**Agreement between a Company and an Advertising Agency**

**ADVERTISING AGREEMENT**

THIS AGREEMENT executed on this……………..day of 20... at ………….between:

M/s. …….. Manufactures Ltd., a company incorporated under Companies Act, 1956 and having its registered office at…………….. here in after referred to as "the Company" through its Director Mr. ……………. (Which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the FIRST PART

**and**

M/s. XY Advertising Agency, a partnership firm registered under the Partnership Act, 1932 and having its registered office at ........ here in after referred to as "the Agency" through its Partner Mr. ………… (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include every partner for the time being of the said firm, the survivor or survivors or the legal representatives, executors or administrators of the last survivor) of the OTHER PART.

WHEREAS the company is manufacturer of various plastic and fiber products like Office Stationeries, Furniture, kitchen utensils, electronic gadget cabinets etc. hereinafter referred to as "the said products" and desirous to engage the services of an advertising agency for the purpose of advertisement of their products in India and abroad.

AND WHEREAS the Agency has agreed to act as advertising agents for the company on the terms and conditions hereinafter mentioned.

NOW IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1.     The company appoints the Agency to advertise the said products in the newspapers, magazines, journals, cinema slides, video magazines, radio, television or public hoardings as may be determined by the parties.

2.     The Agency shall submit the estimate of cost and method and period of the advertisement to the company and after the said estimate and methods of advertisements is approved by the company in writing, the advertisements will be released to the concerned newspapers, magazines, television centre, etc.

3.     The Agency shall be responsible for preparing all the material for advertising, publicity including art work, photography, cinematography, documentary films, drawing, engraving, advertising writing, preparation of video films for T.V. advertisements and video magazines and if the said works are got done by the Agency at its own office with the help of its employees, the company shall pay for the same at the market rates and settled between the parties. If the said works are got done through outside agencies, the company shall pay all expenses incurred by the Agency for getting the work done through outside agencies.

4.     The company shall pay to the Agency . ……………..per cent above the cost and other expenses incurred by the Agency in this behalf as its commission.

5.     The Agency will be responsible for advertising the said products in India and other countries of the world, wherever the said products are exported or the company proposes to export its products.

6.     Whenever the company manufactures any new product and launches the same in the market for sale, the Agency shall undertake special advertisement campaign for the said new product in consultation with the company.

7.     The Agency will not act as Advertisement Agent of any company/person, who is manufacturing similar products and who are competitors of the company.

8.     The Agency shall observe the laws applicable and the rules or code of conduct of advertisers associations, association of newspapers or rules prescribed by television and radio.

9.     The Agency shall submit a weekly report to the company showing in detail the advertisements given regarding each of the said products separately and showing the dates, the timing or appearance of the advertisements, the names of newspapers/channel of TV given during the previous week. The report shall also accompany the cutting of newspapers/journals/magazines/clippings of T.V. Programme published/broadcast of the products.

10.  The Agency will not infringe any copyright of any person/company while displaying or publishing any advertisement of the company.

11.  The Agency shall indemnify and keep indemnified the company against any loss, claims, demands, actions, proceedings, damages, costs, charges and expenses which may be made or brought or commenced against the company for any act contrary to the provisions of this Agreement or due to or resulting from the breach of any agreement between the Agency and any newspaper/T.V. or any other person relating to the advertisement of the products of the company.

12.  The company shall indemnify and keep indemnified the Agency against any loss, claims, demands, actions, proceedings, losses, damages, costs, charges and expenses which may be made or brought or commenced against the Agency for the publication of any advertisement of the company, which has been prepared on the basis of the material furnished by the company.

13.  The company's budget for advertisement is Rs . ……………..crores per year, and the company agrees and undertakes that it shall get the advertising of its products done through the Agency.

14.  14. This agreement shall be for a period of one year from the date of these presents. However, any party may terminate this agreement before the period of one year by giving two months notice in advance to the other party. In case the Agency commits a breach of any covenant herein contained, the company is entitled to terminate the agreement by giving one week's notice.

15.  On the termination of the agreement, all the advertisement material in the possession of the Agency will be returned to the company forthwith and will not be used by the Agency for any other purpose or persons.

16.  The Agency shall submit bill to the company every month for the expenses incurred by it in advertising and the company shall pay the bill within a period of 10 days of the submission of the bill there for. The commission payable to the Agency shall be payable on the gross value of the work done or undertaken on behalf of the company and shall be paid along with the payment of bill of cost and expenses submitted by the Agency.

17.  The Agency shall also charge service tax on their bills at the rates applicable from time to time.

18.  The Agency shall advise the company of the most up to date, decent and profitable mode of advertisements at moderate

19.  The company shall Endeavour to keep the agency with sufficient funds to pay the expected charges for advertisement.

20.  All disputes between the parties hereto arising out of this Agreement or in relation thereto or regarding the interpretation of this Agreement, shall be referred to an arbitrator appointed by the Indian Council of Arbitration, New Delhi and the provisions of the Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof shall be applicable to such reference.

IN WITNESS WHEREOF the parties hereto have signed this Agreement on the day and year first above written.

WITNESSES

1 The Company

For ………………… Ltd.

(………………………)

Director

2. The Agency

For …………………. Agency

(………………………)

Partner

**Agreement between a Company and Manager**

This Agreement made at ................................ this ............ day of ........................2000, between XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ................................ hereinafter called the company, of the One Part and Shri A son of B resident of ....................................... hereinafter called Shri a of the Other Part.

Where as the company is engaged in manufacture of steel in various forms at its factory at ……....................................................

and Whereas Shri....................................... who was working as the factory manager with the company has resigned and went abroad for higher studies.

And Whereas The company wanted to employ a manager for its factory and for that purpose advertised the vacancy in the leading newspapers and after interviewing all the candidates, who had applied for the post, has selected Shri A for the post of Manager.

**Agreement between a Company and Security Service Company for Providing Security Services to the Company's Property**

This Agreement made at ......... on this ......... day of ....... 2000, between ABC Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ................ (hereinafter referred to as "the Employer", which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors and assigns) of the ONE PART and XYZ Security Guards (P) Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ..........  (hereinafter referred to as "the Company" which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include its successors and assigns) of the Other Part.

Where as the employer is having its factory at .......... hereinafter referred

to as "the said factory" and it wants to employ security guards to provide security services to the said factory.

and Where as The company, who is experienced in providing security services to the industrial units and other organisations has offered to provide security services to the Employer at the said factory and the employer has agreed to avail the said services being provided by the company.

**Now this Agreement Witnesseth as Follows:**

1.     The company shall provide .......... security guards to keep ward and watch and protection of the said factory as per the employer's requirement. The security guards provided by the company will be for twenty-four hours in the shift of 8 hours and shall provide complete security arrangement and protection of the said factory round the clock.

2.     The employer shall give the watchmen's hut constructed on the gate of the said factory to the security guards and the said guards shall cheek all the vehicles and personnel entering into and going out of the said factory as per the instructions issued by the employer's representative from time to time and shall maintain proper record of the vehicles and personnel coming and going out of the factory.

3.     The company at its own expenses shall provide its security guards with necessary uniform, arms, outfit, etc. required for the effective discharge of security services to the employer.

4.     The company shall ensure that the security guards provided by it maintain perfect discipline and behavior and they shall not in any manner cause any interference, annoyance, nuisance to the management of the employer or its business or work or its officers/ employees/other contractors.

5.     The company agrees and undertakes that the security services provided by the security guards shall be to the entire satisfaction of the employer and the company will make it clear to the security guards that the latter are employees of the company and they shall have no claims against the employer and the employer shall not be liable to wages, salary, compensation and any statutory benefits due to the security guards under the labour law and other legislation and the company shall be responsible for providing such amenities to its employees admissible under the law/rules/service conditions.

6.     The company will indemnify the employer against any claim, loss, damage occurred, or caused to the employer due to willful acts or omissions or carelessness or negligence of the security guards employed by the company, while on duty.

7.     The employer shall pay a sum of Rs. .........  (Rupees............... only) per security guard per month and a sum of Rs. ......... per security guard for three national holidays for the services provided by the company on submission of the bill by the company by 10th day of the following month. The employer shall not make any payment to the security guards and payment will be made to the company only.

8.     The company will obtain licence, if any, required under the local or central laws for providing security services to the employer.

9.     The employer shall be entitled to supervise the services provided by the company and if it finds that the conduct, behavior and performance of work of any of its security guard is unsatisfactory, it may issue directions to the company to immediately recall the particular person and substitute him by another and the company shall comply with such directions issued by the employer forthwith.

10.  This agreement will be for a period of one year from the date of execution of these presents. The employer shall, in the event of the company committing any breach of any of the terms and conditions of this agreement or if the services provided by the company is considered to be unsatisfactory by the employer or for any other reason considered by the employer as sufficient, be entitled to terminate this agreement by giving one month's notice in writing and the company shall not be entitled to any compensation in case of such termination. The company may also terminate this Agreement by giving one month's notice in writing to the employer.

11.  On expiry or earlier determination of this agreement, the company and the security guards shall vacate the factory premises, without in any way causing any damage to the said premises and the factory's property therein.

12.  In case of any dispute or difference arising between the parties under this agreement, the decision of  ......... will be final and binding and the company will not be entitled to lodge any claim against the decision of the said Shri ……………...........

13.  The stamp duty on this agreement and duplicate thereof shall be borne by the company. The original shall be retained by the employer and the company shall retain the duplicate.

14.  Unless otherwise agreed upon, the respective addresses for communication in respect of any matter relating to this agreement shall be as under:-

For the Employer ...........................................................

For the Company ............................................................

In Witness Where of, the parties have caused their common seal to be affixed to these presents and the duplicate, the day and year first hereinabove written.

The common seal of ABC Co. Ltd., the within named employer is hereunto affixed pursuant to the resolution of its Board of

Directors passed at the meeting held on   .......………..

The common seal of A B Security Guards (P) Ltd.,

the within named company is hereunto affixed pursuant

to the resolution of its Board of Directors passed at the

meeting held on   ………………......

 WITNESSES;

1.

2.

**Agreement between a Company and Sole Selling Agents**

This Agreement made on this ………………….. day of …………………. BETWEEN Bande & Bande Ltd. (hereinafter referred to as the company ) having its registered office and factory at Mokamganj, Warle, Bombay , of the one part and Jai Jai & Sons (P.) Ltd., carrying on business at Chandni Chowk, Delhi ( hereinafter called the sole selling agents ) of the other part.

Whereas

1.     The company is engaged in the manufacture of cotton and textiles polyester fibre yarn suitings and shirtings.

2.     The sole-selling agents are the whole-sale traders in suitings and shirtings and other textile goods in north India with headquarter at Delhi.

3.     The company in its general meeting held on……………has decided to appoint Jai Jai & Sons (P.) Ltd. as the sole-selling agents for northern India for whole-sale business of the company’s manufactured suitings and shirtings and the Central Government has also approved the appointment of the said sole-selling agents vide letter NO……………………..dated………………

4.     It is agreed between the parties that the company shall appoint Jai Jai & Sons (P.)Ltd. as the sole selling agents for the suitings and shirtings manufactured by the company and the said Jai Jai & Sons (P.) Ltd, have agreed to act as the sole-selling agents for the company.

Now this Agreement Witnesses as Follows :

1.     That the company appoints Jai Jai & Sons (P.) Ltd, Delhi as the sole-selling agents for the North India including the States of J. & K., Haryana, Punjab, Bihar, Rajasthan, Uttar Pradesh, Union territory of Chandigarh and Delhi for the suitings and shirtings manufactured by the company and the said sole-selling agents will have the exclusive right and authority to sell whether in cash or on credit and procure the orders for sale of the said product of the company in any manner in the territories mentioned above.

2.     The appointment of sole-selling agents shall take effect from 1 st day of………….198……………..and shall operate for a period of five years from the said date without prejudice to the right of reappointment but subject to the approval by the Company in general meeting and also subject to the approval by the Central Government as required under section 294 of the Companies Act, 1956, and Rule 2 of the Companies (Appointment of Sole Agents) Rule, 1975.

3.     The sole-selling agents shall have the right to operate in the entire territories of North India as mentioned above either directly or through their branch offices, associates or sub-agents for giving effect to this agreement.

4.     The sole-selling agents in consideration their selling and procuring orders for the sale of the company’s products shall be paid a commission at a rate not exceeding 30% but determinable by the mutual agreement of the parties at the commencement of every year on sales effected by them at agreed intervals of time on the amount actually collected by them in accordance with the incentive rates on the amount collected, agreed to, and described in the Schedule hereinafter annexed.

5.     The sole-selling agents hereby covenant:

               i        That they will exclusively engage in the sale of the company’s products to the best of their efforts and shall not engage in the sale of similar or identical products of other manufactures.

              ii        That they will protect preserve and maintain patents and trade mark of the company’s products sold by them in all possible manner at their own cost and will never allow others to use the same unauthorisedly.

             iii        That they will keep and maintain the full and complete accounts of the sale of the company’s products, area-wise and region-wise and submit quarterly reports of sale, stock in hand, realisation of credit bills and any other information as may be desired by the company at any time or from time to time;

             iv        That they will not create any obligation involving payments either in cash or king on behalf of the company and shall not assign the interest, rights and obligations arising out of these presents to any third party;

              v        That they shall keep the company will informed of the demands of the company’s products arising in the territories of their operation from time to time.

6.     The company also hereby covenants as under :

                      I.        That it shall provide the sole-selling agents complete catalogue, instruction books, circulars for promoting sales of its products and publish advertisements in local and regional newspapers for promoting sales of the company’s products.

                     II.        That it shall execute orders placed by the sole-selling agents with all reasonable despatch

                    III.        That it shall not entertain and execute direct orders from the territories assigned to the sole-selling agents and in case any orders are received by it the same shall be passed on to the sole-selling agents and they will be paid commission 20% on such orders.

7.     The parties hereto hereby agree as under :

                      I.        That nothing contained herein shall prejudice the rights of the company to appoint another selling agents in any of the aforesaid States or to open its own retail shop in writing where it is found necessary to promote public distribution system or to execute any special programme of the Government of India. However, so the company shall obtain prior consent in writing of the sole-selling agents in that behalf.

                     II.        That the retail price of the product shall always be determined by the company in consultation with the sole-selling agents.

