

ARBITRATION CLAUSE IN BUILDING AGREEMENT

Sometimes Arbitration clause assumes great importance in a building agreement. Therefore, it should be drafted on the following lines.

"In case any dispute should arise between the owner and the contractor, whether in respect of delay in supply of materials by the owner or delay in execution of work by the contractor, or the quality of the materials so supplied or the quality of the work done or in respect of decorations or alterations suggested or made or extra work required to be done and so executed or not, or in respect of measurements or work done or required to be done, or demand and payment for part or whole of the work done or not done or delay or refusal in grant of architect's certificate by the Engineer or its correctness or touching the interpretation, fulfilment or breach of any of the terms of these presents or in respect of deductions to be made or extra payments to be recovered for work improperly done or not executed or in respect of work got done through another contractor for default or breach or non-completion of work agreed to be done under the particulars and for assessment of the value thereof and fixation of liability for the same between the parties hereof or in respect of any act or omission arising out of the performance of non-performance or the obligations or duties pursuant to these presents, the said dispute or disputes shall be referred to the arbitration and final award of a single arbitrator if the parties agree thereto in writing (failing which to the arbitration of an arbitrator to be appointed by the President of the Institute of Engineers) (or failing which to the arbitration of the municipal or corporation engineer or any competent engineer or architect nominated by him in writing) on a reference made to him by any of the parties by notice in writing , a copy whereof will be served on the other party at the address mentioned above or such other address as may be notified by that other party sent by registered post. The arbitrator shall be entitled to proceed ex parte after notifying the parties by a reasonable notice as to the time and place therefor. The arbitrator shall also be entitled to associate with himself a surveyor, if necessary at his discretion. The arbitrator shall have power to reopen and revise any certificate granted by the architect engineer under these present."

AGREEMENT FOR APPOINTMENT OF SOLE SELLING AGENT BY MANUFACTURING COMPANY

AN AGREEMENT made on this.....day ofBETWEENcompany, manufacturers of.....(hereinafter called the manufacturers) of the one part AND.....(hereinafter called the sole agent) of the other part.

WHEREAS

1. The manufacturers are engaged in the manufacture ofand are desirous of appointing a sole selling agent for the sale of the same.
2. The sole agent has approached the manufacturers for appointment as the sole selling agent for.....goods of the manufacturers and is willing to perform the duties as such.

NOW THIS AGREEMENT WITNESSES as follows :

- (1) The manufacturers appoint.....as the sole selling agent for the goods manufactured by them for the area comprising.....The sole agent shall have exclusive right to sell the goods of the manufacturers in the afore-mentioned area.
- (2) This appointment is being made by the Board of Directors subject to the condition that the appointment shall cease to be valid if it is not approved by the company in the first general meeting held after the date of this appointment (Approval by the company in the first general meeting held after the date of appointment is mandatory under section 294 (2) of the Companies Act, 1956. [Arantee Mfg. Corporation v. Bright (P) Ltd; AIR 1967 Bom 440].
- (3) This appointment shall last for a period of five years computed from the date of this agreement. It may, however, be extended for further periods not exceeding five years on each occasion. (Under section 294 (1) of the Companies Act, 1956, no company shall appoint a sole selling agent for a term exceeding five years at a time.)
- (4) The manufacturers undertake not to sell their goods in retail below the following prices.
- (5) The sole agent shall not sell the goods in retail below the prices mentioned under Cl. 4 of the agreement.
- (6) The following prices, based on present market quotations, shall be payable the sole agent to the manufacturers.
- (7) For the first year the prices mentioned in Cl.6 shall be binding on the parties. Thereafter the prices shall be liable to increase or decrease according to fluctuation in market quotations.
- (8) The sole agent shall be entitled to a commission of 3-1/2 per cent. Onm the sale price of the goods.
- (9) The sole agent shall have 20 days credit for payment of price of goods after receipt of goods.
- (10) The manufacturers shall not effect direct sales of goods within the area mentioned in Cl. (1). All inquiries, orders and correspondence which the manufacturers receive in relation to that area shall be forwarded to the sole agent to be dealt with.
- (11) The sole agent may appoint sub-agents and representatives for the area covered by the sole agency. The manufacturers shall not enter into any correspondence or dealings, direct or indirect, with them.
- (12) The manufacturers agree to execute the orders placed by the sole agent so far as the goods available with them permit. Neither do the manufacturers guarantee minimum supply of goods to the sole agent nor is the latter bound to place order for any minimum quantity of goods.
- (13) In case the terms of this appointment are varied by the Central Government in exercise of its power under section 294 (5) ©, Companies Act, 1956, this appointment shall, as from the date as may be specified by the Central Government in its order of variation of terms, be regulated by the terms and conditions as varied by the Central Government.

IN WITNESS WHEREOF, etc.