

Commercial Contract

WEBSITE SERVICE AGREEMENT TERMS OF USE



*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

Website Service Agreement Terms of Use

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.

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All information contained in this document may be freely used provided that relevant acknowledgement is accurately quoted with each usage.

4. WEBSITE SERVICE AGREEMENT/TERMS OF USE

1. ACCEPTANCE OF TERMS

(1)The services that [insert name of the Business] (hereinafter referred to as the "Business") provides to the User are subject to the following Terms of Use (hereinafter referred to as the "TOU"). The Business reserves the right to update the TOU at any time without notice to the User.

i.This Agreement sets forth the terms and conditions that apply to use of this Website by the User, and the User agrees to comply with all of the terms and conditions hereof. The right to use this Website is personal to the User and is not transferable to any other person or entity. The User is responsible for ensuring that the use of User's account complies fully with the provisions of this Agreement. The User shall be responsible for protecting the confidentiality of the Users password(s), if any.

ii.The Business shall have the right, at any time, to change or discontinue any aspect or feature of the Website, including but not limited to content, hours of availability, and equipment needed for access or use.

iii.The Business shall have the right, at any time, to change or modify the terms and conditions applicable to the User's use of this Website or any part thereof, or to impose new conditions, including, but not limited to, adding fees and charges for use. Such changes, modifications, additions or deletions shall be effective immediately upon notice thereof, which may be given by means including, but not limited to, posting on the Website, or by electronic or conventional mail, or by any other means by which the User obtains notice thereof. Any use of the Website by the User after such notice shall be deemed to constitute acceptance by the User of such changes, modifications or additions.

2. DESCRIPTION OF SERVICES

Through this Website, the Business provides the User with access to a variety of resources, including [insert description of the "Services"] (hereinafter collectively referred to as the "Services"). The Services, including any updates, enhancements, and/or new features are subject to the TOU.

3. EQUIPMENT

The User shall be responsible for obtaining and maintaining all computer hardware, software and other equipments needed for access to and use of this Website.

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4. USER CONDUCT

- (1) User shall use this Website for lawful purposes only, and shall not post or transmit through this Website any material which violates or infringes in any way upon the rights of others, which is unlawful, threatening, abusive, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane or otherwise objectionable, which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law, or which, without the Business's express prior approval, contains advertising or any solicitation with respect to products or services.
- (2) This Website contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, photos, video, graphics, music and sound, and the entire contents of this Website are copyrighted as a collective work. The User may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit, any of the content, in whole or in part. The User may download copyrighted material for User's personal use only.
- (3) User shall not upload, post or otherwise make available on this Website any material protected by copyright, trademark or other proprietary right without the express permission of the owner of the copyright, trademark or other proprietary right and the burden of determining that any material is not protected by copyright laws rests with the User. User shall be solely liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm resulting from such a submission.
- (4) The foregoing provisions of Section 5 are for the benefit of the Business, its subsidiaries, affiliates and its third party content providers and licensors and each shall have the right to assert and enforce such provisions directly or on its own behalf.

5. USE OF SERVICES

- (1) The User agrees not to:
 - i. Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
 - ii. Publish, post, upload, distribute or disseminate any Inappropriate, profane, defamatory, obscene, indecent or unlawful topic, name, material or information.
 - iii. Upload, or otherwise make available, files that contain images, photographs, software or other material protected by intellectual property laws, including, by way of example, and not as limitation, copyright or trademark laws (or by rights of privacy or publicity)

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- unless the User owns or controls the rights thereto or have received all necessary consents to do the same.
- iv. Use any material or information, including images or photographs, which are made available through the Services in any manner that infringes any copyright, trademark, patent, trade secret, or other proprietary right of any party.
 - v. Upload files that contain viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property.
 - vi. Advertise or offer to sell or buy any goods or services for any business purpose.
 - vii. Download any file posted by another user which the User knows, or reasonably should know, cannot be legally reproduced, displayed, performed, and/or distributed in such manner.
 - viii. Falsify or delete any copyright management information of any material contained in a file that is uploaded.
 - ix. Restrict or inhibit any other user from using and enjoying the Services.
 - x. Violate any code of conduct or other guidelines which may be applicable for any particular Service.
 - xi. Harvest or otherwise collect information about others, including email addresses.
 - xii. Violate any applicable laws or regulations.
 - xiii. Create a false identity for the purpose of misleading others.
 - xiv. Use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity any directory of users of the Services or other user or usage information or any portion thereof.

(2) The Business reserves the right to terminate the User's access to any or all of the Services at any time, without notice, for any reason whatsoever. The Business reserves the right at all times to disclose any information as it deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in the Business' sole discretion.

6. MEMBER ACCOUNT, PASSWORD, AND SECURITY

If any of the Services require the User to open an account, the User must complete the registration process by providing the Business with current, complete and accurate information as prompted by the applicable registration form. The User is entirely responsible for maintaining the

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confidentiality of the User's password and account. Furthermore, User is entirely responsible for any and all activities that occur under the User's account. The User agrees to notify the Business immediately of any unauthorized use of the User's account or any other breach of security. The Business shall not be liable for any loss that the User may incur as a result of someone else using the User's password or account, either with or without the User's knowledge. However, User could be held liable for losses incurred by the Business or another party due to someone else using the User's account or password.

7. DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY

(1)The User expressly agrees that its use of the Website is the User's sole risk, and the Business does not warrant that the Website will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of this Website or as to the accuracy, reliability or content of any information, service, or merchandise provided through this Website.

(2)In no event shall the Business or any person or entity involved in creating, producing or distributing the Website be liable for any damages, including, without limitation, direct, indirect, incidental, special consequential or punitive damages arising out of the use of or inability to use the Website. The User hereby acknowledges that the provisions of this section shall apply to all content available on the Website.

8. INDEMNIFICATION

The User agrees to defend, indemnify and hold harmless the Business from and against all claims and expenses, including attorneys' fees, arising out of the use of the Website by the User or the User's Account.

9. TERMINATION

Either the User or the Business may terminate this Agreement at any time without prior notice. Without limiting the foregoing, the Business shall have the right to immediately terminate Users Account in the event of any conduct by the User which the Business, in its sole discretion, considers to be unacceptable, or in the event of any breach by the User of this Agreement.

10. MISCELLANEOUS

This Agreement constitutes the sole agreement between the User and the Business regarding the Services, supersede all previous written or oral agreements between the parties with respect to such subject matter. 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. The failure of either Party to exercise any right provided in

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this Agreement shall not be construed as a waiver its right to subsequently enforce such provision or any other provision of this Agreement.

11. COPYRIGHT NOTICE

[Insert name of the Business], and the logos are trademarks of the Business. All rights reserved. All other trademarks appearing on the Website are the property of their respective owners.

12. RESERVED RIGHTS

Any rights not expressly granted herein are reserved.