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1. Contracts – Part of the Basic “IP Toolbox”

There are many ways in which Intellectual Property (IP) owners should protect their valuable assets. Perhaps the most apparent ways are to register the IP in relevant jurisdictions and then enforce that IP right against infringing third parties. There is, however, a very practical and pre-emptive way of protecting your IP on a commercial level in your relevant contracts. A large proportion of the value of your business is derived from IP due to its presence in your everyday business.

- a. IP can create value and revenue in a number of ways: it can be sold or licensed, contributed as capital in a joint venture, offered to enter into strategic alliances, integrated with a current business, or used to create a new business. The people and companies that SMEs do business with, and therefore contract with, will often use your IP to varying degrees.
- b. When doing business that involves your IP, there are two key points to bear in mind: always use written contracts wherever possible and ensure that, where relevant, your IP is covered in those agreements.

IP usually appears in the following types of agreements:

- 1) Non-Disclosure Agreements (NDA) and Confidentiality Agreements
- 2) Memorandum of Understanding (MOU)
- 3) Employment agreements
- 4) Agency agreements
- 5) Trade mark/patent license and technology transfer
- 6) Franchise agreements
- 7) Distribution agreements
- 8) Manufacturing agreements
- 9) Joint Venture agreements
- 10) IT-related agreements
- 11) Selling/assigning your IP

This guide will provide practical advice on the considerations that SMEs should take into account when entering into these types of agreements. In this sense, the above agreements should be included in your “IP Toolbox”, your overall IP strategy, alongside registration and other protection and enforcement means.

2. The IP “License” – Clarifying the Terminology

A license is simply an authorisation that allows another person to perform a specific act. A license is usually granted in return for payment. An IP license is a contract between the IP owner (“licensor”) and a third party (“licensee”) that simply allows the latter to do certain things with the licensor’s IP. The scope of the activity and the exact IP that is licensed should always be set out clearly in the agreement. The above listed agreements 1) to 10) all include a license within their terms. For example, an NDA could be allowing your potential partner to discuss your trade secrets internally or with certain other third parties. An employment agreement may contain terms that specifically allows employees to use the company’s IP for certain tasks. Therefore, in terms of concept, it is often helpful to think about licensing your IP in each of these above agreements. In this way, the relevant IP clauses can be included within the agreement to ensure that you are protected contractually against the party with whom you are doing business. SMEs shall consider to license based on a conclusion whether a non-exclusive business model will bring more revenue overall or whether that licensing will enable revenue to be obtained from markets that are otherwise unavailable.

Always use written contracts wherever possible and ensure that, where relevant, your IP is covered in those agreements.

A Closer Look at IP Agreements

1) Non-Disclosure Agreements (NDA) and Confidentiality Agreements

Ensuring non-disclosure and confidentiality is important for any type of deal—not only for technology, IP and trade secret matters which may be the core part of the deal, but also for business strategies, new product ideas and financial and accounting information, all of which are likely to be useful in deciding whether a deal will go forward. Non-disclosure and confidentiality undertakings are enforceable in South-East Asia, provided that they are reasonable and fair and do not violate the public interest. Normal Western-style confidentiality undertakings setting out the agreed terms of what constitutes the “confidential information” and what does not, acknowledgement of proprietary interest in the confidential information and penalties for unauthorized disclosure, etc., are also common in South-East Asia.

Further provisions may concern:

- Permitted purpose - how the receiving party can use the confidential information should be clearly defined – other uses should be explicitly prohibited in the contract.
- List of the information not covered by confidentiality

- obligations such as information that is part of the public domain at the time of disclosure, information already known by the receiving party at the time of disclosure; information required to be disclosed by law or a competent authority, etc.
- Defining the length of the obligation to keep confidence - indication for how long the obligations of confidence must be kept - indefinitely or defined by a number of years.



