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Law No. 98 of 2013

Concerning the National Fund for Support and Development of Small and Medium-Sized Enterprises

Having perused,

- The Constitution;
- Law No. (30) of 1964 Establishing the Audit Bureau, and amending laws thereof;
- Law No. (37) of 1964 Concerning the Public Tenders, and amending laws thereof;
- Law No. (32) of 1968 On Monetary Affairs, Central Bank of Kuwait and the Organization of Banking Business, and amending laws thereof;
- Law No. (32) of 1969 Licensing the Commercial Shops, and amending laws thereof;
- Amiri Decree No. (61) of 1976 Promulgating the Social Insurance Law, as amended;
- Decree Law No. (15) of 1979 Concerning the Civil Service, and amending laws thereof;
- Decree issued on 4/4/1979 Concerning the Civil Service System, as amended;
- Law No. (68) of 1980 Concerning the Trade Law, and amending laws thereof;
- Decree Law No. (47) of 1982 Concerning the Public Domain, and amending laws thereof;
- Decree Law No. (105) of 1980 Establishing General Investment Authority, and amending laws thereof;
- Law No. (63) of 1982 Concerning the Public Authority for Applied Education and Training, as amended by Law No. (107) of 1994;
- Law No. (1) of 1993 Concerning the Protection of Public Funds, and amending laws thereof;
- Law No. (21) of 1995 Establishing Environment Public Authority, and amending laws thereof;
- Law No. (56) of 1996 Promulgating the Industry Law;

- Law No. (10) of 1998 Concerning the Formation of a Portfolio with Industrial Bank of Kuwait for Support of Kuwait Craft Activities and Small Projects Finance;
- Law No. (64) of 1999 Concerning Protection of Intellectual Property, and amending laws thereof;
- Law No. (19) of 2000 Concerning Support and Encouragement of National Manpower Employment in Non-Governmental Entities, and amending laws thereof;
- Law No. (5) of 2005 Concerning Municipality of Kuwait;
- Law No. (10) of 2007 Concerning the Protection of Competition;
- Law No. (22) of 2009 Concerning the approval to the Unified Industrial Scheme of GCC Arab States;
- Decree Law No. (25) of 2012 Concerning the Companies Law;
- The National Assembly approved, and we rectified and promulgated, the following Law:-

Article One

Definitions

For the purpose of this Law, the following words and expressions shall the meaning assigned to them:-

Fund: the National Fund for Support and Development of Small and Medium-Sized Enterprises, as set forth in Article two of this Law.

Competent Minister: the Minister assigned by the Council of Ministers.

Board: the Board of Directors of the Fund.

Managing Director: the Chief Executive Officer of the Fund.

Enterprise: the small or medium-sized industrial, commercial, agricultural, professional, service, intellectual or technological project, or any economic project that directly contributes to the development and diversification of the national income resources,

meets the needs of the domestic or, if appropriate, foreign market, creates job opportunities for citizens and raises the value of entrepreneurship and self-capability with them in any of the above activities.

Small Enterprise: the enterprise in which the employees do not exceed four Kuwaiti nationals and capital is not more than KD 250,000.

Medium-sized Enterprise: the enterprise in which the employees are between five to fifty persons and capital is not more than KD 500,000.

Industrial Activity: the process of transforming the raw materials into fully-processed, semi-processed or intermediate products, or transforming the processed or intermediate products into fully-processed products.

Agricultural Activity: an activity that includes agricultural land reclamation, floriculture, livestock, fish stock and apiary development and other related activities.

Craft Activity: any activity that uses manual and vocational skills, with a limited use of machinery.

Service Activity: any activity used in maintenance works or technical, vocational or intellectual services.

Supporting Institutions: institutions that provide training, scientific, technical or financial support, including universities, research centers, Kuwait Foundation for the Advancement of Sciences or financial institutions.

Electronic Activity: any IT activity that uses electronic means, including audio information, audio and video data; generation, storing, conversion, processing, retrieval, extraction or provision of information for other parties, and all business related to the World Wide Web or the Internet.

Business Incubator: an entity which provides services for the owners of enterprises financed by the Fund in accordance with this Law, through creating a conducive business environment throughout the early years of the enterprise, as set out in the Implementing Regulations, in order to increase their chances of success and growth.

Initiative: a comprehensive study provided by the initiator who applies for the enterprise or the Fund, which is based on an idea that includes implementing one of the enterprises under this Law, together with the economic, environmental and technical feasibility study thereof.

Title I

Establishment of the Fund

(Article Two)

There shall be established a Fund under the name of (the National Fund for Support and Development of Small and Medium-Sized Enterprises) as a public institution with an independent legal personality, and reports to the Competent Minister.

