

Commercial Contract

SPONSORSHIP AGREEMENT



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

www.smeda.org.pk

HEAD OFFICE

4th Floor, Building No. 3, Aiwan-e-Iqbal Complex, Egerton Road,
Lahore

Tel: (92 42) 111 111 456, Fax: (92 42) 36304926-7
helpdesk@smeda.org.pk

REGIONAL OFFICE PUNJAB	REGIONAL OFFICE SINDH	REGIONAL OFFICE KPK	REGIONAL OFFICE BALOCHISTAN
3 rd Floor, Building No. 3, Aiwan-e-Iqbal Complex, Egerton Road Lahore, Tel: (042) 111-111-456 Fax: (042) 36304926-7 helpdesk.punjab@smeda.org.pk	5 TH Floor, Bahria Complex II, M.T. Khan Road, Karachi. Tel: (021) 111-111-456 Fax: (021) 5610572 helpdesk-khi@smeda.org.pk	Ground Floor State Life Building The Mall, Peshawar. Tel: (091) 9213046-47 Fax: (091) 286908 helpdesk-pew@smeda.org.pk	Bungalow No. 15-A Chaman Housing Scheme Airport Road, Quetta. Tel: (081) 831623, 831702 Fax: (081) 831922 helpdesk-qta@smeda.org.pk

January 2013

Sponsorship Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

LEGAL SERVICES, SMEDA

The Legal Services (LS) department is a part of Business & Sector Development Services Division of the Small Medium Enterprises Development Authority and plays a key role in providing an overall facilitation and support to the small businesses. The LS believes that information dissemination among the small businesses on the existing legal & regulatory environment and business to business and business to client contracting is of paramount importance and plays a pivotal role in their sustainable development.

In order to facilitate small businesses, the LS, under the Pro-GOLE (Right to do business) project, a joint SMEDA-UNDP initiative for supporting the small businesses, has developed user-friendly contract templates.

Pro-GOLE, (Right to do Business)

The UNDP has partnered with the Small and Medium Enterprises Development Authority to initiate and execute the Pillar 4 (Right to do business) component of the UNDP PRO-GOLE project which seeks to enhance the legal awareness and mobility of marginalized/ informal businesses. Under the project legal services outreach shall be extended to small businesses including home based enterprises, small shopkeepers, growers, women entrepreneurs, hawking vendors etc. In addition, small business shall be mobilized to access legal services.

The Need for Commercial Contracts Templates

In an increasingly complex and competitive industry, it is vital that suppliers and purchasers are fully protected against legal and commercial risks. To counter such risks, a viable solution; available as- of the shelf commercial contract templates- will provide the users with first class ready to use support. With obligations properly set out and liabilities accurately defined, the users will be in a far better position to look after their rights and interests and move forward from their marginalized positions to being active players of the economy. The Legal Service Providers can equally take benefit of these templates for their professional and business development.

Disclaimer

The information contained in this template is meant to facilitate the businesses in documenting transactions with reference to marketing. However, SMEDA, UNDP or any of their employees or representatives accept no responsibility and expressly disclaim any and all liabilities for any and all losses/shortfalls caused by or motivated by recommendations from the information contained within this document. Although SMEDA's ambition is to provide accurate and reliable information; yet, the document is not an alternative to expert legal advice and should ideally be used in conjunction with the same. Any person using this document and or benefiting from the information contained herein shall do so at his/her own risk and costs and be deemed to have accepted this disclaimer.

All information contained in this document may be freely used provided that relevant acknowledgement is accurately quoted with each usage.

