

## **Main terms & Conditions Overseas GSA arrangement/draft agreement**

### **TERMS & CONDITIONS:**

#### **1. COMPANY'S DUTIES AND PRICING**

- a) The Company shall forward to its General Sales Representative all enquiries received directly from the buyers introduced by the GSA.
- b) The Company agrees to furnish to the General Sales Representative upon request, pricing, delivery and technical information covering Company's products as they may relate to the sales effort of the General Sales Representative.
- c) The Company agrees to furnish, from time to time, to the General Sales Representative information concerning the availability of new products, which may be marketable in overseas market .
- d) The Company will quote to the General Sales Representative its most competitive prices for any inquiry.
- e) The Company shall upon receipt of Orders, arrange production of goods as required to make timely delivery of all such goods that may be sold by General Sales Representative. The General Sales Representative will use its best efforts for the timely opening of Irrevocable Letter of Credit at sight by the buyer.
- f) The Company reserves its rights to accept/reject/modify the order secured by its General Sales Representative and/or directly by the buyer. The Company also reserves its right to accept/reject the irrevocable Letter of Credit at sight if it is in variance with the order/orders accepted by the Company.
- g) The Company reserves its right to commence production and also to fix delivery schedule(s) according to the Irrevocable Letter of Credit at sight requirements.
- h) The General Sales Representative will tender all necessary Services and efforts to promote and timely clearance of the bill by the buyer.
- i) The General Sales Representative will obtain business in Overseas market for minimum US\$ 50,000 (US DOLLARS FIFTY THOUSAND ONLY) in the first year. The company reserves the right to terminate this agreement in case of not achieving the minimum performance level i.e US\$ 50000(US DOLLARS FIFTY THOUSAND ONLY) during the period of one year of signing the Agreement. This clause will come into force i.e \_\_\_\_\_, 2012. This agreement can also be terminated within 60 days notice upon mutual written consent between the Company and the General Sales Representative. Subsequent year target will be fixed in the corresponding year.

- j) In case of non-fulfilment of any of the terms of the agreement under clause 2 sub-clause (a) to (n), the agreement can be terminated by the aggrieved party after giving notice of 60 days in writing.

## **2. PAYMENT**

- a) The GSR's commission is fixed at 10% (Ten percent) of the FOB value of the goods payable immediately after realization of sales proceeds.
- b) The commission entitlement is for all orders secured by the General Sales Representative in Overseas Market.
- c) Barring force majeure conditions if the Company fails to make delivery as per the terms of the Irrevocable Letter of Credit, the General Sales Representative shall be paid 50% of the total commission (as mutually agreed by both parties on case to case basis) on the FOB value of the order for loss of business, if any. In case the Company procure the goods as per the General Sales Representatives Order Confirmation but later on order is cancelled by the Buyer, then any loss of business incurred by the Company shall be borne by the Buyer and no commission will be paid to the General Sales Representative.

## **3. DUTIES OF REPRESENTATIVE**

- a) The Company at its expense will attend the International Exhibition/Trade fair recommended by the General Sales Representative at least once in a season to promote the Company's product line. The General Sales Representative will join hands to present the product line to the customers/buyers.
- b) General Sales Representative will also provide advisory professional Services to upgrade the sample range on an ongoing basis to best suit the Overseas Market. The Service charges for design and technical consultants and fee for participation in exhibitions and trade fairs shall be decided on case-to-case basis.
- c) The sales representative shall employ representatives at its own cost and expenses for canvassing the company products.
- d) The sales representative may appoint sub-agents for any Country and on such terms and conditions as the representative may think fit. However the company shall not be liable for any dealing between the sales representative and its sub-agents.
- e) The sales representative shall not make any representation on behalf of the company except in conformity with the instructions issued by the company.
- f) The sales representative shall book orders of the company's products on the terms and conditions mentioned in the Schedule attached hereto. The terms and conditions shall be subject to change by circulars or instructions by the company

from time to time and the sales representative shall be bound to follow the instructions issued by the company from time to time.

- g) The General Sales Representative will cover the Overseas market for the products of the Company as mentioned above at its own cost.

## **5. TERM OF AGREEMENT**

This agreement shall be in force for a period of 3 (three) years. On review of Performance after one year, if minimum target is achieved, the agreement will be continued on mutual consent for remaining period of agreement. However target will be for 1<sup>st</sup> year only. Subsequent year target will be fixed in the corresponding year.

The General Sales Representative will cover the overseas market for the products of the Company as mentioned above.

## **6. NO EMPLOYMENT CONTRACT**

Nothing contained in this agreement shall be construed to constitute sales representative as a partner, employed, or agent of the Company nor shall either party have authority to bind the other in any respect, it being intended that sales representative is an independent contractor.

