

Commercial Contract

AGREEMENT FOR MAINTENANCE SERVICES



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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1. INTRODUCTION OF SMEDA

The Small and Medium Enterprise Development Authority (SMEDA) was established with the objective to provide fresh impetus to the economy through the launch of an aggressive SME development strategy. Since its inception in October 1998, SMEDA had adopted a sectoral SME development approach. A few priority sectors were selected on the criterion of SME presence. In depth research was conducted and comprehensive development plans were formulated after identification of impediments and retardants. The all-encompassing sectoral development strategy involved overhauling of the regulatory environment by taking into consideration other important aspects including finance, marketing, technology and human resource development.

After successfully qualifying in the first phase of sector development SMEDA reorganized its operations in January 2001 with the task of SME development at a broader scale and enhanced outreach in terms of SMEDA's areas of operation. Currently, SMEDA along with sectoral focus offers a range of services to SMEs including over the counter support systems, exclusive business development facilities, training and development and information dissemination through a wide range of publications. SMEDA's activities can now be classified into the three following broad areas:

1. *Creating a Conducive Environment*; includes collaboration with policy makers to devise facilitating mechanisms for SMEs by removing regulatory impediments across numerous policy areas
2. *Cluster/Sector Development*; comprises formulation and implementation of projects for SME clusters/sectors in collaboration with industry/trade associations and chambers
3. *Enhancing Access to Business Development Services*; development and provision of services to meet the business management, strategic and operational requirements of SMEs.

SMEDA has so far successfully formulated strategies for sectors, including fruits and vegetables, marble and granite, gems and jewellery, marine fisheries, leather and footwear, textiles, surgical instruments, transport and dairy. Whereas the task of SME development at a broader scale still requires more coverage and enhanced reach in terms of SMEDA's areas of operation.

Along with the sectoral focus a broad spectrum of services are now being offered to the SMEs by SMEDA, which are driven by factors like enhanced interaction amongst the stakeholders, need based sectoral research, over the counter support systems, exclusive business development facilities, training and development for SMEs and information dissemination through wide range of publications.

2. ROLE OF SMEDA LEGAL SERVICES CELL

The Legal Services Cell (LSC) is a part of Business Development Division of SMEDA and plays a key role in providing an overall facilitation and support to SMEs. The LSC provides guidance based on field realities pertaining to SMEs in Pakistan and other parts of the world. LSC believes that information dissemination among the SMEs on the existing regulatory environment is of paramount importance and it can play a pivotal role in their sustainable development.

In order to facilitate SMEs at the Micro Level LSC has developed user-friendly systems, which provide them detail description of the Laws, and Regulations including the process and steps required for compliance.

The purpose of this document is to provide SMEs, Service Providers, Companies and Firms with information pertaining to requisite format and content of a business to business commercial contract. Entrepreneurs interested in enhancing their understanding about the nature and form of Agreement for Maintenance Services can also use the document.

3. DISCLAIMER

Form of this document and the contents therein are provided only for general information purpose and on an "as is" basis without any warranties of any kind. Use of this document is at the user's sole risk. SMEDA assumes no responsibility for the accuracy or completeness of this document, its form and any of the information provided therein and shall not be liable for any damages arising from its uses.

AGREEMENT FOR MAINTENANCE SERVICES

THIS DEED OF AGREEMENT is made at this _____ day of _____

BETWEEN

ABC S/oR/o....., (hereinafter called the “Contractor” which expression shall mean and include his legal heirs, executors, administrators, assignees, legal representatives and successors) of the first part.

AND

XYZ, a company established under the _____ Act, 1989 with its registered office at (Hereinafter called the “Client” which expression shall mean and includes its executors, administrators, assignees, legal representatives and successors-in-interest) of the Second Part.

WHEREAS the contractor is conducting business under the name and style of (give name of the business) providing maintenance services of electric appliances/equipments.

AND WHEREAS the Client is desirous of hiring services of the Contractor for regular maintenance of its electrical appliances / equipments.

AND WHEREAS the contractor offers a five years annual maintenance service of equipments/electric appliances to the client for each of its branch / office within Pakistan, other than _____ (name of city).

AND WHEREAS the contractor ensures that he has sufficient infrastructure/resources and manpower to provide the proposed maintenance services to the client.

AND WHEREAS the contractor has checked the equipments of the client as per schedule(s) of equipments (which shall become part and parcel of this agreement upon putting seals of contractor and client) which are in working condition.

AND WHEREAS the client accepts the offer of the contractor for annual maintenance of equipments, present in schedule(s) of equipments, as per agreed advance monthly payments/remunerations and subject to the conditions specified in this agreement.

