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7 Things to Know Before You Hire a Pet Products Sales Agency

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Has your business grown to a point where you are ready to outsource your sales function? Google the phrase “pet products sales agency” and you will get pages and pages of hits. As you consider which agency to select, or if it is time to renegotiate your current sales agent agreement, be smart about protecting your business.

Here are some negotiating tips and an explanation of several standard provisions that you are likely to find in a sales agent agreement:

1. **Exclusivity.** The agreement should be clear about whether the agent is your exclusive (only) agent, or whether you are permitted to engage multiple agents. Agencies with strong bargaining power might try to negotiate the ability to be the sole seller of your product.
2. **Final Authority on Sale Terms.** Specify whether your business or your agent has final decision-making authority on the terms of sales that have negotiable factors such as price, timing and terms of delivery, quantity, quality, and warranties.
3. **Territory.** Can the agent sell anywhere in the world? Just one country? Just part of a country? The agreement should specify this to avoid a dispute.
4. **Term.** Many agency agreements have a set term with some sort of automatic renewal process. Be careful. It is not uncommon to see a provision that states you must provide written notice to the agent at least 120 days in advance of the anniversary date if you do not want the agreement to automatically renew. Either monitor this deadline or negotiate a different notice period.
5. **Payment.** Most agencies are paid on a commission basis, and commission pay can be tricky. Cover all the factors that go into the calculations, such as deductions for returned products, delinquent buyers, and bankrupt buyers. Even more important, what happens if a sale closes after the agent is no longer engaged? It is important to state whether the agent will be paid based on all sales the agent initiates or only sales that close during the term of the agency agreement.
6. **Confidentiality and Intellectual Property.** Businesses share a lot of confidential data about their products with their agents. The agent needs to be bound by a well-drafted, enforceable confidentiality restriction that prohibits the sharing of trade secrets, customer lists, pricing, and other valuable nonpublic information. If the agency is using your trademarks or other intellectual property to

sell your products, the agreement needs to protect them.

7. **Avoiding an Employment Relationship.** Avoid the unintended employment relationship, which can lead to losses and liabilities. This is particularly relevant if you are engaging individuals or sole proprietorships as your agents. Agreements need to be structured carefully to ensure that neither the government nor the agent will claim there was an employment relationship that was wrongfully ignored.

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