



Promotional Markets

Distributor Policy

Effective Date: January 2020

3M Promotional Markets Distributor Policy

Distribution Philosophy

It is 3M's policy to sell 3M's promotional products (PRODUCTS) primarily through a distribution system to the markets 3M serves. 3M reserves the right to sell PRODUCTS in any other lawful manner, including selling PRODUCTS to wholesalers and directly to end users.

Distributor Obligations to 3M

- A. A distributor must use its best efforts to promote the sale and promotions offered by 3M.
- B. A distributor must make available their sales force for PRODUCTS training and joint sales calls to major accounts with 3M sales representatives.
- C. A distributor with an established credit line with 3M must pay promptly so as to keep its account current at all times.
- D. A distributor must not disparage PRODUCTS or cast PRODUCTS in an unfavorable light and must not misrepresent, either directly or by omission, the capabilities, qualities or characteristics of PRODUCTS.
- E. A distributor must hold in confidence and not disclose to others 3M's marketing plans, promotional programs and other 3M confidential information, without 3M's prior written approval.

3M Obligations to Distributors

- A. 3M will engage in a continuing marketing effort to create user acceptance of PRODUCTS and user awareness of 3M trademarks and brand names.
- B. Professional, trained sales representatives will provide PRODUCTS training and sales assistance for distributor sales representatives. Support may be by territory sales reps or telesales sales reps. Joint sales calls will be made to major accounts whenever possible.
- C. 3M will make good faith efforts to promptly fill distributor orders for PRODUCTS. 3M shall have no liability for damages incurred due to failure to deliver on a requested delivery date.
- D. 3M will continue its efforts to bring innovative new products to the markets 3M serves.
- E. 3M will provide reasonable quantities of PRODUCTS, sales literature and catalogs.
- F. 3M will provide technical service assistance.

Prices and Conditions of Sale

- A. 3M will publish a catalog indicating the prices at which distributors may purchase PRODUCTS. The catalog also includes suggested selling prices. **DISTRIBUTORS ARE UNDER NO OBLIGATION WHATSOEVER TO COMPLY WITH SUGGESTED SELLING PRICES CONTAINED IN 3M'S CATALOG. 3M will not enter into any discussions with distributors regarding the prices at which other distributors sell PRODUCTS.**
- B. 3M agrees to sell PRODUCTS to distributors at the prices indicated in the 2020 catalog subject to the conditions of sale stated in the catalog and any other 3M policy statements in effect at the time distributor submits an order.
- C. The prices and conditions of sale set forth in 3M's catalog may be changed by 3M at any time without notice.
- D. A distributor will order PRODUCTS only by purchase orders submitted to 3M. Acceptance of any orders placed by a distributor, either by written acknowledgment or by shipment of PRODUCTS, does not constitute acceptance

by 3M or any of the terms and conditions contained in such orders, except the identification and quantity of PRODUCTS ordered. All orders are governed by the provisions of this Distributor Policy, which in all cases shall control over any conflicting provisions in a distributor's purchase order.

E. 3M will not offer catalog price protection.

F. 3M does provide special co-op pricing to encourage distributors to feature certain 3M products in targeted media including end-buyer catalogs, end-buyer flyers, distributor catalogs, distributor flyers, company store programs, distributor web sites and end-buyer web sites. Contact your 3M sales representative for details.

Sales Leads

3M's sales and marketing activities may result in sales leads and inquiries being received by 3M. Where the lead or inquiry indicates a user preference for a particular distributor, the lead or inquiry will be directed to that distributor. Where previous related activity has been carried out in conjunction with a particular distributor, the lead or inquiry will be directed to that distributor unless the user directs otherwise. In all other cases leads or inquiries will be directed to the distributor(s) which, in 3M's opinion, is (are) best able to meet the requirements of the particular customer.

Credit

3M, at its sole discretion, may change or limit the amount or duration of credit to be allowed by a distributor. 3M may cancel any orders accepted by 3M or delay the shipment of the order, if a distributor fails to meet payment schedule of the order, if a distributor fails to meet payment schedule or other credit or financial requirements established by 3M. New distributors may order from 3M on a pre-paid basis. 3M will consider extending credit at the distributor's request.

Warranty and Limitation of Remedies; Disclaimer

A. 3M warrants to distributors that PRODUCTS are merchantable at the time of shipment and they will reasonably conform to an approved proof. If any PRODUCT is proven to be defective, 3M's entire liability and a distributor's exclusive remedy will be, at 3M option, either 1) replacement of PRODUCTS or 2) refund of the purchase price paid by the distributor for each defective PRODUCT, within a reasonable time after written notification of the defect and return of the defective PRODUCT to 3M.

B. THE WARRANTY STATED ABOVE IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY ARISING OUT OF A COURSE OF DEALING OR OF PERFORMANCE, CUSTOM OR USAGE OF TRADE, EXCEPT OF TITLE AND AGAINST PATENT INFRINGEMENT.

