

Commercial Contract

CONTRACTOR INDEMNIFICATION AGREEMENT



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

www.smeda.org.pk

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Contractor Indemnification Agreement

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 employment 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.

Information contained in this document may be freely used provided that relevant acknowledgement is accurately quoted with each usage.

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8. CONTRACTOR INDEMNIFICATION AGREEMENT

THIS CONTRACTOR INDEMNIFICATION AGREEMENT (hereinafter referred to as the "Agreement") is made and 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, means and include its assigns, nominees, agents and successors-in-interest)

AND

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];

OR

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

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(Hereinafter referred to as the "Contractor", which expression shall, wherever the context so permits, mean and include its heirs, assigns, nominees, agents)

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

WHEREAS the Contractor has entered into a [insert name of agreement] Agreement with the Contractor on [insert date] (hereinafter referred to as the "Master Agreement") for the provision of services of [insert description of services] (hereinafter referred to as the "Services") by the Contractor to the Business.

NOW THEREFORE, for the purpose of preventing undue concern to either Party about inappropriate claims for damages arising out of or related to respective activities of the other Party, the Business and the Contractor have agreed to enter into this Indemnification Agreement on the following terms and conditions:

1. The Business agrees and undertakes to protect, defend, indemnify, save, and hold harmless the Contractor, its agents, successors and assigns, its officers, servants and employees, including volunteers, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss or destruction of any property which may occur or in any way grow out of any act or omission of the Business, or any claim which may arise against the Contractor due to its association with the Business and which do not directly concern any or all activities of the Contractor in any way. The Business further agrees and undertakes to indemnify the Contractor against all costs, expense and/or attorney fees incurred by the Business as a result of any claim, demands, and/or causes of action except those claims, demands, and/or causes of action arising out of the negligence of the Contractor, its agents, successors and assigns, its officers, servants and employees, including volunteers.
2. The Contractor agrees that it shall indemnify, hold harmless and defend the Business and the related parties from and against any claims, demands, damages, costs, causes of action, losses, expenses, or liabilities, judgments, suits, actions or proceedings

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(including but not limited to the cost of litigation) arising out of the breach of the Master Agreement or otherwise negligence or willful misconduct by its partners, agents or employees while engaged in activities relating to the Master Agreement or by reason of:

(a) Non-compliance with Laws

Claims by governmental authorities or others of any actual or asserted failure of the Contractor to comply with any law, regulation, rule or order of any governmental or judicial body.

(b) Intellectual Property Infringement (Including Patents and Copyrights)

Actual or asserted infringement or improper appropriation or use by the Contractor of trade secrets, proprietary information, know-how, copyright rights (both statutory and non-statutory) or patented inventions or for actual or alleged unauthorized limitation of the work of others, arising out of the use of methods, processes, design, information or other things originating with the Contractor, its employees, vendors, and furnished or communicated to the Business by the Contractor in connection with provision of the services under the Master Agreement.

(c) Injury to Employees and Damage to Property of the Business

Injury to or death of persons employed by or damage to or loss or destruction of property of the Business or its affiliate corporations, unless such injury, death, damage, loss or destruction was caused by the sole negligence or willful misconduct of the Business.

(d) Other Injury and Property Damage

The Contractor hereby agrees to indemnify the Business for personal injury and/or property damage of third parties arising

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- out of the Contractor's negligence during the provision of the services under the Master Agreement.
3. The provisions for indemnification set forth in this Agreement shall not be deemed exclusive of any other rights which the Parties may have against the other Party under any provision of law.
 4. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provisions of the Agreement, including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable, shall not in any way be affected or impaired thereby, and the remaining provisions shall, to the fullest extent possible, shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.
 5. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both Parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) and except as expressly provided therein, no such waiver shall constitute a continuing waiver.
 6. The terms of this Agreement shall bind, and shall inure to the benefit of, the successors and assigns of the Parties hereto.
 7. The rights conferred upon the Parties under this Agreement shall continue to be in effect after the term of the Master Agreement, and any renewals of the same.
 8. This Agreement shall be governed exclusively by and construed according to the laws of Pakistan, and the Courts of Pakistan shall have the exclusive jurisdiction in respect of any dispute arising out of this Agreement.

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IN WITNESS WHEREOF, the Parties have set their 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 Contractor

Witnesses:

1. _____

Name: _____

Address: _____

2. _____

Name: _____

Address: _____