Purposes of the Fund

(Article Three)

The purposes of the Fund are to support and develop small and medium-sized enterprises, enhance the potentials of their owners in terms of implementation, planning, coordination and promotion, and the following:

1. Developing the national economy by implementation of policies for generation of job opportunities and diversification of income sources in order to alleviate the financial burdens off the Government Budget.
2. Raising awareness of the benefits of enterprises, and coordinating and promoting initiatives of small and medium-sized enterprises.
3. Providing information and technical support.
4. Providing and evaluating the economic and environmental feasibility studies for the enterprises, and creating the profitable and innovative opportunities by providing continuous access to information.
5. Developing and training human resources through the Supporting Institutions.
6. Funding enterprises as per this Law.
7. Increasing enterprise competitiveness, while providing maximum support for the enterprise and minimum interference in the business thereof.
8. Supporting the home-made products and encouraging innovation of Kuwaiti Intellectual Property Rights.

(Article Four)

A capital of (two billion Kuwaiti Dinars) shall be allocated to the Fund in order to achieve the objectives of this Law.

The funds necessary for this Fund shall be extracted from the State Public Reserve. The Minister of Finance shall be authorized to pay the same by installments as per the manner to be agreed upon by the Minister of Finance and the Competent Minister, subject to the invested financial surpluses. The Fund capital may be amended by a decree.

The Board, in order to achieve the objectives of this Law, shall set the terms and conditions and the rules to manage the Fund and the rules of financing the

enterprises in accordance with the instructions set by the Central Bank.

The Board may, in its annual plan, decide to invest the surplus funds in the short-term low-risk bank deposits in order to achieve the self-finance for the Fund in the long term.

The Fund's net profits shall be transferred to Kuwait Investment Authority after a deduction of 10% to form a general reserve. Such percentage may be amended by a resolution of the Council of Ministers upon the proposal of the Competent Minister and recommendation of the Board. Kuwait Investment Authority shall cover the Fund losses, if any.

(Article Five)

The Board shall set a plan and minimum number of the target enterprises to be supported annually, classified in accordance with the business type thereof. It shall submit a report on such enterprises, including their number, business type and number of Kuwaitis working therein. In order to benefit from the Fund, it is stipulated that:

1. The enterprise owner shall be a Kuwaiti national of at least 21 Gregorian years.
2. The enterprise owner shall be of good reputation.
3. The enterprise owner shall be fully devoted to administrate the enterprise.

If the enterprise owner is an employee, he/she shall, upon his/her request, be given a leave of no more than three years dedicated for the enterprise. In such case, the owner shall be exempted from being banned from participation in the commercial companies provided for under the Civil Service Law and Regulations, provided that the enterprise shall be handed over to the Fund whenever the owner abandons the same and returns to public service.

4. The enterprise shall be proven to be feasible.
5. The foundation costs of the enterprise shall not, in accordance with the economic feasibility study and without estimating the value of the land on which the enterprise is founded and the value of funds and real assets, exceed an amount of KD 500,088 (only five hundred thousand and eighty-eight Kuwaiti Dinars).
6. The priority to benefit from the lands allocated by the Fund to the enterprise owners shall be granted to those who never obtained plots of lands from the State.
7. The enterprise owner shall have usufructuary right over the land allocated by the Fund for the enterprise, provided that the market value of the usufruct is not included in the enterprise assets. The

enterprise owner shall not waive such rights or sell, lease or mortgage the land on which the enterprise is founded; any of such acts shall be null and void. The land usufruct shall continue as long as the enterprise is existing, in exception to the said Decree Law No. 105 of 1980.

The enterprise owner shall not, throughout the period of Fund's support to the enterprise, make any decision which affects the enterprise, unless the Board approves the same. Any violation thereto shall be invalid.

The Fund shall, in accordance with a final court ruling, be entitled to seize and return the enterprise in full in case of violation. The capital decrease, merger of enterprise with another, liquidation, sale, assignment of all or part of the contract to a third party, or transformation of the legal form of the investor shall be deemed crucial decisions. In case an approval is granted by the Fund on contract assignment, the new investor shall subrogate the original investor as for all terms, conditions, rights and obligations stated in such contract.

9. More than one Kuwaiti national may apply to the Fund as for one enterprise, provided that all requirements said in this Article are satisfied. In such case, and subject to the Fund's approval, a company shall be established by and between such applicants, and the Fund shall deal with the legal entity. All provisions of this Law shall apply to the partners. In case one of the partners is an employee, the number of the devoted partners shall be determined in accordance with the economic feasibility study.

10. The enterprise owners shall only employ Kuwaitis in accordance with the schedule set by the Board of the Fund.

(Article Six)

The Board shall draft a model contract, in accordance with this Law, including the finance method and the basis of receipt by the Fund of any amounts from the enterprise owner against any right or assets granted to him/her for the enterprise. The contract concluded shall explicitly include all matters mentioned above for the duration of such contract.