                    III.        That the agreement is renewable subject to mutual consent of the parties hereto on the expiry of five years.

                   IV.        That the agreement may be terminated by either party on giving six months, notice in advance to the other party in writing but by registered post.

                    V.        That any dispute arising between the parties hereto shall be referred to the sole arbitrator Shri……………….and the decision/award of such arbitrator shall be binding upon the parties hereto.

                   VI.        That the Delhi courts will have the sole and exclusive jurisdiction of decide the issues in dispute between the parties hereto.

in Witness Whereof, Etc. Schedule Referred to above.

**Agreement between a Company and the Contractors for the Maintenance of Computers for a Fixed Period**

      i.        This Agreement made at ......... on this......... day of ........ 2000, between XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ........... (hereinafter referred to as "the Company", which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART and TNT Computers Pvt. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter referred to as "the TNT", which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the Other Part.

     ii.        Whereas the company has purchased 5 computers, the details of which have been given in the Schedule hereunder written, hereinafter referred to as "the said Computers" from TNT on ......... and TNT offered free service of the said computers for a period of one year from the date of purchase of the said computers. and Where as after the expiry of free service period, the company has requested TNT to provide service of the said computers for a period of one year, which TNT has agreed to provide on the terms and conditions hereinafter contained.

Now These Presents Witness and the Parties hereto agree hereby as Follows:

a.     TNT will provide at the company's office all labour, parts and material that it deems necessary to maintain in good operating condition the said computers. Replacement parts shall be new or their equivalent, replaced parts become the property of TNT. Services provided by TNT include and are limited to the following:

b.    Preventive maintenance is maintenance and includes cleaning, adjusting, lubricating, inspecting, testing and calibrating procedures designed to endure proper operation, reduce product failure and/or extend useful product life. This maintenance will be performed according to the procedures and at the frequencies recommended by the company. Preventive maintenance will be performed at company office at the company's facility during the contract period (regular business days/hours), as mutually agreed or coincident with remedial maintenance, by authorised TNT's service representative. Preventive maintenance is limited to two regular work days unless, at the discretion of TNT, additional days are necessary to complete the preventive maintenance, such days not to exceed five working days. Remedial maintenance during a preventive maintenance that requires additional days will be charged as remedial maintenance call or at the current hourly rate if all remedial calls have been used.

c.     Remedial maintenance is unscheduled maintenance at the company's facility. Remedial maintenance includes the diagnosis and correction of product malfunctions and failures. Remedies may consist of temporary procedures to be followed by the company while a permanent remedy is being sought. Remedial maintenance will commence during the period of this agreement and will continue uninterrupted as long as reasonable progress is being made or until the product(s) is/are operational. If TNT determines that additional parts or resources are required, service will resume as soon as these parts or resources are available. After all remedial maintenance calls have been used, additional remedial maintenance will be allowed at the current TNT hourly rate.

d.    Assembly repair is unscheduled repair of returnable assembly level components (printed circuit boards, power supplies, switching units, etc.) at TNT's factory. Assembly repair includes the diagnosis and correction of product malfunctions and failures. Assembly repair will commence during the period of coverage and will continue uninterrupted as long as reasonable progress is being made or until the product(s) is/are operational. If TNT determines that additional parts or resources are required, service will resume as soon as these parts or resources are available. The number of repairs of assemblies related to equipment covered under this agreement is unlimited.

e.     The periods of coverage specified below shall uniformly apply to all products covered by this Agreement. The company may request a change in the specified periods of coverage at any time. Such change is subject to written approval by TNT.

Monday through Friday 7.30 A.M. to 4.00 P.M.

(excluding TNT holidays)

Saturday N/A TO NIA

Sunday NIA TO NIA

f.     The response time is 48 hours. TNT shall respond to a request for remedial maintenance or technical support within the specified response time measured in clock hours. Availability of TNT personnel and telephone answering service is limited to the specified period of coverage. "Response Time" is defined as the duration of time necessary for TNT personnel to initiate action upon a specified company request and advise the company of either action to take to complete that particular request or action to take to provide TNT with additional information needed to assist in such company's request completion, or the embarkation of TNT personnel for arrival at the company's equipment site.

g.    TNT shall be under no obligation to furnish support service under this agreement should repair be required because of.-

h.     improper use;

i.      natural disasters such as flood or earthquake;

j.      strikes, riots or acts of war or nuclear disaster;

k.     repairs, maintenance, modifications or relocation and re- installation made by other than TNT personnel or without TNT's supervision and approval;

l.      unusual shock or electrical damage, neglect, air-conditioning failure, humidity control failure, a corrosive atmosphere harmful to electronic circuitry, damage during transportation by the company or causes other than ordinary use; and

m.   failure by company to maintain the site specifications recommended by TNT. If support services are required as a result of the causes stated above, such service shall be provided at TNT standard service rates for labour, travel and material in effect at the time of service. TNT may also, at its option, terminate this agreement as a result of the causes stated above. Termination is subject to the guidelines specified under Item 8 of this Agreement.

n.     TNT may, at its option, with no additional charge to the company, make modifications to improve the operation and or reliability of the products being serviced under this agreement.

o.    If the company intends to relocate the products covered under this agreement, it shall give TNT sixty days written notice prior to any relocation of products covered by on-site support services being provided under this agreement. The products moved to a location within the country of original installation shall continue to be serviced under this agreement. The response time and charges will be adjusted to reflect the new location. Products moved outside the country of original installation may continue to be serviced under this agreement, at the option of TNT. The services to be provided and charges for such services shall be subject to mutual agreement. For installed products, which will continue to be serviced, TNT at its option, shall supervise the dismantling and packing of the product and shall inspect and re-install the products at the new location. These services, if provided, shall be at additional charge based on TNT's standard service rates in effect at the time. The company shall furnish all labour and materials for the dismantling, packing and placement of the products during relocation.

p.    TNT's services do not include:

q.    operating supplies and consumables;

r.      refinishing the products or furnishing materials for that purpose;

    iii.        electrical work external to the products;

a.     maintenance of accessories, attachments or products not specified herein or on subsequent orders; or

b.    any other services not specifically described herein.

c.     This agreement shall be for a period of one year from the date of these presents, unless terminated by either party on not less than ninety days written notice (given prior to the expiration of the successive period then in effect).

d.    The company shall pay a sum of Rs.......... per month per computer for services provided by TNT. The said charges are exclusive of State and local use, sales, property (ad valorem) and similar taxes. The company shall pay such taxes and when applicable such taxes will appear as separate items on TNT's invoice.

e.     The TNT shall submit invoice for charges in advance or as soon as it become applicable. Any administration charge will be invoiced in advance as soon as it becomes applicable. Invoices for other charges will be submitted as the charges are incurred. Unless otherwise stated in writing by TNT, the company shall pay all invoices submitted under this agreement within twenty days from date of invoice.

f.     Any attempt to assign or transfer any of the rights, duties, or obligations herein shall render such attempted assignment or transfer null and void.

g.    TNT reserves the right to withhold without liability, but with prior written notice, any services authorised by the company under this agreement, if the company is delinquent in payment for any services, and to change the credit terms herein when, in TNT's opinion, the financial condition or previous payment record of the company so warrants.

h.     In the event of any proceedings, voluntary or involuntary, in it bankruptcy or insolvency or winding-up by or against the company or in the event of the appointment, with or without the company's consent of an assignee for the benefit of creditors, or of a receiver, TNT may y elect to cancel the unfulfilled part of this Agreement without refund or liability for said unfulfilled part.

i.      TNT's failure to exercise any of its rights hereunder shall not constitute or be deemed waiver or forfeiture of such rights.

j.      Any notice required to be given hereunder shall be given in writing at the address of each party set forth within or to such other address either party may substitute by written notice to the other.

k.     All disputes and differences of any kind whatever arising out of or in connection with this agreement shall be referred to the arbitration and final decision of an arbitrator to be agreed upon and appointed by the parties or in case of disagreement as to the appointment of a single arbitrator, to the appointment of two arbitrators, one to be appointed by each party and if there are two arbitrators, they shall before taking upon themselves the burden of reference appoint an umpire. The arbitrator or arbitrators, as the case may be, shall make his or their award within one year or such further extended lime as may be decided by him or them, as the case may be, with the consent of the parties the date of entering on the reference. This submission to the arbitrators shall be deemed to be a submission to arbitration within the meaning of the Indian Arbitration Act, 1940 or any statutory modification thereof. The award of arbitrator or arbitrators, as the case may be, shall be final and binding on the parties.

l.      This agreement shall be executed in duplicate. The original shall be retained by the company and duplicate by the TNT.

in witness Whereof the parties have executed these presents on the day and year hereinabove written and in the manner hereinafter mentioned.

Signed and delivered by X Y Co. Ltd., the within

named company, by its Managing Director Shri.........

Signed and delivered by TNT Computers Pvt. Ltd., the

within named TNT, by its Marketing Director Shri...........

WITNESSES;

1.

2.

**Agreement between a Manufacturer and Selling Agent**

An Agreement made on this………………..day of …………………between ABC & Co. Ltd. having its registered office at………….(hereinafter called the “manufacturer”) of the one part AND PN son of………………..resident of…………….(hereinafter called the agent) of the other part.

Whereas the manufacturer carries on the business of manufacturing banyans, underwear’s, hosiery and other wearing apparel of all kinds.

and Whereas the manufacturers is desirous of opening retail shops in various towns of India and is willing to appoint agents for this purpose who shall have to act exclusively as the selling agents of the products of the manufacturer.

and whereas the said agent has approached the manufacturer and expressed his consent to act as such agent on the terms and conditions mutually agreed upon.

Now, therefore, this Agreement Witnesses as Follows:

1.     The manufacturer carries on the business of manufacturing baniyans, underwears, hosiery and other wearing apparel of all kinds.

2.     The manufacturer is desirous of opening retail shops in various towns of India and is willing to appoint agents for this purpose who shall have to act exclusively has the selling agents of the products of the manufacture.

3.     The said agent has approached the manufacturer and expressed his consent to act as such agent on the terms and conditions mutually agreed upon;

Now, therefore, this Agreement Witnesses as Follows :

1.     That the agent shall deposit a sum of Rs…………..as security for the due fulfilment of the terms of this agreement as well as for the adjustment thereof against the price of the goods supplied to the agent by the manufacturer from time to time.

2.     That the manufacturer shall supply an assortment of goods manufactured by it approximately of the value of Rs……………in the first instance and thereafter shall furnish to the agent at his request in writing such further goods as may be so requisitioned by him or as the manufacturer may think expedient to supply to the agent to be kept in the shop run by the agent, so that the total value thereof at any time may not, if requisitioned by the agent, exceed the value of Rs…………………but it shall be at the option of the manufacturer to supply further goods of its manufacture, which it may deem expedient, subject, however, to the compliance with the requisition made to the manufacturer by agent as aforesaid to replenish the stock which, in the opinion of the agent, finds a ready market for its sale.

3.     That the agent shall keep proper account and shall issue cash voucher for every article sold by him, which shall be prepared in triplicate, one legible copy whereof shall be submitted to the manufacturer by the agent every Friday or the next day on which the shop is opened by the agent in case Friday should be a close-day. The copies of such vouchers shall be accompanied with a statement of account showing the goods received by the agent from the manufacturer during the previous week ending with Saturday previous to Friday on which the return is so submitted.

4.     That all the goods supplied by the manufacturer shall be deemed to be in trust with the agent for the purposes of sale on behalf of the manufacturer and any willful omission or non-mention thereof in the return of the sale and receipt of goods submitted to the manufacturer weekly as aforesaid shall be deemed to be a misappropriation thereof unless such omission when pointed out and notified by the manufacturer is not rectified or appropriately explained within one week of such notification.

5.     That the manufacturer shall pay to the agent a commission of……….per cent on the sale of the goods so supplied to the agent. The agent shall be entitled to deduct the commission out of the sale-proceeds and shall be bound to remit to the manufacturer the balance of the sale-proceeds receive by the agent up to Saturday previous, which shall be so remitted on or before Friday next ensuing. The agent, however, shall, at his discretion, be entitled to sell not more than 10 per cent of the sales effected during the week on credit and he shall be bound to realise such out standings within two months of the sale be bound to pay in cash from his own pocket for the price of the foods so sold on credit. The return submitted by the agent shall show in a separate account the sales so made on credit and the realizations made thereon from time to time.

6.     That the agent shall not sell any article at a price less than the one marked thereon by the manufacturer or fixed in respect of the article by the manufacturer from time to time. Any article which becomes soiled or partly broken or otherwise unfit for sale or otherwise apparently diminished in value shall not be exposed for sale by the agent except with the prior approval of the manufacturer, and at prices to be mutually settled between the parties. The agent shall be entitled to give a concession of not more than 5 per cent of the saleable value of any article to any old customer of the agent or any relation of the agent. The agent shall indicate in the return submitted by him weekly as provided in the agreement the fact of such sale at concessional rates.

7.     That the agent shall take reasonable care of the goods supplied by the manufacturer and in case of any theft or injury thereto destruction thereof, he shall make a report to the police in case of a cognizable offence having been committed in respect thereof and forward a copy thereof to the manufacturer or submit a report in respect thereof within three days of the occurrence or its cognizance by the agent. the agent shall assist the manufacturer in the apprehension of the offender or in alleviating or removing the cause of such injury, if any. In the event of the manufacturer making a claim for compensation or otherwise from any insurance company the agent shall assist the manufacturer as if the agent was himself the assured.

8.     That the agent shall keep the goods of the manufacturer for sale in a premises approved by the manufacturer which shall kept clean and well equipped with furniture and other conveniences for the customers.

9.     That this agreement is made to run for a period of two years liable, however, to be terminated earlier, ipso facto in the event of bankruptcy or death of the agent or at the expiry of a notice of a fortnight served on or delivered to the agent at his address aforementioned or sent by registered post to him at the said address in case of default of or breach committed by the agent in respect of any of the terms of this agreement. The agent may also terminate this agreement after giving one month’s notice to the manufacturer in any of the aforementioned modes in case the manufacturer should fail to comply with or commit a breach of the terms of this agreement.

10.  That any dispute arising between the parties touching the interpretation or compliance or non-compliance with the terms or conditions of this agreement shall be referred to the arbitration of the President of the District Bar Association who may determine the dispute himself or refer the dispute to the arbitration of any other member of the Bar Association at …………….The fees of the arbitrator shall be determined by the said President with the assent of the parties, failing which by Court having jurisdiction at…………..to try and decide the dispute.