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SPONSORSHIP AGREEMENT

THIS SPONSORSHIP AGREEMENT (hereinafter referred to as the "Agreement") is made at [insert place] on this ____ (insert date) day of _____ (insert month), 20__ (insert year)

BY AND BETWEEN:

M/s [insert Name], a public/private company incorporated under the Companies Ordinance, 1984, having its registered office at [insert Address] through its [insert Designation], Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a partnership concern of Mr/Mrs/Ms [insert Name] and Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through its Partner, Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a sole proprietorship concern of Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through Mr/Mrs/Ms [insert Name];

OR

Mr/Mrs/Ms [insert Name], son/wife/daughter of [insert Name], r/o [insert Address] CNIC # [insert Number]

(Hereinafter referred to as the "Business", which expression shall, wherever the context so provides, include its successors, assigns, nominees and agents)

AND

M/s [insert Name], a public/private company incorporated under the Companies Ordinance, 1984, having its registered office at [insert Address] through its [insert Designation], Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a partnership concern of Mr/Mrs/Ms [insert Name] and Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through its Partner, Mr/Mrs/Ms [insert Name];

OR

M/s [insert Name], a sole proprietorship concern of Mr/Mrs/Ms [insert Name], having its place of business at [insert Address] through Mr/Mrs/Ms [insert Name];

OR

Mr/Mrs/Ms [insert Name], son/wife/daughter of [insert Name], r/o [insert Address] CNIC # [insert Number]

(Hereinafter referred to as the "Sponsor", which expression shall, wherever the context so provides, include its successors, assigns, nominees and agents).

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(The Business and the Sponsor are hereinafter collectively referred to as the "Parties", and individually as the "Party".)

WHEREAS the Business is engaged in the manufacturing of [insert description of the products], and has earned a name and goodwill through years of operations in the field.

AND WHEREAS the Sponsor is engaged in the business of [insert description of business], and wishes to make its presence known in the market.

AND WHEREAS the Sponsor, against valuable consideration, has shown the intention to sponsor the products of the Business (hereinafter referred to as the "Products", and more particularly described in Clause 1 of this Agreement) upon the terms and conditions of this Agreement.

NOW THEREFORE the Parties have entered into this Agreement on the following terms and conditions:

1. PRODUCTS

(1) The Sponsor shall sponsor the following products of the Business, and the Business shall display the name/logo/trademark of the Sponsor on the following Products:

- i. [insert name of the product]
- ii. [insert name of the product]
- iii. [insert name of the product]

2. TERM

The Agreement shall come into effect on [insert date] and shall continue to be in force for a period of [insert number] months, unless terminated by any of the Parties in accordance with the terms of this Agreement.

3. SPONSOR FEE

(1) The Sponsor shall pay an amount of Rs. _____/- (Rupees _____) (insert amount) to the Business in lieu of the Business displaying the Sponsor's name/logo/trademark on its products.

(2) The Service Fee shall be payable by the Sponsor to the Business on or before [insert date] through a pay order in the name of [insert name].

4. OBLIGATIONS OF THE PARTIES

(1) The Products shall prominently display the identification mark/logo of the Sponsor and the Business in a manner and design approved by the Business and the Sponsor in writing, prior to the launch of such Products in the market.

(2) The Sponsor shall fully cooperate with the Business in the creation of the literature, packaging of the Products, advertisements and other marketing material etc. by promptly providing the graphical images and text files and other content necessary for the creation of the promotional material for the Products.

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5. PROMOTION OF PRODUCTS

- (1) The Parties shall issue a joint press release announcing the sponsorship relation created by this Agreement and the launching of the Products. Such press release shall be in a mutually satisfactory form and content and shall be released through such services and agencies that are mutually agreed upon by the Parties. The cost of the press release shall be equally shared by the Parties.
- (2) The Business agrees that it shall include the name/brand/logo of the Sponsor in the packaging of the Products, as well as introduction to the Sponsor's business in any promotional material for the Products. The obligation to provide such text or graphical images to be included in the packaging of the Products or any promotional material thereof, in accordance with the reasonable timelines provided by the Business, shall be the sole responsibility of the Sponsor.

