



5 Keys to Vendor Contract Negotiations

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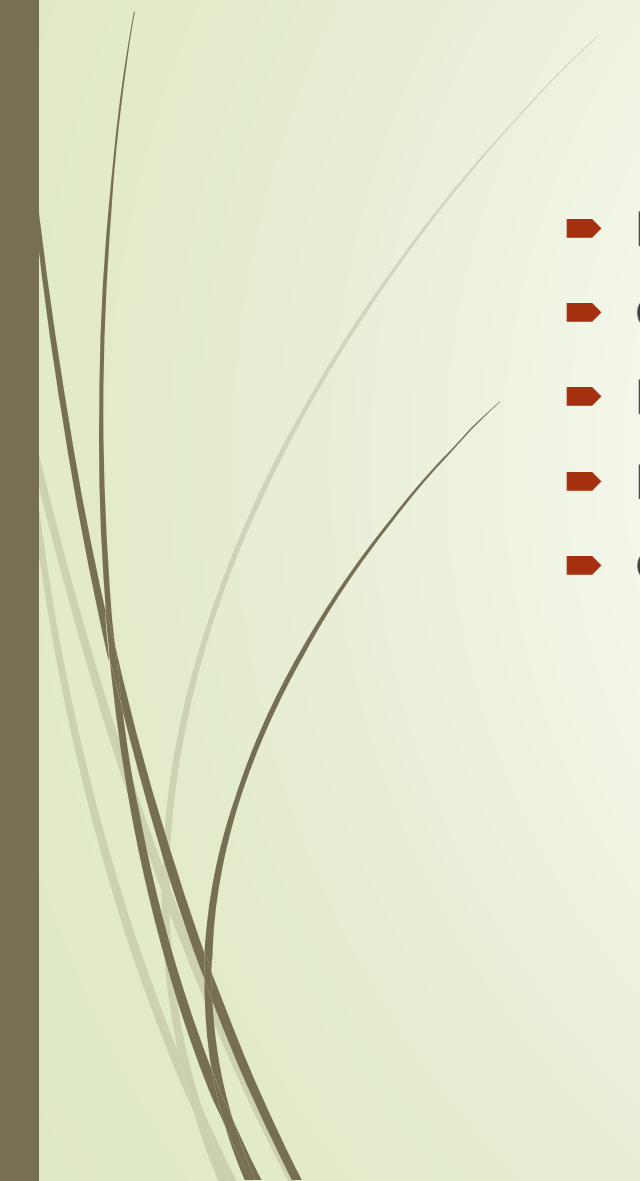
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Texas-based dealership boutique law firm,
representing dealerships and their owners.

- Dealership Buy/Sells
 - Litigation
 - Regulatory (Licensing, Protests, Etc.)
 - Corporate Governance
 - General transactional
- 



5 Keys:

- Preparation / Investigation
 - Communication
 - Focus on Critical Provisions
 - Know Where it Makes a Difference
 - Get Your House in Order
- 



Preparation / Investigation

- Understand Vendor's Reputation
 - Newcomers can be competitive, but not always great option
- Know your leverage (or lack thereof)
 - Once you commit, they've got you.
- Understand Vendor's Goals; Understand Your Goals



Communication



- Clearly articulate your priorities and non-negotiable terms.
 - Remain firm on your key requirements. (don't waffle)
- Strike right tone: firm, respectful, likable
- Silent treatment



Clear, Acceptable Terms

- ▶ Clear, unambiguous description of product or service.
 - ▶ Don't trust a verbal promises
 - ▶ Ensure vendor providing full-service
- ▶ Favorable payment terms
 - ▶ Lock in pricing?
- ▶ Liability and indemnification
 - ▶ Often, this is one-sided. Make mutual (at minimum)
 - ▶ Challenge them on provisions
- ▶ Termination:
 - ▶ Early termination? What if product/service unsatisfactory? Costs of switching?
 - ▶ Beware of long, unbreakable terms and auto-renewals
- ▶ Robust confidentiality and data protection required



■ Terms:

- DMS: Ensure all products and services run co-terminus and can be terminated at once, across the board.

■ Disputes

- Venue and Jurisdiction.
- Dispute Resolution (litigation vs. mediation vs. arbitration)
 - Old fashioned litigation preferred
- Jury waiver
- Waiver of consequential / punitive damages
- Beware of limitation of liability (capped at amount paid under contract)

■ Mutuality!

■ Multi-Dealership considerations:

- Economies of scale vs. keeping dealerships separate



Specific Agreements

- DSSAs: DSSAs don't have a term – no regular renewals
- DMS: Watch out for rolling renewals at varying periods
- Reinsurance documents: (never coherent)
- Loan facilities: review to be sure you have a fair shake.
 - Limit cross-defaults
 - Guaranty “burn-offs” or limits



Get your House in Order

- Internal controls:
 - Establish policy for who can execute contracts or modifications.
- Seek help!
 - Use resources
 - Phone a friend