11.  That at the termination of this agreement, the accounts between the parties shall be mutually adjusted within one month of such termination . In case any party fails to assist in such examination or adjustment of accounts and the taking of stock, the other party may refer the examination and taking of accounts to the determination of the President of the District Bar Association at………….and the provision of CI. 9 aforesaid shall apply thereto.

12.  That no commission shall be payable to the agent after the termination of the agreement whether by efflux of time or otherwise under this agreement, except when this agreement is renewed and the parties mutually further agree thereto or the arbitrator in the event of reference thereto, thinks fit to allow such commission either by interlocutory award or finally subject to such terms as the arbitrator may deem proper.

13.  That the agent shall not, during the period of two years fixed in the agreement (and notwithstanding prior determination thereof by any party thereto), sell goods of any other manufacturer or person and the manufacturer shall not appoint any other selling agent within a radius of ……. Yards of the shop of the agent.

in witness whereof the parties have signed this agreement on the day and year first above written.

……………………………….. ……………………………..

(Agent) (Manufacturer)

**Agreement between a Newspaper Publisher and an Advertising Agency for Securing Advertisements**

**ADVERTISING AGREEMENT**

THIS AGREEMENT made at……………..on this……………..day of……………..20………...

**Between:**

M/s. ………………………..., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter called "the company", (which expression, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the FIRST PART

And

M/s. ………………………..., a company incorporated under the Companies Act, 1956 and having its registered office at………….. here in after called "the advertising agency" (which expression, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the OTHER PART.

WHEREAS the company publishes a newspaper……………..hereinafter referred to as "the said newspaper" an English daily in circulation all over India.

AND WHEREAS the company is desirous to appoint advertising agents for securing advertisements for the said newspaper.

AND WHEREAS the advertising agency has agreed to act as the advertising agents for securing advertisements for the said newspaper on the terms and conditions hereinafter mentioned:

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS HEREIN CONTAINED. THE PARTIES HEREBY AGREE AS FOLLOWS:

The company appoints advertising agency as the agents for securing the advertisements for the publication in the newspaper I at the rates mentioned in the First Schedule hereunder written. If the advertising rates are changed by the company, the company shall deliver the copy thereof to the advertising agency under registered post.

The advertising agency shall secure such number of advertisements for the company as shall occupy the space covered by pages of the said newspaper.

The Advertising Agency shall send to the company the matter of each advertisement including block of the photograph to be included in the advertisement two weeks before the intended date of publication. The Agency shall also give a statement about the size of the advertisement, on which dates and on which page of the newspaper the advertisement will be published.

If the advertising agency books any advertisement in the language other than English, the company shall make arrangements for translating the same into English without any extra charge.

The advertising agency will collect the advertisement charges in respect of the advertisements secured by it and shall remit the same to the company every week. If any advertisement charges are not recovered for a period of six months from the date of its publication, the advertising agency shall be liable to pay the same to the company. However, if the said charges are recovered by the company later on, the company shall pay the same to the advertising agency.

The company shall pay a commission of……………..% on the amount, for which the advertisements are secured by the advertising agency and are published in the said newspaper. The company shall pay the amount of commission to the advertising agency by tenth of the next succeeding month in respect of the advertisements secured during a month. The advertising agency shall be entitled to inspect the accounts of the company in respect of advertisements published in the said newspaper.

The advertising agency shall not secure advertisements for any other newspaper during the currency of this Agreement. However, it can act as advertising agency to secure advertisements for the magazines and journals.

The editor of the said newspaper will have the power to refuse publication of any advertisement secured by the advertising agency, if in his opinion the said advertisement is obscene or of such a character that it should not be published in public interest or if published it will violate the provisions of any law in force. If the advertising agency is not satisfied with the decision of the editor, the matter shall be referred to the Managing Director of the Company, whose decision thereon shall be final and binding on both parties.

This Agreement shall continue in force for a period of……………..years from the date of these presents. However, the Agreement may be terminated before the expiry of the period of …………….. years by one month's notice in writing delivered by any party to the other. If the company ceases to publish the said newspaper, this agreement shall be deemed to be cancelled.

If the advertising agency commits breach of any term of this agreement, the company may terminate this Agreement and on such termination, the company shall not be liable for any damages or loss thereunder arising to the advertising agency.

The Advertising Agency shall indemnify and keep indemnified the company against any claim, loss, costs, charges and expenses made by or incurred by or suffered by the company on account of breach of copyright in any advertisement or on account of any advertisement being found defamatory or otherwise objectionable or on any other ground whatsoever.

Any dispute, difference or claim arising out of or in connection with or incidental to this Agreement shall be first attempted to be settled by mutual discussion, failing which the parties shall refer the same to arbitration by an independent Arbitrator appointed by the Mutual consent of both the parties. The Arbitrator shall conduct arbitration proceedings in accordance with the Arbitration and Conciliation Act, 1996 or any amendments thereto. The venue of arbitration shall be at ……………...

IN WITNESS WHEREOF, the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day and year hereinabove written

WITNESSES

1 The Company

For ……………………..

(………………………)

Director

2. The Advertising Agency

For ……………………….

(………………………)

Director

**Agreement between an Owner and an Architect for Construction of a Building**

this agreement made at ......... on this ....... day of........ 2000 and .......... between A, son of Shri X residing at .......... (hereinafter called "the Employer" which expression, unless it be repugnant to the context or meaning thereof be deemed to mean and include his heirs, administrators, executors, legal representatives, successors and assigns) of the ONE PART and Shri........... ......... carrying on business in the partnership name and style of M/s ......... , having their place of work at .......... (hereinafter called "the architects" which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include every partner for the time being of the said firm, the survivor or survivors of the legal representatives, administrators and assigns of the last survivor) of the OTHER PART.

where as the employer is desirous of constructing a building for his residence at ........……….

and Whereas the employer is desirous of appointing the architects as architects for the said building (hereinafter referred to as the "said works") and Where as the architects have accepted the said appointment on the terms and conditions hereinafter contained.

Now, therefore, it is hereby agreed by and between the parties hereto as follows:-

1.     The employer appoints M/s............ Architects, as architects for the said works.

2.     The architects shall render the following services in connection with and in regard to the said works:-

a.     Preparation of sketch designs (including carrying out necessary revisions till the sketch designs are finally approved by the employer), making approximate estimates to enable the employer to take a decision on the sketch designs;

b.    Submission of the site plans and other drawings to the municipal corporation ........... and obtaining its approval;

c.     Preparation of architectural working drawings, making structural calculations and preparing all structural, mechanical, sanitary, plumbing, drainage, electrical drawings, specifications, detailed estimates of cost or such other particulars as may be necessary for the preparation of bills of quantities;

d.    Preparation of landscapes and planting drawings;

e.     Preparation of six copies of the contract documents including all drawings, specifications, bill of quantities, or other particulars and such further details and drawings, as are necessary for the proper execution of the works; (f)Supervision and inspection of the said works by the general contractor, sub-contractor, consultant, etc. that may be engaged from time to time by visiting the site periodically;

f.     To check measurements of works at site, checking contractor's bills, issuing periodical certificates for payment and passing and certifying accounts, so as to enable the employer to make payments to the contractors and making adjustment of all accounts between the contractors and the employer;

g.    Submission of detailed account of the steel, cement and any such other material as the employer may specify, and certify the quantities utilised in the works;

h.     Obtaining of building completion certificate and securing permission of Municipal Corporation or other authority for the occupation of the building and obtaining refund of deposits, if any, made by the employer to the Municipal Corporation or other authority;

i.      Any other service connected with the said works usually and normally rendered by architects and not referred to in any of the items referred to above.

3.     The architects shall submit to the employer the sketch plans, tender documents, etc. within the period stipulated in the Schedule hereto annexed.

4.     The architects shall exercise all reasonable skill, care and diligence in the discharge of duties hereby covenanted to be performed by them and shall exercise such general superintendence and inspection in regard to the said works as may be necessary to ensure that the work is being executed in accordance with the working drawings and specifications aforesaid and that the work is free from defects and deficiencies. The architects shall be fully responsible for the structural soundness of the works.

5.     The construction cost shall not exceed Rs. ........... per square meter and should conform to the norms of ......... The construction cost shall not include:-

a.     cost of land;

b.    architects fees;

c.     any services relating to fitting or fixtures not designed by the architects; and

d.    soil testing fees.

6.     The architects shall not make any deviation, alteration, addition or omission from the approved drawings without the prior written consent of the employer.

7.     The architects shall on the completion of the work supply to the employer at their expenses two copies of one-eighth scale drawings (one of which shall be in tracing cloth); two complete sets of structural drawings and two sets of drawings sufficient to show the main lines of drainage, electrical installation and other essential services.

8.     The architects shall arrange for taking trial bores, test pits, or other preliminary tests required to be carried out before the commencement of the said works and submit their report to the employer. The cost of carrying out such tests shall be borne by the employer.

9.     The architects shall prepare a comprehensive program of work in consultation with the contractors, and arrange to have the work completed in an expeditious manner and in accordance with the program drawn up.

10.  The architects shall, at their own expenses engage a qualified (i) Electrical Engineer; and (ii) Sanitary, Drainage and Water Supply Consultant with the qualifications and experience approved by the employer to assist them in their work.

11.  Either party may terminate this agreement at any time by giving a written notice of two months to the other party. Even after the termination of their employment, the architects shall remain liable and be responsible for due certification/approval of any bills submitted by the contractors at any time, in respect of the work, executed before the termination of the architect's appointment; but shall not be entitled to additional remuneration therefor. If the architects shall close their business or die or become incapacitated from acting as such architects, then the Agreement shall stand terminated. If the architects fail to adhere to the time Schedule stipulated in the Schedule hereto annexed or the extended time which may be granted by the employer in its sole discretion, or in case there is any change in the constitution of the firm of the architects for any reason whatsoever, the employer shall be entitled to terminate this agreement and entrust the work to some other architect.

12.  The employer or the architects shall not assign, sublet or transfer their interest in this agreement without the written consent of the other.

13.  The employer shall pay to the architects as remuneration for the services to be rendered by the architects in relation to the said works, and in particular for the services hereinbefore mentioned, a fee calculated at the rate of 3% on the value of the works as estimated (including the authorised extra) or the value of the works actually executed and completed whichever is less.

14.  The employer shall pay fees to the architects in stages as follows:-

a.     10% of the total fees, payable after completion and approval of the site plans by the employer;

b.    30% of the total fees [less any amounts paid under clause (a) above], payable after completion of all drawings and the approval of site plan by the Municipal Corporation or other authorities;

c.     10% on completion of detailed estimates, submission or recommendations on the contractor's rate to the employer, and execution of the contract documents for the various trades. The employer may make part payments in proportion to the services completed in respect of particular trades;

d.    Out of the remaining 50% of the total fees, 30% of the total fees shall be paid by installments as the building work proceeds, and in proportion to the value of the said works as certified from time to time and balance 10% after final completion of the building and closing of accounts;

e.     In case this agreement is terminated earlier, fees shall be paid to the architects for the actual services rendered as per stages referred to in this clause.

15.  If the architects fail to observe the time schedule, they shall be liable to pay to the employer-liquidated damages at the rate of Rs. ......... per day till the work remains incomplete. The employer shall be entitled to recover the said liquidated damages from any sum payable to the architects under this agreement.

16.  Notwithstanding anything contained hereinabove, it shall always be open to the employer to exclude from the scope of the services to be rendered by the architects under these presents the supervision and execution part of the project and reduce the scale of fees, in which case the terms, conditions, scale of fees, etc. shall be as detailed in the Annexure hereto.

17.  If any dispute, difference or question shall at any time arise between the parties as to the interpretation of this agreement or arising out of this agreement or as to the rights, liabilities and duties of the parties hereunder, or as to the execution of the said works, the same shall be referred to the arbitration and final decision of an arbitrator to be agreed upon and appointed by both the parties or in case of disagreement as to the appointment of a single arbitrator, to the appointment of two arbitrators one to be appointed by each party, which arbitrators shall, before taking upon themselves the burden of reference, appoint an umpire whose decision in the matter shall be binding on both the parties. It is hereby provided that the arbitrator so appointed shall make his award within six months from the date of the arbitrator or arbitrators, as the case may be, entering on the reference. This submission to arbitration shall be deemed to be a submission to arbitration within the meaning of Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The award of the arbitrator or arbitrators, as the case may be, shall be final and binding on the parties. The parties agree that if work under this agreement has not been completed at the time of reference of dispute to arbitration, the work shall continue during the arbitration proceedings and the employer shall make the payment to the architects within the provisions of this agreement and shall not withhold any money payable to the architects on account of arbitration proceedings unless authorised by the arbitrators.

18.  This agreement shall be executed in duplicate and the architects shall bear the stamp duty on the original. The employer shall retain the original and the architects shall retain the duplicate.

In Witness Where of the parties hereto have subscribed their respective hands hereto and on a duplicate hereof on the day and year hereinabove first mentioned.

Signed and delivered by the within named employer A Signed and delivered by the within named architects by its Managing Partner

WITNESSES;

1.

2.

Schedule Period

1.     Submission of site plan with in .......... days from the date of the execution of this agreement.

2.     Submission of the required plans with in .......... days from the to the Municipal Corporation and date of receipt other local authorities of employees approval of the site plan.

3.     Submission of detailed working with in .......... weeks from the drawings and estimates date of receipt of employer's approval of the site plans.

4.     Submission of architect's Within 2 weeks from the date of recommendations on the receipt of the tenders from the contractor's rates employer.

5.     Other drawings, etc., if any within a reasonable time.

**Agreement between Builder and a Broker for Selling the Flats to be constructed**

THIS AGREEMENT made at .................. on this ............... day of ....................., 2000, between ABC Construction Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at     ....................... hereinafter called 'the Builder" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART; and Shri XYZ son of Late Shri............................ resident of ........................ hereinafter called "the Broker" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his heirs, legal representatives, executors and administrators) of the

**Other Part**

Where as The builder is constructing residential flats at ................. more particularly described in the Schedule hereunder written; and wants to sell those flats and for the said purpose the services of the brokers are required.and Whereas the broker has approached the builder and expressed his consent to act as broker for the sale of the flats on the terms and conditions mutually agreed upon.

