



# TERMS OF USE

ZIRKONZAHN AUSTRALIA PTY LTD

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## WEBSITE TERMS OF USE

Welcome to the website (also known as the “Webshop”) of Zirkonzahn Australia Pty Ltd (ABN 15 659 482 890) (collectively „we“, „us“, „Company“), which is a part of a group of companies manufacturing, supplying and servicing dental products and headquartered in South-Tyrol, Italy.

This website is located on the web and accessible through the domain <https://auwebshop.zirkonzahn.com> and includes all content, materials, and information located in that domain and as updated from time to time („Site“).

### 1. TERMS TO BIND USE OF WEBSITE

1.1 By accessing this Site, you agree to be bound by these terms of use, which constitute a binding agreement between you and the Company and govern your use of this Site (“**Agreement**”). If you do not agree to these terms, please do not use this Site.

#### 1.2 Privacy Policy

As part of this Agreement, your use of this Site is also subject to our Privacy Policy (published at <https://auwebshop.zirkonzahn.com/information/privacy-privacy/>, which is incorporated by reference into this Agreement.

#### 1.3 Legal capacity to transact

If you are under 18 years of age, you cannot place orders through this Site. By using this Site, you represent and warrant to the Company that you are over the age of 18 years. Should the Company suffer any damage or other losses as a result of a transaction entered into by you as a minor, we reserve the right to seek compensation for such losses from his/her parents or guardians.

### 2. RESTRICTIONS ON USE

#### 2.1 Prohibited conduct

- (a) You must only use this Site through the interfaces provided by the Company and in accordance with this Agreement and any applicable law.
- (b) You must not, without our prior authorisation (which may be withheld at our absolute discretion):
  - (i) interfere (or attempt to interfere) or disrupt (or attempt to disrupt) this Site or the servers or networks that host this Site;
  - (ii) use (or attempt to use) data mining, robots or similar data gathering and extraction tools on this Site;
  - (iii) use alter-egos or other disguised identities when accessing the Site, or utilise any form of indirect and ‘spoofed’ access to the Site;
  - (iv) perform any caching or hypertext linking to any portion of the Site;
  - (v) interfere (or attempt to interfere) with security-related or other features of this Site; or
  - (vi) use, copy or distribute (or attempt to use, copy or distribute) content without our written permission.

#### 2.2 Violations of this Agreement

Without limiting any other remedies available to the Company at law or in equity, the Company reserves the right to, without notice, temporarily or indefinitely suspend, or terminate, your access to this Site or refuse to provide products to you if:

- (a) you breach any provision of this Agreement;
- (b) the Company is unable to verify or authenticate any information that you provide to us; or
- (c) the Company believes that your actions may cause loss or damage to and/or unlawfully harm or cause legal liability to the Company and its officers, employees, agents, consultants, licensors, related entities (as defined in the Corporations Act 2001 (Cth)), partners and affiliates (collectively, “Related Parties”), any of its customers or suppliers or any other person.

#### 2.3 Indemnity

By using this Site, you agree to indemnify and hold harmless the Company and Related Parties from and against any losses, liabilities, costs, expenses or damages (including actual, special, indirect and consequential losses or damages of every kind and nature, including all legal fees on a solicitor-client basis) suffered or incurred by any of them due to, arising out of, or in any way related to (directly or indirectly):

- (a) any material or information that you submit, post, transmit or otherwise make available through this Site;
- (b) your use of, or connection to, this Site; or
- (c) your negligence or misconduct, breach of this Agreement or violation of any law or the rights of any person.

### 3. REGISTRATION AND ACCOUNT SECURITY

#### 3.1 Requirement for registration

The Company reserves the full right to make any parts of this Site accessible only to users who have registered.

#### 3.2 Account

- (a) To access or use certain sections of the Site, you may be required to register and create an account with this Site (“Account”). Upon registration with this Site, you will be issued with a username and password to access your account.
- (b) You are solely responsible for maintaining the confidentiality and security of your Account for this Site. The Company will not be liable for any loss or damage arising from or in connection with your failure to comply with this security obligation. You agree that the Company will be entitled to assume that any person using this Site with your username and password is you or your authorised representative.
- (c) You must notify the Company immediately of any known or suspected unauthorised use of any password or any other breach of security.
- (d) In the Company’s sole and absolute discretion, we may suspend or terminate your Account for any reason whatsoever, without prior notice, and we are under no obligation to retain a record of your Account or any information relating to your Account that you may have stored for your use of this Site.