## **7. TERMINATIONS**

- a) At the termination of this agreement whether by efflux of time or otherwise, the company shall not be liable to pay any commission to the sales representative for the orders received after the expiry of agency period.
- b) Responsibility upon Termination

All documents of any description prepared by the Sales Representative during the course of performance of services by it under this Agreement shall become the property of the Company during the existence of the present agreement and upon its termination thereof. Further, any material, information, knowledge, provided by the Company to the Sales Representative in connection with or furtherance of Sales Representative's services under this Agreement shall immediately, upon the termination of this Agreement, be returned to the Company.

## **8. COMMUNICATION**

Unless otherwise agreed upon, the respective addresses for communication in respect of any matter relating to this agreement shall be as under:

### **For the Company**

The Handicrafts & Handlooms Exports Corporation of India Ltd  
"NOIDA COMPLEX"  
A-2, Sector-2, Udyog Marg,  
NOIDA, UP 201301

### **For the Sales Representative.**

---

## **9. CONFIDENTIALITY**

### Obligation of Confidentiality

In performance of its services under this Agreement, the "Confidential Information" of the Company, that the Sales Representative may be exposed to and may be required to use, shall not be used by the Sales Representative or its employees, agents or representatives either, directly or indirectly, to the benefit of any person, entity or organization other than the Company, and the Sales Representative shall not disclose such Confidential Information without the written authorization of the Director of the Company, either during or after the term of this Agreement. The Sales Representative shall maintain in strict confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of Company, which the Sales Representative may receive from the Company or become aware during the performance of its services.

## **10. Standard of Conduct**

In rendering services under this Agreement, the General Sales Representative shall not represent the Company or act as representative of the Company to any party, buyer, purchaser, brand during the course of any negotiation and shall conform to high professional standards of work and business ethics. Sales Representative shall not use any material and/or information of the Company without the prior written consent of the Company. In no event shall Sales Representative take any action or accept any assistance or engage in any activity that would result in any other company or other person, entity or organization acquiring any rights of any nature in the results of work performed by or for the Company.

**11. Taxes**

General Sales Representative shall be responsible for all taxes arising from the amounts paid under this Agreement, and shall be responsible for all payroll taxes and fringe benefits of its employees. Government levied service tax will be applicable on the fee for the transaction and the rates prevailing at the time of raising the invoice shall be applicable and the fee shall at all times be subject to Indian law including Withholding Tax, if applicable.

**12. Benefits**

General Sales Representative and its employees shall not be eligible for, and shall not participate in, any employee pension, health, welfare, or other fringe benefit plan, of the Company. No workers' compensation insurance shall be obtained by Company covering the Sales Representative or its employees.

**13. Indemnity**

The General Sales Representative shall be solely responsible for any loss, damage, harm or deficit caused to any third party due to its misrepresentation of any fact, knowledge, data, experience or information concerning the Company to any third party or which arises due to the willful misconduct or gross negligence of the General Sales Representative. The Company shall not bear any responsibility or defend the Sales Representative against, and indemnify and hold the Sales Representative harmless from, any claims or suits by a third party against the Sales Representative or any liabilities or judgments based thereon, either arising from the Sales Representative's deficiency in services for the Company under this Agreement.

**14. Conflict of Interest**

General Sales Representative covenants and agrees not to provide any services in any manner or capacity to a direct competitor of the Company during the duration of this Agreement unless express written authorization to do so is given by the Company's President. A direct competitor of the Company for purposes of this Agreement is defined as any individual, partnership, corporation and/or other business entity that engages in the business similar to what is provided in Clause 1( a).

**15. Construction of Terms**

If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, that provision shall be severed and shall not affect the validity or enforceability of the remaining provisions.

**16. Modification**

No modification, termination or attempted waiver of this Agreement, or any provision thereof, shall be valid unless in writing signed by the party against whom the same is sought to be enforced.

**17. Waiver of Breach**

The waiver by a party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any other or subsequent breach by the party in breach.

**18. Successors and Assigns**

This Agreement shall not be assigned by the Sales Representative to any Third Party under no circumstances. The benefits and obligations of this Agreement shall be binding upon and inure to the Sales Representative hereto, its successors and assigns.

**19. No Conflict**

Sales Representative warrants that it has not previously assumed any obligations inconsistent with those undertaken by the Sales Representative under this Agreement.

**20. ENTIRE AGREEMENT**

This writing contains the entire agreement of the parties and there are no other agreements, representations or warranties. Not set forth herein.

**21. DISPUTE RESOLUTION**

Any and all disputes, controversies, differences arising between the parties hereto out of or in relation to this agreement or any breach thereof shall be finally settled by arbitration by Sole Arbitrator, to be appointed by the Managing Director of the Company. The award given by the Sole Arbitrator shall be final and binding on the parties. The venue of Arbitration shall be at New Delhi only and the language of Arbitration shall be English.

**22. JURISDICTION**

Both the parties mutually agree that only the courts in New Delhi shall have the exclusive jurisdiction to try and entertain any/all disputes/ issues arising from and relating to this Agreement.