**Now This Agreement Witnesses As Follows:**

1.             The builder appoints the broker for selling the flats being constructed by him, more particularly described in the Schedule hereunder written at the price and on the terms and conditions laid down in Annexure 1 to this agreement

2.             The broker will be entitled to the commission at the rate of 5 per cent on the cost of the flats booked by him.

3.             The builder hereby represents and warrants that he is having clear and marketable title to the flats, free from any encumbrance, charge, lien, mortgage or attachment. The builder also represents and warrants that the material used in the flats is of best quality.

4.             The builder hereby gives the period of six- months hereof for the sale of the flats described in the Schedule hereunder written and he shall not be authorised to sell the flats after the period of six months.

In Witness Where of the parties have set their respective hands to these presents on the date, month and year hereinabove written.

**Schedule**

Annexure 1

Signed and delivered by ABC Construction Co. Ltd. through the hands of Shri..............................

Managing Director

Signed and delivered by XYZ

WITNESSES;

1.

2.

**Agreement between Manufacturer and Commission Agent**

This Agreement made on this ………………….. day of …………………. between Bande & Bande Ltd. (hereinafter referred to as the company ) having its registered office and factory at Mokamganj, Warle, Bombay , of the one part and Jai Jai & Sons (P.) Ltd., carrying on business at Chandni Chowk, Delhi ( hereinafter called the sole selling agents ) of the other part.

Whereas

1.     The company is engaged in the manufacture of cotton and textiles polyester fibre yarn suitings and shirtings.

2.     The sole-selling agents are the whole-sale traders in suitings and shirtings and other textile goods in north India with headquarter at Delhi.

3.     The company in its general meeting held on……………has decided to appoint Jai Jai & Sons (P.) Ltd. as the sole-selling agents for northern India for whole-sale business of the company’s manufactured suitings and shirtings and the Central Government has also approved the appointment of the said sole-selling agents vide letter NO……………………..dated………………

4.     It is agreed between the parties that the company shall appoint Jai Jai & Sons (P.)Ltd. as the sole selling agents for the suitings and shirtings manufactured by the company and the said Jai Jai & Sons (P.) Ltd, have agreed to act as the sole-selling agents for the company.

Now this Agreement Witnesses as follows:

1.     That the company appoints Jai Jai & Sons (P.) Ltd, Delhi as the sole-selling agents for the North India including the States of J. & K., Haryana, Punjab, Bihar, Rajasthan, Uttar Pradesh, Union territory of Chandigarh and Delhi for the suitings and shirtings manufactured by the company and the said sole-selling agents will have the exclusive right and authority to sell whether in cash or on credit and procure the orders for sale of the said product of the company in any manner in the territories mentioned above.

2.     The appointment of sole-selling agents shall take effect from 1 st day of………….198……………..and shall operate for a period of five years from the said date without prejudice to the right of reappointment but subject to the approval by the Company in general meeting and also subject to the approval by the Central Government as required under section 294 of the Companies Act, 1956, and Rule 2 of the Companies (Appointment of Sole Agents) Rule, 1975.

3.     The sole-selling agents shall have the right to operate in the entire territories of North India as mentioned above either directly or through their branch offices, associates or sub-agents for giving effect to this agreement.

4.     The sole-selling agents in consideration their selling and procuring orders for the sale of the company’s products shall be paid a commission at a rate not exceeding 30% but determinable by the mutual agreement of the parties at the commencement of every year on sales effected by them at agreed intervals of time on the amount actually collected by them in accordance with the incentive rates on the amount collected, agreed to, and described in the Schedule hereinafter annexed.

5.     The sole-selling agents hereby covenant:

               i        That they will exclusively engage in the sale of the company’s products to the best of their efforts and shall not engage in the sale of similar or identical products of other manufactures.

              ii        That they will protect preserve and maintain patents and trade mark of the company’s products sold by them in all possible manner at their own cost and will never allow others to use the same unauthorisedly.

             iii        That they will keep and maintain the full and complete accounts of the sale of the company’s products, area-wise and region-wise and submit quarterly reports of sale, stock in hand, realisation of credit bills and any other information as may be desired by the company at any time or from time to time;

             iv        That they will not create any obligation involving payments either in cash or king on behalf of the company and shall not assign the interest, rights and obligations arising out of these presents to any third party;

              v        That they shall keep the company will informed of the demands of the company’s products arising in the territories of their operation from time to time.

6.     The company also hereby covenants as under :

               i        That it shall provide the sole-selling agents complete catalogue, instruction books, circulars for promoting sales of its products and publish advertisements in local and regional newspapers for promoting sales of the company’s products.

              ii        That it shall execute orders placed by the sole-selling agents with all reasonable despatch

             iii        That it shall not entertain and execute direct orders from the territories assigned to the sole-selling agents and in case any orders are received by it the same shall be passed on to the sole-selling agents and they will be paid commission 20% on such orders.

7.     The parties hereto hereby agree as under :

               i        That nothing contained herein shall prejudice the rights of the company to appoint another selling agents in any of the aforesaid States or to open its own retail shop in writing where it is found necessary to promote public distribution system or to execute any special programme of the Government of India. However, so the company shall obtain prior consent in writing of the sole-selling agents in that behalf.

              ii        That the retail price of the product shall always be determined by the company in consultation with the sole-selling agents.

             iii        That the agreement is renewable subject to mutual consent of the parties hereto on the expiry of five years.

             iv        That the agreement may be terminated by either party on giving six months, notice in advance to the other party in writing but by registered post.

              v        That any dispute arising between the parties hereto shall be referred to the sole arbitrator Shri……………….and the decision/award of such arbitrator shall be binding upon the parties hereto.

             vi        That the Delhi courts will have the sole and exclusive jurisdiction of decide the issues in dispute between the parties hereto.

in Witness Whereof, Etc. Schedule Referred to Above.

**Agreement between Manufacturer and Sole Selling Agents with Canvassing Rights**

THIS AGREEMENT made on this ......... day of ......... 2000, between XYZ Pharmaceuticals Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter called "the company" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART; and ABC Pharmaceuticals Distributors Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...... hereinafter called "the distributor" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the OTHER PART:

Where as the company is engaged in the manufacture of several medicines and has decided to appoint a sale selling agent for the whole of India with canvassing rights and the distributor has agreed to work as such and

Where as the distributor is being appointed at sole selling agents having exclusive right to sell the medicines manufactured by the company in whole of India; and

Where as the Board of Directors of the company is making this appointment, subject to its approval by the company in its first annual general meeting held after the date of this appointment and approval by Central government?

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

1.     The company appoints the distributor as sole selling agents for the sale of all the medicines manufactured by it in the whole of India and the distributor agrees to act as such sole selling agents for the whole of India on the terms and conditions contained herein.;

2.     The appointment will be for a period of five years commencing from the date of this agreement. However, it may be extended for further periods not exceeding five years on each occasion.

3.     The distributor shall canvass for, secure orders and push the sale of the medicines manufactured by the company to the best of its ability and experience in the whole of India and guarantees to secure orders for the sale of medicines to the extent of the value of Rs. .......... in a year commencing from the date of this agreement.

4.     The distributor will advertise the company products at its own cost and expenses by advertisements in newspapers, journals, magazines, cinema slides or by any other means. However, the company may advertise at its own costs at its discretion whether in newspapers, journals, cinema slides or by any other means and shall indicate the name of the distributor as its sole selling agents.

5.     The distributor shall employ medical representatives at its own cost and expenses for canvassing the company products amongst the doctors, hospitals, nursing homes, etc. The distributor shall also employ servants, staff at its own cost and expenses for doing the business of sole-selling agency.

6.     The distributor will be entitled to appoint sub-agents for any State/District or any particular area in the country and on such terms and conditions as the distributor may think fit. However the company shall not be liable for any dealing between the distributor and its sub-agents.

7.     The distributor shall submit to the company weekly return of the business secured, the doctors and hospitals approached and canvassed during the previous week.

8.     The distributor shall forward to the company the orders booked and enquiries received by it not later than two days from its booking. The distributor shall remit the money received by it in advance from the customers to the company and an account thereof shall be submitted to the company every Friday.

9.     The distributor shall not make any representation on behalf of the company except in conformity with the instructions issued by the company.

10.  The distributor shall book orders of the company's products on the terms and conditions mentioned in the Schedule attached hereto. The terms and conditions shall be subject to change by circulars or instructions by the company from time to time and the distributor will be bound to follow the instructions issued by the company from time to time.

11.  The company shall pay a commission of ......... % on all orders received directly or indirectly from the customers through the distributor, which have been executed by the company. The company shall make payment of the commission to the distributor at the end of every month.

12.  During the term of this contract, the distributor shall not sell or attempt to sell the medicines for any other Indian or foreign company.

13.  The agency may be terminated by the company, at any time during the agency period of five years, after giving one month's notice thereof, in case the distributor fails to comply with the instructions issued by it or if it omits to comply with its obligation imposed upon it under this agreement or if the distributor fails to obtain or procure orders for the minimum guaranteed amount or if the company feels that the distributor is guilty of any conduct, which is prejudicial to the interest of the company and in this matter the decision of the Board of Directors of the company will be final. The distributor may also terminate this agreement at any time during the agency period, after giving one month's notice thereof, if the company fails to execute the orders booked by the distributor or if the medicines supplied by it are sub standard or if the company without just cause withhold the payment of the commission due to the distributor under the agreement for a period of three months.

14.  The distributor shall be responsible to make the payment of the medicines supplied by the company on the orders received by the distributor, if the constituent to whom medicines were supplied by the company refuses to pay for the same within two months of the receipt of medicines. The distributor shall be liable as the surety for the payment of orders booked by it.

15.  The distributor shall deposit a sum of Rs.......... with the company to ensure the obligations imposed upon it under this agreement. The said sum shall not carry any interest. The said sum will be repayable to the distributor after one month of the termination of the agreement after adjustment of accounts between the parties.

16.  Any and all disputes, controversies, differences arising between the parties hereto out of or in relation to this agreement or any breach thereof shall be finally settled by arbitration by two arbitrators, one to be appointed by each party to the dispute and the arbitrators shall, before taking upon themselves the burden of reference appoint an umpire. The award given by the arbitrators or umpire as the case may be, shall be, final and binding on the parties.

17.  At the termination of this agreement whether by efflux of time or otherwise, the company shall not be liable to pay any commission to the distributor for the orders received after the expiry of agency period.

18.  This agreement shall be executed in duplicate. The company shall retain the original and the distributor the duplicate. Each party shall bear the stamp duty payable in respect of its copy.

19.  Unless otherwise agreed upon, the respective addresses for communication in respect of any matter relating to this agreement shall be as under:

For the Company:..........................

For the Distributor:........................

In Witness Where of the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day, month and year first; hereinabove mentioned.

**Schedule**

The common seal of XYZ Pharmaceuticals Ltd. was hereunto affixed pursuant to the Resolution of its

Board of Directors passed on.......... day of .......... 2000, in the presence of S/Shri .......... and ........... directors of the Company, who have signed in token thereof

 The common seal of ABC Pharmaceuticals Distributors Ltd., was hereunto affixed pursuant to the Resolution of its Board of Directors passed on ......... day of……….2000, in the presence of S/Shri……………… and………….. directors of the company who have signed in token thereof.

WITNESSES;

1.

2.

**Agreement between Owners and Labour Contractor for Supply of Labour**

This Agreement made between A, son of B, resident's of ............... hereinafter referred to as the owner of the ONE PART and C, son of D, resident of .......... hereinafter referred to as the contractors of the Other Part.

Whereas the owner is getting the construction of building on the land bearing Plot No.......... Survey No. ......... House No. ...... situate, lying and being in village......... Tehsil ........ District.......... hereinafter referred to as the 'said work' and is desirous of availing of labour for the said work.

And Whereas The contractors are the contractor for the supply of all types of labour required for the construction work and offered their services to the owner, which the owner has agreed on the terms and conditions hereafter set forth.

**Now It Is Mutually Agreed Between The Parties As Under:**

1.     The contractors will supply all labour viz. masons, labourers, water carriers and other necessary workers required for the said work to the owner at site provided that the requisition thereof is made .......... hours in advance.

2.     The labour shall be paid at the prevailing market rate. The present prevailing market rate of labour of all type has been given in the Schedule hereunder written. The said rates may be changed by the mutual consent of the parties.

3.     The contractors will be entitled to a commission of .......... on the total disbursement made to the labour so supplied by them. The said commission shall be payable to the contractors every week.

4.     The contractors will be liable for and make good any loss or damage, caused by any act or default on the part of the labour supplied by them.

5.     If the contractors fail to supply necessary labour on a requisition made by the owner in time, they will be liable to pay a sum of Rs. ............. as liquidated damages per labourer, mason, water carrier or any other worker not supplied by them in accordance with the requisition by the owner.

In Witness Where of the parties hereto have set their respective hands to these presents on the date, month and year hereinabove written.

Signed and delivered by the within named owner A

Signed and delivered by the within named contractors C

WITNESSES;

1.

2.

**Agreement by Manufacturing Company to Appoint Agent**

This Agreement is made on this ..............day of................. 19...... between :

1.     X. Co. Ltd. Of Bombay, hereinafter called the manufacturer ;

and

2.     Mr. C s/o Mr. D r/o XYZ, hereinafter called the agent.

1.     Whereas the manufacturers are manufacturing Electronic Products and are desirous to appoint an agent for the sale of the products.

2.     And whereas the agent has approached and is willing to work as agent of the manufacturer.

**NOW THIS AGREEMENT WITNESSES AS UNDER :**

1.     The manufacturer appoint Mr. C as agent of the products of the manufacturer for the area specified here under ....................... (Specify the area for which agent has been appointed).

2.     The appointment of the agent is made by the Board of Directors with the condition that the appointment is subject to approval by the General Body at its first general meeting after the appointment of the agent and if it does not approve the agreement shall cease to be valid.

3.     This appointment shall be effective for a period of three years from the date of appointment. However, the period can further be extended for the period not exceeding more than three years' on each period of extension.

4.     The manufacturer undertakes that no retailing shall be made below the rates as under (here specify the rates).

5.     The agent undertakes not to sell goods in retail below the rates given in the agreement.

6.     The agent shall be entitled to an agency commission of 5% on the sale price of the goods.

7.     That the agent shall get the consignment on 30 days' credit. The agent shall make the payment of the consignment within 30 days' from the date of receipt of the goods.

