

# Commercial Contract

## EDITORIAL 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**

## **Editorial Services Contract**

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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### **A10. EDITORIAL SERVICES CONTRACT**

**THIS EDITORIAL SERVICES CONTRACT** (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 Business 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] (hereinafter referred to as the "Editor", which expression shall, wherever the context so provides, include its agents and successors-in-interest).

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

**WHEREAS** the Business is engaged in [description of activities].

**AND WHEREAS** the Business requires the services of an editor to edit content for the promotional booklets/brochures/pamphlets of its products namely [insert names of the products] (hereinafter referred to as the "Products").

**AND WHEREAS** the Editor is engaged in the business of providing editing services to its clients (hereinafter referred to as the "Services").

**AND WHEREAS** the Editor has represented to the Business that it possesses adequate resources, skills and qualifications to provide the Business with the Services, and based on the representations of the Editor, the Business has accepted the Services of the Editor.

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

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## **1. TERM**

- (1) This Agreement shall come into effect on the date of execution of this Agreement, and shall continue to remain in force for a period of [insert number] months, unless terminated earlier by the Parties in accordance with the terms of this Agreement.
- (2) The Agreement is renewable for such terms as may be agreed between the Parties, on such terms and condition that the Parties may mutually decide amongst themselves.

## **2. SERVICES**

The Editor shall provide editing services for the written material for the promotional booklets, annual reports, quarterly reports, brochures and pamphlets (hereinafter referred to as the "Content"). In addition, the Editor shall provide such services to the Business as the Business may reasonably require, and which are incidental to the provision of the Services under this Agreement.

## **3. REMUNERATION**

- (1) The Business shall pay to the Editor Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) (insert amount) per [insert number] words of the material edited by the Editor in the performance of the Services under the Agreement (hereinafter referred to as the "Remuneration").
- (2) Upon the completion and acceptance by the Business of the edited Content so provided, the Editor shall provide an invoice to the Business in accordance with Clause 3.
- (3) The Business shall be liable to pay the Remuneration to the Editor within [insert number] days of the Editor providing the invoice to the Business.

## **4. TIMING AND ACCEPTANCE**

- (1) The Editor shall prioritize performance of the Services as may be necessary or as agreed upon by the Parties, and will undertake commercially reasonable efforts to perform the Services within such timelines as agreed between the Parties. The Business agrees to review the final Content within [insert number] days of the Editor's submission of the edited Content to the Business, and to promptly either, (i) approve and accept the edited Content in writing (which will then become the "Final Deliverables") or (ii) provide written comments and/or corrections sufficient to identify the Business's concerns, objections or corrections to the Editor.
- (2) In the absence of any such notice from the Business within the stated time period, the edited Content shall be deemed accepted.
- (3) Once the edited Content is accepted by the Business, the Editor shall not be liable for any mistakes in the Content.

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### **5. CONFIDENTIAL INFORMATION**

- (1) Each Party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other Party, including, but not limited to, Preliminary Works (hereinafter referred to as the "Confidential Information"). Each Party, its agents and employees shall hold and maintain in strictest confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations pursuant to this Agreement, or as may be required under the law. Notwithstanding the foregoing, Confidential Information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality.
- (2) Upon the completion of the Services under the Agreement, the Editor shall return to the Business all the materials provided by the Business to the Editor for editing.

### **6. RELATIONSHIP OF THE PARTIES**

- (1) *Independent Contractor.* The Editor is an independent contractor, not an employee of the Business or any company affiliated with the Business. The Editor shall provide the Services under the general direction of the Business, but the Editor shall determine the manner and means by which the Services are accomplished. This Agreement does not create a partnership or joint venture, and neither Party is authorized to act as agent or bind the other Party, except as expressly stated in this Agreement.
- (2) *No Exclusivity.* The Parties expressly acknowledge that this Agreement does not create an exclusive relationship between the Parties. The Business is free to engage others to perform services of the same or similar nature to those provided by the Editor, and the Editor shall be entitled to offer and provide services to others, solicit other Businesses and otherwise advertise the services offered by the Editor.

### **7. TERMINATION**

- (1) This Agreement may be terminated, with or without cause, at any time by either Party by giving the other Party a [insert number] days prior written notice.
- (2) Upon expiration or termination of this Agreement:
  - i. Each Party shall return or, at the disclosing Party's request, destroy the Confidential Information of the other Party; and,
  - ii. Other than as provided herein, all rights and obligations of each Party under this Agreement, exclusive of the Services, shall survive.

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### **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. RESOLUTION OF DISPUTES**

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].

### **10. 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.

### **11. AMENDMENTS**

This Agreement may be modified, extended, enlarged or amended from time to time by mutual agreement and consent of the Parties.

### **12. NONWAIVER**

The failure of either Party to exercise any right provided in this Agreement shall not be construed as a waiver its right to subsequently enforce such provision or any other provision of this Agreement.

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## 13. NON-ASSIGNMENT

In no circumstances whatsoever can a Party assign the benefit of this Agreement to any third person or delegate to a third person its duties to be performed under this Agreement.

## 14. PARTIAL INVALIDITY

If any provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way. This Agreement shall not be terminated by the merger or consolidation of the Business into or with any other entity.

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

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*For and on behalf of*  
**The Business**

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*For and on behalf of*  
**The Editor**

### WITNESS NO. 1

Signature: \_\_\_\_\_

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

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

### WITNESS NO. 2

Signature: \_\_\_\_\_

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

Designation: \_\_\_\_\_

Date: \_\_\_\_\_