Sometimes, however, your counterpart in South-East Asia, particularly if also an SME, may be uncomfortable with an NDA and feel that you are taking a too-formal approach and that trust, rather than legally enforceable rights, is sufficient. This is usually the reaction if the NDA and its obligations are one-sided. While one-way NDAs may be achievable in terms of a licensor/licensee relationship, a buyer-seller relationship is different and the necessary (and expected) disclosure of information needed to decide whether the deal progresses should be explained to your counterpart. If this still cannot be agreed, then a prudent buyer will ask themselves why uncertainty remains and whether this particular target is appropriate. Any potential business partner unwilling to sign an NDA should be treated with caution.

Sometimes, the non-disclosure undertaking you seek may not be directly with the target partner, but rather with employees or other third parties connected to the target or to the target IP. If you are not in a position to enter into a NDA directly with those people who would have access to the confidential information, you can ask your counterpart to add its own confidentiality restrictions (as amendments to existing or in new agreements) to its own agreements with its employees, agents, etc., and you should request copies of these. This is common and is advised.

For further general information on the topic and templates of NDAs, please see:

- Non-Disclosure Agreement: a business tool - European IPR Helpdesk Factsheet available at https://www.iprhelpdesk.eu/sites/default/files/newsdocuments/Non_Disclosure_Agreement.pdf
- Mutual Non-Disclosure Agreement (Template) - European IPR Helpdesk available at <http://www.iprhelpdesk.eu/sites/default/files/newsdocuments/European%20IPR%20Helpdesk%20-%20mutual%20NDA%20-%202014.pdf>

- One-Way Non-Disclosure Agreement (Template) - European IPR Helpdesk available at <http://www.iprhelpdesk.eu/sites/default/files/newsdocuments/European%20IPR%20Helpdesk%20-%20One%20way%20NDA%20-%202014.pdf>
- Non-disclosure agreements – UK Intellectual Property Office IP Health Check 3 available at <http://www.ipo.gov.uk/nda.pdf>
- Sample Non-disclosure Agreement – China IPR SME Helpdesk at http://www.china-iprhelpdesk.eu/docs/publications/EN_Guide_to_using_Contracts_to_Protect_Your_IPR_in_China_April-2012.pdf

2) Memorandum of Understanding (MOU)

While technically not a binding agreement, [these documents are designed to ensure that the parties are “on the same page” and often involve disclosure or use of intellectual property.](#) An MOU is usually used before parties are about to enter into a more complex written agreement such as a franchising arrangement. Therefore, it is important to also consider using an NDA or another form of binding confidentiality provision when entering into an MOU.



3) Employment Agreements and 4) Agency Agreements

Usually, [employees use the company IP and, in addition, they contribute to and create the company IP.](#) The same can be said for agents that are employed to perform tasks for the company. [It is vital to have IP covered in all such agreements covering aspects from patenting of inventions and ownership of copyright to post-employment provisions](#) regarding return of property and confidentiality. Importantly, in countries such as Indonesia or Thailand, copyright works created by an employee during the course of their employment are owned by the employee, unless agreed otherwise between the parties. On the other hand, laws in countries such as Singapore or Malaysia stipulate that in the case where the work is made by an employee during the course of his/her employment, unless there is any contrary agreement, the copyright shall be deemed to vest in the person who commissioned the work or the employer. This is something that should be checked with the Helpdesk team or local lawyers. Therefore, [all employment agreements should contain a clause stating that all IP, including copyright works, are owned by the company.](#) Some agreements may actually include an assignment of all copyright works from the employee to the company.

For other IP, the position is usually that the company owns it; but, for clarity, the employment agreement should state that the company owns it. Depending on the particular national laws, additional principles may apply; e.g. Thai patent law explicitly states that an employer has the right to file for a patent, but at

the same time an employee-inventor has the right to receive remuneration in addition to his or her regular salary if the employer gains certain benefits from the use of the invention. This right cannot be exempted by any provisions in the employment contract. The amount of such remuneration is fixed and granted by the director-general of the Department of Intellectual Property, taking into account, among others, the employee's salary, the invention's importance, the current and future benefits of the invention.

If the company is particularly creative or is involved in R&D, then it may also be worth differentiating between old IP (IP created before the date of the agreement) and new IP (IP created during the course of that employee's employment) to ensure ownership rights are explicitly defined. Generally, an employer can only claim rights to IP created after the date of the agreement.