6. RESTRICTIONS ON THE BUSINESS

- (1) The Business hereby agrees:
 - i. Not to sell, assign, transfer, charge or sub license the rights under this Agreement, nor any part thereof, without the prior written consent of the Sponsor and in accordance with the other terms of this Agreement.
 - ii. Not to use the name/logo/brand of the Sponsor with any product that is not listed in Clause 1 of this Agreement.
- (2) The Business hereby acknowledges that the information and knowledge relating to the Sponsor is of a strictly confidential nature and accordingly, the Business covenants that it shall not at any time after termination of this Agreement divulge or use, whether directly or indirectly for its own benefit or for any other purpose any of such information or knowledge relating to the Sponsor.

7. TRADEMARKS

- (1) The Sponsor warrants that it is entitled to use the name/logo/trademark and other intellectual property to be utilized in the sponsorship of the Products throughout the terms of the Agreement and that subject to registration under the relevant statute, the use of the intellectual property by the Business in accordance with the terms of this Agreement shall not constitute an infringement of the rights of any third party and will fully and effectively indemnify the Business for and against all loss, damage, costs, claims and expenses arising out of any such infringement.
- (2) The Business acknowledges that the goodwill and all other rights in and associated with the intellectual property vest absolutely in the Sponsor and that it is in the intention of the Parties that all such rights will at all times hereafter and for all purposes remain vested in the Sponsor and in the event that any such rights at any time accrue to the Business by operation of law or however otherwise, the Business will at its own expense forthwith on demand do all such acts and things and execute all such documents as the Sponsor shall deem necessary to vest such rights absolutely in the Sponsor.

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8. TERMINATION

(1) Either Party may terminate the Agreement by giving [insert number] days prior written notice in writing to the other Party in any of the following events:

- i. [insert description of event of default];
- ii. [insert description of event of default];
- iii. [Insert description of event of default].

(2) The right to terminate as provided above shall arise if the a Party commits any breach of its obligations hereunder which breach if remediable is not remedied to the satisfaction of the other Party within [insert number] days of a notice in writing to the from the other Party.

9. CONSEQUENCES OF TERMINATION

(1) Upon termination or expiration of this Agreement for any reason, the Business shall:

- i. immediately cease to use the name/brand/logo of the Sponsor with the production of any further Products, and shall try to sell the inventory of the Products as early as reasonably possible, and shall refrain from any action that would or may indicate any relationship between it and the Sponsor;
- ii. immediately cease to use in any way whatsoever any and all of the intellectual property and any other trade names, logos, devices, insignia, procedures or methods which are or may be associated with the Sponsor's intellectual property;
- iii. return to the Sponsor or otherwise dispose of or destroy as the Sponsor shall direct all signs, advertising materials, stationery, invoices, forms, specifications, designs, and drawings pertaining to or concerning the Sponsor;

(2) The expiration or termination of this Agreement shall be without prejudice to the accrued rights of the Parties and any provision hereof which relates to or governs the acts of the Parties under this Agreement. Such rights of the Parties shall remain in full force and effect and shall remain enforceable notwithstanding such expiry or termination.

10. POWER TO BIND

Neither Party shall have the power to bind or obligate the other, except as set forth in this Agreement.

11. INDEMNITY

(1) The Parties hereby agree and undertake fully and effectively to indemnify and keep indemnified the other Party as well after as before the expiry or termination hereof against all damages, loss, claims, demands, expenses (including legal and professional expenses), costs and liabilities which the other Party may at any time incur as a result of any and all breaches by the indemnifying Party of the obligations specified in the provisions of this Agreement.

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- (2) The Business also undertakes to indemnify the Sponsor against all damages, loss, claims, demands, expenses (including legal and professional expenses), costs and liabilities which the Sponsor may at any time incur due to the Products being defective in any manner whatsoever, provided that such defect is not attributable to any act, or failure to act, on part of the Sponsor.
- (3) The Sponsor shall indemnify, defend, and hold harmless the Business from and against any claims arising out of, or relating directly or indirectly to, use of the Sponsor's trademarks and logos, and Sponsor Materials.