#### 3.3 User information

- (a) By registering an Account with this Site, you are taken to have wholly agreed to this Agreement. You also agree to provide the Company with:
  - (i) a valid email address;
  - (ii) accurate billing and contact information (including your street address and the name and telephone number of your authorised billing contact and administrator); and
  - (iii) any other information that may be required by the Company during the registration process.

You must promptly update this information to maintain its accuracy at all times.

- (b) You represent and warrant to the Company that you are at least 18 years of age and all information provided to the Company by you, including the information provided by you through our account registration module or entered into your account profile, is true and not misleading and does not violate any applicable law or regulation or any person’s intellectual property or other rights.

#### 3.4 Multiple accounts and automated account opening

One person may not maintain more than one account with this Site. Accounts registered by „bots“ or other automated methods are not permitted, and the Company may terminate such accounts in its absolute discretion, without notice.

#### 3.5 Approval of registrations

The Company reserves the right to accept or reject any application for registration of an account with this Site at its absolute discretion.

### 4. ORDERS

#### 4.1 Order constitutes offer

- (a) By placing an order through this Site („Order“), you make an irrevocable offer to us to purchase the products that you have selected pursuant to this Agreement. Information contained in this Site constitutes an invitation to treat only. No information in this Site constitutes an offer by us to supply any products to you – however, the Company will use reasonable commercial endeavour to supply your selected products to you.

- (b) We will not commence processing any Order made through this Site unless and until:
  - (i) payment for the Order has been received by us in full; and
  - (ii) the Order has satisfied our internal validation procedures, which are undertaken in order to verify the bona fides of each order for the purpose of preventing credit card and other fraud.

#### 4.2 Right to Cancel or Refuse Order

- (a) We reserve the right to notify you that items for which you placed orders have become unavailable for reasons beyond our control. If a situation arises beyond the Company's control preventing or restricting our ability to fulfil an Order, we reserve the right at our absolute discretion to:
  - (i) at any time prior to your Order being accepted in accordance with this Agreement, cancel all or part of your Order; and
  - (ii) at any time:
    - A. refuse to provide products to you;
    - B. terminate your access to this Site (as appropriate); and/or
    - C. remove or edit any content on this Site;
  - (iii) delay the processing or fulfilment of your Order and notify you of such delay.
- (b) In the event that you are notified of a delay in accordance with clause 4.2(a)(iii) above, you may elect to receive a full refund or store credit in the event we cannot fulfil any part of your Order.
- (c) In the event any product is listed at an incorrect price or with incorrect information due to typographical error or error in pricing or product information on the Site, the Company shall have the absolute right to refuse or cancel any orders placed for product listed at the incorrect price. The Company shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and you have been charged through your method of payment.
- (d) In the event that we cancel or are unable to fulfil your Order, we will provide a full refund of any payment received using the payment method used for the purchase of the Order.

#### 4.3 Acceptance of orders

Acceptance of each Order will take place if and when the Company ships the requested product(s) to your nominated delivery address, at the time at which the products are despatched by the Company. Title to products will pass from the Company to you upon receipt of full payment of the Order to which those products relate, and risk in products will pass from the Company to you at the time at which the relevant Order is despatched by the Company (i.e., passed onto the carrier). After the items have been sent, we or our contracted freight carrier will send you an email confirming that shipment has taken place.

## 5. PRICES

- 5.1 The price of products, delivery and other charges shown in this Site are in Australian dollars.
- 5.2 The Company reserves the right to change the prices for any products displayed in this Site at any time.
- 5.3 **Shipping costs**  
Shipping costs will depend upon the location for delivery and the products purchased and will be shown separately during the checkout process.
- 5.4 **GST**  
Unless otherwise expressly stated, all prices displayed on this Site are expressed to be exclusive of GST and any amount payable under this Agreement has been determined without regard to GST and must be increased on account of any GST payable (which shall be calculated and displayed during the checkout process). For these purposes, the term „GST“ has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

## 6. PAYMENT METHODS

- 6.1 All payments made through the Site will be processed and charged by the third party or company designated by the Company in

accordance with the payment method that you elect at the time of payment for your Order. If you are paying by credit or debit card, by designating a card to be billed, you confirm that you have the full authority to make such payment, that you are either the holder of such card (i.e. that the card is issued in your name), or you are authorised to use the credit card by the holder, and that you have sufficient funds available to make the payment.

