Affiliate may effect delivery of the product and invoice customer directly, or (ii) this Sale Order Acknowledgement and all of G&H's rights and obligations hereunder, on a product-by-product basis, to any Affiliate.

b) In the event customer transfers its business involving product under this Sale Order Acknowledgement, through a sale or transfer of stock or assets, the new owner(s), as a condition of the sale or transfer and subject to G&H's express written consent pursuant to Section 12.a), shall be obligated by customer to assume all of customer's obligations under this Sale Order Acknowledgement relating to the affected product.

c) "Affiliate" means with respect to any entity, any other entity directly or indirectly owning, owned by, or under common ownership with, such entity; for purposes of this definition, "owning", "owned" and "ownership" shall mean the possession, directly or indirectly, of an ownership interest, directly or indirectly through one or more intermediaries, of at least fifty percent (50%) as a result of ownership of stock or other voting securities, contractual relationship or otherwise.

d) If this Sale Order Acknowledgement is assigned in accordance with subsections a) or b) above, all terms and conditions contained herein shall remain in full force and effect.

13. G&H Intellectual Property. Customer acknowledges that all trademarks and copyrights relating to the products are the property of G&H. Customer shall not take any action that infringes upon any trademark, copyright, patent, or other intellectual property of G&H. In addition, customer shall not use any trademark of G&H on or in relation to any product not originating from G&H. Customer shall not use any trademark of G&H on or in relation to any product which customer repacks or re-labels for resale (with G&H's written permission pursuant to Section 7(c)) without obtaining written authorization from G&H, specifying the terms and conditions of such use. If customer uses any product trademark of G&H in any price list, advertisement or product literature, customer shall identify the trademark as a "Trademark of G&H Orthodontics ('G&H') or an affiliated company of G&H."

14. Marks. Customer agrees to comply with all legends that appear on or in the products and not to remove, modify or destroy any copyright, logo, trademark, trade name, proprietary markings, or confidentiality legends placed upon contained within products, containers or documentation supplied by G&H to customer under this Sale Order Acknowledgement.

15. Import/ Export Controls. Customer acknowledges that the product and technical data (received from G&H in accordance with the terms hereunder) may be subject to United States or Territory export and import controls including but not limited to the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774, and in the performance of its obligations, customer shall at all times strictly comply with all laws, regulations and orders, and agrees to commit no act which, directly or indirectly, would violate any United States or Territory law, regulation or order, including, without limitation, tax, export and foreign exchange laws, import controls, and export controls imposed by the U.S. Export Administration Act of 1979 as amended, and the United States Foreign Corrupt Practices Act. Customer expressly agrees that, without the prior written authorization of G&H and the United States Government, customer shall not, and shall cause its representatives (if any) not to, (a) export, re-export, divert or transfer G&H's product or any direct product thereof to any destination, company or person restricted or prohibited by United States export controls, or (b) disclose any data derived from G&H's product or any direct product thereof to any national of any country when such disclosure is restricted or prohibited by the United States export controls. Customer agrees that none of the product is being, or will be acquired for, shipped, transferred, or re-exported, directly or indirectly, to proscribed or embargoed countries or their nationals, nor be used for nuclear activities, chemical/biological weapons, or missile projects unless authorized by the U.S. Government. Proscribed countries are set forth in the U.S. Export Administration Regulations. Countries subject to U.S. embargo are: Cuba, Iran, Libya, North Korea, Syria, and Sudan. This list is subject to change without further notice from G&H, and customer must comply with the list as it exists in fact. Customer hereby certifies that customer and your Customers and End-Users are not on the U.S. Department of Commerce's Denied Persons List, Entity List or affiliated lists or on the U.S.

Department of Treasury's Specially Designated Nationals List. Customer agrees to comply strictly with all U.S. export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required. Certain product with encryption functions may be subject to additional restrictions, including restrictions on distribution to government end-users outside the EU license free zone. Customer is solely responsible for compliance with any import or use restrictions in your country.

16. Governing Laws. This Sale Order Acknowledgment, these terms, and all related transactions, will be interpreted under and governed by the laws of the State of Indiana in the United States of America without regard to its conflict of law principles.