In case you license your IP to a company which is an employer, you should contractually oblige the latter to introduce specific clauses into the employment agreements between him/her and his/her employees. These clauses usually identify the parties who will have permission to use the licensed rights, as well as the security procedures that are in place to prevent unauthorised use or misuse of licensed IP assets. Further assignment clauses should regulate the ownership of any improvements/modifications of the licensed IP made by the licensee's employees by stating that such IP is owned by the company.

There are also useful, practical steps that the employer-licensee can be required to complete, such as having the employee sign [a separate confidentiality agreement for particularly sensitive information \(trade secrets, etc.\)](#) or having the employee sign an acknowledgement of ownership form on completion of training and on ending of employment (this form can also state that all materials have been handed back to the employer when ending the employment).

Agency agreements are contracts whereby one party, the agent, acts on behalf of the other, called the principal. The agency agreement states the functions the agent will perform for the principal, under what circumstances, and for what compensation. Agents have a fiduciary responsibility to act in the best interests of the principal. Such agreements tend not to be so detailed, but should certainly include IP ownership clauses (for all IP, including any improvements, whether made by the licensor, licensee or agent). For more information on agency agreements, contact the South-East Asia IPR SME Helpdesk.

It is vital to have IP covered in all such agreements covering aspects from patenting of inventions and ownership of copyright to post-employment provisions regarding return of property and confidentiality.

5) Trade Mark/Patent/Copyright License and Technology Transfer

The type of IP license will usually depend on the nature of the SME's investment in South-East Asia. The following considerations will typically apply to every type of license:

Exclusive Licenses

The licensee is the only party given the right to use, manufacture, sell or distribute technology, products, content or other licensed assets in a particular territory. To determine whether the licensor has kept the right to grant another license to other licensees, one must examine the terms and conditions in the license agreement to see whether the licensor grants an exclusive or a non-exclusive license to the licensee. A term specifying whether the license grant is exclusive or non-exclusive must be included within the terms and conditions in a trade mark license agreement under some local laws within South-East Asia (e.g. Thailand and Vietnam).

In relation to copyright, if the license agreement does not include a provision prohibiting the copyright owner (licensor) from granting to additional persons the use of such rights, it will be presumed that the copyright owner (licensor) has the right to do so. In the patent context, a license agreement for a registered patent is often required to be made in writing and registered. Local advice should be obtained on these points.

Non-Exclusive Licenses

In a non-exclusive trade mark license agreement, the trade mark owner will have the right to use the trade mark or authorise any person in addition to the authorised licensee to use the trade mark. Many local laws require that this term be specified in the agreement, or the agreement cannot be registered with the local Department of Intellectual Property Office.

In relation to copyright, a non-exclusive copyright license will usually have the benefit of allowing the copyright owner to grant the license to the copyrighted work to as many persons as he/she deems appropriate to use such rights. For a patent license, the law normally does not state whether exclusive or non-exclusive license provisions must be included in the patent license. Therefore, the parties involved should come to an agreement on this term. Again, local advice should be obtained on these points.

Reservations to Allow the Licensor to Use

In this scenario, the licensor typically grants the licensee rights which are akin to an exclusive license, but the licensor also retains the right to use the intellectual property in that licensed territory (and elsewhere, of course). This enables the IP owner (licensor) to carry on business in that area, at the same time as the licensee. Such licenses are often used in circumstances where the licensee's ability is unclear and where the licensor desires the right to exploit the intellectual property where the licensee has failed in its obligations.

Transferable and Non-Transferable Licenses

It is generally a matter of negotiation between the parties to choose whether a license will be transferable or non-transferable to third parties. A strong licensor will generally reserve the right to transfer/assign as it wishes, but it will not allow the licensee to do so unless the licensor agrees in writing. Allowing the licensee to transfer the license to third parties creates the potential for licensees to profit further from the licensor's IP as well as risking unchecked distribution of the IP.

