

#122nd Marketing Club

21st th Riyadh 82nd Business Club

Corporate Deals & Contracting Business development Advanced

Tuesday 26-12-2023

8 PM EGY **9 PM** KSA **10PM** UAE

FOUNDER & HOST

Dr. Mahmoud Bahgat



INSTRUCTOR

Dr. Tarek Ibrahim

Marketing & Business Development
Director



MASTERING the Maze

**Navigating the Nuances of Distribution
Agreements**



Prepared and Presented By

TAREK IBRAHIM

Business Development and Marketing Director

PRESENTED TO



26-12-2024

Business Development Career

2012 - 2023



Vaccine Market

License, Manufacturing and Distribution



Vaccine Market

Toll Manufacturing



Biological Market

Toll Manufacturing



Retail Market

Distribution Agreement & Private Label

Confidential

Agenda

1

INTRODUCTION

2

**STRATEGIC MILESTONES IN
PARTNERSHIP**

3

**TYPES OF Distribution
Agreement**

4

**KEY ELEMENTS OF Distribution
Agreement**

5

LESSONS LEARNED

6

**CONCLUSIO
N**





Introduction to Distribution Agreements

Definition:

A legal contract between two parties, where one party (the distributor) is granted the right to distribute products for another party (the supplier) in a specific market or region.



Creating A Successful Partnership

Involves several key strategic milestones. Following Product Research and Market Analysis



Types of Distribution Agreements



Exclusive Agreements

The supplier appoints a single distributor for a defined territory.



Non-Exclusive Agreements

Multiple distributors are allowed in the same region.



Selective Distribution

Suppliers choose a few distributors based on specific criteria.



Master Distributor Agreements

One master distributor manages sub-distributors.



Key Elements of Distribution Agreements

Basic Structure

1

Appointment of distributor.

2

Distributor's duties.

3

Supply of products.

4

Supplier's undertakings.

5

Prices and payment.

6

Advertising and promotion.

7

Compliance with laws and regulation.

8

Intellectual property.

9

Product liability and insurance.

10

Duration and termination.

11

Confidentiality.

12

Governing Law and Dispute Resolution.

Products and Services

	<div>1</div> <div>Detailed Description of Products</div>	<div>2</div> <div>Quality Standards and Compliance</div>	<div>3</div> <div>Range of Products</div>	<div>4</div> <div>New Products Introduction</div>		
	<div>I. Provide a comprehensive description of the products being distributed.</div> <div>II. Clear identification helps in avoiding misunderstandings about what is included in the agreement.</div>	<div>I. Specify the quality standards that the products must meet, along with any industry or regulatory compliance requirements.</div> <div>II. This is particularly important for products</div>	<div>If the agreement covers a range of products, list them all. Specify if the distributor has the right to distribute all current products or only a selected range.</div>	<div>Outline terms regarding how new products will be introduced, including the distributor's rights and obligations related to these new products.</div>		
<div>5</div> <div>Services Related to Products</div>	<div>6</div> <div>Branding and Packaging</div>	<div>7</div> <div>Intellectual Property Usage</div>	<div>8</div> <div>Support and Training</div>	<div>9</div> <div>Supply Chain</div>	<div>10</div> <div>Recall Procedures</div>	
<div>If the distribution includes services (like installation, maintenance, or training), detail these services. Include any service-level</div>	<div>Discuss how the products will be branded and packaged. This may include using the manufacturer's branding or if the</div>	<div>Specify how the distributor can use the manufacturer's trademarks, logos, and other intellectual property related to the products.</div>	<div>Define any support services the manufacturer will provide to the distributor, such as product training, technical support, or</div>	<div>Address how the products will be supplied, including lead times, inventory management, and any minimum or maximum order quantities.</div>	<div>Outline procedures for product withdrawal or recall, including financial responsibilities and communication protocols.</div>	<div></div>



FINANCIAL ASPECTS

1 Pricing Strategies

- I. Define how the products' prices will be set.
- II. Consider whether the distributor gets a fixed price or if the prices are linked to market fluctuations or the manufacturer's price list.

