

AGREEMENT FOR THE GRANT OF BIS LICENCE

(FOR USE BY THE FOREIGN MANUFACTURER)

THE AGREEMENT MADE AT NEW DELHI ON THISDAY OFMONTH.....YEAR, BETWEEN Bureau of Indian Standards, a body corporate established under the Bureau of Indian Standards Act, 1986 having its Head Office at Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 (hereinafter referred to as "BIS" which expression shall include its administrators, assigns, agents and or representatives) of the one part.

AND

M/S....., a foreign manufacturer having its Office at And office in India at (*hereinafter referred to as the "manufacturer" which expression shall include its heirs, and or assigns*) through Mr..... (*Write down its Managing Director/Proprietor/ partner or authorized signatory, as the case may be*).

WHEREAS BIS has been established by the Bureau of Indian Standards Act, 1986 for harmonious development of activities of Standardization, Quality Certification & Marking of goods and for matters connected therewith or incidental thereto.

AND WHEREAS in furtherance of its functions as provided in the BIS Act, 1986 and in particular to provide service to foreign manufacturers, BIS is empowered to grant national certification.

AND WHEREAS under BIS Act, 1986 BIS is authorized to grant BIS licence for use by the foreign manufacturer with respect to the conformance of the product in accordance to the relevant Indian Standards. The grant of such licence shall be subject to the manufacturer complying with the norms laid down by BIS from time to time.

AND WHEREAS the manufacturer had applied to BIS for grant of BIS licence under BIS Act, 1986 and BIS after satisfying itself about the capability of the manufacturer and that

it satisfies the requirement as laid down in BIS Act, Rules and Regulations has decided to GRANT to the manufacturer BIS licence on the terms and condition hereinafter mentioned.

Now the parties hereto agree as under :

1. DEFINITIONS:

In this Agreement unless the context otherwise requires.

- 1.1 BIS LICENCE means a document issued by BIS in the format as mentioned in BIS Regulations 1988.
- 1.2 Licensee means the manufacturer to whom a licence has been granted under the BIS Act 1986.
- 1.3 Manufacturer means the manufacturer of any article or process.
- 1.4 Recognized Laboratory means any laboratory in India or abroad recognized by BIS for the purpose of testing conformance of product to the relevant Indian Standards.
- 1.5 Product means the products to be marked with BIS Standard Mark.
- 1.6 Authorized Representative means the person nominated and appointed by manufacturer for the purpose of compliance with the terms and conditions of this Agreement and provisions of BIS Act, 1986 and Rules and Regulations framed thereunder and shall be deemed to be a person having ultimate control over the affairs of the manufacturer for the purposes of this Agreement.

2. FEES

- 2.1 In consideration of BIS granting licence to the manufacturer and the manufacturer agreeing to abide by the provisions of this Agreement and the various obligations and responsibilities and BIS performing its part as

Certifying Authority under BIS Act, 1986, the manufacturer shall pay to BIS the necessary fees as applicable from time to time under the scheme like advance minimum marking fees, renewal application fees, annual licence fees and marking fees calculated on actual production marked and any other fees as prescribed. The manufacturer also agrees to bear all expenses including testing charges in connection with the visits of BIS Officials, its Agents/Nominees for surveillance or other charges to its office or place of manufacture, as the case may be as decided by BIS in its absolute discretion.

3. NOMINATION

3.1 The manufacturer shall nominate and appoint a person as his Authorized Representative located in India, after obtaining all necessary permission/sanctions, if required, under the Indian laws, whose nomination shall be duly communicated to BIS in writing. The authorized representative may either be in-charge or a senior officer of the Indian office or a legally appointed agent of the manufacturer in India. The nomination by the manufacturer shall be given on the letterhead in the formal as prescribed by BIS from time to time.