8.     That the manufacturer shall not sell the goods in the areas for which the agent has been appointed. All correspondence etc. In this regard, if received by the manufactured shall be forwarded to the agent for doing the needful.

9.     The agent can appoint sub-agents in the areas of agency.

10.  The manufacturer shall execute all orders of the agent according to availability of the stock with them.

11.  That the agent shall not place any order for a quantity below the minimum supply of the goods. In the same way the manufacturer shall not supply below the minimum quantity of goods to the agent.

IN WITNESS whereof the parties have executed these presents of the day, month and year first above written.

Sealed, signed and delivered

by Mr. A pursuant to

Board Resolusion dated

......... of X & Co. Ltd \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Secretary)

Sealed, signed and delivered

by Mr. C. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mr. C ( Agent )

In the presence of

1. ...............

2. ...............

**Agreement for Appointment of a Broker for Selling a House**

This Agreement made at ......... on this ................. day of ......................, 2000, between A S/o. B resident of .................. hereinafter called "the owner" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his heirs, legal representatives, executors and administrators) of the ONE PART and C S/o D resident of ........................... hereinafter called "the broker" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his heirs, legal representatives, executors and administrators) of the OTHER PART.

Where as the owner is the absolute owner of the property described in the Schedule hereunder written and he wants to sell the same and for that purpose he requires the services of a broker.

and Whereas the broker, who is a reputed broker dealing in real estate in the area has shown his willingness to sell the said property.

and Whereas the owner has agreed to appoint the broker for the sale of his property described in the Schedule hereto on the terms and conditions as hereinafter appearing.

**Now this Agreement Witnesses as Under:**

1.     The owner authorises the broker to sell the property for a consideration of Rs.................. out of which the purchaser shall pay Rs ...................... in advance as earnest money and the balance of Rs ...................... shall be paid within a period of three months at the time of registration of the conveyance deed.

2.     The owner hereby represents and warrants that the details of the property as described in the Schedule hereunder written are true and the title of the owner to the said property is clear, marketable and free from encumbrances.

3.     The owner hereby undertakes that after the receipt of earnest money from the purchaser, he shall deliver the abstract of title showing that he is the owner of the property and the property is free from mortgage, lien, charge or any encumbrance.

4.     The owner hereby agrees that on receipt of entire consideration in respect of the property, he shall execute conveyance deed in favour of the purchaser.

5.     The broker hereby agrees that he shall be able to sell the property within a period of one month from the date of these presents.

6.     The owner shall pay to the broker the commission at the rate of 2% of the consideration, which shall be payable at the time of execution of the conveyance deed of the property.

In the Witness Where of the parties have hereunto set their hands, the day, month and year first above written.

**Schedule of the above property**

Signed and delivered by A s/o B, the within named owner

Signed and delivered by C s/o D, the within named broker

WITNESSES;

1.

2.

**Agreement for Appointment of a Distributor for a Specified City**

**DISTRIBUTOR AGREEMENT**

THIS Agreement is made at……………..on this……………..day of……………20……… between:

M/s. ……………, a partnership firm having its principal office at………… (hereinafter referred to as "the Principals", which expression shall unless repugnant to the context, be deemed to include the partners for the time being and from time to time constituting the said partnership firm, the survivor of them, the legal representatives, heirs, executors and administrators of such last survivor) of the ONE PART.

And

M/s. PQR Enterprisers, through its proprietor Shri…………….. (hereinafter called "the Distributor" which expression shall unless repugnant to the context, be deemed to include his heirs, administrators, executors, legal representatives, successors and assigns) of the OTHER PART.

WHEREAS the Principals are the sole selling agents of M/s. ABC Ltd., for the whole of India and under the Agreement dated……………..executed between M/s. ABC Ltd and the Principals, the Principals are entitled to appoint agents, distributors for marketing the products of ABC Ltd, hereinafter referred to as the company.

AND WHEREAS the distributor has got a big showroom at……………..and has requested the Principals to appoint it as its distributor for marketing the company's products.

AND WHEREAS the Principals have agreed to appoint M/s. PQR Enterprisers as their distributor to sell the products of the company.

NOW IT IS HEREBY AGREED BETWEEN THE PARTIES AS UNDER:

1.     The Principals appoint M/s. PQR Enterprisers as the sole distributor for the city of Jaipur, Rajashtan for the purpose of promotion and sale of the company's products for a period of …… years from the date hereof on the terms and conditions set forth hereunder.

2.     The distributor shall work conscientiously and in a business like manner for the promotion and sale of the products of the company.

3.     The distributor shall fix the retail price in consultation with the Principals from time to time and make the sale of the company's products against cash memos.

4.     The distributor shall maintain fifteen days stock of company's products for sale at his own cost and shall not pledge the stock to bankers or other creditors without obtaining the prior consent from the Principals in writing. The Principals may grant consent for the pledge of the stock subject to terms and conditions and the distributor shall abide by such terms and conditions and bring the same to the notice of the bankers or creditors.

5.     The distributor shall not sell the goods directly or indirectly outside the agency district. The distributor while selling the company's products to persons in trade shall obtain undertaking in writing that the company's products shall not be re‑sold outside the district agency and the said products shall not be re‑sold to the public below the fixed retail price.

6.     The distributor shall be responsible for the rent and other expenses of the showroom and godown occupied by him for the purpose of agency business. He shall at his own expense keep insured the company's products for full value against all risks. The Principals may inspect the receipts for the rent, rates and taxes of the showroom and godown and for the premium of insurance policies. The Principals will not be liable or responsible for the expenses relating to or incidental to the said agency.

7.     The distributor shall make all sales on cash basis and shall keep record of all sales and shall remit the sum received by him to the Principals on each Saturday. The distributor may deduct the commission at the rate of……………..per cent, while remitting the sale proceeds. The distributor shall send weekly reports of the sales, net­ realisation, stock in hand, etc. to the Principals.

8.     The distributor shall be entitled to……………..per cent commission on the sale price of the products realised on the basis of accounts maintained by him.

9.     The products supplied by the Principals shall be the property of the Principals and they will be entitled to take possession of the said products at any time. The distributor shall maintain record of stock received by him, goods sold by him and the goods in stock in godown and showroom. The Principals have the right without prior notice to cause a stock checking of the company products supplied by them and if any shortage or deficiency is found on such stock‑checking, the distributor shall pay to the Principals the list price of such shortage or deficiency less the deduction by way of commission.

10.  The Principals will not sell the company's products to any person in the agency territory and will redirect all inquiries or orders for Principal's products received by them from persons resident in agency district to the distributor. The distributor shall also refer to the Principals all enquiries or orders for the Principal's products from the person’s resident outside agency district and enquiries or orders from persons resident in the agency district for the purpose of re‑sale outside the agency district. The distributor shall not be entitled to any commission on the sale resulting from such enquiries or orders.

11.  The rights under this agreement shall not be assigned or transferred to any other person, except with the prior permission of the Principals in writing.

12.  In the event of any dispute arising between the distributor and any customer regarding the purchase of company's products, the distributor shall inform the Principals immediately, who will advise the distributor the appropriate action which has to be taken by him in the matter.

13.  The distributor guarantees a minimum sale of the value of Rs ……………..per year. In case, the sale falls short by 25% or more for consecutive two years, M/s agreement may be terminated by the Principals.

14.  Any of the parties may terminate this agreement by serving a notice of three months to the other party. The accounts between the parties will be settled and adjusted finally within the aforesaid period of three months.

15.  On the expiry or earlier determination of this agreement, the distributor shall forthwith deliver to the Principals all the unsold stock of goods, all books of account and other documents of agency to the principals and shall pay to the principals for the shortage or deficiency of stocks at list prices less commission allowed to the distributor.

16.  Any dispute, difference or claim arising out of or in connection with or incidental to this Agreement shall be first attempted to be settled by mutual discussion, failing which the parties shall refer the same to arbitration by an independent Arbitrator appointed by the Mutual consent of both the parties. The Arbitrator shall conduct arbitration proceedings in accordance with the Arbitration and Conciliation Act, 1996 or any amendments thereto. The venue of arbitration shall be at ……………...

17.  This agreement shall be executed in duplicate. The original shall be retained by the Principals and the duplicate by the distributor.

IN WITNESS WHEREOF, the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day and year hereinabove written

WITNESSES

1 The Company

For …………………..

(………………………)

Partner

2. The ………………….

For ………………….

(………………………)

Proprietor

Partner

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Top of Form  **Agreement for Appointment of a Sole Selling Agent for a Specific Territory**  **SOLE SELLING AGENCY AGREEMENT**  THIS Agreement is made at……………..this……………..day of……………..20…………… between:  M/s ……………….., a company incorporated under the Companies Act, 1956 and having its registered office at ........... hereinafter called "the Company" (which expression shall unless it be repugnant to the context or meaning thereof, mean and include its successors and assigns) of the First Part  And  M/s. ………………., a partnership firm registered under the Indian Partnership Act, 1932 comprised of its three partners viz. (1)………..(2)…………..and (3)…….. and having their office at ....…….......hereinafter called "the Agents"(which expression shall unless it be repugnant to the context or meaning thereof, mean and include the partners for the time being and from time to time constituting the said partnership firm, the survivors or survivor of them, the heirs, executors and administrators of such last survivor) of the Second Part.  WHEREAS the company is manufacturing various electronic and home appliance products and the agents, having a proper infrastructure to exhibit the company's products, have approached the company to appoint them as its Agent in the State of Rajasthan for the promotion and sale of the products of the company in the said area.  AND WHEREAS the company has accepted the offer of the agents to be its sole selling agents for the State of Rajasthan.  NOW THIS DEED WITNESSES AND THE PARTIES HERETO HEREBY AGREE AS UNDER  1.     The company appoints the agents and the agents agree to act as company's sole selling agents for the State of Rajasthan with effect from ………….or a period of five years for the promotion and sale of the company's products in the said area.  2.     The agents shall make sale of the company's products and shall work conscientiously for the promotion and sale of company's products.  3.     The agents shall sell the goods in retail at the retail rates fixed by the company. The agents shall not sell the goods in retail below the retail price fixed by the company.  4.     The agents shall be entitled to a commission of 4% (four per cent) on the net proceeds of the sale of such goods. However, the commission shall be payable upon money actually received and not on outstanding debts.  5.     The company will not effect direct sale of its products within the area of the State of Rajasthan and all inquiries, orders and correspondence received by the company in relation to that area shall be forwarded to the agents to be dealt with.  6.     The company shall supply the goods to the agents at its own cost and charge as early as possible after receipt of the order in writing.  7.     The company shall reimburse to the agents all reasonable expenses for carriage or delivery of said goods, and other reasonable expenses attending the sale thereof.  8.     The agents shall maintain proper accounts of (i) all goods received by them; (ii) the particulars of the sale thereof; (iii) all credits given on account of any goods. The company's executive and authorized officials shall be entitled to inspect such accounts at reasonable times, who may also take copies or extracts from the same or any of them.  9.     The agents will submit true and proper accounts of (i) all goods received by them; (ii) all orders received by them; (iii) the particulars of all sales; (iv) other transactions made and (v) of all money received and spent by them for and on account of the goods of every quarter to the company in the first week of every quarter. The company will have the right to check the accounts with the account books.  10.  The parties shall settle accounts respecting the sale of goods and other matters on the day in every year.  11.  The company will be entitled to issue reasonable directions and instructions to the agents relating to the sale of the company's products or otherwise relating to the agency business during the continuance of the agency and the agents will be bound to obey and observe the said directions and instructions, unless prevented by unavoidable cause.  12.  The agents shall not during the continuance of the agency buy, sell or deal in the products manufactured by the company, for or on account of any other person other than the company without the consent of the company in writing.  13.  The agents shall not pledge the company's goods supplied to them without the consent in writing of the company.  14.  The agents shall deposit with the company a security of Rs………..in cash for the due performance of this Agreement. The agents shall be entitled to simple interest at the rate of 18% per annum on the amount of the security deposited by them with the company, which shall be paid at the time of settlement of accounts every year. Without prejudice to its other rights, the company may at its discretion, adjust dues or losses suffered by it on account of breach or non­ compliance of the terms of this agreement from the security.  15.  The company may terminate this agreement, if the agents fail to comply with the terms of this agreement or do not make satisfactory sale of the company's products. The company's opinion shall be final in this regard. However, the company shall give one month's notice to the agents to submit its explanation on the grounds on which the company intends to terminate the agreement.  16.  Either party may terminate the agreement by giving three months notice in writing to the other party. The accounts between the parties shall be settled and finally adjusted within the three months from the date of termination of agency.  17.  On the termination of this agreement, the agents will deliver the goods as shall remain unsold, all books of account and documents relating to the said agency to the company.  18.  The agents shall not assign or transfer the agency to any other person in any manner without the consent of the company in writing.  19.  All disputes and differences of any kind whatever arising out of or in connection with this agreement shall be referred to the arbitration and final decision of an arbitrator to be agreed upon and appointed by both the parties or in case of disagreement as to the appointment of a single arbitrator to the appointment of two arbitrators, one to be appointed by each party and if there are two arbitrators, they shall before taking upon themselves the burden of reference appoint a third arbitrator who shall act as Presiding Arbitrator. This submission to the arbitrators shall be deemed to be a submission to arbitration within the meaning of the Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The award of the arbitrator or arbitrators as the case may be, shall be final and binding on the parties.  20.  This agreement shall be executed in duplicate. The original shall be retained by the company and duplicate by the agents. The agents shall bear the stamp duty and other expenses on the original and the duplicate of this agreement.  IN WITNESS WHEREOF, the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day and year hereinabove written  WITNESSES  1 The Company  For ABC Ltd.,  (………………………)  Director  2. The Sole Selling Agent  For XYZ Associates  (………………………)  PartnerBottom of Form | | | | | | |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
|  |  |  |  |  |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Top of Form  **Agreement for Building Where Owner Supplies Plot and All Materials**  An Agreement made on the ………..day of …………….BETWEEN AB, etc. (hereinafter called the “owner”) of the part and CD, etc, (hereinafter called the “contractor”) of the second part.  WHEREAS the owner owns a plot of land measuring ……… meters situate at …. And more particularly described in the plan attached.  and Whereas the owner is desirous of erecting a building on the said plot. and Whereas the plans, drawings, designs and elevations of the said intended building and specifications of the works to be done and of the materials to be provided in and for the erection of the same as prepared by the architect have been approved by the parties.  and Whereas the contractor is willing to execute the said works for the sum of Rs……  and Whereas the materials to be used for the building will be supplied by the owner himself and the contractor will supply labour as well as the building tools and other accessories necessary for the completion of the said building.  Now the Parties Hereto hereby Mutually agree as Follows :  1.     The contractor will clear and prepare the site for and will erect and complete the building in conformity with the plans, drawings, designs and elevations with the materials supplied by the owner in a thorough and work-manlike manner.  2.     Subject to the conditions hereinafter appearing, the owner will pay to the contractor a sum of Rs……. within six months after the contractor has completed the works in accordance with the terms of this agreement and handed over the same to the owner.  3.     The contractor will finish and complete the said building on or before the ….. day of ….. and if the said building shall not be completed on or before the said date, the contractor shall forfeit, out of the moneys which shall be due to him by virtue of this agreement, the sum of Rs….. for every days which shall elapse after the …… day of …… until the said building shall be completed : Provided if the contractor is prevented by any strike among the workmen or by reason of any event beyond his control, the owner may extend time for the completion of the work for such reasonable period as he may think fit under CI. (10).  4.     The contractor will do and perform all works incidental to the proper execution and completion of the building including all works rendered necessary in consequence of the doing of the works and will supply labour necessary for the same and no additional payment will be made for the same.  5.     The contractor will permit the owner to have access to the works while the same are under construction and to inspect the same.  6.     The contractor will not vary or deviate from the said plans and specifications without having first obtained the permission in writing of the owner.  7.     The contractor will, if so required by order in writing signed by the owner, alter the design or size of the works and the materials to be used in constructing the same, provided that he shall not be bound to do so unless the sum to be paid for any extras or to be allowed for any omission has been first fixed by agreement between him and the owner and, in default of agreement, the sum to be so paid or allowed shall be settled by ………………  8.     The contractor shall make good any defects, shrinkage or other faults that may appear in the works within six months after their completion.  9.     While the works are in course of construction and until the owner takes over the same, they and all materials or plants used or to be used in constructing the same shall remain at the contractor’s risk and he shall not be entitled to any compensation for injury, to or loss or destruction of, such works or materials arising from any cause whatever.  10.  If the contractor requires any extension of time for completing the works he must apply to the owner within seven days from the date of the occurrence of the event on account of which he desires such extension; and the owner may, if he thinks such request reasonable, grant such extension of time as he may think necessary.  11.  If the owner is at any time dissatisfied with the progress of the work or with the quality of materials used or of the workmanship he may apply to ……. To depute an Engineer to inspect the works, and if such officer certifies in writing that the rate of progress or the materials used or the workmanship or any or all of them is or are unsatisfactory or not in accordance with this agreement, the owner may then enter upon the site of the works and may employ another builder to complete the same and may pay such builder the cost of such completion out of the sum payable to the contractor under this agreement or the balance of such sum if advances have been made to the contractor, and, if such cost is more than such sum of balance, then the contractor will pay the excess to the owner.  12.  Unless the terms are extended under clause (10) hereof, the contractor will complete a portion of the works of the value of not less than Rs….. on or before the …. And will complete the whole work and will remove from the site of the works all plant, scaffolding, unused materials and rubbish and will leave the works and site clean on or before…….  13.  If the contractor fails to comply with the provision of CI. (12) on or before the dates mentioned therein or within such extended time as be permitted in accordance with CI. (13) hereof, he will pay to the owner as liquidated damages a sum of Rs……………for every day’s delay, and the owner may deduct such sum or sums from any money due to the contractor under these presents or may recover it otherwise.  14.  At the end of each calendar month commencing from the date when the contractor commences work the owner will pay the contractor a sum equal to 80 per cent of the value as estimated by the parties or in case of disagreement between the parties by…………… of the work executed by the contractor during the month and the owner will make final payment to the contractor at the end of six months from the date when the works are completed.  15.  If at any time during the progress of the works or after completion or the alleged completion thereof and at any time during the continuance of this agreement any dispute or differences arise between the parties hereto in relation to or in connection with this agreement, the same shall be referred to the arbitration of Sri…………….as the sole arbitrator or to two arbitrators one to be appointed by each party and provisions or the Indian Arbitration Act, 1940, shall apply . The decision so given shall be final and binding upon the parties.  16.  The contractor will indemnify the owner from all claims for injury caused to any person, whether a workman or not, while in or upon the works or the site of the same the said owner shall not be bound to defend any claim brought under the Workman’s Compensation Act unless the contractor first deposits with the owner might incur by reason of defending any such claim.  in Witness Whereof the parties hereto have signed this agreement on the day and year first written above.  …………………… …………………..  (Contractor)  (Owner)Bottom of Form | | | | | | |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
| https://www.advocatekhoj.com/webtemplates/akhome/images/akhome_r8_c1.png | | | | | | https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |  |
| https://www.advocatekhoj.com/webtemplates/akhome/images/akhome_r9_c1.png |  |  |  |  |  |  |  |

