

# Commercial Contract

## JANITORIAL SERVICES CONTRACT



*Empowered lives.  
Resilient nations.*



### Small and Medium Enterprises Development Authority

### Ministry of Industries & Production

### Government of Pakistan

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**January 2013**

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Pro-Gole (Right to do Business)

Legal Services, B&SDS

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### **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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### **B2. JANITORIAL SERVICES CONTRACT**

**THIS JANITORIAL SERVICES 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 permits, mean and include its successors-in-interest, representative, nominees and assigns)

**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 "Contractor" which expression shall, wherever the context so permits, mean and include its successors-in-interest, representative, nominees and assigns)

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

**WHEREAS** the Business is engaged in the production of [insert description of goods], and carries out its business activities at [insert address] (hereinafter referred

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to as the "Site"). The Business requires the services of janitorial staff for the day to day cleaning and maintenance of the Site.

**AND WHEREAS** the Contractor has offered its cleaning services to the Business (hereinafter referred to as the "Services"), and the Business has agreed to accept the services offered by the Contractor on the terms and conditions mentioned in this Agreement.

**NOW THEREFORE** in consideration of the covenants and conditions mentioned herein, and other good and valuable consideration as enumerated in this Agreement, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

## 1. APPOINTMENT

The Business hereby appoints the Contractor, exclusively, to provide the Services from the Site to the Destination.

## 2. SCOPE OF SERVICES

The Contractor shall provide cleaning services to the Business, and shall provide all cleaning supplies, equipment and materials required thereof (hereinafter collectively referred to as the "Cleaning Supplies") at the Site in strict compliance with this Agreement.

The Contractor shall repair, ant entirely its own cost, any damage to the Site and/or any other real and/or personal property of the Business, attributable to acts and/or omissions of the Contractor, its employees, subcontractors of any tier, agents, and/or anyone acting on behalf of any of them (hereinafter referred to as the "Employees"), or otherwise attributable to the Services, except to the extent that such damage is attributable to the negligence of the Business (hereinafter referred to as the "Repair Work").

## 3. SERVICE FEES:

(1) The Business shall pay to the Contractor a monthly sum of Rs \_\_\_\_\_/- (Rupees \_\_\_\_\_) (insert amount) (hereinafter referred to as the "Service Fees") in lieu of the Services provided by the Contractor to the Business, which shall be inclusive of all costs of the Contractor performing the Services in compliance with the terms and conditions herein, including but not limited to providing all Cleaning Supplies, and providing adequate janitorial staff to the Business during all hours and days of providing the Services as provided in the Schedule hereto.

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- (2) Payments for the Services shall be made by the Business to the Contractor on or before the \_\_\_\_ (insert number) day of every month through a Pay Order payable to \_\_\_\_\_ (insert name).
- (3) The Business reserves the right to reasonably discount the monthly remuneration for work not performed, or performed in an unsatisfactory manner. Such discount will be demanded after a prior written notice is served to the Contractor through registered mail, outlining a specific complaint(s) and/or how the terms of the Agreement are not being fulfilled. Upon the receipt of the aforementioned Notice, the Contractor will have [insert number] working days to evaluate the performance or source of the complaint and implement corrective measures. If, after the [insert number]-day period, an improvement to the Services is not evident by the Business, then Business may levy the discount against the Remuneration.

### **4. DURATION OF THE AGREEMENT**

- (1) This Agreement shall be in effect for a period of [insert number] months commencing from [insert date], and is renewable with the mutual consent of the Parties.
- (2) The Parties may terminate this Agreement at any time before its expiry and without assigning any reason by giving a [insert number] days written notice to the other Party.

### **5. UNDERTAKINGS OF THE CONTRACTOR**

- (1) The Contractor shall arrange and make available a minimum of [insert number] workers/janitors (hereinafter referred to as the "Janitorial Staff") for providing the services at the Site. Such workers shall be present at the Site from [insert time] to [insert time] every day, and provide the Services as enumerated in this Agreement.
- (2) Contractor shall provide a working supervisor (hereinafter referred to as the "Supervisor") to be at the Site every day while the Services are in progress. The Janitorial Staff must be professionally supervised by the Supervisor at all times.
- (3) For security purposes, the Contractor submit a list, including the names and addresses of the personnel, both Supervisor and Janitorial Staff, who will be regularly assigned to the Site for providing the Services.
- (4) The Contractor undertakes that the Janitorial Staff and other personnel assigned to the Business Site insured. The Supervisor and the Janitorial Staff shall wear company uniforms, and an identification card which clearly displays both the company and worker's name.
- (5) The Contractor shall be responsible to provide all cleaning equipment and supplies, including but not limited to all disinfectants, floor cleaning products, and polishes necessary to properly complete the Services under this Agreement, and

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all supplies shall be of a quality acceptable to the Business. The cost of such Cleaning Supplies and equipment is included in the Services Fees set forth in Clause 3 of this Agreement.