3.1.1 In case the authorized representative nominated by the foreign manufacturer is a foreign national, who is not amenable to Indian Laws/Act, then the foreign manufacturer will also have to furnish a bank guarantee of US \$ 10000 in favour of BIS, so that in case of default, the amount can be adjusted accordingly. The authority to take decision in such cases will rest with BIS.

3.2 The form containing nomination of the Authorized representative by the manufacturer either at the time of execution of this Agreement or at the time of fresh appointment during the continuation of this Agreement, shall also contain the signature of such Authorized Representative who

has been so appointed, in token of his consent and confirmation of the terms and conditions of this Agreement and to signify his willingness for compliance of various provision of Agreement/BIS Act, 1986 and Rules and Regulations.

- 3.3 The Authorized Representative appointed shall be deemed to be a person having ultimate control over the affairs of manufacturer in India for the purposes of this Agreement and as such shall be responsible for all due compliance of terms and conditions of this Agreement as also provisions of BIS Act, 1986 and the Rules and Regulations made thereunder and shall continue to be so till another Authorized Representative is appointed in his place in accordance with the terms of the Agreement.
- 3.4 The Authorized Representative shall remain bound to comply/adhere to the terms and conditions of this Agreement, the provisions of BIS Act, 1986 and Rules and Regulations for and on behalf of manufacturer and thus shall be responsible and liable for all the acts and omissions and violations of the terms of the agreement/provisions of BIS Act, 1986, Rules and Regulations framed thereunder in his personal capacity.
- 3.5 The manufacturer shall ensure that his Authorized Representative does not remain un-represented at any time during the continuation of this Agreement, on account of any reasons whatsoever and shall further ensure that the Authorized Representative already nominated is substituted or another Authorized Representative is freshly nominated in the records of BIS well before the incumbent Authorized Representative is relieved of his obligations/liabilities under this Agreement. It is understood and agreed between the parties that this clause is an essence of this Agreement and any violation of this clause shall authorize BIS to terminate/determine this Agreement forthwith, whether formally determined or terminated or not, and take steps for cancellation of his licence. It is agreed that such determination will be without prejudice to

the other rights of BIS available to it under the BIS Act and Rules and Regulations framed thereunder or under this Agreement.

- 3.6 BIS shall be entitled to terminate this Agreement forthwith in the event it is revealed to or comes to the knowledge of BIS that the manufacturer has failed to comply with the terms of this clause except that in the event of death of Authorized Representative during the continuation of this Agreement, the manufacturer shall be entitled to nominate a new Authorized Representative within twenty one days of the date of death of such Authorized Representative failing which provisions of clause 3.5 shall apply *matatis-mutandis*.
- 3.7 It is agreed that in the event Authorized Representative nominated by manufacturer severs his relationship/connection with the manufacturer and no new Authorized Representative is appointed in his place in terms of clause 3.5 hereinabove by manufacturer before earlier Authorized Representative being discharged/relieved well within the time, then notwithstanding determination/termination of this Agreement, the earlier Authorized Representative shall remain liable and responsible for all the acts/omissions or violations of the terms of this Agreement or provisions of BIS Act, Rules and Regulations framed thereunder committed till the time of his resignation/discharge.
- 3.8 The word "manufacturer" and "licensee" mentioned in the agreement shall mean and include "Authorized Representative" unless it is repugnant to the context.

4. ACCEPTANCE OF TERMS AND CONDITIONS

- 4.1 The licensee and his/her Authorized Agent agrees to abide by all the terms and conditions of grant of licence as per BIS Act, 1986, Rules and Regulations made thereunder.

5. RIGHTS AND RESPONSIBILITIES OF LICENSEE

5.1 Rights and responsibilities of the licensee shall be as conveyed to him earlier and he shall abide by the same.

6. VALIDITY OF BIS LICENCE

6.1 The BIS licence granted to the manufacturer shall only be with respect to.....*as per IS.....

**Mention product.*

6.2 The validity of BIS licence may be suspended/cancelled by BIS in any one of the following circumstances:

6.2.1 The licence has been used by the licensee for purposes other than, for which it has been granted.

6.2.2 The licensee has suppressed material facts and/ or information at the time of grant of licence or subsequent thereto.