(Article Seven)

The Fund shall have a separate balance that includes the profits and expenses to be prepared in line with the commercial balance sheets, and on developmental bases. Such balance sheet shall be approved by auditors and submitted, along with the Final Account, to the Council of Ministers, accompanied with the annual report on the Fund work and the annual report of the High Advisory Board set out in Article

(Seventeen) of this Law, within no more than four months from the end of every fiscal year.

The fiscal year of the Fund shall commence on the beginning date, and end on the end date, of the fiscal year of the Government Budget. Exceptionally, the first fiscal year of the Fund shall commence on the effective date of this Law and end on the end date of the next fiscal year of the Government Budget.

The funds necessary for operation of this Fund shall be paid from public funds and shall be provided in chapter five of the Government Budget.

(Article Eight)

The Fund shall keep accurate accounting records that fairly reflect its position and transactions. The Board shall review the internal audit report and chartered auditors' report for approval.

(Article Nine)

All the contracts concluded in accordance with this Law shall be subject to the subsequent control of Audit Bureau.

(Article Ten)

The State shall, in favor of Fund, allocate lands of no less than five million square meters, subject to increase, in different areas geographically distributed in accordance with the Fund's plans, as from the date of this Law and upon the request of the Fund, to serve the Fund's activity, provided that each area shall include a business incubator, marketing complex and plots of lands for practicing the activities stated herein.

The State shall provide such lands with utilities and infrastructure, and plan and divide the same to make use thereof. Such enterprises shall be established upon standard developmental terms and conditions to be laid down by the Board. The Board shall set the perimeters and location of the land allocated for each enterprise in accordance with its requirements and activities.

The Board may hire private sector entities in accordance with the rules set out in the Implementing Regulations to provide utilities and infrastructure to such lands and for dividing and planning them.

There shall be considered to allocate sufficient areas to meet the requirements of this Law in all residential city projects. Such areas shall be defined by agreement between the Board of the Fund and the Board of Public Authority for Housing Welfare.

Such lands shall be returned to the Fund in case of enterprise liquidation or relocation into lands provided by the State for the same activity.

The Implementing Regulations shall indicate a percentage of the sites to be allocated to the Fund within new industrial and agricultural areas for the Public Authority for Industry or the Public Authority for Agriculture and Fisheries to meet the requests submitted in accordance with the provisions of this Law.

The Implementing Regulations shall define a percentage or number of commercial shops allocated by the State for the cooperatives and their branches for the enterprises supervised by the Fund.

(Article Eleven)

The Fund shall consider the following points for application evaluation and enterprise selection:

1. The enterprise that is most likely to most achieve the greatest added value, national economy development and income resources diversification, and provide job opportunities for Kuwaitis.
2. Unleash the creative potentials of citizens and investing in the patents provided by them.
3. Encouraging self-employment and contributing to developing the workforce.
4. Selecting the enterprise which mostly uses home-made products and technology in order to increase the value added.
5. The most environmental-friendly.

Title II

Management of the Fund

(Article Twelve)

Board of Directors

The Fund shall have a Board of Directors composed of five members; three members thereof shall be full-time members, and a Decree shall be issued to elect the same upon nominations by the Council of Ministers. Such Decree shall elect a Chairperson from amongst the members, and Vice-Chairperson to replace him/her in case of absence.

The member shall be Kuwaiti and highly educated. He/she shall have experience in the field of business of developmental enterprises, development of small-sized enterprises, private property, venture capital, funding or economy. The member shall not be subject to final verdicts of bankruptcy or a conviction in a felony or a crime involving moral turpitude and honesty.

(Article Thirteen)

The membership duration shall be four years, renewable for one term, save the first Board Members; the membership duration of only three members thereof may be renewed for a third term.

The position of the member shall fall vacant upon his/her death, disability or resignation.

The member shall lose confidence and his/her seat shall fall vacant if he/she:

- a. Is condemned with a final verdict of bankruptcy.
- b. Is condemned of a crime involving moral turpitude and honesty.
- c. Fails to appear in three consecutive meetings or six non-consecutive meetings a year without an excuse acceptable by the Board.
- d. Violates the provisions of paragraph (2) of Article twelve hereof.
- e. Violates the provisions of Article fifteen hereof.

The Board shall convene meetings in attendance of the members, provided that the Chairperson or the Vice-Chairperson is present. The resolutions of the Board shall be issued by majority of votes. If there is a tie, the Chairperson shall have the casting vote.

The Board shall convene a meeting at least once a week.

The remunerations of the members shall be determined by a Decree of the Council of Ministers upon recommendation of the competent minister.

(Article Fourteen)

The Board shall establish a technical department that shall be competent to study and evaluate the proposed applications. Such department may agree to contribute to the enterprise and to set the percentage of the contribution within forty five business days as from the date of application submission to the Fund, provided that the Board shall decide on the enterprise in the first subsequent meeting within maximum two weeks as of the date of recommendation by the technical department.

The technical department shall include members with experience in the business field of the Fund.