**Agreement for Building Where Owner Supplies Plot of Land Only.**

An Agreement made on the ………..day of …………….BETWEEN AB, etc. (hereinafter called the “contractor”) of the part and CD, etc, (hereinafter called the “owner”) of the second part. Whereas

1.     The party of the second part is the owner of the plot of land measuring …………..metres at………………and more particularly described in the plan attached and therein delineated as red.

2.     The owner being desirous of erecting building on the said plot has appointed Shri……………as the architect.

3.     The plans, designs, drawings and elevations of the said intended building and specifications of the works to be done and of the materials to be provided in and for the erection of the said building have been prepared by the purposes of identification by both the parties.

4.     The contractor is willing to enter into an agreement for the execution of the said works for the sum of Rs…………..

Now it is hereby Mutully agreed as Follows:

1.     The contractor shall erect on the said plot of land a building in conformity with the plans, drawing and elevations and complete all the and workmanlike manner and to the satisfaction of the said architect and thesaid specifications, plans, drawings and elevations and of this agreement.

2.     The contractor will finish and compete the said building on or before the………………….day of……………..and if the said building shall not be completed on or before the said date the contractor shall forfeit, out of the moneys which shall be due which shall elapse after the……….day of ………..until the said building shall be completed : Provided that if the contractor is prevented by any strike among the workman or by reason of any event beyond his control, the said architect may extend the time for the completion of the works for such reasonable period as he may think fit.

3.     If the contractor shall become bankrupt, or sahll from any cause whatsoever be prevented from or delayed in proceeding with and completing the said works according to the terms and conditions of this agreement, or shall not proceed with the said works to the satisfaction of the said architect, it shall be lawful for the said architect to leave or cause to be left at the usual place of abode or business of the contractor, a notice or notices in writing for the said contractor to proceed regularly and effectually with the said contractor to proceed regularly and effectually with the said works and in case the said contractor shall , for 7 days after such notice is so left as aforesaid, make default in regularity and effectually proceeding with the said work it shall be lawful for the said architect to employ any other workmen either by contract or measure and value or otherwise to proceed with the said works and complete the same and pay to the said workmen out of the moneys which shall be then due to the said contractor on account of this agreement’s the amount of their charges for the same and ; for all necessary materials to be found and provided for such completion ; and if the amount of balance to the credit of the contractor be insufficient to cover such charges for workmen and materials as are last heretobefore directed to be paid there out, and then in such case the said contractor shall and will make good and pay such deficiency on demand.

4.     If the said architect shall at any time or times consider any of the workmen employed by the said contractor on the works as in any ways incompetent or as acting improperly it shall in every such case be lawful for the said architect to discharge such workman or workmen, and the said contractor shall without delay put another workman or other workmen in his or their place.

5.     In case any of the materials brought on the said premises by the said contractor shall be considered by the said architect unsound or in any respect improper, the said contractor will, upon notice in writing to him or his foreman on the premises given by the said architect cause the same to be removed from off the ground and proceed with the said works with materials corresponding with the said specifications and instructions and approved of by the said architect and on default of such removal within \_\_\_\_\_ days after such last mentioned notice, it shall be lawful for the said architect to cause the same to be removed to such place or places as he may think proper, without being in any way answerable or accountable for the loss or damage that shall happen to any materials so removed as aforesaid, and to cause proper materials to be substituted for the same, and to pay all expenses attending such removal and substitution out of the moneys which shall become due to the said contractor by virtue of this agreement.

6.     In case the said architect shall consider any part of the said works to have been executed in an unsound and improper manner, the said contractor will cause the same immediately to be taken down and executed in a proper manner to the satisfaction of the said architect without any extra charge or expense whatsoever.

7.     If the said architect or the parties hereto of the second part, shall think proper at any time or times to make any alterations or additions to or omission in the works hereby contracted for he or they shall give to the said contractor written instructions for such alterations or omissions signed by the said architect, but the said contractor shall not be considered to claim for the value or otherwise in respect thereof, without such written instructions so signed as aforesaid. Any additional charge by the contractor with respect to such alterations if certified to be correct by the architect shall be paid for in the same manner and at the same time as hereinafter expressed for the payment of the ultimate balance of the said sum of Rs……………….

8.     Any damage arising from accidents or carelessness of the workmen or otherwise to the said work hereby contracted for, or to the materials or implements therein used, shall be borne and effectually made good by the said contractor at his own costs and charges.

9.     The said contractor shall provide all the materials of the best kind available in the market for the said building in accordance with the specification mentioned above.

10.  The said contractor will not, unless with the consent of the said architect, make any sub-contract for the execution of the works hereby contracted for, or any part thereof, nor unless with such consent as aforesaid assign or underlet the present contract.

11.  The contractor shall be paid Rs……. as his remuneration for the labour supplied and material used by him for the aforesaid building in the following manner :Rs……. shall be paid by 12 monthly installments of Rs…… each, the first installment to be paid on ….. and the balance of Rs….. within three months of the completion of the building, provided that in the case of each payment the architect certifies that the work and materials to a sufficient amount shall have been done, executed or provided by the said contractor to the satisfaction of the said architect. Provided also that the said contractor shall not be entitled to payment or receive the said balance of Rs……. until the said architect shall certify under his own hand that whole of said works have been completed and finished to his satisfaction. The decision of the architect shall be binding on the parties and shall be final.

In Witness Where of the parties hereto have signed this agreement on the day and year first written above.

**Agreement for Construction of Building between the Owners and The Contractors on Turnkey Basis**

This Agreement made at ................ on this .................. day of .......... 2000, between A S/o B resident of ............................. (hereinafter referred to as "the Employer", which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...................................... (hereinafter referred to as "the Contractors" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assigns) of the Other Part.

Whereas the employer is desirous of constructing XYZ Bungalow and its vacant land bearing Final Plot No. ............... Survey No. ............... Khasra No. ............ situate, lying and being at .................. Tehsil and District ................... (hereinafter referred to as "the said property") and the contractors have offered to construct the same on a 'turnkey basis' and also to prepare the site layout plans, preliminary sketch designs, architectural drawings, structural drawings, service drawings and all other detailed plans and drawings as may be necessary for the proper construction and completion of the said works and also obtain necessary permissions from the Municipal Corporation ........... and other local authorities for executing and completing the said works as hereinafter specified upon and subject to the terms and conditions set forth herein and the conditions set forth in the special conditions hereto annexed and marked as Annexure 1 (all of which are collectively hereinafter referred to as "the said works") at the rate of Rs. .......... per sq. ft. of the built up area of the buildings (hereinafter referred to as "the said contract amount").

and Where as The employer has agreed to appoint the contractors for the said works; and

and Where as the contractors have requested the employer to execute these presents which he has agreed to do so.

Now This Agreement Witnesseth as Follows:

1.     In consideration of the said contract amount to be paid at the times and in the manner set forth in the Schedule of Payments hereto annexed, the contractors shall on and subject to the said conditions, execute and complete the said works more particularly described in Schedule 1 annexed hereto and shown on the said drawings, strictly in accordance with the general specifications annexed hereto and marked as Annexure III.

2.     The employer shall pay the contractors the said contract amount or such other sum as shall become payable at the times and in the manner specified in Annexure II.

3.     For the purposes of this contract, "built up area" means the total a covered area of the building at floor level out-to-out measurement of wall surface (architectural projection excepted) and shall be inclusive of staircase and balconies.

4.     The contractors shall prepare layout plans and general building plans in consultation with the employer and get the same approved by the Municipal Corporation of ......................

5.     It is hereby agreed that the contract amount shall be inclusive of-

a.     Preparation of the layout plans, general building plans, detailed architectural drawings, sketches, structural drawings and designs for execution.

b.    Technical supervision of the works.

c.     Obtaining of permission and approvals from all the authorities for the construction, supply of power, water, drainage and other services for the said works.

d.    Cost of all materials for construction.

e.     Wages of labour, technical supervisors, all other workers and staff required for execution of the said works in accordance with the general specifications in Annexure Ill.

f.     Cost of all electrical, sanitary, and plumbing fittings.

g.    Cost of all other items as mentioned in special conditions in Annexure I hereto.

6.     The layout plans, general building plans, detailed architectural drawings and other drawings shall be and remain the property of the employer. All the drawings shall remain in custody of the contractors during the progress of the work and they shall deliver them to the employer on the performance of the said works or termination of the contract.

7.     The employer may require alteration of the drawings and the nature of the work by adding or omitting any items of work or having portions of the same carried out. The employer shall make payment for the alterations at such rates as may be mutually agreed upon.

8.     The contractors shall commence the work within 15 days of the handing over of the site to them and complete the entire work within .......... months thereafter, subject nevertheless to the provision for extension of time as provided in the said conditions.

9.     The contractors, while carrying out the said works, shall comply with the provisions of all laws, rules and bye-laws for the time being in force affecting the said works and will give all necessary notices to and obtain the requisite sanction of the concerned local authorities in respect of the said works and will comply with the building and other regulations of such authority and will keep the employer indemnified against all fines, penalties and losses incurred by reason of the breach of the contractors of any such laws, bye-laws and regulations.

