IN-COMmfg05

Food manufacturing agreement

[ABC Pvt Ltd]

AND

[DEF Pvt Ltd]

Dated: **[Date]**

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This agreement is dated: [date]

It is made between:

[ABC Pvt Limited], a company incorporated in India under company registration number [number] and whose registered ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ [■ ■ ■ ■ ■ ■ ■ ■] (■ ■ ■ ■ " ■ ■ ■ ■ ");

and

[DEF Pvt Limited], a company incorporated in India under company registration number [number] and whose registered ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ [■ ■ ■ ■ ■ ■ ■ ■] (■ ■ ■ ■ " ■ ■ ■ ■ ").

Background:

A. The Client is a food product intermediary for made up sauces for restaurant and retail trade. ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

and [redacted],

data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer [redacted], [redacted], [redacted], [redacted];

information about the Intellectual Property and [redacted]-[redacted];

information created or arising from this agreement;

information, comment or implication published on [redacted].

data or information relating to recipes, processes, formulae, procedures, apparatus, specifications, [redacted], [redacted];

“Control” (including all derived terms), means, with respect to the relationship between two or more corporate bodies, the possession, directly or indirectly, of the power to direct the affairs or management of a corporate body, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise, including, without limitation, [redacted], [redacted], [redacted].

“Incoterm” means latest version of pre-defined commercial rules of international trade published by [redacted] 2020 .

“Intellectual Property” means intellectual property of every sort, owned by or licensed to the Client, whether or not registered or registrable in any [redacted], [redacted];

and including:

patents, trade marks, unregistered marks,

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	designs, copyrights, Know-how, creations and inventions, moral rights, together with all rights which are derived ■ ■ ■

[redacted] , [redacted] , [redacted] - [redacted] .

2.4. A reference to a paragraph or schedule is to a paragraph or schedule to this agreement unless the context [redacted] . [redacted] .

2.5. The headings to the paragraphs and schedules to this agreement are inserted for convenience [redacted] .

2.6. Any agreement by Party not to do or omit to do something includes an obligation not to allow some other [redacted] .

2.7. A reference to the knowledge, information, belief or awareness of any person shall be deemed to include the knowledge, information, [redacted] .

2.8. The words “without limitation” shall be deemed to follow any use of the words “ [redacted] ” [redacted] “ [redacted] ” [redacted] .

2.9. All money sums mentioned in this agreement are calculated net of GST, which [redacted] .

2.10. This agreement and its schedules / attachments are to be taken together so as to give effect to all of them as far as possible with each document helping to interpret the others. But if there is any conflict or [redacted] , [redacted] .

2.11. This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or [redacted] , [redacted] .

3. Entire agreement

3.1. This agreement contains the entire agreement between the Parties and supersedes all [redacted] .

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3.2. Conditions, warranties or other terms implied by [redacted] .

3.3. Each Party acknowledges that, in entering into this agreement, [redacted] .

3.4. As an exception to the last [redacted] :

[Enter list [redacted] *]*

4. Manufacturer's warranties

The Manufacturer warrants that:

4.1. it is a registered [what, if any?] and is certified to [ISO 9001] [redacted] [28] [redacted] .

4.2. it is not aware of anything within [redacted] .

4.3. it has the necessary experience, all necessary [redacted] .

4.4. it is not a party to any other [redacted] .

4.5. it has taken out a policy [redacted] £ [[redacted]].

5. Scope of work

The Manufacturer shall:

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5.1. complete all necessary refinements to the Recipe.

5.2. complete the testing and [redacted].

5.3. obtain whatever regulatory and other governmental approvals [redacted] / [redacted].

5.4. the Client shall assist the Manufacturer [redacted], [redacted].

5.5. manufacture the Product [redacted].

6. Representative liaison and Recipe design reviews

6.1. With effect from today each of the parties will nominate a representative who will be [redacted].

6.2. [Periodically / once each month], the Manufacturer shall call a review [redacted].

6.3. The representative of a Party at a Recipe review meeting shall be a person with [redacted]. [redacted], [redacted].

6.4. So far as the Client suggests changes [redacted], [redacted].

6.5. After each change to any part of the Recipe design [redacted], [redacted] [7] [redacted].

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6.6. The materials specification as finally recorded [redacted] .