(Article Fifteen)

The Board members, members of the committees of the Fund and the employees of the General Management of the Fund shall not have any personal interest, directly or indirectly, in any enterprises or in the services provided by the Fund. They shall disclose their interests and refrain from participation in any debates or make any decision related to any enterprise in which they, their spouses or first degree relatives have any interest. In case of violation, the decision and the effects thereof shall be null and void.

Functions of the Board

(Article Sixteen)

The Board of Directors shall be responsible for managing the Fund. Towards the Fund's objectives, it shall have full powers, particularly:

1. To set and supervise the Fund's general policy and programs that ensure the achievement of Fund's objectives.
2. To make decisions on the Fund-made initiatives in line with the investment and environmental strategies, following studying the economic feasibility thereof; and to announce these initiatives and send the requests for applications through all media and publication means. No application may be placed for the Fund enterprises before 90 (ninety) days from the date of last publication.
3. To approve the enterprises of proven economic feasibility.
4. To complete the governmental procedures of enterprise, obtain the necessary licenses to exercise the business, and avoid the interference or conflict of powers of the administrative authorities in this regard, within 30 days from date of enterprise approval.
5. To set the rules to protect the ideas of entrepreneurs and enterprise owners, safeguard their rights of intellectual property over such initiatives, in accordance with legal provisions set forth in this regard.
6. To set the controls that ensure the balance between the enterprise finance and its financial solvency.
7. To set the rules to control and monitor the enterprise to ensure its compliance with the provisions of this Law, its Implementing Regulations, Board decisions, and other applicable Laws and Regulations. In doing so, the Board shall not intervene directly in the enterprise management.
8. To coordinate with local, foreign and international stakeholders in relation to their services provided to the enterprises; and to take any necessary measures to benefit from them at the local level.
9. To set the technical, administrative and financial Rules of the Fund, and approve a system to implement its services.
10. To set the regulations on the activity, purpose and objectives of the business incubators, to periodically evaluate their activities to ensure the achievement of their objectives, and take the necessary procedures to improve their performance or terminate them.
11. To approve the annual budget and final account of the Fund, before submitting the same to the appropriate bodies.
12. To prepare an annual report on the developmental enterprises of the previous year, to be presented by the Competent Minister to the High

Advisory Board to appraise the Fund performance prior to submitting the same to the Council of Ministers and National Assembly.

13. In case of non-compliance with the recommendations of the High Advisory Board, the Board shall mention related rationale in the annual report.

14. To consider such matters as the chairperson, vice-chairperson or any Board member deems fit to bring before the Board.

15. To appoint and determine remuneration of the chartered auditors.

16. The Board may, from amongst its members or others, form standing or *ad hoc* committees to review, and provide recommendations on the matters that fall within the responsibility of the Board.

(Article Seventeen)

The Council of Ministers shall, at the time of forming each new Board of Directors, establish a High Advisory Board and determine the remuneration of its members. Such Board shall have nine members, five of whom shall be international advisors and four members from the Kuwaiti local specialized experts, and it shall be chaired by the designated minister.

The Advisory Board shall conduct an annual appraisal of the Fund's performance. It shall issue an annual report including such appraisal, fund's progress towards its objectives and the obstacles to its activity. It also shall recommend correction of the track of the Fund. Such report shall be presented to the Council of Ministers and National Assembly.

(Article Eighteen)

The Chairperson shall be the legal representative of the Fund before courts and third parties. He/she shall sign the finance contracts of the target enterprises and contracts entered by the Fund with other supporting and contributing stakeholders, in accordance with this Law.

The Chairperson may delegate some of his/her powers to the vice-chairperson, or Managing Director, CEO.

Grievance Committee

(Article Nineteen)

The Board shall form a standing grievance committee to consider the complaints submitted by the initiative and enterprise owners to the Fund, provided that such complaints be submitted within 15 days from the date of informing the complainant of Fund's decision. The committee shall consider the complaint and present its recommendations to the Board within one week from the date of complaint.

The Board shall take a decision within 30 days, and shall inform the complainant of the same. In case the complaint is rejected, the decision may be appealed before the appropriate court. The complaint shall be deemed rejected, if no action is taken within the defined period.

Administrative Body

(Article Twenty)

The Fund shall have an Administrative Body composed of the sufficient and specialized experts who are able to review, evaluate and manage the enterprise, and verify its economic feasibility.

The staff shall receive specialized training programs in order to qualify them, and improve their ability to achieve the developmental programs of the Fund, provided that the appraisal ratings of staff shall be observed.

(Article Twenty One)

The Administrative Body shall be headed by the Managing Director, CEO, appointed by the Board out of its members. She/he shall be responsible for its actions before both the Fund chairperson and Board of Directors; supervise the implementation of the administrative and financial Regulations of the Fund; prepare the draft annual budget and final account to be presented to the Board; undertake all the duties assigned by the chairperson of the Fund or the Board.

