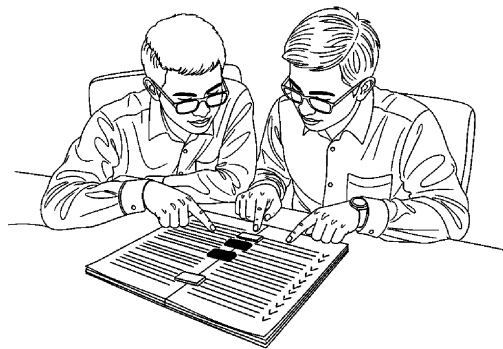


SPECIFIC-CASE

WORKSHEET 7 OF 9

Counterparty Proposes Binding 5-Year Exclusivity

Scenario: A distributor has offered to take your product or service exclusively for five years across a defined territory or category. They want the exclusivity written as binding and non-negotiable in exchange for volume guarantees. The offer looks attractive in the near term. You need to assess whether accepting costs more in foregone optionality than the guaranteed volume is worth.



Contract Negotiation Tactics
by Ibrahim Anwar

What This Is For

Exclusivity without proportionate compensation means giving the other party leverage for free. For the duration of the exclusivity clause, they no longer need to worry about losing the business to a competitor — the contract removes that competitive pressure on their behalf. The guaranteed volume they are offering is the compensation they are naming. This worksheet determines whether that compensation is proportionate to the optionality being surrendered over five years.

The analysis requires three calculations that most operators do not make before signing: the annual opportunity cost of blocking all alternative channels, the minimum volume the distributor must deliver to break even against that opportunity cost, and how that volume commitment holds up if the business grows faster than expected or if the exclusivity scope (geographic, category, channel) turns out to be broader than intended. The fifth year of a five-year exclusivity clause often matters more than the first, because the business's scale in year five is materially different from its scale at signing.

Benefits

What you get when you actually run this worksheet on a real situation:

- Forces an explicit opportunity cost calculation for each year of exclusivity, making the total five-year cost of the restriction visible before signing.
- Identifies the minimum volume guarantee the distributor must commit to for the exclusivity to break even — giving a defensible floor for the negotiation.
- Checks whether the exclusivity scope is broader than intended: geographic plus category plus channel together is a much more restrictive position than geographic alone.
- Surfaces the change-of-control clause interaction: an exclusivity contract that terminates on any ownership change blocks future investment rounds unless the threshold is negotiated.
- Produces a specific counter-proposal — shorter term or narrower scope — with a calculated basis that is defensible in the negotiation conversation.

Framework To Use

— Exclusivity Opportunity Cost Model

Map the value of what is being surrendered against the value of what is guaranteed. The gap is the negotiating position.

BEFORE	AFTER
<pre>{'label': 'Without Exclusivity', 'items': ['Multiple channel options preserved', 'Competitive pressure on distributor remains', 'Flexibility to add direct sales', 'Investor due diligence: no single-channel dependence']}</pre>	<pre>{'label': 'With 5-Year Exclusivity (as proposed)', 'items': ['One channel for 5 years, regardless of growth', "Distributor's competitive pressure eliminated by contract", 'Direct sales and alternative distributors blocked', 'Investor due diligence: change-of-control clause risk']}</pre>

How To Use

Follow these steps in order. Each one builds on the previous.

- 1 Identify the exact scope of the proposed exclusivity: which geographic area, which product or service category, which channels. Write this precisely — 'exclusivity in Java' and 'exclusivity in all Indonesia' produce very different opportunity costs.
- 2 Calculate current revenue from alternative channels that would be blocked by this exclusivity clause. If alternative channels do not yet exist, estimate what they could produce in years 3-5 based on your growth trajectory.
- 3 Estimate the annual opportunity cost: the revenue foregone by not being able to use alternative channels or distributors. Multiply by five years for the total opportunity cost of the full exclusivity term.
- 4 Calculate the minimum guaranteed volume the distributor must commit to in order to make the exclusivity break even: opportunity cost divided by five years, converted to a minimum annual volume figure. That number is your floor for the volume guarantee negotiation.
- 5 Check whether the change-of-control clause threshold would be triggered by any ownership transfer you anticipate in the next five years — including a potential investment round. If yes, that clause must be renegotiated as part of the exclusivity negotiation.
- 6 Determine the shortest exclusivity term that still gives the distributor the volume certainty they need to justify their minimum commitment. That is your counter-proposal on duration.
- 7 Determine the narrowest exclusivity scope that still gives the distributor meaningful protection. Geographic only rather than geographic plus category, or category only rather than category plus channel, are narrower positions that preserve more of your optionality.
- 8 Calculate the breakeven year: at what year does the cumulative guaranteed volume from the distributor exceed the cumulative opportunity cost of the exclusivity? If breakeven is in year 4 or 5, the first three years carry negative expected value.