Protection of new IP rights generated (derivative works and technology improvements)

It is very important to address ownership issues in licence agreements (i.e. who owns rights to the derivative works and improvements of licensed technologies), so that there will be no later disputes. In the absence of a clear contract on ownership rights, the law generally recognises the creator of a work/inventor as the owner, even if the underlying licensed rights belong to another party. For example, the translator of an original licensed literary work would be the owner of the copyright of the translated work, even though the copyright of the underlying licensed work belongs to the original owner. The party who makes improvements to a technology based on the licensed technology automatically owns the IP rights on such improvements. The licensee can afterwards enter into a separate agreement to assign or license its rights to the improvements back to the licensor. Furthermore, many licensors in IP licensing contracts include so called "grant-back" clauses providing that any improvements/modifications made to the licensed technology/work by the licensee shall belong to the licensor. Drafting of an effectual licensing agreement is a complicated and challenging process – it is advisable to seek advice of a local legal practitioner in order to avoid legal pitfalls.

It is very important to address ownership issues in licence agreements so that there will be no later disputes.

Non-Competition Covenants

SMEs should consider how the licensee may compete (unfairly or otherwise) in the market during and after the term of the license. Non-competition clauses are generally acceptable in South-East Asia, though the region is adopting various anti-monopoly regulations which must always be considered in light of your desired non-competition covenant. Only if these restrictions are considered fair and reasonable under local law will they be upheld as valid. It is important to consider non-competition, especially if there are transitional arrangements in place between the parties such as at the start or end of an agreement. A zero-tolerance policy is usually unwise in South-East Asia in the weeks just after completion, as things may move slower than expected.

Governing Law

Parties are free to select the governing law of their IP acquisition agreements and, generally within South-East Asia, are not required to be based on the law of the jurisdiction where the assets are registered. Typically, this will be the law of the licensor's jurisdiction, as they will want to ensure the adequacy and familiarity with their law in case of future disputes. There may, however, be relevant laws and regulations of the licensee's jurisdiction where the IP exists which may require consideration. Certain technologies may be prohibited or restricted from foreign ownership or export and government approval for assignment may be required. If the IP is one part of a larger asset acquisition deal, then there may be local regulations which govern the acquisition of the other assets. Local legal advice is essential.

Monitoring of the licensee's activities: Prevent unauthorised use of the licensed rights

Licence agreements usually contain clauses stating that licensors can monitor and inspect the licensee company's activities so as

to prevent unauthorised use of the licensed rights. These clauses usually identify the parties who will have permission to use the licensed rights, as well as the security procedures that are in place to prevent unauthorised use or misuse of the IP assets.

For further general information on the topic, please see:

- Commercialising Intellectual Property: Licence Agreements - European IPR Helpdesk Factsheet available at https://www.iprhelpdesk.eu/sites/default/files/newsdocuments/Licence_agreements_0.pdf
- Licensing IP – UK Intellectual Property Office IP Health Check 1 available at <http://www.ipo.gov.uk/licensingbooklet.pdf>
- Skeleton Licence - UK Intellectual Property Office available at <http://www.ipo.gov.uk/skeletonlicence.pdf>

6) Franchise Agreement

Franchising is a business system for expanding sound businesses, based on a business model that is replicated through the creation of a network under the same brand name. The franchisor is the company or person who is in possession of the successful business concept, know-how and brand, which are licensed for a fee to the franchisee. The latter is continuously supported by training and on-going assistance, enabling the replication of the franchisor's business in another location and for a determined period of time.

The franchise business model is widespread in South-East Asia, particularly in Singapore, Thailand, Malaysia and Indonesia. It is less common in Vietnam, Laos and Cambodia, but in the next few years, this will change as investors seek to start a business that allows the franchisor to promote a successful business model or product to another geographical area, while many of the risks are borne by the franchisee. At the same time, franchising is attractive to franchisees because it authorises the franchisee to use this successful business model or product while deriving greater benefits from the business compared to that derived from a company-owned outlet.

The franchise agreement itself will contain clauses that license use of the IP (usually trade marks, trade secrets and certain copyright work) to the franchisee. The clauses must be carefully drafted to cover all anticipated use by the franchisee, but also to ensure good quality control within the franchise.

SMEs that are looking to franchise their business into South-East Asia must also bear in mind that, whilst there are many successful franchises in the region, there are also many cases of franchisees ending the agreement and starting a business independently, using the knowledge that was obtained from the franchise operation.