7. Product testing and quality assurance

7.1. The Manufacturer shall be responsible for obtaining whatever regulatory and [redacted] / [redacted] .

7.2. The Client shall assist the Manufacturer [redacted] , [redacted] .

8. Production specification and materials coverage

8.1. [scrap / trimmings / [redacted] / [redacted]] [redacted] .

8.2. The Manufacturer shall from time to time obtain arms length, market prices for [scrap / trimmings / [redacted] / [redacted]] [redacted] . [redacted] , [redacted] , [redacted] .

9. Packaging and delivery

9.1. Each Product shall [redacted] 3 .

9.2. Delivery shall be made to [redacted] [[redacted] / [redacted] / [redacted]] [redacted] 5 .

9.3. Delivery [to any location] [redacted] 24 [redacted] .

9.4. If the Manufacturer is not able to deliver the Product within [30] [redacted] , [redacted] - [redacted] .

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9.5. If the Manufacturer agrees with the Client to deliver on a particular [redacted], [redacted]. [redacted].

OR

9.6. Delivery time [redacted].

10. Design, development and preliminary costs and payment

10.1. Wherever a payment obligation is specified in this [redacted], [redacted] [[redacted]] [redacted].

10.2. For development and testing, the Client shall pay the [redacted], [redacted].

10.3. After acceptance by the Client of the [[redacted] / [redacted]], [redacted] [00 , 000].

10.4. For all work before the commencement of commercial production, the [redacted] [1 . 5] [redacted] [1 . 9] [redacted].

10.5. In calculating the cost of materials:

10.5.1 cost shall include all [redacted];

10.5.2 cost shall be referable [redacted];

10.5.3 materials shall include bought-in food ingredients plus whatever spare [redacted], [redacted], [redacted].

10.6. In calculating the cost of labour:

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10.6.1 all production cost shall be included;

10.6.2 the design team [redacted] [[redacted]] [redacted].

10.6.3 a fixed sum of Rs [[redacted]] [redacted], [redacted]-[redacted].

11. Production price

11.1. The price payable by [redacted]:

For the first [1000] [redacted]	[redacted] [[redacted]]
For the next [5000] [redacted]	[redacted] [[redacted]]
For each additional unit	Rs [number]

11.2. The price shall be increased on the first [redacted] [[redacted]].

11.3. If the Client requires delivery to someplace other than [[redacted]], [redacted] [[redacted]]

12. Transportation

[There are many ways and alternative deals possible. [redacted]. [redacted], [redacted]].

12.1. The following Incoterms [redacted]:

12.1.1 EXW [named [redacted], [redacted]] [redacted] ® 2020 .

12.1.2 FCA [named [redacted], [redacted]] [redacted] ® 2020 .

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12.1.3 CPT [named [redacted], [redacted]] [redacted]® 2020
.

12.1.4 CIP [named [redacted], [redacted]] [redacted]® 2020
.

12.1.5 DPU [named [redacted], [redacted]] [redacted]® 2020
.

12.1.6 DAP [named [redacted], [redacted]] [redacted]® 2020
.

12.1.7 DDP [named [redacted], [redacted]] [redacted]® 2020
.

12.1.8 FAS [named [redacted], [redacted]] [redacted]® 2020
.

12.1.9 FOB [named [redacted], [redacted]] [redacted]® 2020
.

12.1.10 CFR [named [redacted], [redacted]] [redacted]® 2020
.

12.1.11 CIF [named [redacted], [redacted]] [redacted]® 2020
.

12.2. All rights, obligations, [redacted].

12.3. Unless otherwise agreed in this agreement so far [redacted], [redacted].

13. Taxes

13.1. This paragraph relates to all sales, transfer and other taxes or customs duty (“Tax”) imposed on the [redacted], [redacted], [redacted], [redacted]. [redacted].

13.2. Insofar as any Tax is recoverable or can [redacted], [redacted].

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13.3. Tax shall be stated separately on the Manufacturer's invoices, collected [redacted] .

13.4. The Manufacturer will indemnify the Client against the [redacted] .

13.5. Wherever any sum is chargeable by the Manufacturer to the Client for services based on [redacted] , [redacted] , [redacted] , [redacted] .

