

QuietOn Dental distribution General Terms and Conditions 2019

1 INDEPENDENT CONTRACTORS

- 1.1 Each Party shall conduct its business as an independent contractor, and all persons employed in the conduct of such business shall be that Party's employees or agents only, and not employees or agents of the other Party. It is a material condition of the Cooperation that either Party shall not and has no right or authority to make any representation, promise or agreement on behalf of the other Party.

2 RIGHTS, RESPONSIBILITIES

- 2.1 QuietOn intends to further develop its Products and Product assortment, and therefore reserves the right to change the Products and related materials from time to time.
- 2.2 QuietOn shall have the exclusive right to define and make decisions relating to brands of QuietOn and all materials and actions that may have impact on its brands shall require prior written approval of QuietOn.
- 2.3 QuietOn shall provide Distributor with Product information, user and safety instructions deemed necessary by QuietOn and shall have the exclusive right to define their content and further development. Distributor shall be responsible to communicate all such relevant information to its customers.

3 MARKETING, PROMOTION, SALE AND AFTER SALES

- 3.1 Distributor shall use its best efforts in promoting and marketing the Products throughout the Territory in a professional manner and with the diligence of a responsible businessman.
- 3.2 Distributor undertakes to advertise and promote the Products to an extent adequate to achieve continuous increase of sales of the Products.
- 3.3 Distributor shall at its expense localize marketing and promotion materials prepared by QuietOn (such as Product catalogues, brochures, leaflets, advertisements, videos, marketing presentations, samples), procure necessary copies of such materials and to distribute the same to potential customers. Distributor shall not otherwise prepare any own marketing and promotion materials, unless otherwise agreed with QuietOn. All marketing and promotion materials (including the localized versions) must be submitted for QuietOn's prior written approval, and a sample of all materials actually used must be delivered to QuietOn. Furthermore, it is explicitly agreed on that no Product information other than that in advance approved by QuietOn in writing may be used in the marketing, promotion and sale of the Products. Any and all questions regarding the Products and their use that Distributor staff may not be able to answer pursuant to the written Product information provided by QuietOn must be submitted to QuietOn.

- 3.4 Unless otherwise explicitly agreed on in writing, all costs arising out of the marketing, promotion, localization of marketing and promotion materials, procurement of the localized marketing and promotion materials, as well as costs arising out of sales and after sales duties relating to the Products shall be borne by Distributor.
- 3.5 Distributor shall have the right to sell Products in the Territory also using on-line channels of the Distributor.
- 3.6 Distributor shall not have the right to use QuietOn name or Trademarks in any internet address or url, and in case Distributor manages to acquire such internet address or url, Distributor shall promptly upon request assign such internet address or url to QuietOn. This section shall survive the termination of the cooperation.

4 INTELLECTUAL PROPERTY

- 4.1 All Intellectual Property Rights related to the Products are and shall remain the exclusive property of QuietOn. The Distributor shall not be granted any license or right to use the Intellectual Property Rights of QuietOn.
- 4.2 The Products must be presented, marketed, sold and delivered in their original trade dress. Furthermore, Distributor undertakes to market the Products exclusively under the Trademarks and undertakes to use Trademarks only for the purpose of identifying, advertising and marketing of the Products and according to the instructions from time to time given by QuietOn. In no event shall QuietOn's Trademarks or company name appear in the company name or domain name owned by Distributor.
- 4.3 Distributor undertakes not to register any trademark, url, internet address or other intellectual property rights identical or similar to the Trademarks or Intellectual Property Rights of QuietOn, and waives all such rights in favor of QuietOn.
- 4.4 Upon expiration or termination of the cooperation, Distributor shall discontinue the use of the Trademarks and any and all Intellectual Property Rights of QuietOn.

5 CONFIDENTIALITY

- 5.1 During the cooperation QuietOn may disclose to Distributor or Distributor may otherwise become aware of Confidential Information. Distributor represents that it has not and will not use non-public Confidential Information for any purposes other than the ones explicitly approved by QuietOn and has not and will not reveal such Confidential Information to any third parties, nor to any Distributor directors, employees, agents or representatives who do not need to have access to it for carrying out the purpose of this cooperation, except
 - (a) at the written direction or approval of QuietOn;
 - (b) to the extent necessary to comply with law, the valid order of a court of competent jurisdiction or the valid order or requirement of a

governmental agency or any successor agency thereto, in which event Distributor shall notify QuietOn of the information in advance, prior to making any disclosure, and shall seek confidential treatment of such information;

- 5.2 Distributor undertakes to secure that each person having access to any non-public Confidential Information has signed a customary written non-disclosure commitment, whether in the form of employment contract or otherwise.
- 5.3 Upon termination of the cooperation Distributor shall be obligated to return all non-public Confidential Information in tangible form and all copies of the same, with the exception of material legally disclosed to the authorities and to destroy all files, notes and memoranda containing such Confidential Information.

