

# COUNTRY REPORT

## Distribution

1. Legal sources.
2. Notion of distributor.
  - 2.1 Distinctive criteria with respect to commercial agents.
  - 2.2 Distributors carrying out an accessory activity as intermediary.
  - 2.3 Distinctive criteria with respect to simple customers who purchase on a continuous basis.
3. Conclusion of the contract and subsequent modifications.
  - 3.1 Formalities required by law.
  - 3.2 Contractual requirement of written form for modifications.
  - 3.3 Unilateral contract modifications.
  - 3.4 Form requirements and applicable law.
  - 3.5 Information about the parties.
4. Distributor's undertaking not to compete during the contract.
  - 4.1 Can the non-competition obligation be implied?
  - 4.2 Extent of the non-competition clause.
  - 4.3 Distributor engaged for one supplier only.
- 5 Post-contractual non-competition obligation.
6. Exclusivity.
  - 6.1 Rights of the distributor in the absence of contractual rules dealing with this issue.
  - 6.2 What is covered by the exclusivity.
  - 6.3 Sole distributor/Exclusive distributor.
  - 6.4 Contractual limitations to the distributor's exclusivity.
7. Sales outside the territory.
  - 7.1 The possibility of limiting the distributor's activity to the territory.
  - 7.2 Sales by the distributor through Internet.
8. Resale price maintenance.
9. Minimum Turnover.
  - 9.1 Clauses whereby the supplier may decide the minimum amount of turnover.
  - 9.2 Consequences of non-attainment of the agreed minimum.
  - 9.3 Possible justifications for not attaining the minimum turnover.
10. liability for defects, product liability etc.
  - 10.1 General liability for defects arising out of the contract of sale.
  - 10.2 Product liability.

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- 10.3 Right of redress under European directive 1999/44/CE on guarantees to consumers (only applicable to EU countries).
- 11. Stock of products.
  - 11.1 Return of the products in stock.
  - 11.2 Consignment stock.
- 12. Reservation of title.
- 13. Obligations regarding the supply of information to the other party.
- 14. Supplier's trademarks.
- 15. Term and termination of the contract.
  - 15.1 Contract for a fixed period with automatic renewal.
  - 15.2 Contract for a fixed period (without automatic renewal clause), which continues to be performed after its expiry.
  - 15.3 Termination notice (contract for an indefinite period).
  - 15.4 Form of the notice of termination and effectiveness.
  - 15.5 Earlier termination.
  - 15.6 Unjustified earlier termination.
  - 15.7 Compensation for unjustified earlier termination.
- 16. Goodwill compensation (indemnity).
- 17. Limitation of action.
- 18. Applicable law.
  - 18.1 Legal sources.
  - 18.2 Applicable law in the absence of choice.
  - 18.3 Effectiveness of a choice of law excluding the law of the distributor's country.
  - 18.4 Application by the courts of your country of foreign rules having «internationally mandatory» character.
- 19. Jurisdiction and enforcement of foreign judgments.
  - 19.1 Legal sources.
  - 19.2 Jurisdiction without a choice of jurisdiction clause.
  - 19.3 Effectiveness of a jurisdiction clause in favour of foreign courts.
  - 19.4 Recognition - enforcement.
- 20. Arbitration.
  - 20.1 Legal sources.
  - 20.2 Arbitrability.
  - 20.3 Arbitration clauses.
  - 20.4 Recognition of foreign awards.

**C.**  
**List of clauses that might not be fully effective or that should be deleted or modified**

Clause	Model	Advice
		The clause is contrary to ..... It should be replaced by the clause indicated in § .....
		The clause is not fully effective, because ...

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