2 Payment Terms

- I. Specify payment schedules, methods, and terms.
- II. This includes details about advance payments, late payment penalties, and currency in which payments will be made.

3 MOQ

Obligatory purchase volumes for the distributor within a specified time frame.

4 Discounts and Incentives

Outline any volume discounts, early payment discounts, or other incentives offered to the distributor.

5 Shipping and Handling Costs

Determine who bears the cost of shipping, insurance, and handling.

6 Taxes and Duties

Clarify responsibilities regarding sales tax, VAT, customs duties, and other applicable taxes.

7 Marketing Contributions

Discuss any contributions or cost-sharing arrangements for marketing and advertising of the products.

8 Product Returns and Damaged Goods

Establish terms for handling returns, including financial responsibilities for damaged or unsold goods.

9 Performance Review and Adjustments

Set parameters for regular financial performance reviews and conditions under which pricing or other financial terms may be renegotiated.



OBLIGATIONS and RESPONSIBILITIES

1
Supply of Products

The supplier's responsibility to provide the agreed products in the specified quantities, quality, and time frames.

2
Order Processing and Fulfillment

Outline the process for placing orders, along with the expected timeline for processing and fulfilling these orders.

3
Marketing and Promotion

Define the distributor's responsibilities in marketing and promoting the products, including any specific marketing strategies

4
Sales Targets and Reporting

Set specific sales targets or performance metrics for the distributor and outline the reporting requirements to monitor these targets.

5
Inventory Management

The distributor's responsibility for managing inventory levels, including maintaining minimum stock levels and handling unsold or

6
Compliance with Laws and Regulations

Both parties' obligation to comply with all relevant laws and regulations, including industry-specific regulations, safety standards, and

7
Territory and Exclusivity

If the agreement includes territorial exclusivity, the distributor's responsibility to actively market and sell the products within that

8
Amendments and Dispute Resolution

Procedures for amending the agreement and resolving disputes, including arbitration or legal recourse.



Termination and Renewal

- Conditions under which the agreement can be terminated by either party.
- Processes for renewal and negotiation of new terms.

1

Duration of Agreement

2

Termination for Cause

3

Notice Requirements

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Consequences of Termination

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Post-Termination Rights and Obligations

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Wind-Down Period

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Wind-Down Period

Allow for a wind-down period to manage the transition effectively, including final orders, sales, and customer notifications.

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Renewal Term

Indicate the length of the renewal term (e.g., equal to the initial term, shorter, longer).

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Automatic Renewal

State if the agreement renews automatically unless either party gives notice of non-renewal before the expiration date.

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Notice Requirements

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Post-Termination Rights and Obligations

Address any rights and obligations that survive the termination of the agreement, such as confidentiality requirements



LEGAL CONSIDERATIONS

1

Governing Law

- I. Specify the legal jurisdiction and the governing law under which the agreement is made.
- II. This is particularly important for international distribution agreements.

2

Compliance with Laws and Regulations

Ensure that both parties agree to comply with all relevant local, national, and international laws and regulations, including industry-specific regulations, import/export laws, anti-bribery laws, and data protection laws.

3

Dispute Resolution

- I. Establish a mechanism for resolving disputes, which could include negotiation, arbitration,.
- II. Specify the process and the location where disputes will be resolved.

4

Assignment and Subcontracting

Define the conditions under which either party can assign their rights or subcontract their obligations under the agreement.

5

Liability and Indemnification

- I. Address liability issues, specifying who is responsible in various scenarios such as product defects, regulatory non-compliance, or third-party claims.
- II. Include indemnification clauses to protect both parties from losses caused by each other's actions.