## 6.2 Security

The Company may request further information from you, such as a copy of your credit card and/or other identification documentation, as part of our internal validation procedures. These procedures help protect bank and credit card account holders from online fraud. Until your Order has passed our internal fraud prevention checks, your Order will remain on pending status. If further information is requested and you do not provide the requested information within such time as the Company considers appropriate at its discretion, your Order will be cancelled and, if your payment has been received, it will be refunded back to you.

## 7. INTELLECTUAL PROPERTY

### 7.1 Copyright

- (a) In this Agreement, the term „**Proprietary Content**“ means:
- (i) this Site;
  - (ii) all of its content (including, without limitation, all design, texts, graphics, pictures, video, information, applications, software, music, sound, and other files contained therein or related thereto, and the arrangement thereof, any inventive concepts, know-how, publicity rights, trademarks, trade-dress, trade secrets, copyrights and patents contained in this Site); and
  - (iii) all software, systems and other information owned or used by the Company in connection with the products offered through this Site (whether hosted on the same server as this Site or otherwise).
- (b) All Proprietary Content is the property of the Company or its licensors (as applicable) and is protected by Australian and international copyright laws. You must not reproduce, transmit, republish or prepare derivative works from any of the Proprietary Content, except as expressly authorised by this Agreement or with the prior written consent of the Company or other copyright owner (as applicable).
- (c) (You may download and print out content from this Site only for your own personal and non-commercial use and provided that you do not remove or modify any copyright, trademark or other proprietary notices.

### 7.2 Trademarks

The look and feel of this Site (including all button icons, scripts, custom graphics and headers) are the trademarks, service marks and/or trade dress of the Company or its Related Parties (as defined in the Corporations Act 2001). These trademarks, service marks and trade dress must not be used, copied or imitated, in whole or in part, without the prior written consent of the Company.

### 7.3 Copyright claims

If you believe that our Site contains any material that infringes upon any copyright that you hold or control, or that users are directed through a link on this Site to a third party website that you believe is infringing upon any copyright that you hold or control, you may send a notification of such alleged infringement to us in writing. Such notification should identify the works that are allegedly being infringed upon and the allegedly infringing material and give particulars of the alleged infringement. In response to such a notification, we will give a written notice of a claim of copyright infringement to the provider of the allegedly infringing material. If the provider of that material does not respond to us in writing denying the alleged infringement within 14 days after receipt of that notice, we will remove or block the allegedly infringing material from our Site as soon as is reasonably practicable. If the provider of that material responds to us in writing denying the alleged infringement, we will, as soon as is reasonably practicable, send a copy of that response to the original notifying party. If the original notifying party does not, within a further 14 days, file an action seeking a court order against the provider of the allegedly infringing material, we may restore any removed or blocked material from our Site at our absolute discretion. If the original notifying party files such a legal action, we will remove or block the allegedly infringing material from our Site pending resolution of that legal action.

## 8. DISCLAIMER OF WARRANTIES

**TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE COMPANY AND ITS RELATED PARTIES EXPRESSLY DISCLAIM ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES (WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE) IN RELATION TO THIS SITE AND ANY PRODUCTS PURCHASED, ADVERTISED OR OBTAINED THROUGH THIS SITE, INCLUDING ANY IMPLIED WARRANTY/GUARANTEE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR**

## PURPOSE OR NON-INFRINGEMENT.

This Site is provided strictly on an „as is“ basis. To the maximum extent permitted by law, the Company and its Related Parties make no representation, warranty or guarantee as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of this Site or any of its content, and in particular do not represent, warrant or guarantee that:

- (a) the use of this Site will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data;
- (b) this Site will meet your requirements or expectations;
- (c) anything on this Site, or on any third-party website referred or linked to in this Site, is reliable, accurate, complete or up-to-date;
- (d) the quality of any products, information or other material purchased or obtained through this Site will meet any particular requirements or expectations;
- (e) errors or defects will be corrected; or
- (f) this Site or the servers that make it available are free of viruses or other harmful components.

