

Commercial Contract

AGREEMENT FOR PAYMENT OF ROYALTY



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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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.

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9. AGREEMENT FOR PAYMENT OF ROYALTY

THIS AGREEMENT FOR PAYMENT OF ROYALTY (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];

(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]

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

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

WHEREAS the Grantor and the Business have entered into a [insert name of the agreement] (hereinafter referred to as the "Master Agreement"), wherein the Grantor has granted the Business the license to make use of the licensed works identified as the following, and hereinafter referred to as the "Licensed Works":

1. [insert name/description of the licensed work]
2. [insert name/description of the licensed work]
3. [insert name/description of the licensed work]

AND WHEREAS the Business, under the terms and conditions of the Master Agreement, shall pay royalty to the Grantor against the use of the Licensed Works.

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

1. TERM

This Agreement shall come into force on the date of execution of the Master Agreement, and shall continue to exist during the subsistence of the Master Agreement, un less terminated earlier with the mutual consent of the Parties.

2. SCOPE

The Business shall use the Licensed Products for [insert the purposes for instance sale, marketing, research, production etc], and other commercial purposes with respect to the Licensed Works, as enumerated in the Master Agreement against the payment of Royalty under the terms and conditions of this Agreement.

3. ROYALTY

- (1) For each unit of the Licensed Works sold by the Business during the term of this Agreement, the Business shall pay to the Grantor the royalty in accordance with Schedule Ato this Agreement, plus any applicable taxes (hereinafter referred to as the "Royalty").

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- (2) The Royalty shall be payable by the Business to the Grantor on account of the sales of the previous month on the [insert number] day of each month, in arrears.

4. ACCOUNTING AND AUDIT

(1) Reports. The Business shall provide the Grantor with a written statement setting forth:

- i. the number of Licensed Works units sold; and
- ii. the amount of royalties due (hereinafter referred to as the "Royalty Report"), within [insert number] days of the end of each calendar month.

(2) Records. The Business shall maintain and keep, for a period of at least [insert number] years, complete and accurate records, in accordance with generally accepted accounting principles, in sufficient detail, to enable the determination of any Royalties which shall have accrued hereunder for such period.

(3) Audits. Upon the request of the Grantor, but not exceeding [insert number] in one year, the Business shall permit, during normal business hours, an independent public accountant, selected by the Grantor and reasonably acceptable to the Business, to have access to all such records of the Business as may be necessary to verify the accuracy of the Royalty Reports and payments submitted to Grantor under the terms of this Agreement.

(4) Audit Expenses. Any audit of the Business's records under Clause 4 (3) shall be at the expense of the Grantor, except that if any such inspection reveals a deficiency of [insert number] percent or more of the amount of the Royalties actually due to the Grantor as against the Royalties actually paid to the Grantor under this Agreement in any year, then the expense of such audit, plus any shortfall amounts, shall be borne promptly by the Business.

(5) Surplus. If any audit under Clause 4 (3) reveals a surplus in royalties actually paid to the Grantor by the Business, the Grantor shall refund to the Business the surplus amount within [insert number] days after such audit.

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5. RELATIONSHIP OF PARTIES

Nothing in this Agreement shall be deemed to constitute a joint venture, partnership, employment or other legal relationship other than that of licensor and license.

6. TRADE SECRETS CONFIDENTIALITY

Both Business and Grantor may share privileged and confidential information with the other Party during the term of the Agreement. The Parties agree that any information which is intended to remain confidential shall be clearly marked. The recipient shall only distribute such information to those third parties with an absolute need to know such information, and shall ensure that such third parties, and all employees or agents of the receiving party shall maintain the confidentiality of the information received.

7. 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

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mutually acceptable solution to the Force Majeure event.

8. 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.

9. 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].

10. ASSIGNMENT

Neither Party hereto may assign, convey or otherwise transfer any of its rights, obligations, or interest herein without prior express written consent of the other Party.

11. 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.
- (4) Any provision of this Agreement which is prohibited or unenforceable under any law, rule or regulation applicable in Pakistan 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.

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

For and on behalf of
The Business

For and on behalf of
The Grantor

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____

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Schedule A

LIST OF LICENSED WORKS AND ROYALTY PAYMENT

	Description	Royalty
1.	[insert name/description of Licensed Work]	[insert percentage of unit price]
2.	[insert name/description of Licensed Work]	[insert percentage of unit price]
3.	[insert name/description of Licensed Work]	[insert percentage of unit price]