C. If a distributor offers express or implied warranties and limited remedies which differ from those stated above, then the distributor agrees to assume full responsibility for all liability, loss, cost and expense arising out of, or in connection with, the different warranties and/or remedies offered by distributor.

D. If a distributor takes delivery of PRODUCTS, then the distributor agrees to promptly inspect the shipment and notify 3M in writing of any defects. As to any PRODUCTS, drop shipped directly to a user, a distributor agrees to require the user to promptly inspect the PRODUCTS and to promptly inform the distributor of any defects. A distributor will then immediately notify 3M of defects reported by the user. Any PRODUCTS not rejected within 30 days after delivery are accepted. Any notice of defects must specify the defects in detail; any defect not specified is waived. After sending 3M a notice of defect, a distributor must follow whatever return goods policy that 3M has in

effect or any specific and reasonable instructions which 3M may issue. For any Post-it® products which 3M determines are defective, a distributor will follow 3M's instructions and either return the goods to 3M with 3M responsible for the return freight or dispose of the pads in a safe manner approved by 3M at no charge to 3M.

Limitation of Liabilities: Time Limit for Filing Action

A. NEITHER PARTY WILL UNDER ANY CIRCUMSTANCES BE LIABLE TO THE OTHER FOR DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUE OR BUSINESS) RESULTING FROM OR IN ANY WAY RELATED TO PRODUCTS, ANY OF DISTRIBUTOR'S PURCHASE ORDERS OR TERMINATION OF THE 3M-DISTRIBUTOR RELATIONSHIP. This limitation applies regardless of whether the damages or other relief are sought based on breach of warranty, breach of contract, negligence, strict liability in tort or any other legal or equitable theory. This limitation does not apply to direct damages caused by breach of a material obligation under this Distributor Policy (except breach of warranty) or to claims for personal injury by a third party.

B. Any action for breach of warranty or any other breach of obligation must be commenced within one (1) year after the breach occurs.

Excused Performance

Except for a distributor's obligation to make payment to 3M, neither party will be liable for any failure to perform its obligations under this Distributor Policy if due to any cause beyond reasonable control of the non-performing party.

Use of 3M's Trademarks and Company Name

A. 3M permits distributors to use 3M's company name and trademarks fairly in association with PRODUCTS, subject to the terms and conditions stated below.

B. A distributor may use 3M's company name to designate the source of PRODUCTS or to describe the distributor's relationship with 3M (e.g., 3M Authorized Promotional Markets Distributor.) The company name must always be accompanied by an appropriate modifying term and must not be used in a manner which implies that the distributor is part of 3M.

C. A distributor may use 3M's trademarks associated with PRODUCTS in connection with the distributor's efforts to sell PRODUCTS. All references to PRODUCTS must accurately identify the PRODUCTS.

D. A distributor's use of 3M's trademarks and company name must comply with 3M's usage guidelines for Dealers, Distributors and other Channel Relationships as well as 3M's guidelines for usage of the Post-it® trademark. Copies of these guidelines are available upon request from your 3M sales representative. If a distributor has a question concerning proper usage, then the distributor should secure prior written approval from 3M before using 3M's trademarks or company name.

E. If a distributor misuses 3M's trademarks or company name, then 3M will have the right to revoke its permission to use 3M's trademarks and company name under this policy. 3M may revoke its permission by giving the distributor written notice.

F. Upon termination of such permission or a distributor's right to buy PRODUCTS, the distributor will immediately cease all use of 3M's trademarks and company name and take all action possible to cause the removal of 3M's trademarks and company name from all signs, directories, business cards, sales literature, advertisements and any other places where the distributor has used these valuable assets.

G. During and after termination of any distributorship, distributor agrees to the following: Distributor acknowledges that the 3M Company name and other trademarks associated with PRODUCTS and the goodwill associated with such name and marks are the exclusive property of 3M and their use shall inure solely to the benefit of 3M. Except for the limited use permitted under this Distributor Policy, distributor agrees that it will not use or seek registration of (1) any

trademark, service mark or any other type of mark, domain, trade, business or other name, or other device, anywhere in the world, which includes "3M," "Post-it" or any other trademark associated with PRODUCTS, or (2) any other mark, name or device, which would be likely to cause confusion, mistake or deception with the 3M company name or trademarks associated with PRODUCT, or that would otherwise tend to dilute, tarnish or lessen the distinctive qualities thereof.

Compliance Mandatory

Compliance with the Distributor Policy is mandatory. Failure to comply may result in termination of the distributor relationship or other legal action.