13.6. In any case where the Client is prohibited by law from making a payment to the Manufacturer without first withholding tax from that [redacted] , [redacted] . [redacted] .

14. Visitors

14.1. The Manufacturer agrees to host visits by customers of the Client or other people whom [redacted] , [redacted] . [redacted] . [redacted] .

14.2. There shall be no more than [one] visit [redacted] . [redacted] [[redacted]] [redacted] , [redacted] .

14.3. The Client undertakes to inform every visitor of [redacted] , [redacted] .

14.4. The Client must make [redacted] .

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15. On site audits

15.1. On notice of at least [seven] days, the Client, its partners, financial supporters and its customers' representatives may attend at the [redacted].

15.2. On notice of at least [seven] days, the Client and/or any professional advisor, may attend at [redacted].

OR

15.3. The Parties agree that within [number] days after the end of each period of [six] months, based on the financial year of the Manufacturer/ [redacted].

AND

15.4. The auditor shall be instructed not to disclose to [redacted].

15.5. The provisions of this paragraph apply equally to any sub- [redacted].

15.6. If any discrepancy is found in [redacted] [[redacted]] [redacted].

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16. Use of sub-contractors

The Manufacturer shall not sub- [redacted].

OR

The Manufacturer may perform any or [redacted]:

16.1. The Manufacturer first obtains the written consent of the Client to [redacted].

OR

16.2. The Manufacturer must first obtain the written consent [redacted];

16.3. The Manufacturer [redacted];

16.4. The Manufacturer indemnifies the Client fully against any [redacted].

16.5. So far as work under this [redacted], [redacted] [[redacted]].

17. Confidential Information

17.1. The Parties are aware that, as a result of this agreement, they will each have access to and be entrusted with Confidential Information of the other. All Confidential Information and other data, [redacted], [redacted]. [redacted], [redacted], [redacted], [redacted], [redacted] [[redacted]] [redacted], [redacted]:

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17.1.1 except as provided in this [redacted], [redacted];

17.1.2 not use the Confidential Information in any way for itself [redacted], [redacted];

17.1.3 use its best endeavours to keep confidential ([redacted]) [redacted].

17.1.4 prevent disclosure of the Know-how or other [redacted] ([redacted]) [redacted];

17.1.5 disclose the Confidential Information only to those [redacted].

17.1.6 [redacted].

17.2. This paragraph does not apply to disclosure:

17.2.1 [redacted].

17.2.2 [redacted].

17.2.3 [redacted]; [redacted], [redacted], [redacted], [redacted], [redacted].

17.2.4 [redacted].

17.2.5 [redacted]. [redacted]

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[redacted].

17.3. [redacted].

17.4. [redacted].

17.5. [redacted].

17.6. [redacted], [redacted] ([redacted]) [redacted].

18. Protection of Intellectual Property

[redacted] [[redacted]] [redacted]:

18.1. [redacted];

18.2. [redacted]; [redacted];

18.3. [redacted]; [redacted];

18.4. [redacted], [redacted]

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[redacted].

18.5. [redacted];

18.6. [redacted] [redacted], [redacted], [redacted], [redacted];

18.7. [redacted], [redacted];

18.8. [redacted].

18.9. [redacted], [redacted]:

18.9.1 [redacted], [redacted], [redacted], [redacted];

18.9.2 [redacted].

19. “Work made for hire”

19.1. [redacted].

19.2. [redacted], [redacted], [redacted], [redacted].

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19.3. [redacted]'s [redacted].

19.4. [redacted], [redacted].

OR

19.5. [[redacted] 2] [redacted], [redacted] [[redacted] 1], [redacted].

19.6. [[redacted] 2] [redacted] [[redacted] 1] [redacted].

19.7. [[redacted] 2] [redacted], [redacted] [[redacted] 1], [redacted] [[redacted] 1] [redacted].

19.8. [[redacted] 2] [redacted] [[redacted] 1] [redacted] [[redacted] 2] [redacted]

19.9. [[redacted] 2] [redacted] [[redacted] 1] [redacted] [[redacted] 2] [redacted].

