

# Commercial Contract

## EXCLUSIVITY AGREEMENT



*Empowered lives.  
Resilient nations.*



### Small and Medium Enterprises Development Authority

#### Ministry of Industries & Production

#### Government of Pakistan

[www.smeda.org.pk](http://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](mailto:helpdesk@smeda.org.pk)

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

January 2013

## **Exclusivity 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 business protection. 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.

## **Exclusivity Agreement**

Pro-Gole (Right to do Business)

Legal Services, B&SDS

---

### **8. EXCLUSIVITY AGREEMENT**

**THIS EXCLUSIVITY AGREEMENT** (hereinafter referred to as the "Agreement") is made and entered into at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_,

#### **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, mean 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]

## **Exclusivity Agreement**

Pro-Gole (Right to do Business)

Legal Services, B&SDS

---

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

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

**WHEREAS** the Business and the Second Party have entered into a [insert name of agreement] dated [insert date] (hereinafter referred to as the "Service Agreement") for providing [insert description of services] (hereinafter referred to as the "Services") to the Business.

**AND WHEREAS** the Business is carrying out business in a competitive industry, and to safeguard its interest and to compete in the industry, it is pertinent for the Business to maintain its exclusivity.

**AND WHEREAS** the Parties, in order to safeguard the interest of the Business and against valuable consideration paid by the Business to the Second Party, have agreed to enter into this Agreement.

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

1. During the term of the Service Agreement, the Second Party shall not, in any way, whether directly or indirectly, provide the Services to any entity other than the Business, in whatsoever capacity.
2. The Business, for the duration of the Services Agreement, shall have the sole right to the Services from the Second Party, and such right shall not be affected by the mere disagreement of the Second Party.
3. The Second Party, apart from not providing Services to any entity other than the Business, shall also refrain from any negotiations with any other entity, especially the competitor or prospective competitor of the Business, during the term of the Services Agreements.
4. The Second Party hereby acknowledges and agrees that if the Second Party breaches or threatens to breach any of the terms of this Agreement, the Business will sustain irreparable harm, and the Business shall be entitled to obtain an injunction to stop any

## Exclusivity Agreement

Pro-Gole (Right to do Business)

Legal Services, B&SDS

---

breach or threatened breach of this Agreement from the Court of Law.

5. The Second Party agrees to pay liquidated damages in the amount of \_\_\_\_\_ Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) (insert amount) for any violation of the covenants in this Agreement.
6. If any part of these promises is void for any reason, the Parties accept that it may be severed without affecting the validity or enforceability of the remaining terms and conditions contained in this Agreement.
7. 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, 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.
8. 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.
9. 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.

**IN WITNESS WHEREOF**, the Parties have signed this Contract, having fully understood the conditions set therein, of their own free will, in the presence of witnesses.

**Exclusivity Agreement**

Pro-Gole (Right to do Business)

Legal Services, B&SDS

---

---

For and on behalf of  
The Business

---

For and on behalf of  
The Second Party

Witnesses:

1.

---

Name:

---

Address: \_\_\_\_\_

---

---

---

2.

---

Name:

---

Address: \_\_\_\_\_

---

---

---