

Commercial Contract

MANUFACTURING FACILITY LEASE AGREEMENT



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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January 2013

Manufacturing Facility Lease Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

LEGAL SERVICES, SMEDA

The Legal Services (LS) department is a part of Business & Sector Development Services Division of the Small Medium Enterprises Development Authority and plays a key role in providing an overall facilitation and support to the small businesses. The LS believes that information dissemination among the small businesses on the existing legal & regulatory environment and business to business and business to client contracting is of paramount importance and plays a pivotal role in their sustainable development.

In order to facilitate small businesses, the LS, under the Pro-GOLE (Right to do business) project, a joint SMEDA-UNDP initiative for supporting the small businesses, has developed user-friendly contract templates.

Pro-GOLE, (Right to do Business)

The UNDP has partnered with the Small and Medium Enterprises Development Authority to initiate and execute the Pillar 4 (Right to do business) component of the UNDP PRO-GOLE project which seeks to enhance the legal awareness and mobility of marginalized/ informal businesses. Under the project legal services outreach shall be extended to small businesses including home based enterprises, small shopkeepers, growers, women entrepreneurs, hawking vendors etc. In addition, small business shall be mobilized to access legal services.

The Need for Commercial Contracts Templates

In an increasingly complex and competitive industry, it is vital that suppliers and purchasers are fully protected against legal and commercial risks. To counter such risks, a viable solution; available as- of the shelf commercial contract templates- will provide the users with first class ready to use support. With obligations properly set out and liabilities accurately defined, the users will be in a far better position to look after their rights and interests and move forward from their marginalized positions to being active players of the economy. The Legal Service Providers can equally take benefit of these templates for their professional and business development.

Disclaimer

The information contained in this template is meant to facilitate the businesses in documenting transactions with reference to manufacturing. However, SMEDA, UNDP or any of their employees or representatives accept no responsibility and expressly disclaim any and all liabilities for any and all losses/shortfalls caused by or motivated by recommendations from the information contained within this document. Although SMEDA's ambition is to provide accurate and reliable information; yet, the document is not an alternative to expert legal advice and should ideally be used in conjunction with the same. Any person using this document and or benefiting from the information contained herein shall do so at his/her own risk and costs and be deemed to have accepted this disclaimer.

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All information contained in this document may be freely used provided that relevant acknowledgement is accurately quoted with each usage.

B15. MANUFACTURING FACILITY LEASE AGREEMENT

THIS MANUFACTURING FACILITY LEASE AGREEMENT (hereinafter referred to as the "Agreement") is made at [insert place] on this ____ (insert date) day of _____ (insert month), 20__ (insert year)

BY AND BETWEEN:

M/s [insert Name], a public/private Company incorporated under the Companies Ordinance, 1984, having its registered office at [insert Address] through its [insert Designation], Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a partnership concern of Mr/Mrs/Ms [insert Name] and Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through its Partner, Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a sole proprietorship concern of Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through Mr/Mrs/Ms [insert Name];

(hereinafter referred to as the "Lessor", which expression shall, wherever the context so provides, include its assigns, nominees, agents and successors-in-interest)

AND

Mr/Mrs/Ms [insert Name], son/wife/daughter of [insert Name], r/o [insert Address] CNIC # [insert Number];

OR

M/s [insert Name], a public/private Company incorporated under the Companies Ordinance, 1984, having its registered office at [insert Address] through its [insert Designation], Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a partnership concern of Mr/Mrs/Ms [insert Name] and Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through its Partner, Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a sole proprietorship concern of Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through Mr/Mrs/Ms [insert Name];

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(hereinafter referred to as the "Lessee", which expression shall, wherever the context so provides, include its agents and successors-in-interest).

(The Lessee and the Lessor are hereinafter collectively referred to as the "Parties" and individually as the "Party".)