6.2.3 The product (s) for which the licence is granted is found as not conforming to the Indian Standard.

6.2.4 The licensee does any act inconsistent with the provisions laid down in the BIS Act 1986, Rules and Regulations made thereunder or under the provision of this Agreement.

6.2.5 The licensee violates or commits breach of any terms of this Agreement by way of any act or omission.

6.3 The licensee shall use BIS license for marking the product covered in this agreement only for exporting to India.

7. DETERMINATION/TERMINATION

- 7.1 The Agreement shall be determined and stand terminated in the event the licensee commits any breach of terms of this Agreement or violates the terms by his/its action/omissions.
- 7.2 The licensee can also terminate the Agreement by giving 30 days notice in writing addressed to Director & Head, Central Marks Department-I, BIS, 9 Bahadur Shah Zafar Mark, New Delhi-110002 by registered AD post or by a notice delivered by hand.
- 7.3 On determination/termination of the Agreement, the manufacturer shall forthwith cease to apply Standard Mark on any of the product manufactured/marketed by manufacturer and shall immediately furnish a statement to BIS indicated the details of the product so manufactured/marked prior to termination/determination of Agreement or BIS licence and shall comply with all directions that may be conveyed by BIS to it. Manufacturer shall also clear all its/his/her liabilities, financial or otherwise, towards BIS and shall return the original licence document along with all endorsement to BIS.

8. INDEMNITY

- 8.1 The manufacturer/licensee agrees and fully understands that the responsibility of conformance to the relevant Indian Standard with respect to products is solely on the manufacturer.
- 8.2 The manufacturer/licensee agrees to indemnify BIS of all claims/damages arising out of its manufacturing of products and/ or Non-conformance to the relevant Indian Standards, that may be made against BIS by any person/firm/company/association/ consumer etc.

9 AGREEMENT PERIOD

9.1 This Agreement comes into force from the date of grant of licence and till the period for which it is granted/renewed and until withdrawn/ determined or cancelled by either party in accordance with the terms of this agreement.

10 JURISDICTION

10.1 If any dispute arises between the parties to the agreement including touching, interpretation/meaning of any of clauses the Agreement or respective rights/obligations/liabilities of the parties to this Agreement, courts at Delhi along shall have the jurisdiction to entertain, try and resolve such claims/rights/disputes.

10.2 For the purposes of this Agreement, the address of the manufacturer/licensee shall be its/her/his address given in India hereinabove while of BIS shall be as mentioned hereinabove. All notices/letters addressed to and or delivered at the said address shall be deemed to have been issued/delivered to the respective parties.

IN WITNESS WHERE OF THE PARTIES

HERETO AFFIX THEIR SIGNATURES

In the presence of.

Manufacturer

1.

BIS

2.

RIGHTS AND RESPONSIBILITIES OF THE FOREIGN MANUFACTURER

AS BIS LICENSEE

1. The licensee is authorized to display in its premises, vehicle or any other publicity material that it is a holder of BIS licence granted by BIS under BIS Act 1986, Rules & Regulations framed thereunder.
2. The licensee to abide by the following :
 - i) To comply with any instruction that may be given by BIS from time to time, consistent with the grant of BIS licence and under this Agreement.
 - ii) To inform/take approval of BIS if there is any change in the name of the organization, status, factory premises, management (including that of the Authorized Representative), process, Quality Control Personnel, design and brand name on which the manufacturer/licensee is applying Standard Mark.
 - iii) To nominate Authorized Representative to deal with all matters concerning BIS Certification.
 - iv) To familiarize with the provisions of the BIS Act, Rules and Certification Regulations as amended from time to time.
 - v) To supply one copy each of the up-to-date Indian Standard(s) and the Scheme of Testing and Inspection attached to the licence to all concerned specially to the personnel of Quality Control Department.
 - vi) To obtain prior permission of concerned authorities (where necessary so that the sample(s) can be made available to BIS as and when necessary. To inform BIS in case of difficulties, if any.
 - vii) To submit statement of quantity produced and marked with the Standard Mark of BIS including marking fee calculations thereof and PAY

MARKING FEE accordingly to BIS every quarter for preceding three months.

