

Commercial Contract

LEGAL AUDITING CONTRACT



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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January 2013

Legal Auditing Contract

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 service matters. 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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F2. LEGAL AUDITING CONTRACT

THIS LEGAL AUDITING AGREEMENT (hereinafter referred to as the "Agreement") is entered into 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];

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

AND

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

OR

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];

(hereinafter referred to as the "Auditor", which expression shall, wherever the context so provides, include its heirs, assigns, nominees, agents and successors-in-interest).

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

WHEREAS the Business is engaged in the business of [insert description of business].

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AND WHEREAS the Auditor provides to its clients the services of legal auditing of businesses (hereinafter referred to as the "Services", and as more properly described in Clause 2 of this Agreement).

AND WHEREAS the Auditor has offered its Services to the Business, and the Business has accepted the Services of the Auditor.

AND WHEREAS the Parties now intend to put in writing, through this Agreement, the terms and conditions for the engagement of the Auditor with the Business for the provision of the Services.

NOW THEREFORE, the Parties have entered into this Agreement on the following Terms and Conditions:

1. APPOINTMENT

The Business hereby appoints the Auditor for the legal auditing of the transactions of the Business, and such other services which are incidental to this appointment and performance of the Services under this Agreement.

2. SCOPE AND LOCATION OF SERVICES

- (1) The Services shall be provided, including the legal auditing, at the location of the Business' registered offices where the record keeping is done.
- (2) "Services" under this Agreement shall mean and include the legal auditing and examination of the transactions of the business for the period beginning from [insert date] and ending on [insert date] (hereinafter referred to as the "Auditing Period").
- (3) The Auditor shall also provide such services to the Business as may be reasonably required by the Business, and which are incidental to the performance of the Services under this Agreement.

3. AUDIT COSTS AND REMUNERATION

- (1) The Auditor shall be entitled to receive an amount of Rs. _____/- (Rupees _____) (insert amount) from the Business as remuneration (hereinafter referred to as the "Remuneration Amount") for the provision of Services under this Agreement.
- (2) This Remuneration Amount shall cover all fees and expenses incurred by the Auditor, and the Business shall not be liable to pay any other expenses incurred by the Auditor during the provision of Services under this Agreement.
- (3) The Remuneration shall be payable by the Business to the Auditor in accordance with the following schedule:

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- i. [insert Description of Deliverable] [insert Expected date of completion]
[insert Amount]
- ii. [insert Description of Deliverable] [insert Expected date of completion]
[insert Amount]
- iii. [insert Description of Deliverable] [insert Expected date of completion]
[insert Amount]

4. AUDITING PROCEDURE

- (1) The Services under this Agreement shall be provided in accordance with reasonable care as is expected from a legal auditor, national regulations as well as the generally accepted international legal auditing standards.
- (2) The legal audit/examination shall include such tests of the legal records and such other procedures as are considered by the Auditor to be necessary in the circumstances.

5. DELIVERABLES

- (1) The Auditor shall, after completing his examination and legal audit of the Business, submit to the Business a written report of legal audit. This report shall include reasonable detail of the legal business transactions, and notes thereto prepared in accordance with the general legal principles and law, supplementary information requested by the Business or required for full disclosure under the law, and the Auditor's opinion on the material presented.
- (2) The Auditor shall furnish [insert number] copies of a written Legal Audit Report to the Business, as soon as practical, after the close of the Auditing Period.
- (3) The Legal Audit Report shall include the following:
 - i. Statement explaining criteria and scope as well as duration and location of the auditing conducted;
 - ii. Details of the constitution of the business, and detailed review of the same;
 - iii. Details of the legal transactions, and documentation related thereto, including but not limited to the following:
 - a. Sale/purchase of assets;
 - b. Financial arrangements with banks and other financial institutions;
 - c. Legal agreements entered into by the Business during the Auditing Period;
 - d. Charges created over the Business' assets;
 - e. Pending litigation, if any, including statement regarding the probabilities of the results of such litigation.
 - iv. Statement as to deviations and illegalities, if any, along with suggestions for rectification of the illegalities etc;
 - v. Statement as to correct and proper legal procedures;
 - vi. Statement as to compliance or variance with the recommendations of previous legal audit reports, if any;

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- vii. If the report is a qualified one, the reasons for the qualification shall be explained.

6. CONFIDENTIALITY

- (1) The Auditor shall take all steps necessary to ensure the secret and confidential nature of all information he/she may acquire under the provisions of this Agreement.
- (2) The Auditor shall make available his/her findings and report only and exclusively to the Business.

7. 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.
- (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.

8. 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.

9. 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].

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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 Auditor**

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____