Many of the countries in South-East Asia are popular venues for companies to have goods manufactured. It is vital to have strong license agreements in place when authorizing such companies to manufacture and/or distribute your goods.

7) Distribution Agreement and 8) Manufacturing Agreement

Pure distribution arrangements are one of the more straightforward relationships to plan for, in terms of written contracts. However, more and more, as businesses expand (and notably within South-East Asia from 2015 with the creation of the ASEAN Economic Community (AEC), distributors will likely be keen to distribute into other ASEAN countries); distributors may take on additional marketing and promotional activities. It is therefore important to have this eventuality considered and, if relevant, carefully covered in the agreement.

Many of the countries in South-East Asia are popular venues for companies to have goods manufactured. The region has a relatively skilled labour force and offers competitive labour costs. Investments in manufacturing from large multinationals, such as in the automotive sector in Thailand and pharmaceutical companies in Indonesia show that the region is skilled and diverse. SMEs are now looking more to have goods manufactured in the region. It is vital to have strong license agreements in place when authorizing such companies to manufacture and/or distribute your goods.

It sounds obvious, but all license arrangements come to an end at some point. Care must be taken to ensure that the licensed activities also cease in accordance with the agreement. A common problem in South-East Asia is that ex-licensees will continue to manufacture, distribute or sell the goods following termination of the agreement. They may do this to avoid wastage or they may be intentionally taking advantage of their position. It is important to have very clear termination and phase-out clauses in the license agreement so that each party knows exactly what they are allowed to do following termination. Clarity on such issues also makes recourse to the courts much easier in cases where the ex-licensee continues their activities even though they are not authorised to do so. Once a licensing agreement is terminated, the unauthorised activities of the ex-licensee, such as the aforementioned continuation of manufacture and distribution of goods post-termination, will qualify as a breach of contract in addition to possible trade mark infringement.

- A quick checklist of steps to protect IP through Contracts
 - Localisation of existing agreement
 - Terms to ensure proper use of IP, monitoring process and quality control
 - Terms to ensure IP is registered and owned by the rights holder and not a third party (or their employees)
 - Terms to get out safely and ensure IP is not used beyond contract term (happens a lot with Original Equipment Manufacturer (OEM))—No “me too” products (products created by a company that are similar to or copies of a competitor's product)!
 - Terms to ensure continuation of business after ending of agreement
 - Auditing of partner—constant review (you or your authorised representative) process to ensure no unauthorised use is being made

- Recordal of license agreements (even if only a small part of OEM/distribution/franchise agreement) as some countries require it for the IP terms to be enforceable
- Watch for infringements of third parties and have framework in agreement for licensee's cooperation and assistance
- Ensure contract allows for local enforcement to stop source of the IP violation, rather than first reverting to European laws or arbitration. Also note that Singapore is a major transshipment point for the whole of Asia and containers can be stopped.
- Consider arbitration as a secondary means of resolving issues. Singapore has a WIPO dispute resolution office and is ready to deal with such issues.

9) Joint Venture Agreement (JV)

This type of arrangement usually comes into practice when both companies will share IP, or are going to be researching and developing existing IP to create new IP. It is common in more innovative types of business and normally involves capital investment into a locally based company, jointly owned with the local partner. However, a JV may also be appropriate where one party is bringing all the IP to the table.

It is vital that the agreement covers what IP each party is bringing to the JV and who owns the new IP. Due diligence and identification of the IP is therefore an important step prior to entering into a JV arrangement. The JV agreement must specifically deal with improvements on each parties' IP, who owns it, and also it may cover licensing terms back to each party for such improvements (alternatively, this could be done by using separate license agreements, but the JV agreement will usually set out the arrangement).

Due diligence and identification of the IP is an important step prior to entering into a Joint Venture arrangement.

Local advice should be taken on company set up and structure from both lawyers and accountants. It is likely that a new local company will be set up as the JV company and that this company will license IP in from the two investing companies. It may also license out certain IP to third parties, depending on the nature of its business.