6 THIRD PARTY CLAIMS

- 6.1 QuietOn shall not be liable for any issues related to Products in the event they relate to or arise out of
- (a) negligence and/or fault by Distributor or its directors, employees, representatives or officers; or
 - (b) tampering with the Products after the date of delivery, including but not limited to the alteration of the design and/or composition, or the packaging and/or labelling of the Products; or
 - (c) improper handling or storage of Products; or
 - (d) false or misleading information given by Distributor or its directors, employees, representatives or officers related to the Products and/or their use; or
 - (e) contractual liabilities arising out of agreements concluded by Distributor with third parties.
- 6.2 If Distributor detects any infringements, breaches or other actions against QuietOn's Intellectual Property Rights, Distributor shall immediately inform QuietOn thereof. If any claim alleging that the Products infringe Intellectual Property Rights of a third party is brought against Distributor, or if any product liability claim relating to Product is brought by any third party (including customers and final users) against Distributor, or if any product liability or other critical quality or safety issue or adverse incident relating to the Products and/or their use is otherwise detected or suspected:
- (a) Distributor shall promptly provide to QuietOn details of such claim; and
 - (b) Distributor shall promptly cease selling the Products if so instructed by QuietOn
 - (c) Distributor shall render reasonable assistance to QuietOn, at the cost and expense of QuietOn, in connection with the defence of any such claim as QuietOn may from time to time reasonably request; and

- (d) QuietOn shall have the right to take control and conduct the defence of any such claim or issue as it seems appropriate and make decisions on potentially settling the case at its own cost. Distributor shall not admit any liability in respect of any such claim without the prior written consent of QuietOn.

7 WARRANTY AND RETURNS

- 7.1 QuietOn guarantees that QuietOn dental earplugs are free from any defects in manufacturing, materials and workmanship. The warranty period is 2 years (in EU countries) or 1 year (non-EU countries) from the date of retail purchase from the authorized QuietOn dental package reseller, subject to the following conditions:
 - (a) Product has been delivered as a new and intact product in the original QuietOn dental packaging
 - (b) Product has been used according to the QuietOn instructions for use
 - (c) Product has been cleaned and maintained according to the QuietOn cleaning and maintenance instructions
 - (d) Product has been used in the recommended environmental temperatures
- 7.2 This warranty does not cover eartips or other accessories for the Product, defects resulting from improper or unreasonable use or maintenance; failure to follow operating instructions; accident; excess moisture; insects; lightning; power surges; connections to improper voltage supply; unauthorized alteration or modification of original condition; damages caused by inadequate packing or shipping procedures; loss of, damage to or corruption of stored data; damages caused by use with non-QuietOn products; product that requires modification or adaptation to enable it to operate in any country other than the country for which it was designed, manufactured, approved and/or authorized, or repair of products damaged by these modifications; and products purchased from unauthorized dealers. No damages, whether direct or indirect, shall be paid by QuietOn to Distributor or customers regarding or related to defective Products.
- 7.3 During the warranty period, QuietOn will, at our sole option, repair or replace (using new or refurbished replacement parts) any defective parts within a reasonable period of time and free of charge.
- 7.4 Any warranty and/or return claims must be carried out by the authorized QuietOn dental Distributor.
- 7.5 QuietOn is not responsible for the eventual return costs from the Distributor to QuietOn, such as transportation, import/export fees, duties and taxes.
- 7.6 QuietOn shall be responsible for the transportation costs regarding the shipment of replacement Products to the Distributor. In case QuietOn later determines that the returned Product was not defective, QuietOn shall be entitled to charge Distributor for the replacement Product and related transportation costs.

8 FORCE MAJEURE

- 8.1 Force Majeure shall mean events not reasonably within the control of the Party whose performance is delayed or rendered impossible, including - but not limited to - acts of God, acts of government, riots or other civil disturbance directly affecting such Party's ability to conduct its affairs in a businesslike manner, wars (declared or undeclared), acts of terrorism or widespread vandalism, strikes, earthquakes, floods, fire, interruption of transportation, embargo, widespread substantial shortage of transport facilities or raw materials, accident, lockout, or other labor troubles.
- 8.2 Neither Party shall be deemed to be in a breach of this cooperation to the extent the failure or delay of a Party has been caused by event of Force Majeure. The Party suffering such event of Force Majeure shall notify the other Party in writing within seven (7) days after the occurrence of such event of Force Majeure and shall in every instance use reasonable commercial efforts to remove or circumvent such event of Force Majeure.