She/he shall present an annual report to the Board on the progress of the Fund and financed enterprises, provided that it shall include the financial statements approved by the auditors, detailed notes for all the Fund business and other related enterprises during the last fiscal year.

(Article Twenty Two)

Without prejudice to Articles (5 and 38) of the Decree Law No. (15) of 1979 Concerning the Civil Service, the Fund shall set Regulations to be applied to its staff, in exception to the said Law and Regulations thereof, provided that they shall be applied when a provision regarding the Fund Regulations does not exist.

Title III

Business Incubators and Support Phases

(Article Twenty Three)

A special department within the Fund's organizational structure shall be established to undertake forming or approving the business incubators according to the international standards.

A part of the Fund's budget shall be allocated to their activities.

The incubators shall, during the support phases, provide the following services in accordance with the provisions of Article (Twenty Four) of the Law.

- **First Phase:**

A. Training support: through cooperation with the supporting and Fund-field specialized institutions in order to provide training and developmental programs for the enterprise owners.

B. Research support: through preparing the research and studies that assist the enterprise owners to convert their ideas into executable enterprises.

- **Second Phase:**

A. Technical and advisory support: through providing technical advice to the owners throughout the incubation period.

B. There shall be two kinds of incubation, internal and external:

1. Internal Incubation: providing logistic support through providing a space for the enterprise for a period of time to be determined in cooperation between the Fund and incubator as needed for the development and growth of the enterprise. All needed utilities are made available until it moves into the external incubation.

2. External Incubation: the enterprise owner establishes his/her enterprise outside the place allocated by the incubator, while benefiting from all the technical and advisory support of the Fund, including provision of the needed lands.

- **Third Phase:**

A. Linking all enterprises with each other, particularly with active enterprises, to serve the growth of enterprises and national economy.

B. Holding forums, fairs and conferences aiming at development and growth of enterprises.

C. The Fund may authorize the incubator to manage the enterprise on behalf of the owner if he/she faces an interim obstacle precluding him/her from the proper management of enterprise.

Enterprise Support Phases

(Article Twenty Four)

The Fund shall apply a time schedule to establish and develop the enterprise, through the following phases:

First: Pre-Incubation:

1. To evaluate the enterprise or initiative in technical, financial, and administrative terms after being approved, and to set a time schedule to commence.

2. To determine the needs of the enterprise or initiative owner, such as the comprehensive training

and education program assistance provided by the supporting institutions. The program shall include the administrative, marketing, financial and economic aspects, as per the international standards.

Second: Internal and external incubation

1. Providing financial support in accordance with this Law.

2. Allocating a salary for the full-time owners equal to the salary received by their counterparts of the same qualification and experience who are employed with the State agencies in accordance with the Civil Service Decree Law, together with a performance incentive to be deducted from the enterprise profits, over a period not exceeding three years from the enterprise commencement. The Implementing Regulations shall provide for the rules on determination and disbursement of such incentives.

3. Actual in-process supervision and monitoring, through providing the advice by the Fund specialized advisors during the Implementation Phase.

4. Providing the necessary services to market the enterprise products according to the methods set out by the Implementing Regulations.

Third: Post-Incubation:

Providing the enterprise with access to all information to develop its potentials and expand its activities internally and externally towards international levels by, *inter alia*, the following important means:

- The direct linking with international enterprises according to the commercial partnership regulations; to benefit from the services provided by the international organizations concerned with the development of entrepreneurs and establishment of similar enterprises.

Title IV

Enterprise Finance and Application Procedures

(Article Twenty Five)

The Fund shall finance the enterprise by maximum of 80% of the enterprise cost. The enterprise owner shall repay such finance in accordance with the procedures of financing, collection and follow up as defined under the Implementing Regulations of the Law over a period not exceeding fifteen years.

Without violation to the instructions of the Central Bank, total finance amount obtained by the enterprise owner from banks and all other financial institutions may amount to the paid-up capital of the enterprise.

(Article Twenty Six)

The Board shall establish the rules of finance and methods of repayment, subject to the following:

1. The finance shall be against a fee of no more than 2% of the finance value to cover the Fund's expenses.
2. The financed enterprise shall be granted grace periods from one to three years, as determined by the Implementing Regulations of the Law.
3. The guarantees shall be calculated based on the enterprise movable and immovable assets, and permissibility to mortgage them in guarantee of the debt mentioned in clause two of Article twenty five.
4. The Implementing Regulations shall set out the conditions, limits and loss percentages whereby the enterprise shall be liquidated.
5. The initiative owners shall repay the finance obtained from the Fund upon the expiry of the grace period. Payment may be on annual, bi-annual, quarterly or monthly basis, according to agreement.

(Article Twenty Seven)

To support the Fund enterprises, preference shall be given to their products and services in some State's contracts by a percentage to be set out in the Implementing Regulations and approved by the Board.

