

Commercial Contract

INSURANCE ASSIGNMENT



*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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January 2013

Insurance Assignment

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 insurance 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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2. INSURANCE ASSIGNMENT

THIS INSURANCE ASSIGNMENT AGREEMENT (hereinafter referred to as the "Agreement") 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 company/corporation incorporated under the laws of Pakistan, having its registered office at [insert Address] through its [insert Designation], Mr/Mrs/Ms [insert Name] (hereinafter referred to as the "Insurer", 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]

(hereinafter referred to as the "Policy Holder", 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

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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]

(hereinafter referred to as the "Assignee", which expression shall, wherever the context so provides, include its successors, assigns, nominees and agents)

(The Insurer, the Policy Holder, and the Assignee are hereinafter collectively referred to as the "Parties", and individually as the "Party").

WHEREAS the Insurer is an Insurance company/corporation engaged in providing insurance covers to its clients.

AND WHEREAS the Policy Holder is availing an insurance policy from the Insurer vide an Insurance Agreement dated [insert date] (hereinafter referred to as the "Insurance Agreement"), whereby the Insurer has provided an Insurance Cover to the [insert description of the insured assets of the Policy Holder] (hereinafter referred to as the "Insured Assets") of the Policy Holder for a maximum amount of [insert amount] (hereinafter referred to as the "Insurance Benefits").

AND WHEREAS the Policy Holder is also availing a finance facility from the Assignee, and has hypothecated with the Assignee its Insured Assets as a security for the repayment of the finance facility.

AND WHEREAS upon the request of the Assignee, the Policy Holder has agreed to assign the benefits of the Insurance Cover under the Insurance Agreement in case a damage or loss is inflicted upon the Insured Assets due to the occurrence of an Insured Event.

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

1. TERM

This Agreement shall commence on [insert date], and shall continue until the expiry of the Insurance Agreement or the repayment of the finance facility by the Policy Holder to the Assignee, whichever is earlier.

2. SCOPE

(1) The Policy Holder hereby assigns all the Insurance Benefit to be incurred in favor of the Policy Holder under the Insurance Agreement upon the occurrence of an Insured Event.

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- (2) The Assignee is hereby authorized to receive any claims/Insurance Benefits with respect to the Insured Assets from the Insurer directly, without involving the Policy Holder.

3. POLICY HOLDER'S OBLIGATIONS

- (1) The Policy Holder undertakes and agrees not to do, or omit to do an act which may result in the diminishing of an Insurance Benefit in favor of the Assignee in the event of occurrence of an Event of Default.
- (2) The Policy Holder undertakes and agrees to abide by the terms and conditions of the Insurance Agreement.
- (3) The execution of this Agreement does not absolve the Policy Holder from the payments of the Premium with respect to the Insurance Cover against the Insured Assets, or the repayment to the finance facility to the Assignee.
- (4) The Policy Holder shall execute all such documents as may be required by the Assignee or the Insurer to ensure that the Insurance Benefits have validly been assigned in favor of the Assignee.

4. DEFINITIONS

Any defined terms used in this Agreement which have not been defined herein shall have the same meaning as defined in the Insurance Agreement.

5. 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.

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(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.

6. 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.

7. 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 [insert place].

8. MISCELLANEOUS

- (1) This Agreement represents the complete agreement between the Parties with regard to the subject matter and supersedes any prior understanding or agreements, oral or written.
- (2) This Agreement may be amended or revised only by an instrument in writing signed by either the Parties or their duly authorized representatives.
- (3) No provision hereof or breach of any provision may be waived except by a written waiver, signed by the waiving Party. No waiver of any right under or breach of this Agreement shall be construed to be a waiver of any other right or breach under the Agreement.
- (4) Any provision of this Agreement which is prohibited or unenforceable under any law, rule or regulation applicable in Pakistan for the time being shall be ineffective only to the extent of such prohibition or lack of enforceability, and shall not invalidate the remaining provisions hereof.

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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.

For and on behalf of
The Assignee

For and on behalf of
The Policy Holder

For and on behalf of
The Insurer

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____