17. Dispute Resolution. Disputes arising under this Sale Order Acknowledgment will be resolved by the parties through good faith negotiations in the ordinary course of business. If the parties are unable to resolve the dispute, then the parties shall submit to binding arbitration in Indianapolis, Indiana under the auspices of the American Arbitration Association, and avail the remedies of the expedited commercial rule, if any. The parties shall jointly select one (1) arbitrator and if they cannot agree, then an arbitrator shall be selected by them under the rules of the American Arbitration Association. The amount and responsibility for payment of arbitration costs will be one of the issues decided by the arbitrator, whose decision will be in accordance with the terms and conditions of this Sale Order Acknowledgment. No damages excluded by or in excess of the damage limitations set forth in this Sale Order Acknowledgment shall be awarded. During any such arbitration, the parties will continue diligent performance of this Sale Order Acknowledgment. The arbitrator will render a written decision stating reasons therefore in reasonable detail within two hundred seventy (270) days after the respondent receives the commencement letter. The provisions of this section, and any award issued by an arbitrator, may be enforced by either party in any court of competent jurisdiction. Arbitration is the exclusive remedy for disputes arising under this Sale Order Acknowledgment; the parties hereby waive their rights to bring a lawsuit to resolve a dispute arising under this Sale Order Acknowledgment.

18. GDPR. If customer is processing data obtained from a European Union ("EU") data subject, customer must be in compliance with the General Data Protection Regulation ("GDPR"). Customer represents and warrants that customer is fully compliant with all GDPR provisions, including but not limited to the provisions for mandatory standard contractual requirements, data processing records, breach notification process, right to erasure, data privacy policy, fair processing notices, and data protection requirements for employee contracts. Customer represents and warrants that any data given to customer by G&H that is from an EU data subject will be processed and handled using the applicable GDPR provisions. If customer becomes non-compliant with the GDPR, customer will immediately notify G&H.

19. General.

a) This Sale Order Acknowledgement is executed in English. In the event this Sale Order Acknowledgement is translated into a language or languages other than English, this version in English shall be controlling on all questions or interpretations and performance.

b) The rights and obligations under Sections 7, 9, 10, 12, 13, 14, 15, 16, 17, 18 and 19 will survive the cancellation, termination or expiration of this Sale Order Acknowledgement.

c) Notwithstanding anything to the contrary contained herein, customer shall defend, indemnify and hold G&H harmless from and against all claims, liabilities, costs and expenses (including, but not limited to, those related to injury to or death of customer's employees, and including prompt payment of reasonable legal fees) arising from or connected with any third party claims related to injury to or death of any person or persons, or damage to or loss of property in any way arising from or connected with the possession, handling, processing or use of the product(s) by customer, except those resulting solely from the use of product(s) not conforming to the contracted specifications, which non-conformity was not known to customer.

d) The failure of a party to exercise its rights on one occasion, including the obligation to supply product, shall not be deemed to be a waiver of the right to exercise those rights in the future.

e) If any provision of this Sale Order Acknowledgement is declared invalid by any court or government agency, all other provisions shall remain in full force and effect.

f) Each party represents and warrants that it understands and shall comply with the requirements of the U.S. Foreign Corrupt Practices Act and all other applicable anti-bribery and anti-corruption laws of the jurisdictions under which each party is or may be acting hereunder.

g) In the event that customer files or has filed against it a petition for relief under the insolvency laws, receivership laws, bankruptcy laws, or the equivalent laws of any jurisdiction, G&H, in its sole discretion, shall have the right to stop any shipments of the product or any other goods then in transit to customer, and thereby exercise an immediate right of possession thereto.

h) All notices, consents, waivers, and other communications required or permitted to be given pursuant to this Sale Order Acknowledgement, shall be in writing and shall be deemed to have been delivered either (i) on the delivery date, if personally delivered, or if delivered by confirmed facsimile or confirmed e-mail to gh-orders@ghortho.com, (ii) one (1) business day after delivery to any national overnight courier directing delivery on the next business day, receipt requested, or (iii) three (3) business days after deposit in the United States mail, registered or certified mail, return receipt requested, with adequate postage affixed thereto. All notices to G&H shall be sent to the attention of G&H Orthodontics, Inc, 2900 N Graham Rd. Suite D, Franklin, Indiana 46131 and to customer at its address as set forth in this Sale Order Acknowledgment, or at such other address as either party may designate in writing to the other party.

i) Provided that there is no written agreement, duly executed by both parties, applying to the transaction, this Sale Order Acknowledgement, with such documents as are expressly incorporated by reference, is intended by the parties as a final expression of their agreement with respect to such terms as are included in it, and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade will be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.

j) Each of the rights and remedies reserved to G&H in this Sale Order Acknowledgment shall be cumulative and additional to any other remedies provided in law or equity. No delay or failure by G&H in the exercise of any right or remedy shall affect any such right or remedy and no action taken or omitted by G&H shall be deemed to be a waiver of any such right or remedy.