(Article Twenty Eight)

The Fund may, if the enterprise goes insolvent, place the enterprise under its direct management or assign it to another specialized firm against a payment, under the supervision of the Fund. In either case, the investment shall be in the name and for the benefit of the original owner, and under the responsibility of the new investor who shall exert due diligence.

The Fund or the new investor who manages the enterprise shall be liable for any damages resulting from any fault in management.

The direct management or management for payment shall expire upon the disappearance of enterprise insolvency or its liquidation. The criteria of insolvency shall be set forth by the Implementing Regulations.

(Article Twenty Nine)

The application shall be directly submitted to the Fund by those who want to benefit from the Fund services, in accordance with the procedures set forth by the Board. The Board shall allocate the incubator or the needed plot of land for the enterprise to meet the requirements of the economic feasibility study.

The application shall be submitted to a one stop shop in which all application procedures shall be completed. A dated receipt shall be given to the applicant. The date of such receipt shall be the start of the deadline to complete application procedures.

The Fund shall have an operations room with a representative office for each government entity related to enterprise establishment procedures and work permits in order to complete the processes in accordance with the enterprise economic feasibility study, without being restricted by any other constraints, within no more than thirty days after approval of the enterprise.

The Fund management shall establish the internal procedures system to proceed with the decisions and transactions of the enterprise.

The initiator or enterprise owner may delegate qualified specialized firms or consulting offices licensed by the Fund, in accordance with rules and controls as set out by the Implementing Regulations.

Title V

Incentives and Benefits

(Article Thirty)

The Board shall establish the necessary rules to provide the enterprises with the incentives, facilities and benefits to launch their activities, particularly:

1. Setting up complexes that allocate their units for the enterprises under concessional terms and conditions, including incubators, commercial markets and industrial plots of lands to be distributed to the enterprises. Inside such complexes, the necessary areas for exhibiting the final products shall be made available.
2. Inviting the public and private sectors to establish business incubators through which the necessary services will be provided to the enterprise owners against an annual nominal subscription and for a defined term, so that the enterprise owner can acquire the required expertise to continue the enterprise outside the incubator.
3. It shall allocate a percentage for the products and services of the small and medium-sized enterprise, and it shall award any contracts, tenders, adjudications and auctions of less than fifty thousand Kuwaiti Dinars, out of the contracts offered by the governmental departments and entities of dependent and independent budgets, to the enterprises for procurement of products and services needed or employing them to execute their necessary constructions, while giving them price preference upon contracting.
4. Granting the enterprises privileges and exemptions in terms of taxation and customs. The Board shall support the exports and raw materials as follows:
 - a. Exemption from taxation for a suitable period, or reduction of tax base by excluding some investment expenditures and reserves, or reduction of tax rate.

- b. Exempting the imported equipment, requirements, raw materials and intermediate goods from customs duties. Such imports shall be used only for their specific purpose; otherwise the customs duties shall apply.
- c. Subsidizing their products at the time of exporting.
- d. Subsidizing the raw materials.
5. Providing the necessary services to assist in business startup, overcome operation and production problems, and developing the skills of enterprise owners in administration and marketing, monitoring and development of products.
6. Licensing them to distribute their products in locations identified by the public entities for distribution of goods against nominal prices.
7. Preparing qualification and training programs for Kuwaiti nationals promote entrepreneurship and show them how to manage their businesses through cooperation with the supporting entities.
8. Introducing their businesses through supporting the promotional and advertising programs, and participation in the events related to similar enterprises.
9. Enabling the enterprise owners to have access to some space in the cooperatives against a nominal rental.

The exemption from taxes and customs duties, and subsidy shall be effected by a decision of the Council of Ministers, upon a recommendation of the Board.

Title Six

Final Provisions

(Article Thirty One)

The Minister in charge shall prepare and issue the draft Implementing Regulations of this law by virtue of a decision within three months after publication of this law on the Official Gazette.

(Article Thirty Two)

This law shall apply to the small or medium-sized enterprises benefiting from Law No. (10) of 1998 and Law No. (48) of 1998, and to the enterprises benefiting from the decision of the General Investment Authority, dated 4/2/1997, that are existing at the time this law coming into force provided that they should be in compliance therewith, i.e. set the house in order. The employees of the entities governed by the said laws shall be transferred to the Fund at the same job level and with the same financial rights at least.

The two laws mentioned in the above paragraph, and any provision contradicting with this law shall be abrogated.

(Article Thirty Three)

The Prime Minister and Minister - each as competent - shall enforce this law.

Emir of Kuwait

Sabah Al-Ahmad Al-Jaber Al-Sabah

Issued in Seif Palace on: 14 Jamadi Al Awla 1414 A.H.

Corresponding to: 26 March 2013 A.D.

