

CHECKLIST FOR A DISTRIBUTOR AGREEMENT

Remember the time when you first started your business? Brainstorming business strategy; galvanising your team; building partnerships and alliances; rejoicing at achieving your sales targets... Now that your efforts seem to have finally paid off and your "project" is starting to look like a viable business, you are ready to take on greater challenges - TO GROW!

Business expansion comes in many different forms. One of the most common methods of used by the Small and Medium Enterprises in Singapore to expand their business is to – increase their distribution channels by the appointment of distributors. Why? Simple – When treading in uncharted waters, suppliers are unfamiliar with the market they are seeking to export in volume for the first time. Distributors, on the other hand, possess the necessary resources to best exploit the new market for the product.

Before appointing your distributor or be appointed as a distributor, it is important to know the general characteristics of a distributor. A distributor is basically a party who distributes the goods/products to its customers, usually the retailers. As such, there is no concrete relationship between the supplier and its distributor, since the distributor is an independent party who “buys” the goods/products from the supplier and re-sells it to its customers. Distributors are sometimes also known as “re-sellers”.

So whether you are seeking to appoint distributors or intend to act as a distributor, this **Distributor Agreement Checklist** will ensure that you address all of the major issues in a distributor agreement. It should even help reduce legal costs significantly when meeting up with your lawyers engaged to prepare the distributor agreement.

DISTRIBUTOR AGREEMENT CHECKLIST

- 1. The Parties
 - Who are the parties involved?
- 2. The Products
 - What are the products involved?
 - Will the distributor be selling the supplier’s full range or products?
- 3. The Territory
 - What are the areas in which the products will be distributed?
 - What happens if distributor sells outside the territory (eg. penalty)?
 - What happens if other distributors sell within the distributor’s territory (eg. compensation)?
- 4. The Scope of Appointment
 - Is the appointment for an exclusive distributorship or a non-exclusive distributorship?
- 5. The Duration of the Appointment
 - Is the appointment for a fixed period?
 - Is there any automatic renewal clause?
 - Is there any minimum period?
- 6. Obligations of the Distributor
 - Duty of the distributor to purchase a minimum quantity
 - Duty of the distributor to maintain inventory
 - Duty of the distributor to promote the products
 - Duty of the distributor to provide sales records
 - Duty of the distributor to provide after sales services

- 7. Obligations of the Supplier
 - Duty of the supplier to supply the products
 - Duty of the supplier to provide information of the products
 - Duty of the supply to provide education and technical support
- 8. Competitors' Products
 - Can the distributor sell suppliers' competitors' products?
- 9. Trademark and Intellectual Property
 - Rights of the distributor to use suppliers' trademarks and other intellectual properties
- 10. Terms of Sale / Price of the Products
 - How are prices charged to the distributor?
 - How are prices charged to the consumer?
 - Is the distributor free to set its own prices?
 - Can the supplier change the prices?
 - What are the payment terms for the distributor?
- 11. Warranty of the Products
 - Does the supplier provide warranty for the products?
 - What obligations does the distributor have with regards to the warranties?
 - Is the distributor authorized to repair the products?
 - Will the supplier provide training to the distributor for the repair of the products?
- 12. Defective of the Products
 - What happens if the distributor receives defective products?
 - What are the procedures for defective products?
- 13. Promotional Exercises
 - Is it mandatory for the distributor to participate in all promotional events organized by the supplier?
 - How is cost of conducting promotional events allocated?
- 14. Termination of the Agreement
 - When can the supplier terminate the distributor's appointment (eg. failure to pay, failure to meet quotas, failure to comply with terms of the agreement)?
 - Can either party terminate the agreement without reason?
 - Is there any notice period required for termination?
 - What happens to the unsold products when agreement is terminated?
 - How to return unsold products (eg original condition)?
- 15. Governing Law / Jurisdiction
 - Which country's law to prevail in event of a dispute?