Example Use

A consumer goods producer is offered a 5-year exclusive distribution deal for Sumatra by a large regional distributor. Guaranteed minimum volume is \$180,000 per year. Current Sumatra revenue through direct sales is \$60,000 per year.

The producer starts with the opportunity cost. Current Sumatra direct sales: \$60,000/year. But the direct sales channel is growing at 30% per year. Without exclusivity, year 3 Sumatra direct revenue is projected at \$101,400. Year 5: \$171,000. Five-year cumulative direct sales that would be blocked: \$524,400.

The guaranteed volume from the distributor: $\$180,000/\text{year} \times 5 = \$900,000$. On the surface, \$900,000 in guaranteed volume against \$524,400 in foregone direct sales looks positive. But the guarantee is a minimum, not a maximum — the distributor may underperform the minimum or simply meet it without growing.

The producer checks the volume shortfall clause: if the distributor misses the minimum annual volume, the penalty is a \$10,000 payment. That is 5.6% of the annual guaranteed minimum. The compensation for missing volume is not proportionate to the opportunity cost of the exclusivity.

Counter-proposal built from the worksheet: reduce the exclusivity term to 3 years, not 5. Narrow the scope to modern trade channel only (not traditional retail, which the producer wants to retain). Raise the minimum volume guarantee to \$220,000/year. Increase the shortfall penalty to 30% of the gap between actual and minimum. Add a clause that exclusivity narrows automatically to 'modern trade only' if minimum volume is not met in any 12-month period.

The distributor accepts the 3-year term with a 30% shortfall penalty. The producer retains traditional retail channel freedom and avoids locking in 5 years of scope that their growth trajectory would have made increasingly costly.

The Worksheet

Tear this out, copy it onto a fresh sheet, or fill it in directly.

Counterparty Proposes Binding 5-Year Exclusivity

Scenario: A distributor has offered to take your product or service exclusively for five years across a defined territory or category. They want the exclusivity written as binding and non-negotiable in exchange for volume guarantees. The offer looks attractive in the near term. You need to assess whether accepting costs more in foregone optionality than the guaranteed volume is worth.

ASSESSMENT ITEM	YOUR CALCULATION / FINDING	NEGOTIATION LEVER AVAILABLE?	NOTES
Annual guaranteed volume from this distributor (\$)			
Annual revenue from alternative channels currently (\$)			
Revenue opportunity cost of locking out alternatives for 5 years (\$, estimated)			
Exclusivity scope: geographic? category? channel?			
Minimum volume commitment offered by the distributor (\$/year)			
Compensation if the distributor fails to meet minimum volume			
Your right to exit if volume falls below the minimum			
Change-of-control clause: does majority ownership change trigger termination?			
Breakeven point: at what year does the cumulative guaranteed volume exceed the revenue opportunity cost?			
Proposed counter: limited exclusivity (geographic or category only, not both)			

Reflection Prompts

After filling in the worksheet on the previous page, work through these.

1. Exclusivity without proportionate compensation means giving the other party leverage for free — they no longer need to worry about losing the business to a competitor while the contract runs. Write what specific compensation you are requesting in exchange for each year of exclusivity, in dollar terms, not in vague promises about 'priority focus' or 'dedicated resources.'
-

2. If a change-of-control clause exists: at what ownership percentage does it trigger? If that threshold is below the percentage likely to transfer in any future investment round, this clause must be renegotiated as part of the exclusivity negotiation — not separately, not later.
-

3. What is the shortest exclusivity term that still gives the distributor the volume certainty they need to justify their minimum commitment? Propose that term as the opening counter, not five years. If they push back, ask them to explain why the additional years are necessary given the minimum volume guarantee already in place.
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Tips and Traps