Explanatory Note

For Law No. 98 of 2013 Concerning the National Fund for Support and Development of Small and Medium-Sized Enterprises

Kuwait depends on Oil as the single source of income. It employs 95% of the national workforce in its different institutions. This situation renders the future of Kuwait, as a State and people, vulnerable to disorientation and demise, God forbids. Kuwait is an economically viable State, and as such, the decision-makers and persons in charge, being the Government and National Assembly, have to give paramount importance to the issue of development, diversification of income and safeguarding of Kuwait future.

The experiences of peoples and nations, in ancient and modern times, bear witness that the leadership and advance of the economic future of the nation lie within the private initiatives driven by the individuals and segment of the low and medium income. These experiences prove that lack of care and attention and absence of opportunities for the youth to materialize their aspirations of high income and better life standards deplete the resources of the State and seize the available benefits to the detriment of the future and interest of succeeding generations.

Thus, this national project, if professionally structured and prudently managed, will bring about abundant benefits. It sends hope into the spirit of Kuwait youth and opens a legitimate and fruitful door before their ambitions and creative capabilities. It also paves for creating the economy of the new Kuwait and diversifies its resources. As well, it creates job opportunities, rather than the governmental jobs. This, in turn, will make it unlikely for the State budget to face any deficit due to the employment policies.

Furthermore, the small enterprises are very important mechanisms of technological development. They provide the opportunity of integration with the major enterprises, i.e. the so-called feeding industry, which provide the major industries with the necessary

services and raw and intermediate products, especially in modern technological and industrial areas. The small enterprises also contribute to recycling and refreshing the use of domestic raw materials and by-products, and recycling most production waste, damaged materials and products lost in operation.

They also contribute to the development and progress of the local technologies.

The small enterprises are more viable and profitable than many major companies and firms of huge structures since these major firms and companies are of limited flexibility and slow elasticity to the market volatilities compared to small enterprises that are always prepared for and cope up with, the changes and demand-supply movement.

However, the small enterprises face the following problems:

1. Lack of investment atmosphere conducive to their growth. The financial subsidies are not sufficient to create it.
2. The strict laws and regulations related to the small and medium-sized enterprises.
3. Shortage of marketing skills and difficulty to monitor, develop and optimize production.
4. Difficulty to obtain the credit facilities and finance from the financial institutions.
5. Weak cooperation between research centers, entities and institutions of relevant specialization and ministries on one hand, and such enterprises on the other hand.

To address such challenges, the present Law is enacted to set up the National Fund for the Support and Development of the Small and Medium-Sized Enterprises. Article one of this Law defines some words and phrases mentioned herein. The same Article clarified types of enterprises.

Title (one) stipulates the establishment of the Fund, containing Articles two to eleven.

Article (two) provides for establishment of the Fund as a corporate body of independent nature; the Competent Minister assigned by the Council of Ministers oversees the Fund and exercises the functions set out herein, as purported in the definition of Competent Minister under Article one.

Article (three) defines the purposes of the Fund.

Article (four) stipulates the capital of the Fund. It determines the capital to be managed by the Fund at the amount of KD two billion to meet the objectives of this Law.

The necessary funds will be provided from the State's public reserve or the funds allocated for such purpose in the State's public budget. The minister of finance authorizes the release of such amounts in installments, as decided by the minister of finance and Competent Minister, subject to the financial surplus invested and owned by the Fund.

The Board of Directors is concerned with setting the conditions and rules of Fund Management, rules of enterprise financing in line with the instructions of the Central Bank and in accordance with the objectives of this Law.

The Board, in the annual plan, may decide to invest the surplus funds in short-term bank deposits, to provide self-finance for the fund in the short term.

Article (five) sets out the conditions of how to benefit from the Fund. It establishes a basic rule that the Board must develop, plan and establish a minimum level for the number of enterprises to be financed on an annual basis, taking into account the diversification of their activities as stipulated under Article one of this Law.

Article (six) obligates the Council of Ministers to draft a model contract that explicitly defines the contracting conditions. This is to achieve equal treatment for all beneficiaries of the Fund.

Article (seven) sets out the rules of preparing the balance sheet and budget of the Fund.

Articles (eight and nine) relate to the accounting matters and subsequent control of the Audit Bureau.

Article (ten) regulates the utilization of the Public Domain allocated for the Fund's enterprises, as per rules established under this Article.

Article (eleven) provides for the criteria of preference and selection from the enterprises, and evaluation of applicants' requirements.

Title two regulates the management of the Fund in Articles (twelve to twenty two). Article (twelve) provides for formation of the Board of Directors. Article (thirteen) regulates the affairs of the Board as to the term and meetings. Article (fourteen) provides for formation of standing technical committees to assist the Board in studying the enterprises from the technical perspective.

Article (fifteen) stipulates that the interests of the Fund officers shall not conflict with the public interest. It stipulates that they may not have private interests in the matters they participate in or decisions they make, which matter shall render their decisions null and void.