12. LIMITATION OF LIABILITY

Except with respect to Clause 11, in no event shall either Party be liable to the other Party for any incidental, consequential, indirect, or punitive damages (including but not limited to lost profits) regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise and even if advised of the possibility of such damages.

13. RELATIONSHIP

The Parties to this Agreement acknowledge and agree that this Agreement does not constitute and shall not be construed as constituting a partnership, or joint venture relationship between or among the Parties.

14. CONFIDENTIALITY

- (1) Each Party expressly undertakes to retain in confidence all information and know-how transmitted to it by the other Party that the disclosing Party has designated as proprietary and/or confidential or that, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as proprietary and/or confidential, and will make no use of such information and know-how except under the terms, for the purposes of and during the existence of this Agreement.
- (2) Each Party's obligation under this Agreement with respect to any particular information shall extend to the earlier of such time as such information is publicly available through no fault of the receiving Party or [insert number] years following termination of the Agreement.

15. RESERVATION OF RIGHT

All rights not specifically and expressly granted to and conferred upon the Business by this Agreement are for all purposes reserved to the Sponsor.

16. FORCE MAJEURE

- (1) Force Majeure shall mean any event that is beyond the reasonable control of a Party, or the effects of which adversely affect the performance by such Party of its obligations under this Agreement, including, but not limited to, acts of God, sabotage, insurrection, terrorism, riots, hostilities or war (whether declared or not), acts of the public enemy, civil disturbances, any kind of fire, explosion, flood or accidental damage, epidemics, landslides, washouts, lightening, storms, earthquakes, lockouts, blockades, shortage of labor or material, major equipment failure, or other causes beyond the control of the Party affected.

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- (2) Notwithstanding anything contained hereinabove, neither Party shall be liable to the other if it is unable to perform any of its obligations under this Agreement due to the occurrence of Force Majeure.
- (3) The Party affected by the Force Majeure event shall be entitled to suspend performance of its obligations under the Agreement to the extent that such performance is impeded or made impossible by the events of Force Majeure.
- (4) Each Party shall give a notice within [insert number] days of the occurrence of the event of Force Majeure and shall promptly thereafter consult the other Party for the purpose of finding a mutually acceptable solution to the Force Majeure event.

17. GOVERNING LAW AND EXCLUSIVE JURISDICTION

This Agreement in all respects be read and construed and shall operate as a contract, in conformity with the laws of Pakistan, and the courts at [insert place] shall have exclusive jurisdiction for adjudicating any dispute arising hereunder.

18.SETTLEMENT OF DISPUTE

Any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Pakistan Arbitration Act, 1940, subject to the exclusive jurisdiction of the Courts of [insert place].

19. MISCELLANEOUS

- (1) This Agreement represents the complete agreement between the Parties with regard to the subject matter and supersedes any prior understanding or agreements, oral or written.
- (2) This Agreement may be amended or revised only by an instrument in writing signed by either the Parties or their duly authorized representatives.
- (3) No provision hereof or breach of any provision may be waived except by a written waiver, signed by the waiving Party. No waiver of any right under or breach of this Agreement shall be construed to be a waiver of any other right or breach under the Agreement.
- (4) Any provision of this Agreement which is prohibited or unenforceable under any law, rule or regulation applicable in Pakistan for the time being shall be ineffective only to the extent of such prohibition or lack of enforceability, and shall not invalidate the remaining provisions hereof.
- (5) The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the Parties to the Agreement, shall be governed by the laws of Pakistan.
- (6) In the event of termination or expiration of this Agreement, paragraphs 6 and 7 shall survive.

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IN WITNESS WHEREOF, the Parties have set their respective hands on this Agreement at the place, and on the date, mentioned hereinabove.

For and on behalf of
The Business

For and on behalf of
The Sponsor

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____