20. Duration and termination

This agreement may be terminated:

20.1. By mutual agreement on an agreed date.

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20.2. [redacted] [redacted] [redacted] .

20.3. [redacted] [redacted] [redacted] [redacted] / [redacted]].

20.4. [redacted] , [redacted] :

20.4.1 [redacted] [redacted] [redacted] [30] [redacted] ; [redacted]

20.4.2 [redacted] ;

20.4.3 [redacted] , [redacted] , [redacted] ;

20.4.4 [redacted] [redacted]] [redacted] ;

20.4.5 [redacted] , [redacted] , [redacted] , [redacted] , [redacted] ;

21. Change of Control

21.1. [redacted] .

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21.2. [redacted].

21.3. [redacted].

21.4. The Manufacturer agrees that this provision is fair.

22. Publicity / Announcements

22.1. [redacted].

OR

22.2. Neither Party shall:

22.2.1 make any public announcement; or

22.2.2 disclose any information; or

22.2.3 [redacted];

[redacted].

22.3. [redacted].

23. Assignment

23.1. [redacted].

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[redacted].

OR

23.2. [redacted]:

23.2.1 [[redacted]] [redacted]

23.2.2 [redacted]; [redacted]/[redacted]

23.2.3 [redacted]; [redacted]/[redacted]

23.2.4 [redacted].

24. Indemnity by the Manufacturer

24.1. [redacted], [redacted], [redacted].

24.2. [redacted], [redacted], [redacted]:

24.2.1 [redacted], [redacted];

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24.2.2 [redacted];

24.2.3 [redacted];

24.3. [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted].

25. Damages not adequate

[redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted].

26. Uncontrollable events

26.1. [redacted] [[redacted]] [redacted], [redacted], [redacted].

AND/OR

26.2. [redacted], [[redacted]].

OR

26.3. [redacted]

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[ ], . [28] , .

26.4. - .

26.5. , [. . . . .];

26.6. ;

26.7. , [30] , [ ] .

26.8. .

27. Miscellaneous matters

27.1. .

27.2. , .

27.3. .

27.4. , , .

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27.5. [redacted]

27.6. [redacted]

27.7. [redacted]

27.8. [redacted]

27.9. [redacted]

27.10. [redacted] 72 [redacted] 24 [redacted]

27.11. [redacted]

27.12. [redacted]

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27.13. [redacted], [redacted].

27.14. [redacted].

27.15. [redacted], [redacted].

Signed by / on behalf of the named Parties by their representatives who personally accept liability for the proper authorisation by their respective employer or principal to enter into this agreement

[redacted], [redacted] [[redacted]]

print name

[redacted], [redacted] [[redacted]]

print name

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Schedule 1: Detailed specification

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Schedule 2: Standards

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Schedule 3: Packaging and labelling

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Schedule 4: Press release

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Schedule 5: Delivery locations

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Explanatory notes:

Food manufacturing agreement

General notes:

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counter-party is under no illusions about IP, and second because some ■ ■ ■

Edit as you require. State precise and essential matters here. Place the ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ 2 .

8. Production specification and Materials coverage

Replace our words by those better suited to your industry and the arrangements ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

9. Packaging and delivery

A menu covering alternative delivery requirements. Edit ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

10. Design, development and preliminary costs and payment

Product development is usually paid for based either on cost plus uplift or fee for reaching milestones. We have provided for payment based on cost plus uplift. This text provides for a single ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ " ■ ■ ■ ■ " ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

11. Production price

A framework of practical business provisions. Whatever cost that will incur during the production of the products. ■ .

12. Transportation

This and the following paragraph are relevant only to ■ ■ ■ ■ ■ ■ ■ ■ . ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

[redacted] .

Below is a basic summary [redacted] .

The seven rules defined by Incoterms 2020 for [redacted] ([redacted]) [redacted] :

EXW – Ex Works

The seller makes the goods available at a named place of delivery. This can either be the seller's premises or any other place. This term places the maximum obligation on the buyer and minimum obligations on the seller. EXW is often used when making an initial quotation for the sale of goods without any costs included. The buyer pays all transportation costs and also bears the risks for bringing the goods to their final [redacted] . [redacted] . [redacted] , [redacted] . [redacted] , [redacted] .