- (6) The Contractor agrees that he may not substitute the Supervisor or any Janitorial Staff or other person providing Cleaning Services at the Site without prior notification to the Business.
- (7) The Contractor hereby assumes full responsibility for the actions of its Employees.

### **6. PROHIBITED CONDUCT**

The Contractor's personnel deputed at the Site to provide the Services shall not disturb papers on desks, or open drawers, cabinets, files, or bookcases. The Business' telephones shall not be used by the Contractor's Employees and/or other workers. Under no circumstances shall the Contractor's personnel be allowed to bring visitors at the Site while performing the Cleaning Services.

### **7. HAZARDOUS SUBSTANCES**

Contractor shall not cause or permit any Hazardous Substances to be brought upon, kept, stored or used in or about the Site. If the presence of Hazardous Substances brought upon, kept, stored or used in or about the Site by or on behalf of Contractor or Contractor's Employees in violation of this paragraph, results in contamination of the Site or any other property of the Business, the Contractor shall pay for all actual costs of clean up and shall indemnify, hold harmless and *at the Business' option*, defend the Business, and its employees, affiliates, agents, volunteers, officers, and officials from and against any and all claims, demands, expenses (including reasonable attorneys' fees), costs, fines, penalties and other liabilities of any and every kind and nature, including, but not limited to, costs and expenses incurred in connection with any clean-up, remediation, removal or restoration work.

### **8. COMPLIANCE WITH LAWS**

The Contractor shall comply with all the laws, orders, permits, codes and regulations applicable to its performance of the services under this Agreement.

### **9. RELATIONSHIP OF THE EMPLOYEES AND THE BUSINESS**

- (1) It is understood, acknowledged and agreed by the Parties that the relationship of the Contractor to the Business arising out of this Agreement shall be that of an independent contractor. Neither the Contractor, nor any of

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its Employees is a partner, joint venturer, employee and/or agent of the Business, and therefore is not entitled to any benefits provided to employees of the Business. The Contractor is obliged to inform its Employees of this fact and to ensure that any recourse by them is against the Contractor and not the Business for any employment-related claim(s) arising while performing the Services under this Agreement.

- (2) The Business shall not be liable to pay anything to any Employee of the Contractor for the work done under this Agreement nor shall the Business be responsible for any other work-related claim(s) of the Employees.
- (3) The Business shall not be responsible for acts of negligence of the Contractor's Employee in their course of providing the Services or otherwise. The Contractor takes full responsibility for any loss resulting from any negligence of its Employees under all circumstances and conditions.

### **10. INSURANCE AND INDEMNIFICATION**

- (1) To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Business and its officials, officers, employees, and volunteers, against all injuries, deaths, damage to property, loss, damages, claims, suits, liens, lien rights, liabilities, judgments, costs and expenses, which may in any way arise directly or indirectly from (i) the Cleaning Services; (ii) Repair Services; (iii) any acts and/or omissions of or on behalf of the Contractor or its Employees; and/or (iv) any breach or default under this Agreement by Contractor.
- (2) The Contractor further agrees to indemnify, defend, and hold harmless to the fullest extent permitted by law the Business, its officials, officers, employees, and agents from loss or damage, including, but not limited to, attorney's fees, and other costs of defense by reason of actual or alleged violations of any law(s).
- (3) This Clause shall survive the expiration and/or termination of this Agreement.

### **11. BINDING OBLIGATION AND NON-ASSIGNABILITY**

Contractor shall not assign and/or delegate the whole or any part of this Agreement without the written consent of the Business. All subcontractors shall be approved by the Business, and any unapproved assignment and/or delegation shall be null and void.

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### **12.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.

### **13.SECURITY**

The Business shall provide a refundable security of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) (insert amount) in favor of the Contractor for the term of the Agreement.

### **14.TAXES**

The Contractor and Subcontractors shall be responsible for and pay any and all applicable taxes, including sales and use taxes, on such leased tools, machinery, equipment or other property and upon such unincorporated supplies and materials. Any such taxes are included in the Service Fees set forth in Clause 3 hereinabove.

### **15.DISPUTE RESOLUTION**

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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## 16. JURISDICTION

This Agreement is made at [insert place] and the Courts at [insert place] shall have sole and exclusive jurisdiction for any dispute arising out of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto fix their signatures on the day and year above mentioned in the presence of the witnesses.

\_\_\_\_\_  
For and on behalf of the Contractor

\_\_\_\_\_  
For and on behalf of the Business

Witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_