10) Information Technology and Communications-Related Agreements

These types of agreement usually cover the licensing of copyright, such as software, rather than purely trade marks, patents or trade secrets. Copyright is slightly different in nature to other types of IP since the right in the work subsists upon creation or publication. It therefore tends to be more difficult to identify, manage and, consequently, to license. In addition, infringement of such copyright work, whether it is software, music or other work, is generally much easier, with modern media (the Internet) allowing for rapid copying and sharing of materials.

In some South-East Asian jurisdictions, such as Malaysia, Indonesia and Vietnam, it is possible to record your ownership of copyright works. This may help you establish ownership when it comes to proving this to your business partner, or indeed to a court or administrative enforcement body.

11) Selling/Assigning your IP

This type of deal is different to a license arrangement and involves an actual sale and purchase of the IP asset. The owner is therefore giving up their rights (save for certain moral rights in relation to copyright) to the IP and, for consideration, is selling them to a new owner. The new owner is then able to use, license or dispose of the IP assets as it wishes. Due diligence is key here on both sides, but particularly for the buyer. The buyer should seek information on any licenses to or charges over the assets, since they may inherit these after the purchase.

3. Case Studies

CASE STUDY 1: Territorial Considerations for the South-East Asia Region

Background: A SME European company (Company A) makes certain glass substrates for the semi-conductor industry. It makes these parts in Thailand by licensing Thai Company B to manufacture. The parts are sold and transported to Company C in Malaysia for semi-conductor assembly where a multinational European company has a joint venture company (Company C) with a local Malaysian SME and a Singaporean SME (Company D). The semi-conductors are sold to Company D's Singapore entity (owned by Europeans based in Singapore) that has an exclusive license with a U.S. computer company.

Company A must ensure that it has tight control over the quality of the glass and all processes. The manufacturing agreement with Company B may license use of patented processes or the product itself. Regular checks of the factory should be provided for in the agreement. There are likely to be transfers of trade secrets and confidential information during the manufacturing process.

In selling to Company C, Company A may want to consider territory limitations and clauses that assert ownership of all IP in the product so as not to upset customers in other countries. Company C will want to be free to sell the glass substrate to any party without territorial limits.

Company C is the joint venture company between the European multinational corporation (MNC) and the Singaporean company. It is based in a jurisdiction foreign to both major parties and so local laws must be carefully reviewed for compliance. There will be three different companies' IP at issue, with the European MNC likely to be playing a strong arm tactic with the two local SMEs. The local SMEs must ensure that their own IP is not given away. They may also wish to procure attractive licensing terms of any improvements that come about from the manufacturing. For example, technicians from Company D improve the final step of assembly at the premises in Malaysia and the parties agree that Company C, the joint venture company, has a right to patent it. Company D could, as part of the joint venture agreement, seek to

obtain a royalty-free license to use this improvement themselves.

IP Lessons:

- From 2015 onwards, it will become much easier for goods to flow around all ten ASEAN countries with the introduction of the ASEAN Economic Community (AEC). Therefore, when contracting with local companies in South-East Asia, care must be taken to negotiate relevant clauses into the agreement on the territory and what specific activities are licensed.
- It will be very difficult to prevent a distributor from selling to a third party outside the agreed territory, unless the agreement seeks to control these sales. Such clauses must be drafted with local laws in mind so that they do not fall foul of any local unfair contract terms legislation.

CASE STUDY 2: Relevant clauses for license agreements

Background: A European company in the green technology field with an advanced technology for waste management currently manufactures its products in Europe and is willing to enter into a license agreement with a Malaysian company to grant licenses for manufacturing, distribution and selling of its products with non-transferrable exclusive and sole right for a period of five years. The parties enter into negotiations of the main terms of the deal to be inserted in the written agreement.

Actions Taken: According to the terms of the license agreement, it is foreseen between the parties that a proposal for changing or adapting the products, changing or adapting parts of the products, and/or changing or adapting the design of the product may take place. As result of this activity, the complete drawings and specifications of the products and components, manufacturing

and quality control procedures, label and identification and all other incidental requirements to develop a new product prototype, shall be provided from the European company to the Malaysian company.