FCA – Free Carrier

The seller hands over the goods, cleared for export, into the disposal of the first carrier (named by the buyer) at the named place. The carrier can be anyone i.e. buyer, seller or third party. The passing of risk depends on the where the goods are delivered. If the goods are delivered at seller's [redacted] , [redacted] . [redacted] . [redacted] .

CPT - Carriage Paid To

The seller pays for the carriage and delivers the goods to the buyer by handing them [redacted] . [redacted] .

CIP – Carriage and Insurance Paid to

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The seller pays for carriage and insurance to the named destination point, [redacted].

DAP – Delivered at Place

The seller pays for carriage to the named place, except for costs related to import clearance, [redacted].

DPU – Delivered at Place Unloaded

The seller pays for carriage, except for costs related to import clearance, and assumes all risks [redacted].

DDP – Delivered Duty Paid

The seller is responsible for delivering the goods to the named place. The seller must pay all costs in bringing the goods [redacted].

Rules for Sea and Inland Waterway Transport

The four rules defined by Incoterms 2020 for international [redacted]:

FAS – Free Alongside Ship

The seller is responsible for delivering goods to the buyer by placing the goods alongside the ship at the named port. [redacted] - [redacted].

FOB – Free on Board

The seller is responsible for loading the goods on board the vessel nominated by the buyer. The seller must [redacted].

CFR – Cost and Freight

The seller must deliver the goods to the buyer and pay the costs and freight to bring the goods to the port of destination . [redacted] , [redacted]

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[redacted].

CIF – Cost, Insurance and Freight

CIF is exactly the same as CFR except that the seller must pay for the insurance cover against [redacted].

13. Taxes

This paragraph is relevant only to export orders. A basis of taxation can change at the whim of a government. Because you can never know exactly what tax may be charged nor how it will be collected, [redacted].

14. Visitors

A framework of practical business provisions. Customers or suppliers will be allowed for a visit during the production and manufacturing process. [redacted].

15. On site audits

A framework of practical business provisions. Edit as you require. We have [redacted].

16. Use of sub-contractors

A framework of practical business provisions. Edit as you require. This [redacted].

17. Confidential Information

We have given you a very full [redacted].

18. Protection of Intellectual Property

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Strong [redacted] .

19. “Work made for hire”

We have provided the [redacted] .

In most Western countries, the originator of any “work” has a packet of rights. If he does not [redacted] .

The USA is particularly is strong on this point. In the USA, I can enforce my right to what I have created far more easily than in [redacted] . [redacted] 1976 [redacted] .

20. Duration and termination

It really does not matter how you want to end [redacted] .

Note that in a very few words, we have [redacted] .

Leave the insolvency provisions. As soon as there is any involvement of a court [redacted] .

21. Change of Control

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This draconian provision helps you to avoid the transfer of [redacted] - [redacted] .

22. Publicity / Announcements

We advise that publicity [redacted] “ [redacted] ”.

23. Assignment

Give careful thought to this. Consider the circumstances on both sides which may [redacted] . [redacted] , [redacted] , [redacted] . [redacted] .

24. Indemnities by the Manufacturer

These indemnities are reasonable. However, [redacted] . [redacted] . [redacted] .

25. Damages not adequate

In a contract dispute, the Court will usually look for a simple financial [redacted] . [redacted] , [redacted] , [redacted] . [redacted] .

26. Uncontrollable events

Often referred to as “force majeure”. We advise that you [redacted] . [redacted] . [redacted] .

27. Miscellaneous matters

A number of special points. We have identified each of these as important to [redacted] . [redacted] , [redacted] . [redacted]

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[redacted]

These are just as valid in [redacted]

Dispute resolution

There are many ways to settle a dispute. But an action in court is the least desirable because it takes a long [redacted] “[redacted]”. [redacted]

Schedule 1 Detailed specification and phases

The schedules may be “typed in” or be contained in some document attached. [redacted]

Schedule 2 Standards

These could be international engineering standards, or specification of food sources or methods [redacted] ([redacted]). [redacted]

Schedule 3 Packaging and labelling

Specify fully.

Schedule 4 Press release

We have no comment.

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Schedule 5 List of delivery locations

Specify fully.

Ends of notes

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