10.  The employer shall make all payments under this contract at ........................

11.  In case any dispute or difference should arise between the parties, whether in respect of quality of material used by the contractors or work done or in respect of delay in completion of works or in respect of payment of extra work required to be done and so executed or in respect of measurement of work done or in respect of delay of payment to the contractors or touching the interpretation, fulfillment of any of the terms of these presents or any other matter arising out of or in connection with these presents or the carrying out of the work, shall be referred to arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The arbitrators shall make their award within six months from the date of entering on the reference. If the arbitrators do not make their award within the stipulated period or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference and shall make his award within three months of entering on the reference or within such extended time as the parties may agree and in the absence of such agreement, as the Court may allow. The arbitrators or umpire, as the case may be, shall be entitled to consult any expert, after previous notice to the parties, the cost whereof shall be borne by the parties equally. The proceedings of the arbitrators shall be recorded in English, a copy whereof shall be furnished to each party. The provisions of the Arbitration and Conciliation Act, 1996 so far as applicable and are not inconsistent or repugnant to these presents, shall apply to this reference to arbitration. The cost of the reference and award shall be in the discretion of the arbitrators, who may direct by whom and in what manner, the same or any part thereof shall be paid. The award of the arbitrators or umpire shall be final and binding on the parties and the parties, their executors and administrators shall on their respective parts obey, abide by the award and shall not challenge on any ground excepting fraud or collusion or error apparent on the face of the award. It is hereby agreed between the parties that the parties shall resort to arbitration, before filing any suit for the enforcement of any right under these presents.

12.  This agreement shall be executed in duplicate. The original shall be retained by the employer and the duplicate by the contractors.

In Witness Where of the employer has set his hands to these presents and a duplicate hereof and the contractors have caused its common seal to be affixed hereunto and a duplicate hereof the day and the year first hereinabove written.

Signed and delivered by the hand of Shri a The common seal of XYZ Co. Ltd. was hereunto affixed

pursuant to the resolution passed by the Board of

Directors at the meeting held on ....................... in the presence of Shri .........................a director

of the company, who has signed in token thereof

Seal

Signatures

WITNESSES;

1.

2.

**Agreement for Construction of Building between the Owners and The Contractors on Turnkey Basis**

This Agreement made at ................ on this .................. day of .......... 2000, between A S/o B resident of ............................. (hereinafter referred to as "the Employer", which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...................................... (hereinafter referred to as "the Contractors" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assigns) of the Other Part.

Whereas the employer is desirous of constructing XYZ Bungalow and its vacant land bearing Final Plot No. ............... Survey No. ............... Khasra No. ............ situate, lying and being at .................. Tehsil and District ................... (hereinafter referred to as "the said property") and the contractors have offered to construct the same on a 'turnkey basis' and also to prepare the site layout plans, preliminary sketch designs, architectural drawings, structural drawings, service drawings and all other detailed plans and drawings as may be necessary for the proper construction and completion of the said works and also obtain necessary permissions from the Municipal Corporation ........... and other local authorities for executing and completing the said works as hereinafter specified upon and subject to the terms and conditions set forth herein and the conditions set forth in the special conditions hereto annexed and marked as Annexure 1 (all of which are collectively hereinafter referred to as "the said works") at the rate of Rs. .......... per sq. ft. of the built up area of the buildings (hereinafter referred to as "the said contract amount").

and Where as The employer has agreed to appoint the contractors for the said works; and

and Where as the contractors have requested the employer to execute these presents which he has agreed to do so.

Now This Agreement Witnesseth as Follows:

1.     In consideration of the said contract amount to be paid at the times and in the manner set forth in the Schedule of Payments hereto annexed, the contractors shall on and subject to the said conditions, execute and complete the said works more particularly described in Schedule 1 annexed hereto and shown on the said drawings, strictly in accordance with the general specifications annexed hereto and marked as Annexure III.

2.     The employer shall pay the contractors the said contract amount or such other sum as shall become payable at the times and in the manner specified in Annexure II.

3.     For the purposes of this contract, "built up area" means the total a covered area of the building at floor level out-to-out measurement of wall surface (architectural projection excepted) and shall be inclusive of staircase and balconies.

4.     The contractors shall prepare layout plans and general building plans in consultation with the employer and get the same approved by the Municipal Corporation of ......................

5.     It is hereby agreed that the contract amount shall be inclusive of-

a.     Preparation of the layout plans, general building plans, detailed architectural drawings, sketches, structural drawings and designs for execution.

b.    Technical supervision of the works.

c.     Obtaining of permission and approvals from all the authorities for the construction, supply of power, water, drainage and other services for the said works.

d.    Cost of all materials for construction.

e.     Wages of labour, technical supervisors, all other workers and staff required for execution of the said works in accordance with the general specifications in Annexure Ill.

f.     Cost of all electrical, sanitary, and plumbing fittings.

g.    Cost of all other items as mentioned in special conditions in Annexure I hereto.

6.     The layout plans, general building plans, detailed architectural drawings and other drawings shall be and remain the property of the employer. All the drawings shall remain in custody of the contractors during the progress of the work and they shall deliver them to the employer on the performance of the said works or termination of the contract.

7.     The employer may require alteration of the drawings and the nature of the work by adding or omitting any items of work or having portions of the same carried out. The employer shall make payment for the alterations at such rates as may be mutually agreed upon.

8.     The contractors shall commence the work within 15 days of the handing over of the site to them and complete the entire work within .......... months thereafter, subject nevertheless to the provision for extension of time as provided in the said conditions.

9.     The contractors, while carrying out the said works, shall comply with the provisions of all laws, rules and bye-laws for the time being in force affecting the said works and will give all necessary notices to and obtain the requisite sanction of the concerned local authorities in respect of the said works and will comply with the building and other regulations of such authority and will keep the employer indemnified against all fines, penalties and losses incurred by reason of the breach of the contractors of any such laws, bye-laws and regulations.

10.  The employer shall make all payments under this contract at ........................

11.  In case any dispute or difference should arise between the parties, whether in respect of quality of material used by the contractors or work done or in respect of delay in completion of works or in respect of payment of extra work required to be done and so executed or in respect of measurement of work done or in respect of delay of payment to the contractors or touching the interpretation, fulfillment of any of the terms of these presents or any other matter arising out of or in connection with these presents or the carrying out of the work, shall be referred to arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The arbitrators shall make their award within six months from the date of entering on the reference. If the arbitrators do not make their award within the stipulated period or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference and shall make his award within three months of entering on the reference or within such extended time as the parties may agree and in the absence of such agreement, as the Court may allow. The arbitrators or umpire, as the case may be, shall be entitled to consult any expert, after previous notice to the parties, the cost whereof shall be borne by the parties equally. The proceedings of the arbitrators shall be recorded in English, a copy whereof shall be furnished to each party. The provisions of the Arbitration and Conciliation Act, 1996 so far as applicable and are not inconsistent or repugnant to these presents, shall apply to this reference to arbitration. The cost of the reference and award shall be in the discretion of the arbitrators, who may direct by whom and in what manner, the same or any part thereof shall be paid. The award of the arbitrators or umpire shall be final and binding on the parties and the parties, their executors and administrators shall on their respective parts obey, abide by the award and shall not challenge on any ground excepting fraud or collusion or error apparent on the face of the award. It is hereby agreed between the parties that the parties shall resort to arbitration, before filing any suit for the enforcement of any right under these presents.

12.  This agreement shall be executed in duplicate. The original shall be retained by the employer and the duplicate by the contractors.

In Witness Where of the employer has set his hands to these presents and a duplicate hereof and the contractors have caused its common seal to be affixed hereunto and a duplicate hereof the day and the year first hereinabove written.

Signed and delivered by the hand of Shri a The common seal of XYZ Co. Ltd. was hereunto affixed

pursuant to the resolution passed by the Board of

Directors at the meeting held on ....................... in the presence of Shri .........................a director

of the company, who has signed in token thereof

Seal

Signatures

WITNESSES;

1.

2.

**Agreement form between Owner and a Builder for Construction of the Building**

This Agreement made at ....................... on this .............  day of   ..................2000, between Shri........................ S/o ....................... resident of ..............................  (hereinafter called 'the owner' which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and M/s ABC Builders & Contractors, a partnership firm registered under Partnership Act, 1932 and having its registered office at .................. (hereinafter referred to as 'the builders' which expression shall unless repugnant to the context or meaning thereof, be deemed to include every partner for the time being of the said firm, the survivor or survivors or the legal representatives, executors or administrators of the last survivor of the Other Part.

Where as the first party is the owner of the plot of land admeasuring .................... sq. meters bearing plot No. ........... city survey No.               ...................... Khasra No. ..................... situate, lying and being at ...................... Tahsil and District ......................   (hereinafter referred to as the "said plot of land") and is desirous of getting a house constructed on the said plot of land. and Whereas the first party has appointed Shri ................. as the architect and the said architect has prepared the plans, drawings and elevations of the said intended house and the specification of the works to be done and of the materials.

and Where as the second party is a big contractor and is having vast experience in construction of big buildings and has agreed to construct the house on the said plot of land.

**Now it is Agreed by and between The Parties as Follows:**

1.             The builders will construct the building on the said plot of land in conformity with the plans, drawings, specifications and elevations as prepared by the architect which has been annexed hereto and marked as Annexure A, with the material of best quality and in the most substantial and workman like manner and to the satisfaction of the architect.

2.             The builders hereby undertake to commence the construction within fifteen days of execution of these presents and complete the construction on or before the expiry of ................... months from the date of execution of these presents in accordance with the plans duly approved and sanctioned by the Municipal Corporation of .................................. and specifications and conditions as are set out in Annexure A hereunder written.

3.             If the builders fail to complete the said work within the period as stipulated in the foregoing provision, the builders shall, at the option of the owner but without prejudice to the other rights under law of the owner and other provisions herein, pay liquidated damages calculated at the rate of Rs.......... per day (but subject to a maximum of 2% of the total contract amount payable by the owner under this agreement) for the period between the said stipulated time for completion of the works. The builders hereby specifically agree and authorise the owner to deduct such liquidated damages, if any, from any installment of payment becoming due and payable to the builders in terms of this agreement.

4.             The owner will pay to the builders a sum of Rs............. out of which the owner shall pay to the builders weekly such sum as may be sufficient to defray the expenses incurred by the builders in respect of materials used in the works, checked and certified by the architect, Rs ......... on the certificate by the architect that the work upto first floor has been completed, the further sum of Rs ............. on the certificate by the architect that the work upto second floor has been completed and the balance shall be paid on the certificate by the architect that the said works have been completed in all respects according to the agreement and the builders have at their own expenses removed and cleared all scaffolding, fencing, unused materials and rubbish from the premises and made and prepared the bungalow fit for use and habitation and immediate occupation. However, a sum equivalent to 5 per cent of the total contract amount payable by the owner under this agreement shall be retained by the owner as retention money, which shall be paid after a period of 12 months from the date of handing over the said bungalow complete in all respects and fit for occupation. The builders hereby agree and undertake to rectify all such defects as may be found or detected during the period of 12 months. If the builders fail to rectify the defects pointed out or decline to cure such defects as pointed by the owner within fifteen days from the date of reporting to the builders, the owner shall be entitled to have such defects cured by such other agencies as it may deem fit at the entire cost and risk of the builders and utilise the retention money; Provided further that in the event of the said retention money being inadequate to meet such costs, charges and expenses incurred by the owner for curing the defects in the construction, the builders shall within 7 days of a demand in writing made by the owner make good the defect, failing which the builders shall be liable to pay the same together with the interest at 15% per annum.

5.             The owner shall allow free ingress to and egress from the premises to the builder’s servants, employees, sub-contractors and all other persons, who are necessary in connection with the carrying out of the works under the agreement.

6.             The builders shall indemnify the owner in respect of all claims, damages or expenses payable in consequence to any injury to any employee, workman, nominee, invitee while in or upon the said premises. The builders shall also be responsible for any damage to buildings, whether immediately adjacent or otherwise and any damage to roads, streets, foot-paths, bridges or ways as well as all damages caused to the buildings, and work forming the subject to this contract by frost, rain, wind or other inclemency of weather.

7.             If the builders abandon the contract or fail to commence the work or suspend the progress of the work for 14 days without any lawful excuse under these conditions, or fail to proceed with the works with such due diligence and fail to make such due progress as would enable d  the works to be completed within the time agreed upon or fail to remove materials from the site or to pull down and replace work for seven days after receiving from the architect written notice that the said materials or the works were defective and rejected by the said architect or neglect or fail persistently to observe and perform all or any of the acts, materials or things required by this contract to be observed and performed by the owner for seven days after written notice shall have given to the builders requiring them to observe or perform the same and the architect certifies in writing to the owner to the said effect, then and in any of the said cases the owner may, notwithstanding any previous waiver, after giving seven days notice through the said architect in writing to the builders terminate the licence in favour of the builders and in so far as it relates to the completion of the remaining construction work, but without thereby affecting the powers of the architect, or the obligations and liabilities of the builders, the whole of which shall continue in force as fully as if this Agreement had not been so determined. And the owner by his servants or agents may enter upon and take possession of the work, tools, scaffolding, sheds, machinery, power, utensils and materials lying upon the premises or in the adjoining lands or roads and use the same as its own property or may employ the same by means of its own servants and workmen in carrying on and completing the work or by employing any other contractor or other person to complete the works and the builders shall not in any way interrupt or do any act, matter or thing to prevent or hinder such other contractor or other person or persons employed for completing and finishing the works or using the material and plant for the works.

8.             When the said works are terminated in the manner as stipulated in the foregoing provision, the architect shall give a notice in writing to the builders to remove their surplus materials and plant, and should the builders fail to as so within a period of seven days, after receipt thereof by them, the owner may sell the same by public auction and give credit to the builders for the net amount realised. The architect shall thereafter ascertain and certify in writing, what (if any thing) shall be due or payable to or by the owner, for the value of the said building and materials so taken possession of by the owner and the expense or loss which the owner shall have been put to in procuring the work to be completed and the amount, if any, owing to the builders and the amount which shall be so certified shall thereupon be paid by the owner to the builders or by the builders to the owner, as the case may be, and the certificate of the architect shall be final and conclusive between the parties.

9.             The builders shall be bound to appoint an engineer competent to receive instructions from the architect from time to time, on behalf of the builders at all reasonable hours and all directions given to him by the architect shall be deemed to have been given to the builders.

