

## International Distribution Agreement Checklist

- Legal identity of the all parties/ companies/ organizations
- Product representation: Exclusive or non-exclusive?
- Sales territory: precisely define geographic coverage
- Products or services covered: identify specifically
- Improvements/additions required to products or services
- Terms (renewal option)
- Confidentiality
- Non-compete (during representation, and after – limited time period)
- Relationship between parties: independent contractor
- Distributor's obligations: advertising, minimum purchases, sales increases, orders, service to customers, inventory, office maintenance, attend product training, permits and licenses, compliance with local laws and regulations, insurance, access to premises, accounting and reports, other
- Supplier's obligations: product literature, advertising, free training seminars, sample products, sales leads in territory, sales support, quality controls, returned defective products, visits to distributor's offices, other
- Purchase price (discounts)
- Method of payment and currency (U.S. dollars if possible)
- Shipping and delivery: Incoterms® 2020 (inspection, title, risk of loss, insurance, variants)
- Product warranty (full/limited), any disclaimers
- Other terms and conditions of sale
- Competing products: permitted or prohibited
- Limited license: trademarks and copyrights (other intellectual property)

- Force majeure (allocate risk for an extraordinary circumstance beyond the control of the parties, such as a war, strike, riot, crime, or "act of God")
- Compliance: export controls, import regulations, Foreign Corrupt Practices Act (FCPA), other
- Limitation of liability: what to include, be specific
- Indemnification: be clear as to intent and scope
- Early termination: for cause/with notice
- Effect of termination
- Choice of law: select the law that will govern disputes
- Dispute resolution: mediation, arbitration, court
- General provisions: severability, entire agreement, modification and waivers, non-assignment, other

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**Each agreement must be custom tailored – no one-size-fits-all**

**Watch out for mandatory laws of foreign country**

Disclaimer: This Checklist does not constitute legal advice and it does not take into account the specific circumstances of your situation.

**About the Export Legal Assistance Network (ELAN)**: With a presence in 70 U.S. cities and with the participation of more than 250 attorneys, the Export Legal Assistance Network (ELAN) program is a nationwide group of attorneys in private law firms that volunteer to provide an initial legal consultation free of charge to companies just beginning to export. Under ELAN, knowledgeable lawyers help new export companies learn the legal aspects of international trade, issues relating to export licensing, tariffs, protection of intellectual property rights and much more. For additional information, visit [www.exportlegal.org](http://www.exportlegal.org).