

Commercial Contract

WASTE DISPOSAL SERVICES 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

Waste Disposal Services 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 transaction for waste disposal services with reference to business process outsourcing. However, SMEDA, UNDP or any of their employees or representatives accept no responsibility and expressively 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

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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.

11. WASTE DISPOSAL SERVICES AGREEMENT

THIS WASTE DISPOSAL SERVICES 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 "Business", 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 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 "Contractor", which expression shall, wherever the context so provides, include its agents and successors-in-interest).

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

WHEREAS the Business is engaged in the production of [insert description of products].

AND WHEREAS the production of the Business' products result in the accumulation of waste (hereinafter referred to as the "Waste") at the Business' production plant situated at [insert address of the business plant] (hereinafter referred to as the "Plant").

AND WHEREAS the Business requires the services of a contractor to dispose of the Waste at the Plant (hereinafter referred to as the "Services") on a regular basis.

AND WHEREAS the Contractor provides waste disposal services to its clients.

AND WHEREAS the Contractor has represented to the Business that it possesses the requisite resources, set up, and expertise to perform the Services to the Business, and based on these representations, the Business wishes to appoint the Contractor to provide the Services under this Agreement.

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

1. TERM

The Agreement shall come into effect on [insert date], and shall continue for a period of [insert number] months, unless terminated earlier by either of the Parties.

2. SERVICES

(1) The Contractor shall dispose of the following types of Waste accumulated at the Plant:

- i. [insert type of waste]
- ii. [insert type of waste]
- iii. [insert type of waste].

(2) The Contractor shall ensure that the Waste is disposed of at the designated sites of disposal, if applicable.

(3) The Contractor shall remove the Waste from the Plant on each alternate day.

(4) The Contractor shall arrange for the transportation of the Waste from the Plant to the disposal site at its own expense, in accordance with the industry practice, and applying the applicable safety measures.

(5) The Contractor shall additionally perform any and all tasks and duties associated with the Services which the Business may reasonably request, and which are incidental to the Contractor's performance of the Services under this Agreement.

(6) The Business retains the right to inspect, stop, or alter the work of the Contractor to assure its conformity with this Agreement.

3. SERVICE FEES

(1) The Contractor shall be entitled to Rs. _____/- (Rupees _____)

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(insert amount) per month (hereinafter referred to as "Service Fees") in lieu of performing the Services under this Agreement.

- (2) The Service Fees shall be payable by the Business to the Contractor on the [insert date] day of each month, in arrears.

4. TERMINATION

- (1) The Agreement may be terminated by either Party, with or without cause, by giving to the other Party a [insert number] days' prior written notice.
- (2) Upon termination, the Business shall clear all the outstanding dues against the Contractor within [insert number] days.

5. INDEMNITY

- (1) The Contractor hereby agrees to indemnify and hold harmless the Business, it's officers, employees, and agents from all claims, suits, or actions of any kind and character made upon or brought against the Business, it's officers, employees, and agents for and on account of any injuries or damages received or sustained by any person or persons which are in whole or in part caused by negligent acts or omissions on the part of Contractor, it's agents, employees, and subcontractors in doing the work and rendering the Services herein contained
- (2) This indemnification shall include attorney fees and costs and all other expenses incurred in the defense of any claim, suit or action of every kind and character. Provided, however, that the Contractor shall not be liable to indemnify the Business, it's officers, employees, and agents for any claims which arises due to the Business' breach of this Agreement, or due to the negligence of the Business, it's officers, employees, and agents.

6. STATUS OF CONTRACTOR

- (1) It is understood, acknowledged and agreed by the Parties that the relationship of the Contractor to the Business arising out of this Agreement shall be that of an independent contractor. Neither the Contractor, nor any of its agents or employees, is a partner, joint venturer, employee and/or agent of the Business, and therefore is not entitled to any benefits provided to employees of the Business. The Contractor is obliged to inform its agents and employees of this fact and to ensure that any recourse by them is against the Contractor and not the Business for any employment-related claim(s) arising while performing the Services under this Agreement.
- (2) The Business shall not be liable to pay anything to any agent or employee of the Contractor for the work done under this Agreement nor shall the Business be responsible for any other work-related claim(s) of the agents.

7. GOVERNING LAW

The validity, construction and performance of this Agreement shall be governed by the laws of [insert place].

8. DISPUTE RESOLUTION

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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 [place].

9. 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 [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.

10. WAIVER

- (1) Failure of either Party to insist upon the strict and punctual compliance with any provision herein shall not constitute a waiver of the right to require such performance, nor shall a waiver in one case constitute a waiver with respect to a later breach whether of similar nature or otherwise.
- (2) Nothing in this Agreement shall prevent a Party from enforcing its rights by such remedies as may be available in addition to termination.

11. SEVERABILITY

In the event that any provision in this Agreement should under applicable law be held illegal or void, the Parties shall make every effort to replace the ineffective provision with a new provision which has the same effect – or as approximate effect as possible – as the said provision. If the Parties cannot agree upon such a new provision, such provision shall be considered severable and the remaining clauses and provisions shall continue in full force and effect.

12. AMENDMENT

No modification or amendment of any provision of this Agreement shall be binding unless the same is in writing and signed by the Parties.

13. ASSIGNMENT

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Except with prior written approval of the other party, neither of the Parties may assign their rights and obligations under this Agreement. Any assignment in violation of this Agreement shall be void and without legal effect.

14. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties and supersedes and replaces any oral or written representations, negotiations, or other communications of every kind heretofore made between the parties relating to the Services envisaged in this Agreement.

15. EXCLUSIVE JURISDICTION

This Agreement is made at [insert place] and the courts at [insert place] shall have exclusive jurisdiction to hear and decide any dispute arising between the Parties in respect of all matters under this Agreement.

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 Business

For and on behalf of
The Contractor

WITNESS NO. 1

Signature: _____

Name: _____

Designation: _____

Date: _____

WITNESS NO. 2

Signature: _____

Name: _____

Designation: _____

Date: _____