

'SELECTING AN AGENT'

This summary deals with commercial agencies, which is a term covering both agencies and distributorships. Only Saudi national companies or companies which are wholly Saudi-owned may act as agents.

Do you need an Agent?

Saudi law does not require foreign companies to appoint a commercial agent in order to sell products from overseas into Saudi Arabia. You can make direct sales to the private sector from outside Saudi Arabia. But in practice, it is usually advisable to employ a Saudi agent or distributor. Saudi law does not allow a foreign company or individual to distribute goods, wholesale or retail, within Saudi Arabia.

Virtually all government purchasing is conducted by local tender and in the majority of cases only Saudi Arabian companies may bid. Foreign companies will therefore need a Saudi agent to bid on their behalf.

Exclusivity

Saudi law permits the appointment of more than one agent on a regional basis, and for particular products. Many companies, however, prefer to appoint a sole agent to avoid conflict of interest and possible mix-up especially when bidding for Government contracts

Selection

British companies are often approached by Saudi Arabian companies interested in taking up their agency. The British company should always try to visit a potential agent on his home ground before concluding any agreement. It is also recommended that companies should seek legal advice before signing agency agreements.

Commercial agency agreements are controlled by Royal Decrees, Ministry of Commerce Resolutions and Council of Ministers Resolutions.

Any agency/distributorship contract should follow the standard format approved by the Ministry of Commerce. Commercial agency contracts submitted for registration should address all matters dealt with in Ministry form attached. The parties to the contract may add or delete additional clauses that do not contradict with the relevant commercial regulations.

Model Agency Agreement

KINGDOM OF SAUDI ARABIA
MINISTRY OF COMMERCE and INDUSTRY
INTERNAL COMMERCE CONTROL
CONTRACT OF AGENCY OR DISTRIBUTORSHIP

On this day _____ / _____ / 14 _____ (H) corresponding to _____ / _____ / 19 _____ this agreement has been made by and between:

(1) _____ whose place of business is in _____ C.R. No. _____ dated _____ city of _____ represented herein by _____ (hereinafter referred to as the "First Party/Principal"):

AND

(2) The Agent/Distributor _____ whose place of business is in _____ C.R. No. _____ dated _____ city of _____ represented herein by _____ (hereinafter referred to as the "Second Party/Agent"):

Recitals

WHEREAS, both parties desire to enter into an agency or distributorship arrangement to serve their mutual interests and to specify the rights and obligations of each party in such arrangement; and,
WHEREAS, the Second Party (Saudi) desires that such relationship conforms to the requirements of regulations with regard to foreign trade (import and export), specifically the Commercial Agencies Regulations and amendments thereto in the Kingdom of Saudi Arabia, which regulations require a direct relationship between the business agent or distributor of products and the originator company abroad. Non-Saudis are prohibited from engaging in import and export businesses and commercial agencies in the Kingdom of Saudi Arabia.

Both parties hereby agree as follows:

General Articles

Article (1) The above recitals shall be considered an integral part of this contract.

Article (2) Both parties agree that the Second Party, as Agent or Distributor ("Agent") for the First Party in the Kingdom of Saudi Arabia, shall negotiate and conclude any agreements concerning the products or services subject to this distributorship agreement on behalf of _____ and in the name of _____.

Article (3) The scope of this agency contract covers the products and services provided by the First Party as hereunder specified. The products included in this agency contract are:

Article (4) The geographic area covered by this contract shall be _____ (specify whether throughout the Kingdom or for a certain region).

Article (5) The term of this contract shall be _____ effective as from _____ renewable automatically for another period unless either party gives at least three months prior written notice of his intention to terminate the contract.

Reciprocal Obligations

Article (6) Because the Second Party is obligated under Saudi law to guarantee the quality of the products and materials which form the subject of this contract and to provide necessary maintenance and spare parts at reasonable prices when required by consumers, the First Party shall also be obligated to the Agent for the same obligations in accordance with the requirements of the consumers and shall provide such maintenance on such dates and shall provide such spare parts in such amount as may be specified by the Agent. In addition, the First Party shall provide to the Second Party at reasonable prices such spare parts and necessary maintenance through the date one year following the expiry date of this contract or from the time of appointing another agent.

