

Commercial Contract

AGREEMENT FOR PRINTING OF PROMOTIONAL MATERIAL



*Empowered lives.
Resilient nations.*



Small and Medium Enterprises Development Authority

Ministry of Industries & Production

Government of Pakistan

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January 2013

Agreement for Printing of Promotional Material

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 service matters. 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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A2. AGREEMENT FOR PRINTING OF PROMOTIONAL MATERIAL

THIS AGREEMENT FOR PRINTING OF PROMOTIONAL MATERIAL (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 "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 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 "Printer", which expression shall, wherever the context so provides, include its agents and successors-in-interest).

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

WHEREAS the Business requires to promote its products i.e. [insert name/description of products], and for such promotion, it requires to have the promotional material including pamphlets, skins, shopping bags, etc. printed (hereinafter referred to as the "Services", and more particularly described in Schedule A to this Agreement).

AND WHEREAS the Printer is engaged in the business of providing printing services to its clients.

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AND WHEREAS the Printer has represented to the Business that it owns sufficient resources , personnel and expertise to provide the Services to the Business, and based on these representations of the Printer, the Business has accepted the Services of the Printer.

NOW THEREFORE the Parties have agreed to enter into this Agreement on the following terms and conditions:

1. TERM

- (1) This Agreement shall come into effect on the date of execution of this Agreement, and shall continue to remain in force until the time that the Printer delivers the Deliverables in the quantities mentioned in Schedule A to this Agreement.
- (2) Under no circumstances shall the Agreement be extended beyond [insert date] unless otherwise specifically agreed upon between the Parties in writing.

2. CONTENT FOR THE DELIVERABLES

- (1) The Business shall be solely responsible for providing the Printer with the content for the printing of the Deliverables (hereinafter referred to as the "Content").
- (2) The Business shall ensure that the Content is delivered to the Printer within [insert number] days of the signing of this Agreement.
- (3) The Content shall be delivered to the Printer in the following mode:
[insertmode for instance CD/DVD/USB]

3. APPROVAL

- (1) The Printer shall ensure that it obtains the approval of the Business with respect to samples of each of the Deliverables (hereinafter referred to as the "Samples").
- (2) The Business, after a thorough review of the Samples, shall duly sign each Sample, and return the same to the Printer. In case of any changes to the Sample so provided, the Business shall communicate such changes to the Printer, and the process shall be repeated until each Sample is duly approved by the Business.
- (3) Once a Sample is approved, any defect in the printed Deliverables shall not be the responsibility of the Printer unless the Deliverable is not printed in accordance with the approved Sample.

4. REMUNERATION

- (1) In lieu of the Printer providing printing Services to the Business, the Business shall pay the remuneration to the Printer (hereinafter referred to as the "Remuneration") in accordance with the Rate List given in Schedule B of this Agreement.

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- (2) [Insert percentage]% of the Remuneration shall be payable to the Printer on the date of signing of this Agreement. [insert percentage]% of the Remuneration shall be payable by the Business to the Printer upon the approval of all the Samples by the Business. The remaining amount shall be paid by the Business to the Printer within [insert number] days of the final delivery of the Deliverables by the Printer to the Business.

5. TERMINATION

- (1) Either Party may terminate this Agreement by giving to the other Party a [insert number] days prior written notice, with or without cause.
- (2) If the Printer terminates the Agreement due to no fault of the Business, it shall return any portion of the Remuneration extended by the Business to the Printer. However, if the Printer terminates this Agreement due to a breach of the Business which is not corrected within [insert number] days of the receipt of notice of such breach, the Printer shall be entitled to retain the advance extended by the Business to the Printer.

6. INDEPENDENT CONTRACTOR

Both the Business and the Printer agree that the Printer shall act as an independent contractor in the performance of its duties under this Agreement. Accordingly, the Printer shall be responsible for payment of all taxes arising out of the Printer's activities in accordance with this Agreement.

7. INDEMNIFICATION/LIMITATION OF LIABILITY

The Parties agree to indemnify, hold harmless and defend the other Party from and against any claims, demands, damages, costs, causes of action, losses, expenses, or liabilities, judgments, suits, actions or proceedings (including but not limited to the cost of litigation) arising out of the breach of this Agreement or otherwise negligence or willful misconduct by their partners, agents or employees while engaged in activities relating to this Agreement or by reason of non-compliance with laws, intellectual property infringement, and injury to employees and damage to property of the other Party.

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 Pakistan 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].

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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.

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

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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 Business

For and on behalf of
The Printer

WITNESS NO. 1

WITNESS NO. 2

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____

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SCHEDULE A

- | | |
|--|----------------|
| 1. [Description of Deliverable]
Quantity] | [Insert |
| 2. [Description of Deliverable]
Quantity] | [Insert |
| 3. [Description of Deliverable]
Quantity] | [Insert |

SCHEDULE B

RATE LIST

- | | |
|--|-----------------------------|
| 1. [Description of Deliverable] | [Insert Agreed Rate] |
| 2. [Description of Deliverable] | [Insert Agreed Rate] |
| 3. [Description of Deliverable] | [Insert Agreed Rate] |