

Commercial Contract

AGREEMENT FOR EXPORT OF FRESH FRUITS



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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January 2013

Agreement for Export of Fresh Fruits

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 import and export. 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.

Agreement for Export of Fresh Fruits

Pro-Gole (Right to do Business)

Legal Services, B&SDS

AGREEMENT FOR EXPORT OF FRESH FRUITS

THIS AGREEMENT FOR EXPORT OF FRESH FRUITS (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];

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]

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

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(The Business and the Importer are hereinafter collectively referred to as the “Parties”, and individually as the “Party”.)

WHEREAS the Business is engaged in the cultivation of fresh fruits (hereinafter referred to as the “Fresh Fruits”, and more particularly described in Clause 2 of this Agreement) in Pakistan.

AND WHEREAS the Importer owns and runs wholesale outlets in [insert name of the country] where, amongst other things, it sells fresh fruits to its customers for further resale.

AND WHEREAS the Importer wishes to import the Fresh Fruits from Pakistan for sale at its outlets in [insert country].

AND WHEREAS the Business wishes to export its Fresh Fruits, and the Importer wishes to buy the Fresh Fruits, on the terms and conditions contained in this Agreement.

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

1. TERM OF CONTRACT

This Agreement shall come into effect on the date of execution of the Agreement, and continue for a period of [insert number] years unless terminated earlier in accordance with the terms and conditions of this Agreement.

2. FRESH FRUITS, PACKING AND PRICING

(1) The Business agrees to sell, and the Importer agrees to buy, the following Fresh Fruits from the Business, in the quantities mentioned hereinafter, and in accordance with the purchase orders placed by the Importer with the Business:

1. [insert description of Fresh Fruits]
2. [insert description of Fresh Fruits]
3. [insert description of Fresh Fruits]

(2) The Business shall pack the Fresh Fruits in such packing suitable for the Fresh Fruits to be shipped to [insert the destination point] without damage during shipment.

(3) The Importer shall place each of the individual order with the Business in writing, and no later than [insert days] before the date by which the Importer requires the respective delivery.

(4) The Prices of the Fresh Fruits shall be negotiated between the Parties at the time of the Importer placing an order with the Business.

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- (5) Subject to Clause 3(1), the Price shall be inclusive of the delivery charges, other charges pertaining to packaging, and all the taxes and charges applicable on the export of the Fresh Fruits in the Business' country, i.e. Pakistan, and the Importer shall not be liable to pay any other amounts to the Business in lieu of any such charges.
- (6) The charges and taxes applicable on the import of the Fresh Fruits in the Importer's country, i.e. [insert Importer's country] shall be payable by the Importer directly to the relevant authorities.
- (7) The payment of the Price shall be made by the Importer to the Business through an irrevocable Letter of Credit drawn on [insert name of the Importer's bank], sent to [insert name and branch of the Business' bank] within [insert number] days of the acceptance of each respective order. .

3. DELIVERY

- (1) The Fresh Fruits shall be delivered by the Business to the Importer by [insert mode of delivery], through [insert name of the Carrier]. However, if the Importer, due to any reason, requires the Business to ship the Fresh Fruits to the Importer through any other carrier, the Importer shall be liable to pay to the Business the difference in the shipment rates.
- (2) The delivery of the Fresh Fruits shall be F.O.B Destination Port i.e. [insert Destination port], and the Business shall bear all costs and risks of loss of or damage to the Fresh Fruits until the time that the Fresh Fruits reach [insert the destination port].
- (3) The Importer shall be responsible for the transportation of the Fresh Fruits from the Delivery Port to its place of business.

4. INSPECTION AND ACCEPTANCE

- (1) Promptly upon the delivery of the Fresh Fruits, the Importer shall inspect the shipment to determine in the Fresh Fruits included in the shipment are in accordance with the quality and quantity specifications provided by the Importer at the time of placing of the order.
- (2) Upon inspection of the shipment, in case of any discrepancy/damage to the Fresh Fruits, the Importer shall notify the Business in writing of any such discrepancies with in [insert number] days.
- (3) The Parties agree that in case the Importer fails to inspect the Fresh Fruits with in [insert number] days of the delivery at the Destination Port, or notify the Business of any discrepancy/damage to the Fresh Fruits within [insert number], the Business shall not be liable to reimburse the Importer for any such damage/discrepancy.

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- (4) Upon the receipt of a notice under Clause 4 (3) of this Agreement, the Business shall arrange for the replacement of the non-conforming Fresh Fruits within [insert number] days of the receipt of the notice, or at the sole option of the Importer, refund the amounts against such discrepant/damaged Fresh Fruits.

5. TERMINATION

- (1) Either Party may terminate the Agreement by giving a [insert number] months prior written notice to the other Party in any of the following events:

- i.
- ii.
- iii.

- (2) If either party defaults in any of the other terms of this Agreement and fails to cure the default within [insert number] days of receipt of a notice given by the non-defaulting Party, the non-defaulting Party may forthwith terminate this Agreement by giving a written notice thereof.

6. GOVERNING LAW AND RULES OF CONSTRUCTION

- (1) The validity, interpretation, and the performance of this Agreement shall be governed by the laws of [insert place].
- (2) If any term or provision of this Agreement is determined to be invalid, it shall not affect the validity and enforcement of the remaining terms and provisions of the Agreement.
- (3) This Agreement shall be binding upon, and inure to the benefit of, the respective successors, assigns, representatives, and heirs of the Parties herein.

7. 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 UNCITRAL Arbitration Rules [or insert any other applicable rules] , subject to the exclusive jurisdiction of the Courts of [insert place].

8. 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,

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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.

9. AMENDMENTS

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

10. 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.

11. ENTIRE AGREEMENT

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.

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 Business

For and on behalf of
The Importer

WITNESS NO. 1

WITNESS NO. 2

Agreement for Export of Fresh Fruits

Pro-Gole (Right to do Business)

Legal Services, B&SDS

Signature: _____

Name: _____

Designation: _____

Date: _____

Signature: _____

Name: _____

Designation: _____

Date: _____