LESSONS LEARNED

Tips for maintaining a mutually beneficial relationship

1	Comprehensive and Balanced Agreements: A written, detailed agreement is crucial, especially <u>Clearly Define Roles and Responsibilities</u> . This clarity minimizes misunderstandings and ensures alignment of responsibilities between both parties.
2	Territorial Exclusivity and Minimum Turnover Clauses: Conflicts often arise from differing perspectives on sales performance. It's important to set clear commercial targets and minimum sales targets for distributors to maintain their exclusive status within Clear Sales Territories. This helps balance the relationship and set clear expectations.
3	Establish Performance Metrics: Set specific metrics and key performance indicators (KPIs) to evaluate the distributor’s performance, such as sales targets, customer satisfaction levels and market share goals.
4	Determine Pricing and Payment Terms: Negotiate fair and advantageous pricing and payment terms, considering manufacturing costs, market demand, and competitive pricing.
5	Include Termination and Dispute Resolution Clauses: These clauses protect your interests in case of disagreements or underperformance. They specify conditions for termination and the preferred methods for dispute resolution “Arbitration” .This approach can provide amicable solutions and maintain business relationships, overcoming personal and cultural differences.



LESSONS LEARNED

Tips for maintaining a mutually beneficial relationship

6	Notice Period for Contract Termination: Setting a clear notice period for contract termination allows both parties to prepare for the end of the relationship and reduces the risk of disputes. This is crucial in managing the closure of long-term business relationships and ensuring fairness for both parties.
7	Trademark Ownership: Clear agreements regarding trademark ownership are essential. Distributors may register trademarks in their operating countries for protection, but this can lead to disputes at the end of the relationship. Including clauses that prevent the distributor from registering the trademark and stipulating the manufacturer's right to transfer can prevent such disputes.
8	Avoid Making Exclusivity the Goal Initially: Instead of aiming for exclusive sales rights at first, incentivizing exclusivity through discounts or product improvements can be more successful.
9	Outsource Regulatory Obligations: Having a third party handle regulatory obligations can allow the supplier and distributor to focus on their core competencies.
10	Pitfalls to Avoid: Common pitfalls include not having the document reviewed by multiple people, failing to pay attention to tax obligations, overlooking due diligence, and not being the first to send a contract template.



Conclusion

Crafting well-structured distribution agreements is strategically important for distributors for several reasons:

- **Risk Management:** Good agreements clearly define the terms, conditions, and responsibilities of all parties. This helps in managing risks associated with product quality, delivery timelines, and payment terms, protecting the distributor from unforeseen liabilities.
- **Market Access and Expansion:** Distribution agreements can open up new markets for distributors by granting them rights to sell products in new territories. This expansion is crucial for growth and diversification.
- **Revenue and Profit Stability:** Well-defined agreements ensure a steady supply of products and a clear understanding of pricing structures, which is vital for stable revenue streams and profit margins.
- **Competitive Advantage:** A distributor with strong agreements may have exclusive rights to certain products or territories, giving them a competitive edge in the market.
- **Brand Reputation and Relationships:** Distributors can enhance their reputation by associating with reputable suppliers. Strong agreements foster long-term relationships, crucial for sustained business success.



Conclusion

Crafting well-structured distribution agreements is strategically important for distributors for several reasons:

- **Legal Protection:** These agreements provide legal recourse in case of disputes or breach of contract, safeguarding the distributor's interests.
- **Operational Efficiency:** Clear terms help in streamlining operations, from inventory management to sales strategies, improving overall efficiency and effectiveness.
- **Flexibility and Scalability:** Good agreements can offer flexibility to adapt to market changes and scalability to increase the volume of business as per demand.
- **Product and Market Knowledge:** Agreements often include clauses for training and support from the supplier, enhancing the distributor's product knowledge and market understanding.
- **Customer Satisfaction:** By ensuring consistent product quality and availability, distributors can enhance customer satisfaction and loyalty.



Thank You

" **TRUE SUCCESS** in partnership is not about winning against each other, but about
WINNING TOGETHER."

#122nd Marketing Club

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FOUNDER & HOST

Dr. Mahmoud Bahgat



INSTRUCTOR

Dr. Tarek Ibrahim

Marketing & Business Development
Director