

Sign Here, Please: Knowing Your Rights Under Dealer Protection Laws

As owners or managers of a dealership, you deal with contracts every day – from the complicated financing agreement or IT services agreement to a simple purchase order. Even though all contracts have legal terms (many of you would say it is simply unreadable gibberish!), the tendency of most people that get these contracts when they are the “customer” is to simply sign it and move on so that the real business at hand can get done. This is a perfectly reasonable reaction when we are dealing with smaller transactions. Even though there are words I wouldn’t like in the contract (if I read it), I make the judgment call that it won’t be worth my time or effort to read and argue about words in a contract that I won’t be able to get changed anyway. But when it comes to contracts that require a significant investment and involve a long-term relationship, I pay very close attention to the words in the contract and I strongly encourage you to do the same. As dealers, one of the best examples of a contract where you need to pay close attention is the dealer agreements you have with your manufacturers. These contracts represent key relationships in your business and it is important for you to know what to do when a manufacturer rep stops by with a new contract and says “I need you to sign here so that we can keep doing business.” I know this situation happens on a regular basis and when it happens the next time, I want you to be armed with information so that you know how to respond. **Know Your Rights Under Dealer Protection Laws** Farm equipment dealers (and often OPE and construction dealers) in most states and provinces in the US and Canada have laws in place that recognize the leverage manufacturers have in the dealer-manufacturer relationship. These laws are intended to give dealers a slightly more level playing field. One of the most important protections in many of these laws is that a manufacturer can’t terminate your contract without “good cause”. This typically means that you have to do something to violate the contract and, in many cases (e.g., market share issues), you also get the right to have some time to fix the problem before the contract can be terminated. This is a very important protection for dealers and it is often used reactively to prevent a manufacturer from terminating your contract. However, this protection should also be used proactively to give you leverage when your manufacturer comes to you with a replacement contract. If this happens and you sign the new agreement, you have really just agreed to voluntarily “terminate” your old agreement. As a result, the key thing for you to understand is that the dealer protection laws often allow you to say “no” when asked to sign the new agreement because the manufacturer usually can’t turn around and terminate you for refusing to sign. **What Should I do When Asked to Sign a Replacement Dealer Agreement?** If you are asked to sign a replacement dealer agreement, I recommend the following simple steps:

- Ask the manufacturer to explain the changes.
- Ask the manufacturer if all dealers are receiving the agreement.
- Check your files to see if you have your current agreement and if not, ask the manufacturer for a copy.
- Tell the manufacturer that you want to review the contract first and that you don’t plan to sign it while they are waiting.
- Contact your association. Your association executive may be able to help explain the changes or give you insight into why the manufacturer is taking the action. If the change impacts a significant number of dealers, the association may also be able to obtain a legal review to help you understand the changes and the related rights you have under the dealer protection laws.

Please remember to pay attention to the key contracts impacting your business. The words in these contracts matter and you should understand the meaning of changes before signing up for new terms. You may even be able to get changes made to the contract, especially if you have the protection of a state law that gives you some leverage to negotiate.