NOW THEREFORE the parties have agreed as follows:

1. **DEFINITIONS:** Unless repugnant to the subject or the context, the expressions used in this agreement shall only have the meaning as assigned to them as follows:

- a) **EQUIPMENTS:** shall mean the electronic products/electric appliances as mentioned below for which contractor has offered the annual maintenance services to the Client under this agreement.
- b) **MAINTENANCE SERVICES:** include the repair and maintenance services of equipments including parts replacement where deemed necessary by the contractor, so that the equipments under the contract shall remain in working condition.
- c) **MEMBERSHIP FEE:** is the one time advance payment made at the time of signing of this agreement as the acknowledgement of the acceptance of the offer made by the contractor for annual maintenance services of equipments including parts to the client, which shall be non-refundable. The membership fee shall be valid for a period of Five (5) years.
- d) **MONTHLY PAYMENTS OR MONTHLY REMUNERATIONS:** shall mean the agreed advance monthly remuneration payable to the contractor against the maintenance services provided to the client under this agreement as per table given in clause 20 of this agreement.
- e) **SCHEDULE(S) OF EQUIPMENTS:** is the branch wise list of equipments covered under the contract. The client shall provide the aforesaid list and the same shall be verified by the contractor.
- f) **SEAL:** means a seal/monogram of security pasted by the contractor on the equipments of the client.

2. Effective date & Duration

This agreement shall take effect from----- (give date) and shall remain valid for a period of five years from the effective date unless terminated earlier in accordance with the provisions of this agreement.

3. Payment for Services

For rendering of maintenance services the client shall make payments to the contractor in the following manner:

- a. A one time non-refundable membership fee for five (5)-years will be Rs. _____/- (Rupees _____ only), which shall be handed over to contractor at the time of signing of this agreement.

- b. monthly remuneration of Rs. _____ for each schedule prepared for each branch, through cross cheque / pay orders / demand draft.
- c. in case of any delay, default or dishonor regarding payment of monthly remuneration a penalty of Rs..... shall be charged to client on each default/dishonor, delay in addition to the due monthly payments.

4. Sole Responsibility of Contractor

That during the period of agreement repair and maintenance of the equipments as per SCHEDULE (S) shall solely be the responsibility of the contractor, and the client shall not pay any cost of repair and maintenance or of parts to be replaced during the course of such repair and maintenance service.

5. Replacement of equipment

If after the commencement of this agreement any working equipment becomes non-functional and no-repairable, the contractor shall replace the same at the expense of the client. The replaced changed equipment may not necessarily be new, but must be in good working condition and functionally equivalent to the equipment replaced. The equipment so replaced shall be the property of the client.

Provided that the client shall handover the photocopies of purchase receipts/original warranty cards of the equipment so replaced, wherever applicable to the contractor.

6. Time for Maintenance / Repair

Apart from regular maintenance, in case of any instant complaint/problem in the equipments, the same shall be brought to good workable condition, by the contractor, within _____ (give time limit e.g. twenty four (24)-hours or two days etc.) and in case of major fault/problem maximum within _____ (give time limit) by three (3) days after being informed by the client in writing.

For the purposed of maintenance service the contractor shall visit the office of client within normal working hours i.e. from 9: am to 5: pm for Monday through Saturday.

7. Evidence of Maintenance

The contractor shall, upon maintenance of each equipment put the seal upon such equipment which will be the evidence showing that the maintenance has been done by the contractor. In addition, the contractor shall also notify the client on monthly basis a list of equipments serviced by him.

8. Issuance of Complaint Number

That the contractor shall issue a complaint number on its letterhead to the client/manager of the branch against every written complaint by the client to provide his services.

9. Responsibility of loss & damage

The contractor shall be solely responsible for any loss or damage to an equipment in possession of the contractor for the purposes of maintenance and or repair or is in transit for handing over to the client in which case the client shall also be responsible for transportation charges for such equipment.

10. Prior Information

The client undertakes that he shall not change/replace the equipments present in the Schedule (s) before prior information and inspection of contractor.

11. Equipment non – Repairable

The equipments, which are non-repairable at the premises of the client, shall be transported to the premises of contractor at the cost of client within the region of the client.

12. Equipment to be repaired by Contractor only

The client undertakes that in case of any fault/defect, only contractor shall be contacted/complained and the equipment shall be repaired/checked by the contractor or his dully authorized representatives only, else the contractor shall not owe any responsibility of the equipment.

13. Termination

That in case the services of the contractor are found or evaluated as unsatisfactory and or a complaint by the client in this regard is found to be correct, the agreement shall be terminated in the exclusive discretion of the client and in this eventuality the contractor specifically agrees and undertakes unequivocally to return/refund the service fee received by him/it from the client for provision of such service. Provided that the client shall serve a notice of thirty day unto the contractor showing its intention to terminate the contractor.

Similarly, the contractor may terminate the agreement upon giving 60 days notice to the client. Any such termination shall not absolve the contractor from payment of any money due to him from the client.

14. Miscellaneous

- i. That if any of the party intends to cancel/revoke the agreement, a notice shall be served six (6)-months in advance by each party.
- ii. That in case of any dispute arising throughout the period of this agreement between both the parties the matter shall be resolved through arbitration.
- iii. That only court of law at (name of the city), Pakistan shall have jurisdiction to hear and settle any case pertaining to this agreement mentioned in clause-6 of this agreement.

iv. That in case the equipments are damaged by the mob, fire, electric short circuiting, theft, natural calamity or natural disaster or any other act of God or the stranger the contractor shall not be liable for such loss of damage.

IN WITNESS WHEREOF we the above mentioned parties have signed this deed of agreement, which shall be binding on our, successors, and legal assignees, on the date and place mentioned above.

CONTRACTOR

CLIENT

1. WITNESS

Name:

R/o.....

2. WITNESS

Name:

R/o.....