

Commercial Contract

INTELLECTUAL PROPERTY SALE AGREEMENT



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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January 2013

Intellectual Property Sale 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 IP matters. 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.

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

Intellectual Property Sale Agreement

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1. INTELLECTUAL PROPERTY SALE AGREEMENT

THIS AGREEMENT FOR SALE OF INTELLECTUAL PROPERTY (hereinafter referred to as the "Agreement") made and entered into 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];

OR

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

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

AND

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];

OR

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

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

Intellectual Property Sale Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

(The Seller and the Buyer are hereinafter collectively referred to as the "Parties", and individually as the "Party").

WHEREAS the Seller is the owner of the [insert description of the intellectual property] (hereinafter referred to as the "Intellectual Property", and more properly described in Clause 1), and any rights, trademarks, etc., associated with the same.

AND WHEREAS the Seller intends to sell and the Buyer intends to purchase the Intellectual Property along with the rights associated with it.

NOW THEREFORE the Parties have entered into this Agreement for the sale/purchase of the Intellectual Property on the following terms and conditions:

1. DEFINITION OF INTELLECTUAL PROPERTY

(1) Intellectual Property, for the purposes of this Agreement, is defined as follows:

[insert description of the Intellectual Property being sold, along with details of ownership/registration documents, if any]

(2) The Buyer agrees to purchase from the Seller the Intellectual Property described in Clause 1 (1), and any rights, trademarks, etc., associated with the said Intellectual Property.

2. SALE OF INTELLECTUAL PROPERTY

(1) The Seller agrees that it has the requisite authority to sell and transfer the Intellectual Property, and further agrees that selling the Intellectual Property means that from the date of this Agreement, the Seller has no further claims, whatsoever, to the Intellectual Property.

(2) The Seller agrees that the description of the Intellectual Property here (and on any included schedules or attachments) is accurate and thorough, and that no facets of the Intellectual Property have been left out of this Agreement.

(3) The Seller agrees to transfer any and all rights to the Intellectual Property in favor of the Buyer, and agrees to do all such acts necessary to transfer/register the Intellectual Property in the name of the Buyer.

Intellectual Property Sale Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

- (4) The Seller agrees that from the date of this Agreement, the Buyer shall have the right to, among other things, exploit the Intellectual Property for profit. The Seller further agrees that following the execution of this Agreement, the Seller shall have no further rights to the Intellectual Property, and that the Seller shall not make any further profit, or any other kind of gain or benefit, as a result of a connection to the Intellectual Property, except as specified in this Agreement.
- (5) The Seller hereby covenants with the Buyer that the Seller and any person claiming, whether in law or in equity, through or under the Seller's permission, any interest in the Intellectual Property or any part thereof, shall, from time to time or at any time at the request of the Buyer, do and execute or cause to be done and executed at the cost of the Seller, all such acts, deeds and things as may be necessary for more perfectly, properly and completely selling/transferring and assuring to the Buyer all the rights, title, and interest of the Seller in or to the Intellectual Property.

3. CONSIDERATION

- (1) The Seller shall transfer the ownership in the Intellectual Property to the Buyer against a consideration of Rs. ____/- (Rupees _____) (insert amount) (hereinafter referred to as the "Consideration") to be paid by the Buyer to the Seller.
- (2) Of the Consideration Amount, the Buyer shall pay an amount of Rs. ____/- (Rupees _____) (insert amount) to the Seller at the time of execution of this Agreement. The remaining Consideration Amount of Rs. ____/- (Rupees _____) (insert amount) shall be paid by the Buyer to the Seller on the date of registration of the Intellectual Property in the name of the Buyer with the relevant authorities.

3. TRANSFER/ASSIGNMENT

- (1) The Seller agrees to provide the Buyer with any and all documents related to the Intellectual Property, including any patent agreements, copyright certificates, plans, written works, etc.
- (2) This transfer/assignment shall begin upon the signing of this Agreement, and shall be completed no later than [insert number] days past the signing of the Agreement.

Intellectual Property Sale Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

- (3) The Seller agrees to do all such acts, and to execute all such documents, which are necessary for the complete transfer of the Intellectual Property in the name of the Buyer, including but not limited to, in the relevant records.

4. GOVERNING LAW AND EXCLUSIVE JURISDICTION

This Agreement in all respects be read and construed and shall operate as a contract, in conformity with the laws of Pakistan and the courts at [insert place] shall have exclusive jurisdiction for adjudicating any dispute arising hereunder.

5. RESOLUTION OF DISPUTES

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].

6. FORCE MAJEURE

- (1) Force Majeure shall mean any event that is beyond the reasonable control of a Party, or the effects of which adversely affect the performance by such Party of its obligations under this Agreement, including, but not limited to, acts of God, sabotage, insurrection, terrorism, riots, hostilities or war (whether declared or not), acts of the public enemy, civil disturbances, any kind of fire, explosion, flood or accidental damage, epidemics, landslides, washouts, lightening, storms, earthquakes, lockouts, blockades, shortage of labor or material, major equipment failure, or other causes beyond the control of the Party affected.
- (2) Notwithstanding anything contained hereinabove, neither Party shall be liable to the other if it is unable to perform any of its obligations under this Agreement due to the occurrence of Force Majeure.
- (3) The Party affected by the Force Majeure event shall be entitled to suspend performance of its obligations under the Agreement to the extent that such performance is impeded or made impossible by the events of Force Majeure.
- (4) Each Party shall give a notice within [insert number] days of the occurrence of the event of Force Majeure and shall promptly thereafter consult the other Party for the purpose of finding a mutually acceptable solution to the Force Majeure event.

Intellectual Property Sale Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

7. INDEMNIFICATION

If either party is found to be in breach of this Agreement, the offending Party will indemnify the offended Party for any legal fees accrued as a result of the breach. Lost profits incurred as a result of any such breach shall be repaid by the offending Party to the offended Party.

8. AMENDMENTS

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

9. SEVERABILITY

If a court of law finds any provision of this Agreement invalid or unenforceable at law for any reason, the remainder of this Agreement shall not be affected, and shall be interpreted so as best to effect the intent of the Parties.

10. ENTIRE AGREEMENT

This Agreement, contains the entire understanding and agreement between the Parties hereto with respect to its subject matter and supersedes any prior or contemporaneous written or oral agreements, representations or warranties between them respecting the subject matter hereof.

11. NONWAIVER

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.

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 Buyer

For and on behalf of
The Seller

Intellectual Property Sale Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____