## 9. LIMITATION OF LIABILITY

### 9.1 Exclusion of liability

To the maximum extent permitted by law, the Company and its Related Parties exclude all liability to you or any other person for any loss, cost, expense, claim or damage (whether arising in contract, negligence, tort, equity, statute or otherwise, and for any loss, whether it be consequential, indirect, incidental, special, punitive, exemplary or otherwise, including any loss of profits, loss or corruption of data or loss of goodwill) arising directly or indirectly out of, or in connection with, this Agreement or the use of this Site by you or any other person.

### 9.2 Remedies limited

To the maximum extent permitted by law, the Company and its Related Parties expressly limit their liability for breach of any non-excludable condition or warranty/guarantee implied by virtue of any legislation to the following remedies (the choice of which is to be at the Company's sole discretion):

- (a) in the case of goods (meaning, products), to any of the following:
  - (i) the replacement of the goods or the supply of equivalent goods;
  - (ii) the repair of the goods;
  - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - (iv) the payment of the cost of having the goods repaired; and
- (b) in the case of services:
  - (i) the supply of the services again; or
  - (ii) the payment of the cost of having the services supplied again.

### 9.3 Release

You agree that your use of this Site is at your own discretion and risk. You agree to release the Company and its Related Parties from any claim, demand or cause of action that you may have against any of them arising from this Agreement or the use of this Site by you or any other person. The Company may plead this clause as a bar and complete defence to any claims or proceedings.

### 9.4 Force majeure

To the maximum extent permitted by law, and without limiting any other provision of this Agreement, the Company excludes liability for any delay in performing any of its obligations under this Agreement where such delay is caused by circumstances beyond the reasonable control of the Company, and the Company shall be entitled to a reasonable extension of time for the performance of such obligations.

## 10. GENERAL

### 10.1 Interpretation

In this Agreement, the following rules of interpretation apply:

- (a) headings are for reference purposes only and in no way define, limit or describe the scope or extent of any provision in this Agreement;
- (b) this Agreement may not be construed adversely against the Company solely because the Company prepared them;
- (c) the singular includes the plural and vice-versa;
- (d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a „person“ includes an individual, a firm, a corporation, a body corporate, a partnership, an unincorporated body, an association, a government body or any other entity; and
- (f) the meaning of general words is not limited by specific examples introduced by „including“, „for example“, „in particular“ or similar expressions.

#### 10.2 Notifications

The Company may provide any notification for the purposes of this Agreement by email and/or by adding the notification into your Account control panel in this Site.

#### 10.3 Costs

Except as specifically provided in this Agreement, each party must bear its own legal, accounting and other costs associated with this Agreement.

#### 10.4 Assignment

You may not assign, transfer or sub-contract any of your rights or obligations under this Agreement without the Company's prior written consent. Your registration with this Site is personal to you and may not be sold or otherwise transferred to any other person.

The Company may assign, transfer or sub-contract any of its rights or obligations under this Agreement at any time without notice to you.

#### 10.5 No waiver

Waiver of any power or right under this Agreement must be in writing signed by the party entitled to the benefit of that power or right and is effective only to the extent set out in that written waiver. Any failure by the Company to act with respect to a breach by you or others does not waive the Company's right to act with respect to that breach or any subsequent or similar breaches.

#### 10.6 Severability

The provisions of this Agreement are severable and, if any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future law, such provision may be removed and the remaining provisions shall be enforced.

#### 10.7 Variation

The Company reserves the right to amend this Agreement and any other policy on this Site at any time in its sole discretion and any such changes will, unless otherwise noted, be effective immediately. The Company will use commercially reasonable endeavours to provide you with at least 24 hours' notice of any material change or modification to any terms and conditions under this Agreement before they become effective, except as otherwise provided for in these terms or unless we need to make immediate changes for reasons we do not have control over or as required by law. When we notify you, we may do so by email or by posting a visible notice on the Webshop/ Site. We may not notify you if a change is not material. If you find a modified term unacceptable, you may terminate this Agreement and discontinue using the Webshop/Site.

#### 10.8 Governing law and jurisdiction

This Agreement will be governed in all respects by the laws of New South Wales. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales and the courts of appeal from them.

The Website Terms of Use was last updated on **17 March 2023**.