WHEREAS the Lessor is the absolute and lawful owner of a property measuring [insert measurement], situated at [insert complete address] wherein a manufacturing plant has been installed for the manufacturing of [insert description of the products] (hereinafter referred to as the "Manufacturing Facility").

AND WHEREAS the Manufacturing Facility is not in use for the time being.

AND WHEREAS the Lessee wishes to start a business of manufacturing of [insert description of products], and wishes to acquire the Manufacturing Facility on lease from the Lessor.

AND WHEREAS the Lessor has agreed to give to the Lessee the Manufacturing Facility on lease under this Agreement.

NOW THEREFORE the Parties have entered into this Lease Agreement on the following terms and conditions:

1. RENT

(1)The monthly rent shall be Rs. _____/- (Rupees _____ only) (insert amount) per month (hereinafter referred to as the "Rent"), and the date of the commencement of the Lessee's obligation to pay the Rent shall be the date of the Lessee taking possession of the Manufacturing Facility from the Lessor.

(2)The Monthly rent shall increase at a rate of 10% of the last paid Rent, every year.

2. TERM & TERMINATION

(1)This Agreement shall commence on the day of the Lessee taking possession of the Manufacturing Facility from the Lessee, and shall continue for a period of [insert number] years, unless terminated earlier.

(2)The Lessee shall possess the exclusive right to terminate this Agreement, subject to [insert number] months' notice to the Lessor. Nevertheless, the

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said right shall solely be possessed and exercised by the Lessee and not by the Lessor in any case.

3. RIGHT TO ALTER

That after the handing over of the Manufacturing Facility to the Lessee, the Lessee may construct/alter/change the interior of the Manufacturing Facility to suit its needs and business requirements, provided that such change/alteration shall not change the basic structure of the Manufacturing Facility.

4. NO REPRESENTATIONS

The Parties agree that the Manufacturing Facility is being leased to the Lessee by the Lessor "as is", and the Lessor does not make any representations or warranties regarding the fitness of the Manufacturing Facility for the Lessee's purposes, or regarding the condition of the plant and machinery installed at the Manufacturing Facility.

5. REPAIR AND MAINTENANCE

From the date of this Agreement and the Lessee's taking possession of the Manufacturing Facility from the Lessor, the Lessee shall be liable to incur the charges, if any, for the repair and maintenance of the Manufacturing Facility and the plant and machinery installed thereon.

6. CLEARANCE OF PRIOR DUES

That the Lessor shall provide clearance of all dues and charges for installation of utilities, i.e. water, gas, electricity, telephone, conservancy if applicable for the period up to the commencement of this Agreement. Any fee/fees required to be paid for obtaining utility connections or any other facility from local government specifically meant for usage of the Lessee shall be borne by the Lessee.

7. PAYMENTS OF TAXES/CHARGES

(1) That the Lessor shall pay duties, taxes (i.e. property taxes, income tax or any other tax/charges whatsoever payable to the Government or any other authority) which may at any time or from time to time during the Lease Term hereby created be imposed or charged upon the Manufacturing Facility.

(2) That the Lessee shall pay all electricity bills and charges pertaining to use of telephone, electricity, gas, conservancy and water at the Manufacturing

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Facility directly to the concerned authorities and departments for and in respect of all the amenities and utilities from the date of occupancy.

8. INDEMNIFICATION

- (1) That the Lessor shall keep the Lessee fully indemnified, safe, secured and harmless against all losses, detriments, risks, damages, occasioned to and sustained by the Lessee in respect of the Manufacturing Facility whereby the Lessee is prevented or disturbed from using the Manufacturing Facility for the purposes of carrying on its business.
- (2) That the Lessee shall keep the Lessor fully indemnified, safe, secured and harmless against all losses, detriments, risks, damages, and claims occasioned to and sustained by the Lessor with respect of the Lessee's use of the Manufacturing Facility, whether or not such use of the Manufacturing Facility has been permitted by the Lessor under this Lease Agreement.

