

Commercial Contract

AGREEMENT FOR MAINTENANCE OF ELECTRIC OFFICE EQUIPMENT



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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January 2013

Agreement for Maintenance of Electric Office Equipment

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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E1. AGREEMENT FOR MAINTENANCE OF ELECTRIC OFFICE EQUIPMENT

THIS AGREEMENT FOR MAINTENANCE OF OFFICE EQUIPMENT (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];

OR

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 "Service Provider", which expression shall, wherever the context so provides, include its agents and successors-in-interest).

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

WHEREAS the Business is desirous of availing itself of equipment maintenance services provided by the Service Provider.

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AND WHEREAS the Service Provider is engaged in the business of providing equipment maintenance services to its clients (as more particularly described in Clause 3 of the Agreement, and hereinafter referred to as the "Services").

AND WHEREAS the Service Provider has represented and warranted to the Business that it possesses sufficient experience, expertise, and necessary infrastructure required for providing the Services to the Business, and based on the representations of the Service Provider, the Business has accepted the Services of the Service Provider.

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

1. APPOINTMENT

The Business hereby appoints the Service Provider for providing the Services to the Business.

2. TERM

- (1) This Agreement shall come into effect on [insert date], and shall continue for a period of [insert number] months, i.e. till [insert date].
- (2) The Agreement may be renewed for another term on such terms and conditions that the Parties may mutually decide.

3. SERVICES

- (1) The Service Provider shall provide the maintenance Services with respect to the following equipment (hereinafter referred to as the "Equipment") installed at the Business' premises at [insert address]:

- i.[insert description of equipment]
- ii.[insert description of equipment]
- iii.[insert description of equipment]

- (2) Optimum performance of the equipment covered by this Agreement can be expected only if supplies provided by, or meeting the specifications of Service Provider are used. Service Provider shall have full and free access to the equipment to provide Service thereon.
- (3) The Service Provider shall further be required to keep the Equipment in good working order at all times, and shall provide scheduled preventive maintenance during regular business hours. In addition, the Service Provider shall provide unscheduled, on-call service as and when needed.
- (4) The Service Provider shall ensure that the Services are provided to the Business by duly trained personnel, directly employed and supervised by the Service Provider.

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4. SERVICE FEES

- (1) The annual rate for maintenance is Rs. _____/- (Rupees _____) (insert amount) (hereinafter referred to as the "Service Fees") and shall be paid in advance in installments of Rs. _____/- (Rupees _____) (insert amount) each month, beginning on [insert date of first payment] and on the first day of each succeeding month throughout the term hereof, through a pay order in made in the name of [insert name].
- (2) The Business agrees and understands that the Service Fees shall be exclusive of all and any charges incurred by the Service Provider in maintaining/repairing the equipment. Such charges shall be payable to the Service Provider by the Business within [insert number] days of the Service Provider giving the Business an invoice of the charges so incurred.

5. WORKING HOURS

- (1) The Parties agree that the Services to be provided under this Agreement shall be performed during the regular working hours of the Business.
- (2) Notwithstanding Clause 5(1), if the Business required the Service Provider to perform any of the Services at times other than the regular working hours, the Service Provider shall charge the Business an additional amount of Rs. _____/- (Rupees _____) (insert amount) per hour for such number of hours that the Service Provider has worked overtime.

6. STATUS OF INDEPENDENT CONTRACTOR

- (1) This Agreement does not constitute an employment relationship between the Parties. Neither the Service Provider, nor any of its agents or 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 Service Provider is obliged to inform its agents and employees of this fact and to ensure that any recourse by them is against the Service Provider and not the Business for any employment-related claim(s) arising while performing the Work under this Agreement.
- (2) The Business shall not be liable to pay anything to any agent or employee of the Service Provider for the work done under this Agreement nor shall the Business be responsible for any other work-related claim(s) of the agents and employees of the Service Provider.
- (3) The Service Provider shall retain sole and absolute discretion in the manner and means of carrying out their activities and responsibilities under this Agreement.
- (4) The Business shall not be liable for any obligations incurred by the Service Provider unless specifically authorized in writing.

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- (5) The Service Provider shall not act as an agent of the Business, ostensibly or otherwise, nor bind the Business in any manner, unless specifically authorized to do so in writing.

7. 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 [place] shall have exclusive jurisdiction for adjudicating any dispute arising hereunder.

8. 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 [place].

9. 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 [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.

10. 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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11. ENTIRETY

This Agreement constitutes the entire understanding and agreement between the Parties in relation to the subject matter hereof. All previous Agreements between the Parties relating to the subject matter hereof are automatically terminated when this Agreement enters into force as set out herein.

12. AMENDMENTS

Any modifications or amendments made to this Agreement shall be valid only if made in writing and signed by duly authorized representatives of the Parties.

13. SEVERABILITY

In the event that any provision in this Agreement should under applicable law be held illegal or void, such provision shall be considered severable and the remaining clauses and provisions shall continue in full force and effect. In such case, the Parties shall make every effort to replace the ineffective provision with a new provision which has the same effect, or as approximate effect as possible, as the said provision. If the Parties cannot agree to such new provision, either Party shall be entitled to terminate this Agreement with immediate effect.

14. ASSIGNMENT

Neither this agreement in its whole, nor the rights and obligations herein shall be assigned by either Party without the prior written consent of the other Party.

15. TERMINATION

Either Party may terminate this Agreement at any time by giving at least [insert number] months' notice in writing to the last known office address of the other Party. Each Party shall continue to be liable for its obligations under this Agreement up till its valid termination.

16. ANNEXURES

All Annexures or attachments and future amendments made therein, from time to time, and signed by the Parties shall be deemed to form an integral part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals the day, month and year mentioned hereinabove.

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**For and on behalf of
The Business**

**For and on behalf of
The Service Provider**

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____