

Commercial Contract

AGREEMENT TO PURCHASE DOMAIN NAME



*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

Agreement to Purchase Domain Name

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 internet and technology. 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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11. AGREEMENT TO PURCHASE DOMAIN NAME

THIS AGREEMENT TO PURCHASE DOMAIN NAME (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 "Registrant", 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 "Client", which expression shall, wherever the context so provides, include its agents and successors-in-interest).

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

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WHEREAS the Registrant provides domain name registration services to its clients.

AND WHEREAS the Client is engaged in [insert description of the services], and requires to purchase a domain name in order to create its website.

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

1. TERM

This Agreement shall come into effect on the date of execution of this Agreement, and shall continue for a period of one year, subject to renewals or earlier termination of the Agreement under the terms and conditions of this Agreement.

2. DOMAIN NAME

- (1)The Client hereby purchases, and the Registrant hereby registers the domain name [insert domain name] (hereinafter referred to as the "Domain Name") in favor of the Business.
- (2)The Client shall be entitled to unrestricted use of the Domain Name, subject to the terms and conditions of this Agreement.
- (3)The Client shall be solely responsible for the renewal of this Agreement, and in no case shall the Registrant be held responsible for the Client's failure to do so, or any consequences thereof.

3. CONSIDERATION

- (1)In consideration of the purchase of the Domain Name, the Client shall pay to the Registrant Rs. _____/- (Rupees _____) (insert amount) at the time of execution of this Agreement.
- (2)The Client shall also pay Rs. _____/- (Rupees _____) (insert amount) to the Registrant per year in order to continue the use of the Domain Name (hereinafter referred to as the "Renewal Fee").
- (3)The Renewal Fee may be subject to change at the sole option of the Registrant.
- (4)In case of the Client's failure to pay the Renewal Fee within [insert number] days to the Registrant, the Registrant shall be entitled to

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suspend the Client's use of the Domain Name, and if the failure to pay the Renewal Fee is prolonged beyond [insert number] days, the Registrant may terminate this Agreement and may be at liberty to register the Domain Name in the name of another used without any notice to the Client.

4. REGISTRANT'S REPRESENTATIONS

- (1) The Registrant hereby represents that it is an accredited registrar with Internet Corporation for Assigned Names and Numbers (ICANN), and has the requisite authority to enter into and perform the obligations of this Agreement.
- (2) The Registrant represents that the Domain Name has not been registered in favor of any other person or entity, and that the Client shall have the exclusive right to use the Domain Name subject to its regular payments of the dues.

5. THIRD PARTY RIGHTS

The Client hereby represents and warrants that neither the registration of the Domain Name nor the manner in which it shall be used, directly or indirectly, infringes the legal rights of a third party or will otherwise subject the Registrant to a legal claim.

6. TERMINATION

- (1) This Agreement may be terminated by the Client, with or without cause, at any time and without prior notice.
- (2) The Registrant may terminate this Agreement due to the Client's breach of any term of this Agreement by giving the Client a [insert number] days' prior notice, and if the breach so notified is not remedied within the notification period, the Agreement may be terminated in accordance with Clause 3 of this Agreement.

7. INDEMNITY

The Client hereby indemnifies and holds the Registrant harmless from and against all claims, suits, threats, demands, liabilities, settlements, negotiation costs and expenses, other costs, and attorney fees against any claims arising against the Registrant relative to the Client's use or misuse of the Domain Name, including claims for infringement of any third party's intellectual Property.

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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 [insert place] 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

- (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.

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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.

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 Registrant

For and on behalf of
The Client

WITNESS NO. 1

Signature: _____

Name: _____

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Designation: _____

Date: _____

WITNESS NO. 2

Signature: _____

Name: _____

Designation: _____

Date: _____

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