Copy Ownership and Indemnification

A. **Copyrights:** By submitting copy to 3M a distributor warrants that it has the right to have that copy printed and that 3M's printing of the copy will not infringe any copyright. A distributor agrees to defend, indemnify and hold harmless 3M, its printers and their respective directors, officers and employees, from any claim, loss, liability or expense (including reasonable attorneys' fees and other expenses of litigation) on account of any claim that the copy submitted to 3M infringes any copyright. If 3M has reason to fear a claim of infringement, 3M may withhold or interrupt the printing or shipment of an order. Neither 3M's exercise nor failure to exercise this right changes a distributor's obligations under this paragraph.

B. **Use of Logos and Names of Other Companies:** By submitting copy which includes a logo, company name or other representation, distributor warrants that it has the right to use that representation and to authorize 3M to use it as shown in the submitted copy. A distributor understands that 3M will not ordinarily verify the distributor's authorization and a distributor agrees to defend, indemnify and hold harmless 3M, its printers and their respective owners, partners, directors, officers and employees from any claim, loss, liability or expense (including reasonable attorneys' fees and other expenses of litigation) on account of any claim that the printing of the logo, company name or other representation was unauthorized or that the manner of representation as shown in the submitted copy was improper. If 3M has reason to fear that the distributor's authorization is invalid, or that the representation as shown in the submitted copy is not proper, 3M may withhold or interrupt the printing or shipment of the order. Neither 3M's exercise nor failure to exercise this right changes a distributor's obligations under this paragraph.

C. **Limitations on Design and Text Exclusivity:** If a distributor or its customer claims a copyright or other exclusive right to use the design or text which is furnished with an order, then the distributor must state that right conspicuously on the face of the order and must include a brief explanation of the source of the right. For example: "This copy includes an original design developed by one of our employees. Under her employment agreement, the rights belong to us." Or: "This design is copyrighted by its author, Ms. X, who has authorized us or our customer to reproduce it." The copy itself must display the appropriate copyright notice.

Right to Decline Orders

3M reserves the right to decline any order submitted by a distributor.

User Protection

3M does not provide user protection. 3M's acceptance of any order for a particular user does not give a distributor any exclusive rights or access to PRODUCTS with respect to that user. 3M will service the user's needs in the manner specified by the user.

Collecting Customer Information from Orders

3M shall have the right to record customer information supplied with distributor orders on a database and use the information in the future for various purposes, including but not limited to market research, product development and sales promotions.

Business Development Allowance Program

3M has established a Business Development Allowance Program to support distributors willing to engage in business development activities. Contact your 3M sales representative for details.

Relationship of the Parties

A. The relationship established between 3M and a distributor is that of a vendor to its vendee. A distributor is not an agent or franchise of 3M and has no authority to bind 3M, transact any business in 3M's name or on its behalf in any manner, or make any promises or representations on behalf of 3M. A distributor must represent itself only as an independent business that is an authorized distributor of the PRODUCTS. The employees and agents of the distributor are not for any purpose the employees or agents of 3M.

B. In certain situations 3M may elect to sell PRODUCTS directly to users. In each case 3M will decide whether or not it wishes to hire a distributor as an independent sales representative to help 3M make the sale to the user and service the user. If 3M hires a distributor as an independent sales representative, then for those direct 3M sales the relationship between 3M and the distributor changes to that of a manufacturer to its agent. In such cases the distributor may represent itself to the user as an independent sales representative working for 3M.

No Assignment, Sale or Transfer

When 3M issues an account number to allow a distributor to buy and sell PRODUCTS, the appointment is personal. A distributor may not assign its rights or delegate its duties under this policy without 3M's prior written approval. 3M expressly reserves the right to terminate a distributor's right to buy PRODUCTS on (a) the sale of all or substantially all of the stock of the distributor, (b) the sale or transfer of the entire business or substantially all the assets of the distributor or (c) any change in the management or control of the distributor. Any assignment or transfer without 3M's prior written consent is void and cause for termination of the distributor.

Termination

A. The offer and acceptance of a distributor account number for PRODUCTS are motivated by mutual anticipation of growing sales volumes, profits and other advantages, and a recognition and acceptance of mutual responsibilities inherent in the functions of a manufacturer and a distributor.

B. When either the distributor or 3M forms the opinion that the anticipated advantages have not or are not likely to materialize or that the responsibilities in this distributor-manufacturer relationship are not being complied with, either party has the option of terminating this relationship by giving the other party at least thirty (30) days written notice.

C. 3M is not obligated to repurchase PRODUCTS in a terminated distributor's stock upon termination.

D. A terminated distributor will immediately cease to represent itself as an authorized distributor of PRODUCTS.

E. During the period between giving the notice of termination and the effective date of termination, all ordered PRODUCTS will be delivered to the distributor on a cash with order basis.

Amendment of Policy

3M reserves the right to alter or amend this Distributor Policy at any time by giving distributors written notice. This Distributor Policy may not be amended by a 3M sales representative or by oral representations.

Distributor Acceptance

A distributor will communicate acceptance of the terms and conditions of this Distributor Policy by submitting orders to 3M after receipt of a copy of this Distributor Policy

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