

# Commercial Contract

## MANUFACTURING LICENSE 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 License Agreement**

Pro-Gole (Right to do Business)

Legal Services, B&SDS

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## **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.

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

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### **B4. MANUFACTURING LICENSE AGREEMENT**

**THIS MANUFACTURING LICENSE AGREEMENT** (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 "Business", 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]

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

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

**WHEREAS** the Business is involved in the manufacturing of [insert description of products] (hereinafter referred to as the "Products", and more particularly described in Schedule I of this Agreement).

**AND WHEREAS** the Manufacturer also has a manufacturing facility for the manufacturing of similar products.

**AND WHEREAS** the Manufacturer is desirous of obtaining a license from the Business to undertake the manufacturing of the Products for sale in the market and the Business is prepared to grant such license to the Manufacturer.

**NOW THEREFORE** the Parties have agreed to the terms and conditions of this Agreement on the following terms and conditions:

## 1. TERM

This Agreement shall become effective on [insert date], and shall remain in full force and effect for a period of [insert number] years unless terminated earlier by the Parties under the terms and conditions of this Agreement.

## 2. LICENSE

(1)The Business hereby grants to the Manufacturer the license to manufacture the Products and use the Business' trademarks associated with the Products (hereinafter referred to as the "Trademarks" and more particularly described in Schedule II of the Agreement) and sell the Products in the [insert territorial boundaries].

(2)Apart from the Products given in Schedule I and the Trademarks given in Schedule II of the Agreement, the Manufacturer shall not manufacture any of the Business' products or trademarks.

(3)In undertaking the manufacturing of the Products, the Manufacturer shall abide by the quality standards of the Business, as communicated by the

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Business to the Manufacturer from time to time. The Business shall have the right to inspect the quality standards of the Manufacturer's products to ensure the strict compliance of the Manufacturer with the Business' quality standards.

(4)The Manufacturer shall be at liberty to sell the manufactured Products in the market within the territorial boundaries described in Clause 2 (1).

(5)The Manufacturer shall be at liberty to sub-license the license to manufacture pursuant to this Agreement, however the sub-license shall be chosen in mutual consultation with the Business.

### **3. LICENSE FEES**

The Manufacturer shall pay to the Business an amount of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) (insert amount) per month in lieu of the License to manufacture the Products (hereinafter referred to as the "License Fees"). Other than the License Fees, the Business shall be entitled to no other payments from the Manufacturer on account of royalty or commission.

### **4. NON-COMPETITION**

The Manufacturer shall not directly or indirectly, during the term of this Agreement, manufacture, sell or deliver any product which might reasonably be considered to compete with the Business' Products without the prior written approval from the Business.

### **5. ASSIGNMENT**

Neither Party may assign any right or obligation under this Agreement to any third Party without the prior written consent of the other Party.

### **6. TERMINATION**

(1)Either Party may terminate this Agreement, with or without cause, upon serving a [insert number] months' prior written notice to the other Party.

(2)Upon termination, the Manufacturer shall immediately cease the manufacturing of the Products and the use of the Trademarks of the Business. The Manufacturer shall only be allowed to sell such Products which have already been manufactured till the time of the receipt of the notice of termination of the Agreement under Clause 6 (1).

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## **7. INDEMNIFICATION**

The Manufacturer shall indemnify the Business against any and all claims, losses, damages, costs, charges and expenses (including court fees and lawyers fees and expenses) suffered or incurred by the Business as a consequence of breaching the terms of this Agreement or due to its failure to abide by the Business' product specifications and standards.

## **8. CONFIDENTIALITY**

- (1) Each party shall at all times during the continuance of this Agreement and after its termination keep confidential all trade secrets, know-how or other confidential information (hereinafter referred to as the "Confidential Information") made available under or in connection with this Agreement.
- (2) Notwithstanding the assignment of its rights in accordance with Clause 11 below, the Manufacturer shall be responsible and liable for maintaining the secrecy of the Confidential Information provided by the Business for the processing activity and also for ensuring compliance of all the terms and conditions of this Agreement.

## **9. 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].

## **10. 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.

## **11. 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,

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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.

### **12. MISCELLANEOUS**

- (1) This Agreement represents the complete agreement between the Parties with regard to the subject matter and supersedes any prior understanding or agreements, oral or written.
- (2) This Agreement may be amended or revised only by an instrument in writing signed by either the Parties or their duly authorized representatives.
- (3) No provision hereof or breach of any provision may be waived except by a written waiver, signed by the waiving Party. No waiver of any right under or breach of this Agreement shall be construed to be a waiver of any other right or breach under the Agreement. 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.
- (4) Any provision of this Agreement which is prohibited or unenforceable under any law, rule or regulation applicable in [insert place] for the time being shall be ineffective only to the extent of such prohibition or lack of enforceability, and shall not invalidate the remaining provisions hereof.

**IN WITNESS WHEREOF**, the Parties have set their respective hands on this Agreement at the place, and on the date, mentioned hereinabove.

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**For and on behalf of  
The Business**

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**For and on behalf of  
The Manufacturer**

**WITNESS NO. 1**

**WITNESS NO. 2**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**SCHEDULE I**  
**List of Products**

**SCHEDULE II**  
**List of Trademarks**