Article (sixteen) sets out the functions of the Board; notably its positive role in providing and assigning

the enterprise initiatives to citizens, further to the legal protection of intellectual property for the citizens' initiatives and related ideas or patents.

Article (seventeen) provides for the establishment of a High Advisory Board, reporting to the Council of Ministers and National Assembly, to be specially formed to supervise and follow up on the work and decisions of the Board of Directors, assess its performance, and issue recommendations in this regard.

Article (eighteen) stipulates that the Chairperson is the legal representative of the Fund. He/she may delegate some of his/her powers to the vice-chairperson, or the managing director, CEO.

Article (nineteen) regulates the establishment, composition and business of a standing grievance committee to consider the complaints filed against the decisions made by the Fund management.

Articles (twenty, twenty one and twenty two) regulate the administrative body of the Fund.

Title three relates to the business incubators and phases of support. Article (twenty three) provides for establishment and approval of business incubators, defining their conditions, objectives and activities. Article (twenty four) divides support to enterprises into three phases: pre-incubation phase, incubation phase, and post-incubation phase.

Title four provides for enterprise financing, and procedures and consideration of applications. Article (twenty five) stipulates that the Fund shall finance the enterprise by maximum of 80% of the enterprise cost. The enterprise owner shall repay such finance in accordance with the procedures of financing, collection and follow up as defined under the Implementing Regulations of the Law, and over a term not exceeding fifteen years.

Without conflict with the instructions of the Central Bank, the total financing payment obtained by the enterprise owner from banks and all other financial institutions may amount to the paid-up capital of the enterprise.

Article twenty six establishes the rules of finance and methods of repayment. It provides that the Board shall establish the rules of finance and methods of repayment, subject to the following:

1. The finance shall be with a fee of no more than 2% of the finance amount to cover the Fund's expenses.
2. The financed enterprise shall be granted grace periods from one to three years, as determined by the Implementing Regulations of the Law.

3. The guarantees shall be calculated based on the enterprise movable and immovable assets, and permissibility to mortgage them in guarantee of the debt mentioned in clause two of Article (twenty five).
4. The Implementing Regulations shall set out the conditions, limits and loss percentages whereby the enterprise shall be liquidated.
5. The entrepreneur shall repay the finance obtained from the Fund upon the expiry of the grace period. Payment may be on annual, bi-annual, quarterly or monthly basis, according to agreement.

Article (twenty seven) stipulates that enterprises shall be assisted by giving their products and services preference in some State's contracts (public procurement) by a percentage to be set out in the Implementing Regulations and approved by the Board.

Article (twenty eight) addresses insolvency of the enterprise owner while managing the enterprise. The Fund may place the project under its direct management or assign it to another investor against a payment, in the name and for the benefit of the enterprise owner.

Article (twenty nine) regulates the procedures of application to the Fund in accordance with rules to be set out by the Implementing Regulations. It obligates the Fund to establish an operations room and one stop shop for application and services to facilitate the provision of Fund's services within a maximum of thirty days.

Title five contains Article (thirty) that provides for the incentives and other benefits offered by the Fund to the enterprises under its management.

Title six sets forth final provisions. Article (thirty one) obligates the Competent Minister to prepare and issue the Implementing Regulations by virtue of a decision within three months after publication of the this Law.

Article (thirty two) provides that this Law shall apply to small or medium-sized enterprises benefiting from Law No. (10) of 1998 and Law No. (48) of 1998, and to the enterprises benefiting from the decision of the General Investment Authority, dated 4/2/1997, that are existing at the time this Law coming into force. They shall be in compliance with this Law (set the house in order). The employees of the entities governed by the said laws shall be transferred to the Fund at the same job level and with the same financial rights at least.

The two laws mentioned in the above paragraph and any provision contradicting with this Law shall be abrogated.

Ministry of Health

Ministerial Resolution No. (69) of 2013

Minister of Health:

- Having perused the two decree laws and Civil Service System, as amended;
- Law No. 28 of 1996 Concerning the practice of Pharmacy Profession and Regulation of Drugs;
- Ministerial Resolution No. 42 of 2013 defining the permitted profit ratio in the prices of drugs, pharmaceuticals and dietary supplements in Kuwait at no more than 45% of the their importing costs, upon a recommendation by the Executive Board of the Health Ministers' Council for GCC States in its 77th meeting held in Riyadh on 17-19/11/2012 on reduction of the profit margin for the wholesale and pharmacies to no more than 45% with a view to make approximation of prices in GCC States; and
- As required by the interest of work and upon proposal of the ministry undersecretary,

Resolved

Article (one): the prices of drugs and pharmaceuticals shall be determined as per the schedule attached hereto.

Article (two): this decree shall be communicated to whoever concerned with its enforcement. It comes into force as from its date. Any resolution conflicting with its provisions shall be abrogated.

Minister of Health

Dr. Mohammed Barrak Al-Haifi

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