9. RIGHT TO INSPECT

That during the Lease Term, the Lessee shall allow the Lessor himself or through their representatives to enter the Manufacturing Facility at any reasonable time of the day for purpose of inspection, provided that [insert number] weeks' prior notice in writing of the intended entry shall be given by the Lessor to the Lessee and the inspection shall be carried out to the extent possible, in a manner without disturbing or affecting the business of the Lessee.

10. NO RIGHT TO SUBLET

The Lessee shall not further sub-let, part with possession of, and create any encumbrance or third party interest on the Manufacturing Facility, wholly or on any part thereof in any manner.

11. PURPOSE

That the Lessee shall use the Manufacturing Facility for the sole purpose of the manufacturing of its products, and such purposes which are incidental thereto. The Lessee expressly agrees that in no case shall the Lessee use the Manufacturing Facility for any activity prohibited by any law in place for the time being.

12. TITLE OF PRODUCTS

That the right, title and interest in and to the raw materials and the finished products lying at the Manufacturing Facility by the Lessee at any time during

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the term of this Agreement shall vest in the Lessee at all times, and the Lessor shall not, at any time, have any claim to any title, interest or right to the stored products and raw materials at any time by virtue of the same being stored in the Lessor's property.

13. LESSOR'S REPRESENTATION

- (1) The Lessor hereby represents that the Manufacturing Facility and the plant and machinery installed thereon is free from all encumbrances, charges, or liens of any entity, whatsoever, and the Lessor has full and absolute authority to enter into this Agreement without affecting the rights of any third party.
- (2) The Lessee undertakes that it shall not, at any time, and in any way, create any charge, encumbrance, lien, or any other third party interest over the Manufacturing Facility, and shall use the Manufacturing Facility for only the purposes as provided in this Agreement.
- (3) That on the Lessee paying the Rent on the due dates thereof and in the manner herein provided and observing and performing the covenants, conditions and stipulations herein contained, it shall peacefully enjoy the possession and occupation of the Manufacturing Facility for the Lease Term without any interruption by the Lessor or any person lawfully claiming under him.

14. TERMINATION

If the Manufacturing Facility becomes untenable because of any Act of God, Act of Enemy, the Lessee shall be entitled to terminate this Agreement and hand over vacant possession of the Manufacturing Facility to the Lessor. In such circumstances, any advance Rent paid by the Lessee to the Lessor shall be refunded by the Lessor to the Lessee within a reasonable time, or the Lessee, in its sole discretion, may call upon the Lessor to repair, at Lessor's own cost, the Manufacturing Facility, within a reasonable time fixed with the mutual consent of the Parties.

15. SETTLEMENT OF DISPUTE

Any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Pakistan Arbitration Act, 1940, subject to the exclusive jurisdiction of the Courts of [insert place].

16. GOVERNING LAW

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This Agreement shall be governed by the laws of Pakistan and the courts of proper jurisdiction in Pakistan shall have the powers to adjudicate in respect of any matter arising here from or hereunder.

17. AMENDMENTS

This Agreement may be modified, extended, enlarged or amended from time to time by mutual agreement and consent of the Parties.

18. NON WAIVER

The failure of either Party to exercise any right provided in this Agreement shall not be construed as a waiver its right to subsequently enforce such provision or any other provision of this Agreement.

19. ENTIRE AGREEMENT

This Agreement represents the complete agreement between the Parties with regard to the subject matter.

That this Agreement shall supersede all arrangements/agreements, which the Lessor may have entered into or agreed to any other person/s prior to this Agreement with the Lessee, all of which are now rendered null and void by virtue of this Agreement with the Lessee.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals the day, month and year mentioned hereinabove.

**For and on behalf of
The Lessor**

WITNESS NO. 1

Signature: _____

Name: _____

Designation: _____

Date: _____

**For and on behalf of
The Lessee**

WITNESS NO. 2

Signature: _____

Name: _____

Designation: _____

Date: _____

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