- viii) To apply for renewal with applicable fee, one month in advance of the expiry date of the validity period of the licence. While applying, full details should be given in Performance Sheet/Proforma for production details enclosed with the renewal application form.
- ix) To comply with all instruction of BIS immediately, specially when a licence is under stop marking or is cancelled/deferred/expired; otherwise it may invite legal action(s) as per the BIS Act.
- x) To get prior approval from BIS for the design, proportions and manner of applying the Standard Mark. To seek assistance of BIS, as and when necessary. To inform BIS when initiating marking for the FIRST time.
- xi) To inform BIS when stopping production, and stopping/resuming marking. To indicate stock of ISI marked goods at the time of stopping production.
- xii) To apply Standard Mark only on those varieties, type, grade and batches/lots of production which conform to the relevant Indian Standard for which valid licence is held.
- xiii) Do not apply Standard Mark on products produced on behalf of other agencies, unless prior permission has been obtained from BIS. Also do not apply Standard Mark on products produced on behalf of manufacturer by other agencies.
- xiv) Do not apply Standard Mark on material produced prior to grant of licence except with the permission of BIS.
- xv) To implement the Scheme of Testing and Inspection (STI) attached to the licence and maintain records of inspection and testing accordingly. Such

records shall be made available to BIS representative as and when asked for. To provide repair/replacement of the product, in case of complaint within the warranty period or one year whichever is more.

- xvi) To extend all possible co-operation to the BIS Inspecting Officer in checking your production line and records, testing in your factory premises and drawing of samples for independent testing during the periodic inspection visits.
- xvii) To get the test equipment calibrated periodically as per frequency specified/advised by BIS and maintain records for the same.
- xviii) Do not test/open the counter sample sealed by the BIS Inspecting Officer without prior permission of BIS.
- xix) To pack the sample(s) drawn by BIS Inspecting Officer properly to avoid damage during transit and ensure that BIS Inspecting Officer's seal is intact.
- xx) To despatch the sample(s) expeditiously to the Laboratory along with the Test request as instructed by the BIS Inspecting Officer with intimation to the concerned Office of BIS.
- xxi) To convey acceptance of rate of Marking Fee and Scheme of Testing and Inspection as revised from time to time promptly to BIS.

FORM FOR NOMINATION BY MANUFACTURER

To

The Director General
Bureau of Indian Standard
9, Bahadur Shah Zafar Marg
New Delhi-110 002.

Subject : Regarding nomination of Authorized Indian Representative as per clause 3.1 of the agreement.

Dear Sir,

In terms of requirement of clause 3 of the agreement, we M/s _____, the manufacturer and signatory of agreement with BIS do hereby nominate and appoint Mr./Ms. _____, Son of/daughter of Mr. _____, resident of _____ as our Authorized Indian representative in terms of clause 3 of the agreement Mr./Ms. _____, would be the person responsible for and on our behalf under the agreement for compliance of terms and conditions of agreement and also provisions of BIS Act 1986, Rules and Regulations. The form also contains his signatures in token of his acceptance, consent and confirmation of the terms and conditions of the agreement. Please be advised that the nomination in favour of the authorized representative shall continue for the purpose of this agreement till the other person is appointed in his place in accordance with the terms of the agreement.

Yours faithfully,

Signature of Authorized
Indian representative :

Signature

Name :

Name :

Designation :

Designation :

Address:

Date :

Seal