

# Commercial Contract

## WEBSITE PROMOTION 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)

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**January 2013**

## **Website Promotion Agreement**

Pro-Gole (Right to do Business)

Legal Services (B&SDS)

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### **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.

## **Website Promotion Agreement**

Pro-Gole (Right to do Business)

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### **9. WEBSITE PROMOTION AGREEMENT**

**THIS WEBSITE PROMOTION 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/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 "Licensor", 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]

## **Website Promotion Agreement**

Pro-Gole (Right to do Business)

Legal Services (B&SDS)

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

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

**WHEREAS** the Licensor is the owner and operator of a website on the World Wide Web which is devoted to [insert description] and which is located at the following domain address: [insert website's address] (hereinafter referred to as the "Licensor's Website").

**AND WHEREAS** the Licensee is the owner and operator of a site on the World Wide Web which is devoted to [insert description] and which is located at the following domain address: [insert website's address] (hereinafter referred to as the "Licensor's Website").

**AND WHEREAS** the Licensee wishes to obtain a graphic link on the Licensor's Website on which users of the Licensor's Website can click to be transported to the Licensee's Website.

**AND WHEREAS** the Licensor is willing to provide such a link to the Licensor's Website for the promotion of the Licensee's Website, in consideration for receiving compensation as set forth in this Agreement.

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

### **1. TERM**

The Agreement shall commence on [insert date], and shall continue for a period of [insert number] months, unless terminated by either of the Parties in accordance with the terms and conditions of this Agreement.

### **2. LINK GRAPHIC AND POSITION**

The Licensor shall place the Licensee's Website image on the Licensor Website's Home Page so that it is immediately visible upon the first load of the Licensor Website by a user. The Licensee's Image when clicked by a User's mouse will transport the User through the User's web browser from Licensor's Website to the Licensee's Website.

### **3. COMPENSATION**

In consideration for providing the link for the promotion of the Licensee's Website as described in this Agreement, the Licensee shall pay to the Licensor a monthly fixed fee of Rupees \_\_\_\_\_/- (Rupees \_\_\_\_\_) (insert

## **Website Promotion Agreement**

Pro-Gole (Right to do Business)

Legal Services (B&SDS)

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amount), payable on the first day of each month, in advance.

### **4. INDEPENDENT CONTRACTORS**

The Parties are separate and independent legal entities, and nothing contained in this Agreement shall be deemed to constitute any relationship other than that of two Parties to a contract, including but not limited to the relationship of partners, joint venturers, employees, agency, representative or any other relationship creating apparent, implied or actual agency or joint responsibility. Neither Party shall have the actual, implied, or apparent authority to bind the other Party to any debt or obligation. There shall be no third party beneficiaries to this Agreement.

### **5. REPRESENTATIONS AND WARRANTIES**

(1) Each Party represents and warrants to the other Party that on the Effective Date and during the entire term of the Agreement:

- i. The representing Party has the unrestricted right to enter into this Agreement, and this Agreement does not conflict with any other agreement or obligation by which such Party is bound.
- ii. The representing Party's Website does not violate the proprietary rights of any third parties, including without limitation, copyright, trademark, trade secret, privacy, publicity or other rights.
- iii. The representing Party's Website does not violate any laws, rules, regulations or statutes.
- iv. The representing Party's Website does not include any material which is harmful, pornographic, abusive, hateful, obscene, threatening, or defamatory or which encourages illegal activities or racism or promotes software or services which deliver unsolicited emails.
- v. The representing Party's Website does not contain links to sites displaying the type of material defined in Clause 5 (1) (iv) above through a single connection.

(2) NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY, INCLUDING BUT NOT LIMITED TO FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. EXCEPT FOR THE WARRANTIES SPECIFICALLY SET FORTH IN THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL. OR PUNITIVE DAMAGES OF ANY KIND OR NATURE.

### **6. INTELLECTUAL PROPERTY**

Except as expressly licensed under this Agreement, each Party retains all rights in their respective Websites, and each of their respective trademarks,

## **Website Promotion Agreement**

Pro-Gole (Right to do Business)

Legal Services (B&SDS)

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copyrights, and intellectual property rights.

### **7. INDEMNIFICATION**

Each Party agrees to defend, indemnify, and hold harmless the other Party, its officers, directors, employees and agents, from and against any claims, actions, causes of action, suits, threats or demands, including without limitation reasonable attorney fees and costs, alleging or resulting from the breach of the warranties made by such Party in this Agreement. The Parties shall provide notice to the other Party promptly of any such claim, suit, or proceeding and shall assist the other Party, at the other Party's expense in defending any such claim, suit or proceeding.

### **8. REPORT ON NUMBER OF USERS**

- (1) The Licensee shall collect and report to the Licensor the number of users who access the Licensee's Home Page from the link on the Licensor's Website.
- (2) This information shall be tracked and reported by the Licensee to the Licensor via email on a monthly basis.

### **9. COPYRIGHT**

The Licensee grants to the Licensor a nonexclusive, worldwide license to copy and publicly display the image which includes the link to the Licensee's Website on the Licensor's website as provided in, and subject to the terms of this Agreement.

### **10. TERMINATION**

The Licensor or the Licensee may terminate the Agreement if the other Party materially alters the content or structure of their respective Websites from the state that it is available via the World Wide Web on the Effective Date. Each Party shall notify the other Party via Email of any material change in the content or structure of their respective Websites.

### **11. 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 country] and the courts at [insert place] shall have exclusive jurisdiction for adjudicating any dispute arising hereunder.

### **12. RESOLUTION OF DISPUTES**

## **Website Promotion Agreement**

Pro-Gole (Right to do Business)

Legal Services (B&SDS)

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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 [insert place].

### **13. 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.

### **14. AMENDMENTS**

This Agreement may be modified, extended, enlarged or amended from time to time by mutual agreement and consent of the Parties.

### **15. 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.

# Website Promotion Agreement

Pro-Gole (Right to do Business)

Legal Services (B&SDS)

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## 16. 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, unless with the prior written consent of the other Party.

## 17. 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.

## 18. ENTIRE AGREEMENT

This Agreement and any and all exhibits and attachments are the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) between and amongst the Parties regarding such subject matter

**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 Licensor**

\_\_\_\_\_  
For and on behalf of  
**The Licensee**

### WITNESS NO. 1

### WITNESS NO. 2

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name:  
\_\_\_\_\_

Name:  
\_\_\_\_\_

Designation:



# Website Promotion Agreement

Pro-Gole (Right to do Business)

Legal Services (B&SDS)

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Designation: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_