Article (7) The Second Party is obligated under Saudi law to provide under this contract only products and materials that are compatible with the approved standard specifications in the Kingdom. The First Party shall guarantee the quality of these products and materials and insure that they conform to approved standard specifications in the Kingdom; the Agent shall not be obligated to receive, or be responsible for distribution of, any quantities received from the First Party that are contrary to such required standard specifications.

Article (8) both parties shall execute this contract in accordance with acknowledged business practices and good faith. Such obligation shall extend to include all activities rendered as part of the contract requirements under generally accepted business practices.

Special Obligations

Article (9) The Second Party shall undertake to:

(a) Provide the premises required for the Agent to run his business in the Kingdom with his own staff, exercise all reasonable care and diligence, and be entitled to make use of the services and technical expertise of the First Party as and when required.

(b) Perform all works necessary to execute contracts locally for promoting and marketing the products, make available suitable storage areas, open new distribution

centres as may be necessary and provide local services within the area covered by the contract. The Second Party shall, in the performance of this contract, be entitled to use the First Party's trademark but without any additions or modifications. He shall also exert his best efforts to make such trademark known throughout the area.

Article (10) The First Party shall undertake to:

(a) Pay the Second Party a commission in the amount of _____ of the value of the items sold within the contract area even if the sales were made directly to a Third Party by the First Party. Schedule of payments shall be as follows: _____

(b) Execute the contract with diligence whether as to observation of good quality products and materials which form the subject of the contract, or to insure safe and good delivery to the Second Party, or to fulfil obligations regarding quantities and dates specified in the Second Party's orders.

(c) Bear responsibility for the faults of himself and his employees, when such fault results in damage to the Second Party.

Expiry, Cancellation and Compensation

Article (11) This contract shall be terminated if performance by either party is rendered impossible, or, upon the death or the loss of competency, or the bankruptcy of either party. This contract may also be terminated by revocation upon a substantial failure in execution by the other party.

Article (12) The Agent shall be entitled to compensation for damages which may arise out of the Principal's inability to meet his commitments, according to the contract or to business customs.

Article (13) If the Principal refuses to renew or continue work under this contract, the terminated Agent shall be entitled to reasonable compensation for his activities that may have resulted in the apparent success in the business of the terminated Agent. Specifically, the terminated Agent shall be entitled to compensation for his promotional activities and efforts at client relations that result in goodwill that may accrue to the new Agent.

Article (14) The Principal may claim compensation from the Agent for damages caused as a result of the Agent's abandoning this Agency prior to the expiry of this contract or as a result of any breach of this contract by the Agent.

Article (15) Should this contract be improperly terminated or revoked, as a result of which either party sustains damages, the party improperly terminating the contract shall be obliged to compensate the other party for the damages such party sustained, taking into account the extent of efforts made and material and nonmaterial capabilities provided to serve the Agency prior to such improper termination.

Concluding Articles

Article (16) Disputes arising between the parties hereto as a result of the performance or non-performance under this contract shall be settled amicably. Should this not be possible, the matter shall be referred to the Board of Grievances (Diwan Al-Mazalem), Commercial Circuit in the Kingdom of Saudi Arabia or to an arbitration committee, inside or outside Saudi Arabia, in accordance with the regulations for arbitration. In case of a dispute between the Principal and the Agent, a new Agency Contract may be granted to a new Agent within the Agency area for the same products or services only after the authority considering the dispute shall have made a final award or decision.

Article (17) This contract has been executed in three copies, with each party receiving one copy. The Second Party shall present a certified copy to complete the contract registration in the Commercial Agencies and Distributors Register with the Ministry of Commerce of the Kingdom of Saudi Arabia.

First Party (Principal) Second Party (Agent)

Name: _____ Name: _____
Signature: _____ Signature: _____