

# Commercial Contract

## AGREEMENT FOR PUBLISHING OF BOOKS/BOOKLETS Etc.



*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 Publishing of Book/Booklets Etc.**

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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### **A3. AGREEMENT FOR PUBLISHING OF BOOKS/BOOKLETS ETC.**

**THIS AGREEMENT FOR PUBLISHING OF BOOKS/BOOKLETS ETC.** (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**

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

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

**WHEREAS** the Business requires to promote its business, and for the purposes, requires to get published its prospectus, annual reports, promotional booklets, etc. (hereinafter referred to as the "Services").

**AND WHEREAS** the Publisher is engaged in the business of providing publishing services to its clients.

**AND WHEREAS** the Publisher has represented to the Business that it owns sufficient resources, personnel and expertise to provide the Services to the Business, and based on these representations of the Publisher, the Business has accepted the Services of the Publisher.

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**NOW THEREFORE** the Parties have agreed to enter into this Agreement on the following terms and conditions:

### **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 i.e. till [insert date].
- (2) The Agreement shall be renewable with the mutual consent of the Parties, on such terms and conditions that the Parties may decide.

### **2. CONTENT FOR THE DELIVERABLES**

- (1) The Business shall be solely responsible for providing the Publisher with the content for the printing of the Deliverables (hereinafter referred to as the "Content").
- (2) The Content shall be delivered to the Publisher in the following mode:  
[insert mode for instance CD/DVD/USB]
- (3) Nothing contained in this Agreement shall be construed as an obligation with respect to the Business to necessarily place any order with the Publisher for the publishing of the Deliverables. The Business shall be at liberty to place orders with the Publisher on an as and when basis.

### **3. APPROVAL**

- (1) The Publisher shall ensure that it obtains the approval of the Business with respect to dummies of each of the Deliverables (hereinafter referred to as the "Samples").
- (2) The Business, after a thorough review of the Samples, shall duly sign each Sample, and return the same to the Publisher. In case of any changes to the Sample so provided, the Business shall communicate such changes to the Publisher, and the process shall be repeated until each Sample is duly approved by the Business.
- (3) Once a Sample is approved, any defect/mistake in the printed Deliverables shall not be the responsibility of the Publisher unless the Deliverable is not printed in accordance with the approved Sample.

### **4. REMUNERATION**

- (1) In lieu of the Publisher providing printing Services to the Business, the Business shall pay the remuneration to the Publisher (hereinafter referred to as the "Remuneration") in accordance with the Rate List given in Schedule A of this Agreement.
- (2) [Insert percentage]% of the total Remuneration shall be payable to the Publisher on the date of placing an order with the Publisher signing of this Agreement. [insert percentage]% of the Remuneration shall be payable by the Business to

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the Publisher upon the approval of the Samples by the Business. The remaining amount shall be paid by the Business to the Publisher within [insert number] days of the final delivery of the Deliverables by the Publisher to the Business.

### **5. TERMINATION**

- (1) Either Party may terminate this Agreement by giving to the other Party a [insert number] days prior written notice, with or without cause.
- (2) If the Publisher terminates the Agreement due to no fault of the Business, it shall return any portion of the Remuneration extended by the Business to the Publisher. However, if the Publisher terminates this Agreement due to a breach of the Business which is not corrected within [insert number] days of the receipt of notice of such breach, the Publisher shall be entitled to retain the advance extended by the Business to the Publisher.

### **6. INDEPENDENT CONTRACTOR**

Both the Business and the Publisher agree that the Publisher shall act as an independent contractor in the performance of its duties under this Agreement. Accordingly, the Publisher shall be responsible for payment of all taxes arising out of the Publisher's activities in accordance with this Agreement.

### **7. INDEMNIFICATION/LIMITATION OF LIABILITY**

The Parties agree to indemnify, hold harmless and defend the other Party from and against any claims, demands, damages, costs, causes of action, losses, expenses, or liabilities, judgments, suits, actions or proceedings (including but not limited to the cost of litigation) arising out of the breach of this Agreement or otherwise negligence or willful misconduct by their partners, agents or employees while engaged in activities relating to this Agreement or by reason of non-compliance with laws, intellectual property infringement, and injury to employees and damage to property of the other Party.

### **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**

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- (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.

### **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.

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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.

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For and on behalf of  
**The Business**

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For and on behalf of  
**The Publisher**

**WITNESS NO. 1**

**WITNESS NO. 2**

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

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

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

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

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

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

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

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

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**SCHEDULE A  
RATE LIST**

- |  |   |
|--|---|
| <b>1. [Description of Deliverable]</b> | <b>[Insert Agreed Rate per Deliverable]</b> |
| <b>2. [Description of Deliverable]</b> | <b>[Insert Agreed Rate per Deliverable]</b> |
| <b>3. [Description of Deliverable]</b> | <b>[Insert Agreed Rate per Deliverable]</b> |