Outcome: Both parties agreed that those changes or adaptations to create a new product prototype shall be subject to the signature of a separate and binding Non-Disclosure Agreement for each time the changes or adaptations shall be required.

Both parties also agree that any rights of intellectual property concerning the products shall be exclusively owned by the European company, who will always be the owner of all changes or adaptation to the products. In the event, any change or adaptation would create new registrable intangible assets, the Malaysian company shall in no cases file for design or patent applications in Malaysia or elsewhere.

IP Lessons:

- Enter into written agreements with your local partners to grant licenses for manufacturing, distribution and selling and insert IP clauses in these agreements
- Consider always signing Non-Disclosure Agreements (NDAs) with your partners should any new drawings and specifications of the products and components in relation to the manufacturing would be disclosed
- Include clauses in your agreements in relation to existing and future intellectual property to achieve protection with a clear provision of ownership.
- Make sure you define the duration of the IP licenses in a suitable matter according to the duration of the registered IP you are licensing to maximise the revenues.

4. Take-away Messages

- Tailor your IP contracts to suit the IPR you are protecting, and make sure you include sufficient specific detail in the contracts' key provisions.
- Read very carefully IP related agreements prepared by your potential partners - seek local professional legal advice and, in certain cases, an accountant.
- Certain provisions are unlawful under the law of particular South-East Asian countries and may render a contract void if you include them in your agreement, so be cautious when drafting these provisions - you may need to seek local legal advice.
- Sign an NDA or ensure that there is adequate protection in your contract addressing confidentiality issues - never start business negotiations without previously contractually securing your trade secrets which are to be disclosed.
- Ensure that employment and agency contracts include provisions relating to ownership rights, remuneration, non-compete and confidentiality (if no separate NDA is in place) - similar aspects should be addressed in joint-venture, manufacturing agreements or licenses.
- Include confidentiality provisions in all employee contracts. Even if that employee is currently unlikely to have access to confidential information, he or she may do in future roles within the company.

5. Useful links

- South-East Asia IPR SME Helpdesk website - <http://www.southeastasia-iprhelpdesk.eu>
- South-East Asia IPR SME Helpdesk business guides on various subjects, including;
 - o 'Technology Transfer to South-East Asia'
 - o 'Top 20 IP Considerations When Entering a New Market'
 - o 'Protecting your IP at Trade Fairs in South-East Asia'
 - o 'Protecting your Online IPR in South-East Asia'
 - o 'Protecting your Trade Mark in South-East Asia'
 - o 'Protecting your Patent in South-East Asia'
 - o 'Protecting your Trade Secrets in South-East Asia' and
 - o 'Protecting your Copyright in South-East Asia'
- All available to download at <http://www.southeastasia-iprhelpdesk.eu/en/helpdesk-guides>
- IPR Helpdesk Blog for all the latest news and information on IP in South-East Asia and China - <http://www.youripinsider.eu>
- World Intellectual Property Organisation (WIPO) - <http://www.wipo.int/>
- WIPO Arbitration and Mediation Centre Office in Singapore - <http://www.wipo.int/about-wipo/en/offices/singapore/arbitration.html>
- ASEAN IP Portal - <http://www.aseanip.org>
- China IPR SME Helpdesk - <http://www.china-iprhelpdesk.eu>

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For more information please contact the Helpdesk:

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The South-East Asia IPR SME Helpdesk provides free, business-focused advice relating to South-East Asia IPR to European Small and Medium Enterprises (SMEs).

Helpdesk Enquiry Service: Submit further questions to the Helpdesk via phone or email (question@southeastasia-iprhelpdesk.eu), or visit us in person and receive free and confidential first-line advice within three working days from a South-East Asia IP expert.

Training: The Helpdesk arranges trainings on South-East Asia IPR protection and enforcement across Europe and South-East Asia, tailored to the needs of SMEs.

Materials: Helpdesk business-focused guides and training materials on South-East Asia IPR issues are all downloadable from the online portal.

Online Services: Our multilingual online portal (www.ipr-hub.eu) provides easy access to Helpdesk guides, case studies, E-learning modules, event information and webinars.

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