TIPS

- Calculate the opportunity cost in the years when your business is at its largest, not at its current size. A 5-year exclusivity clause signed when annual revenue is \$200,000 becomes much more restrictive in year 5 when revenue is \$800,000. The opportunity cost grows with the business, but the exclusivity clause does not shrink.
- Separate the exclusivity scope negotiation from the volume guarantee negotiation. These are two different variables. You can agree to a higher minimum volume guarantee while also negotiating a narrower exclusivity scope. Treating them as a single package limits the negotiating room.
- Include a performance review mechanism in any exclusivity clause: if the distributor misses minimum volume for two consecutive years, the exclusivity narrows automatically to a sub-territory or sub-category. This converts the exclusivity from a fixed 5-year commitment into a performance-conditional one.
- Request the exclusivity to be channel-specific rather than total-market. Granting exclusive rights to modern trade while retaining traditional retail, e-commerce, and export channels preserves your optionality in the fastest-growing segments.

TRAPS

- Treating the minimum volume guarantee as a floor that the distributor will likely exceed. The minimum is the floor they are obligated to deliver. Any projection above the minimum is not contractual — it is an aspiration. Build your opportunity cost calculation on the minimum, not the distributor's projected upside.
- Accepting an exclusivity clause that does not define the scope with precision. 'All distribution channels in Sumatra' means different things to different lawyers. Specify: which provinces, which channels (modern trade, traditional retail, HoReCa, e-commerce), which product SKUs or categories. Ambiguity in an exclusivity clause resolves in the other party's favor.
- Not checking the change-of-control clause before accepting the exclusivity. An exclusive distribution contract with a 30% change-of-control termination threshold is a time bomb if the business is planning to raise investment in the next three years. The two negotiations must be resolved together.

Appendixes

Appendix A — Exclusivity Opportunity Cost Calculation

For each year of the proposed exclusivity term:

Year N opportunity cost = projected revenue from blocked channels
in year N

To project: take current alternative channel revenue and apply
the average annual growth rate of those channels.

Example:

Year 0 (current) direct Sumatra revenue	: \$60,000
Growth rate (historical)	: 30% per year
Year 1 projected direct revenue	: \$78,000
Year 2 projected direct revenue	: \$101,400
Year 3 projected direct revenue	: \$131,820
Year 4 projected direct revenue	: \$171,366
Year 5 projected direct revenue	: \$222,776

5-year cumulative opportunity cost	: \$705,362
5-year minimum guaranteed volume (5x\$180k)	: \$900,000
Net expected value of exclusivity	: +\$194,638

But: if the distributor performs at only 80% of minimum (\$144k/yr):

5-year distributor revenue	: \$720,000
5-year opportunity cost	: \$705,362
Net expected value at 80% performance	: +\$14,638

Conclusion: the exclusivity only makes economic sense at
performance levels close to the guaranteed minimum. Any
shortfall quickly erases the margin.

Appendix B – Counter-Clause Language for Narrowed Exclusivity

PROPOSED REPLACEMENT for broad 5-year exclusivity:

"The exclusivity granted to [Distributor] under this contract applies to the following scope only:

Geographic area: [specific provinces / territories]

Channel: [modern trade / traditional retail / HoReCa – specify which are included and which are excluded]

Product category: [specific SKUs or categories]

This exclusivity is granted for a period of [24 / 36] months from the contract effective date, subject to renewal by written agreement of both parties.

This exclusivity does not restrict [Your Business] from:

- (a) direct sales to end customers at [specific channel];
- (b) export sales to customers outside [geographic area];
- (c) e-commerce sales through [specific platform(s)].

If the Distributor fails to achieve the minimum volume commitment in any 12-month period, the geographic scope of the exclusivity shall automatically reduce to [sub-territory] only, without requiring further written agreement, effective from the first day of the following 12-month period."



WHERE THIS WORKSHEET COMES FROM

Contract Negotiation Tactics

A Clear Contract Is a Healthy Relationship

by Ibrahim Anwar

This worksheet is one of nine in the *Contract Negotiation Tactics* companion worksheet pack. The full pack is grouped into three categories: high-volume worksheets you can run weekly, niche-search worksheets for rare but high-value situations, and specific-case worksheets that walk you through a single concrete scenario.

Every framework, decision filter, and figure used in these worksheets is drawn from the chapters of the source book. The book sets the diagnosis, the worksheets give you the form to act on it.

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