Case Studies on Dispute Prevention
The Case for Alliance Management
(prepared 2022)

Description of parties: New pharmaceutical startup and established longstanding pharma company.

Brief history of relationship and arrangement: It is a common event. A new startup appears with a promising new drug for development. It needs the expertise, capital, and horsepower of a more established drug company to develop, obtain regulatory approval, and market an exciting novel product. The parties come together with the best of intentions, and it seems as though nothing can derail certain success. The parties execute a licensing deal in which the startup licenses certain markets to the mature pharmaceutical company who will in turn supply development, marketing and regulatory services. Additionally, certain markets are retained by the startup while others are the commercial responsibility of the licensee.

Nature of issue, conflict, or dispute: While the asset has promising indications worldwide, extensive efforts are required to get the product across the finish line. Certain regulatory authorities seem inclined to approve the product, opening potential markets. Others, however, are more cautious seeking information and data not part of the initial clinical studies. Over time, the initially contemplated market potential for the product decreases. The probability of success drops in key markets and suddenly the commercial success is less obvious than it once was.

While the startup innovator remains fully invested, as it is a single product company, the dimming prospects and change in commercial opportunity cause the mature pharmaceutical company to reconsider. That which seemed commercially reasonable at the onset is now not so.

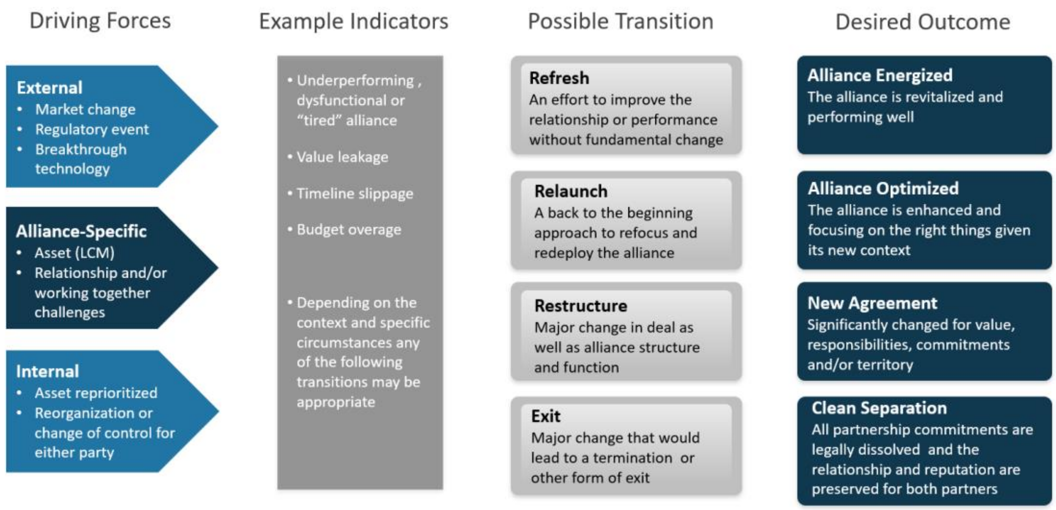
The mature company considers a retrench on its investment contending it is commercially reasonable to do so. The innovator disagrees, believing all efforts should be expended to obtain approval and commercialization plans. The more mature company, more versed in understanding regulators concerns, disagrees. It believes that regulatory approval is unlikely in a number of markets, significantly diminishing the commercial opportunity. The dispute is on.

All seems lost, with the dispute headed for certain litigation, which would severely and negatively impact the asset, its potential, and future opportunities. It also will likely tarnish the reputation of the parties.

Nature of dispute prevention mechanism deployed:	Facing certain doom, the relationship, now dysfunctional, is in need of a transformation if any value is to be recaptured. While the lawyers on each side gird for battle, in steps Relationship Management. These professionals recognize the need for a transition of the alliance. They recognize that the key elements of a successful alliance transition are to (1) understand what is changing and why, (2) anticipate when a transition should take place, and (3) adjust the alliance appropriately.
How was the actual or potential conflict or dispute prevented or resolved?	The parties used the below alliance management "rubric or schemata" to help identify the driving forces behind the alliance dysfunction and the transition steps that might be followed in pursuit of desired outcomes. Rather than continuing to debate culpability, the rubric/schemata deployed by the Relationship Management professionals broadened the discussion to look beyond the disputed issues and this created possibilities to consider new approaches. They first considered a relaunch. This option was favored, conducted and, seemingly put the alliance back on the right path. This improved the collaboration between the partners but did not resolve the perception – by both – that ultimately a better working relationship would not satisfy their expected return on investment for the collaboration. Therefore, the parties again utilized the rubric/schemata to aid their discussions and determined a "Clean Separation" as the preferred pathway for optimizing the value of the asset and one that provided maximum value to each party. The parties jointly concluded that the best separation would involve a reversion of rights with the mature pharma company remaining financially but not operationally invested in the future success of the asset. This not only preserved the value of the asset for the parties but also maintained its potential externally. Proving the benefit of this approach, a third-party entered the dynamic and offered the start-up more value for the project. Each party realized greater value than if they had allowed their dispute to damage the value of the asset.
Lessons from the case study:	1. Partnerships can be challenging, discern the actual friction points. 2. Understand the partners' interests (including personal interests), not just their stated positions. 3. When conflict arises, focus on the reason you came together, not your dispute which is likely value destructive. 4. The contract is the foundation of the alliance, but also remember the spirit with which the agreement was put in place. 5. Make sure to align stakeholders (internal / external). 6. Involve Relationship Management & refer to the Transition and Exit Scenarios.

Transition Scenarios

Understand what is changing, and why, and prepare to adjust the alliance accordingly



Exit Scenarios

Retiring or exiting an alliance correctly requires the careful implementation of several critical components, including communication planning to all groups involved in the alliance