

Commercial Contract

NETWORK SERVICES PROVIDER AGREEMENT



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

www.smeda.org.pk

HEAD OFFICE

4th Floor, Building No. 3, Aiwan-e-Iqbal Complex, Egerton Road,
Lahore

Tel: (92 42) 111 111 456, Fax: (92 42) 36304926-7
helpdesk@smeda.org.pk

REGIONAL OFFICE PUNJAB	REGIONAL OFFICE SINDH	REGIONAL OFFICE KPK	REGIONAL OFFICE BALOCHISTAN
3 rd Floor, Building No. 3, Aiwan-e-Iqbal Complex, Egerton Road Lahore, Tel: (042) 111-111-456 Fax: (042) 36304926-7 helpdesk.punjab@smeda.org.pk	5 TH Floor, Bahria Complex II, M.T. Khan Road, Karachi. Tel: (021) 111-111-456 Fax: (021) 5610572 helpdesk-khi@smeda.org.pk	Ground Floor State Life Building The Mall, Peshawar. Tel: (091) 9213046-47 Fax: (091) 286908 helpdesk-pew@smeda.org.pk	Bungalow No. 15-A Chaman Housing Scheme Airport Road, Quetta. Tel: (081) 831623, 831702 Fax: (081) 831922 helpdesk-qta@smeda.org.pk

January 2013

Network Services Provider 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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6. NETWORK SERVICES PROVIDER AGREEMENT

THIS NETWORK SERVICES PROVIDER AGREEMENT (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 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 "Provider", which expression shall, wherever the context so provides, include its successors, assigns, nominees and agents)

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 "User", which expression shall, wherever the context so provides, include its successors, assigns, nominees and agents)

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

WHEREAS the Provider is in the business of providing network services to its clients.

AND WHEREAS the User requires the services of a network services provider.

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

1. ACCOUNT OPENING

- (1) Subject to the provisions hereof, the User's account will be opened with the Provider upon reception of payment, together with this Agreement, duly executed, and shall continue against the receipt of payments for successive billable periods thereafter at the then applicable rates and charges, unless written notice of cancellation is received by the Provider from the User at least [insert number] days prior to the beginning of the next billable period.
- (2) The minimum contract length is [insert number] months following initial subscription or contract period.
- (3) The billable service period begins on the date the services indicated in this Agreement become available to the User.

2. PAYMENTS OF CHARGES

- (1) Charges for each billable period services are payable prior to the beginning of such period. The User's failure to make such payment shall, in no way, relieve the User's obligations to make full payment.
- (2) The Provider may, with [insert number] days prior written notice, amend the rates and/or charges for any future server usage

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and/or services.

- (3) The fees for set-up and the first quarter's service are not refundable.
- (4) Payments shall be made quarterly, or annually, as indicated in the purchase agreement information.

3. FITNESS FOR USE

The User agrees to use all the services and facilities of the Provider at User's own risk. The Provider specifically disclaims all warranties of merchantability and fitness for a particular purpose.

4. WAIVER OF LIABILITY/INDEMNIFICATION

- (1) The User agrees that in no event shall the Provider be liable for any loss of data, or other damages which the User or the User's clients may suffer. This includes loss of data resulting from delays, non-deliveries, mis-deliveries, or service interruptions caused by its own negligence, User's errors or omissions, or due to the fault of any third parties.
- (2) The User agrees to protect, defend, hold harmless and expeditiously indemnify the Provider and its agents and service providers against any and all liability, claim, damage, loss of expense arising from claims of libel, unfair competition, unfair trademarks, trade names or patents, violations of rights and privacy and infringement of copyrights and property resulting from User's use of Provider's services.

5. USER'S RESPONSIBILITIES/WARRANTIES

- (1) The User is solely responsible for securing the User's username and password. The User is solely responsible for changing the User's password as required, to assure secure access to User's account.
- (2) The User shall ensure that its use of the Provider's network services shall not disrupt the Provider, its agents, service providers and/or its associated networks or equipment forming part of the systems.
- (3) The User shall not transmit any communication where the meaning of the message, or its transmission or distribution, would violate

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any applicable law or regulation or would likely be offensive to the recipient thereof. No message may be mass distributed, broadcast, or otherwise sent on an intrusive basis to any of the Provider's user, or to any directly or indirectly attached network.

- (4) The use of Provider's connection in a manner that is disruptive, damaging, unlawful, offensive, or intrusive as determined by the Provider shall be considered a breach of this policy and may result in cancellation of service.
- (5) The Provider and its officers are deemed as authority to define abusive conduct to the Provider's system.
- (6) Services provided to the User by the Provider may only be used for lawful purposes. Transmission or publication of any information, data or material in violation of any applicable law is prohibited. This includes, but is not limited to, material protected by copyright, trade mark, trade secret, patent, or proprietary interest of others or containing anything libelous, or any threatening or obscene material. The Provider reserves the right remove any and all materials which infringe these restrictions. Such materials will be removed at any time upon receiving a complaint and/or notice of such infringement.
- (7) Use of other organizations' networks or computing resources is subject to their respective permission and usage policies.

6. NON TRANSFERABILITY

- (1) The User's account with the Provider cannot be transferred or used by anyone other than the User.
- (2) The User may not sell, lease, rent or assign the connection or parts of the connection to any party not named in this Agreement.

7. TERMINATION

- (1) The Provider reserves the right to cancel any account, at any time without notice, for any reason which the Provider considers appropriate. In case of such cancellation, unused fees may be returned to the User on a pro rata basis.
- (2) In case the User wishes to terminate the service under this

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Agreement, the User shall notify the Provider in writing to cancel the service at least [insert number] days prior to the beginning of the next billing period.

- (3) The Provider also reserves the right to cancel any services/account without notice for reasons it sees as fit and just. However, accounts may not be cancelled by the User during the contract's duration.

8. ENTIRE AGREEMENT

This Agreement represents the complete agreement and understanding between the Provider and the User, and supersedes any other written or oral agreement prior to this Agreement.

9. MODIFICATION/AMENDMENT

Upon notice published online via the Provider services, the Provider may modify the terms and conditions set forth in this Agreement, amplify them, and/or modify the prices, as well as discontinue or change the services offered.

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

For and on behalf of
The Provider

For and on behalf of
The User

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____

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