10.          The owner or his representatives shall be entitled to inspect the progress of the construction work and materials used for the construction and they shall be entitled to point out to the architect any defects in the construction work, quality of workmanship or materials d  used when such defective work is in progress or being executed or such material is brought on site. If the architect will be satisfied about the objections raised, the said architect shall certify the same in writing and direct the builders to rectify at their own cost the defect in the said construction work or remove such defective materials and the same shall be rectified or removed by the builders as directed.

11.          All disputes or differences relating to the specifications, designs, drawings and as to quality of workmanship or material used in the work or as to any other question arising out of or relating to the contract, design, drawings, specifications, orders or otherwise in connection with the agreement or the carrying out of the works, whether during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The parties would cooperate and lead evidence, etc. with the arbitrators and if one of the parties does not cooperate or remains absent at the reference, the arbitrators or the umpire would be at liberty to proceed with the reference ex-parte. The arbitrators or the umpire shall keep record of the oral evidence adduced by the parties and submit the same to the court at the time of filing of the award, along with documentary evidence produced before them or him by the parties or their witnesses. The proceeding of the arbitrators or the umpire shall be recorded in English and a carbon copy whereof shall be furnished to each party. The arbitrators or umpire shall be entitled to appoint stenographer, for recording proceedings of the arbitration, consult an expert, after previous notice to the parties to the reference, the cost whereof shall be borne equally by the parties. The fees of the arbitrator appointed by a party shall be borne by the party, so appointing and the fees of the umpire and the other arbitration expenses shall be borne equally by the parties. The arbitrators shall make their award, with reasons for the decision, within six months from the date of entering upon the reference. If the arbitrators have allowed their time to expire without making an award or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference. The umpire shall make his award within tour months of entering on the reference or within such extended time, as the parties may agree. The award of the arbitrators, or umpire, as the case may be, shall be final, conclusive and binding on the parties and shall not be challenged on any ground except collusion, fraud or an error apparent on the face of the award. This reference to arbitration shall be deemed to be a reference within the meaning of the Arbitration and Conciliation Act, 1996 or any statutory modification thereof. No action can be taken under this agreement for the enforcement of any right without resorting to arbitration under this clause.

12.          This agreement shall be executed in duplicate, the original shall be retained by the owner and the duplicate by the builders.

In Witness Where of the parties have signed these presents and a duplicate thereof, the day and year first hereinabove written.

Signed and delivered by .................... the owner

Signed and delivered by M/s ABC Builders and Contractors, the builders, by its partners

WITNESSES;

1.

2.

**Agreement of Dealership between Manufacturer and Firm**

This Agreement is made on this.......day of ........................ at ..............between :

1.     Messers XYZ Ltd., incorporated under the Companies Act, 1956 having its registered office at ...................................................... hereinafter called the company of the one part ;

and

2.     Messers ABC & Co, a partnership concern consisting of its partners Mr. ................... , Mr............................ and Mr.......................through its partners Mr......................having its office at..........................hereinafter called the firm of the other part.

WHEREAS the manufacturer is engaged in manufacturing electronics and electrical products of different varieties.

AND WHEREAS the firm has its own establishment and is making sales of the products of other companies and has shown its desire of selling the product of the company from its new showroom recently taken on rent.

AND WHEREAS the company, after considering the proposals put forward by the firm has decided to appoint the firm.

NOW THIS AGREEMENT WITNESSES AS UNDER :

1.     That the company hereby appoints the firm as its dealer to sell the products of the company.

2.     That the appointment of the firm as dealer shall remain in force for three years from the date of this agreement, but this agreement may be renewed for the same period on the terms and conditioned that may be settled between the parties at that time.

3.     That the firm shall keep the stock of the company for Rs................at any time. The firm shall submit a quarterly return of the product received, product sold and product in hand.

4.     That the company shall allow credit of one month to the firm on all invoices. But an interest of 18% per annum shall be charged on all payments received after one month.

5.     That advertisement material shall be supplied by the company to the firm in sufficient quantity in order to display the same at sales depot and for distribution in the areas of its operation.

6.     That the company shall bear 60% cost of rent, and staff subject to maximum of 6% of the invoice value of all products of the company sold to the firm. This amount shall be credited in running account of the firm with the company on quarterly basis.

7.     That accounts between the parties shall be settled half yearly and debit or credit notes shall be issued half yearly in order to square up the accounts.

8.     That the firm shall make every efforts to promote the sales of the company. In case it is felt by the company that the firm is not taking proper interest, it may terminate the dealership by giving one months prior notice.

9.     That on termination of the agreement the accounts shall be settled within a fortnight. The company shall take back all unsold stock and settle the account.

10.  That firm shall not sell any goods of the company on a price higher or lower than what may be fixed by the company from time to time.

11.  That the firm is entitled to appoint sub-dealer, agents, salesmen clerk etc. in salary or commission basis, but with the condition that they shall work strictly within the terms an conditions of this agreement.

IN WITNESS WHEREOF the parties have executed these presents on the day, month and year first above written.

Sealed, signed and delivered

by Mr. A pursuant to Board

Resolution dated ......... of

XYZ Ltd. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Secretary)

Sealed, signed and delivered

by Mr. C. Firm

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mr. C. (Partner of ABC & Co.)

In the presence of

1. ...............

2. ...............

**Agreement to Act as Technical or Management Adviser**

THIS AGREEMENT is made at............... this... day of................ between M/s. ABC Co. Ltd., a Company registered under the Indian Companies Act, 1956, having its registered office at... hereinafter referred to as the Indian company of the One Part and M/s. XYZ Co. Ltd., a Company Incorporated under the laws in force in (Name of country) having its registered office at..................... hereinafter referred to as the Foreign Company of the Other Part.

WHEREAS the Indian Company is carrying on the business of manufacturing................. and owns a large factory/ factories at................

AND WHEREAS as the manufacturing process In the Indian Company's factories is highly technical and complicated and the production turnover of the Indian Company is very large and requires also administrative skill, the Indian Company approached the Foreign Company, who is carrying on business at... as technical and management advisers to different companies carrying on more or less similar business all over the world for collaboration to act as technical and management adviser.

AND WHEREAS after some negotiations the Foreign Company has agreed to act as the technical and management advisers of the Indian Company on the following terms and conditions and it is proposed to record the same in a formal agreement.

AND WHEREAS this agreement has been approved by the Government of India and the Reserve Bank of India on the terms and conditions a copy of which is hereto annexed.

NOW IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS. --

1.     The Indian Company hereby appoints the Foreign Company as the technical and management adviser of the Indian Company.

2.     The Foreign Company agrees to depute Its technical and management experts not exceeding... in number fully qualified as regards the business carried on by the Company to advise the India Company as to the technical matters relating to the machinery installed by the Indian Company in its factories at......... and relating to -the quality of production as well as regarding the management of the factories.

3.     The Office of the said experts will be at the registered office of the Indian Company at.......... and the experts will attend to the office work during the Company's working hours except when they are on a visit to the factories.

4.     The Indian Company will arrange for spacious residential accommodation of the experts befitting their position and in a good locality of the city where the registered office of the Indian Company Is situate at the cost of the Indian Company.

5.     The said experts will visit the factories of the Indian Company as and when they think necessary or required but at least once in a week and the Indian Company shall make arrangements for their overnight stays at such place or places.

6.     The said experts will also visit the factory or factories for giving advice and assistance whenever required by the Indian Company or by the local manager of the factory.

7.     The experts will use and make available all their expertise in carrying on the production in the said factories in an efficient manner and also make all suggestions for the efficient management of the factories.

8.     The Foreign Company will make available all the know-how including all literature, formulae, drawings, and other material to the said experts to enable them to advise the Indian Company and to use their expert knowledge in solving any problem as to the running of the machinery and plant and as to the manufacture of the products.

9.     Apart from the expenses required to be incurred for the residence and household purposes of the said experts and their family members namely wives and children and their travelling expenses, the Indian Company shall pay to the Foreign Company for the services to be rendered by the Company and Its experts as follows (Include the list of expenses).

The personal expenses of the experts and their families for food and other normal amenities shall not, however, exceed Rs.......... per month per expert. All payments to be made by the Indian Company to the Foreign Company and its experts will be subject to the approval of the Government of India and/or Reserved Bank of India and will he made as stipulated by the said authorities.

10.  If the Indian Company feel that the services rendered by the Foreign Company and Its experts are not satisfactory or necessary, the Indian Company will have the right to cancel this agreement by giving to the Foreign Company three months' prior notice to that effect.

11.  During the period of this agreement the experts deputed by the Foreign Company will not give any advice or other help or guidance to any other Company or person in India.

12.  The experts deputed by the Foreign Company will not be treated as the employees of the Indian Company and will not be entitled to any of the benefits given to the regular employees of the Indian Company. However the experts will be given off-time or casual leave for such days and at such times as may be agreed upon between the expert and the Managing Director of the Indian Company from time to time.

13.  The Letter of Approval issued by the Govt. of India herein recited and hereto annexed shall be deemed to form part of this Agreement and if any term of this agreement is found inconsistent with or contrary to any term and/or condition contained in the said letter, the same will be treated as null and void.

14.  The duration of this agreement will be........ Months/years subject to what is herein otherwise provided. The said period may be extended by mutual consent.

15.  This agreement will be treated as terminated on the happening of any of the events below mentioned.

a.     If any party hereto commits breach of any provisions of this agreement and the party who is alleged to have committed breach is served with a notice by the other party three months prior to the intended date of termination by the other party and the former party has failed to amend the breach within the said period.

b.    If any event happens which will make the performance of this agreement impossible including any force majeure event.

c.     If either the Indian Company or the Foreign Company goes into either voluntary or compulsory liquidation according to or under the law by which it is governed.

d.    If the parties hereto mutually agree to terminate this Agreement.

16.  All sanctions, approvals, permissions, licences and other requirements of the Government of India and of any statutory authorities required for giving effect to all the terms and conditions of this agreement shall be obtained by the Indian Company.

17.  In the event of any dispute or difference arising between the parties hereto as to the rights and obligations under this agreement or as to any claim, monetary or otherwise of one party against the other or as to the interpretation and effect of any terms and conditions of this agreement such dispute or difference shall be referred to Arbitration of a common Arbitrator if agreed upon, otherwise to two or more Arbitrators, one to be appointed by each of the parties to this agreement and such Arbitrator shall be governed by the Indian Arbitration & Conciliation Act, 1996. The venue for such Arbitration shall be................. in India.

18.  The validity of this agreement and the effect or meaning of the term hereof will be decided according to the Indian Law.

19.  Any communication by one party to the other shall he made by registered post through airmail, with acknowledgement due or by telex o fax or cable. In case the communication is made by telex or fax or cable the same will be subsequently but immediately thereafter confirmed b, written communication sent by registered post as aforesaid. Any evidence showing the communication was posted or telex, fax or cable communication was made will be sufficient to prove the posting or sending the communication.

20.  In this agreement the expression 'know-how' shall include technical information such as inventories formulae processes, engineering and manufacturing skill, scientific data, calculations,' specifications, drawings standards, sketches and all other relevant information and knowledge.

IN WITNESS WHEREOF the parties have put their respective seals the day and year first hereinabove written.

The common seal of M/s. ABC Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................ in the presence of Mr........................,a Director duly authorised in that behalf

The common seal of M/s. XYZ & Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................. in the presence of Mr................... a Director, duly authorised in that behalf.

Witnesses;

1.

2.

**Agreement to Act as Technical or Management Adviser**

THIS AGREEMENT is made at............... this... day of................ between M/s. ABC Co. Ltd., a Company registered under the Indian Companies Act, 1956, having its registered office at... hereinafter referred to as the Indian company of the One Part and M/s. XYZ Co. Ltd., a Company Incorporated under the laws in force in (Name of country) having its registered office at..................... hereinafter referred to as the Foreign Company of the Other Part.

WHEREAS the Indian Company is carrying on the business of manufacturing................. and owns a large factory/ factories at................

AND WHEREAS as the manufacturing process In the Indian Company's factories is highly technical and complicated and the production turnover of the Indian Company is very large and requires also administrative skill, the Indian Company approached the Foreign Company, who is carrying on business at... as technical and management advisers to different companies carrying on more or less similar business all over the world for collaboration to act as technical and management adviser.

AND WHEREAS after some negotiations the Foreign Company has agreed to act as the technical and management advisers of the Indian Company on the following terms and conditions and it is proposed to record the same in a formal agreement.

AND WHEREAS this agreement has been approved by the Government of India and the Reserve Bank of India on the terms and conditions a copy of which is hereto annexed.

NOW IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS. --

1.     The Indian Company hereby appoints the Foreign Company as the technical and management adviser of the Indian Company.

2.     The Foreign Company agrees to depute Its technical and management experts not exceeding... in number fully qualified as regards the business carried on by the Company to advise the India Company as to the technical matters relating to the machinery installed by the Indian Company in its factories at......... and relating to -the quality of production as well as regarding the management of the factories.

3.     The Office of the said experts will be at the registered office of the Indian Company at.......... and the experts will attend to the office work during the Company's working hours except when they are on a visit to the factories.

4.     The Indian Company will arrange for spacious residential accommodation of the experts befitting their position and in a good locality of the city where the registered office of the Indian Company Is situate at the cost of the Indian Company.

5.     The said experts will visit the factories of the Indian Company as and when they think necessary or required but at least once in a week and the Indian Company shall make arrangements for their overnight stays at such place or places.

6.     The said experts will also visit the factory or factories for giving advice and assistance whenever required by the Indian Company or by the local manager of the factory.

7.     The experts will use and make available all their expertise in carrying on the production in the said factories in an efficient manner and also make all suggestions for the efficient management of the factories.

8.     The Foreign Company will make available all the know-how including all literature, formulae, drawings, and other material to the said experts to enable them to advise the Indian Company and to use their expert knowledge in solving any problem as to the running of the machinery and plant and as to the manufacture of the products.

9.     Apart from the expenses required to be incurred for the residence and household purposes of the said experts and their family members namely wives and children and their travelling expenses, the Indian Company shall pay to the Foreign Company for the services to be rendered by the Company and Its experts as follows (Include the list of expenses).

The personal expenses of the experts and their families for food and other normal amenities shall not, however, exceed Rs.......... per month per expert. All payments to be made by the Indian Company to the Foreign Company and its experts will be subject to the approval of the Government of India and/or Reserved Bank of India and will he made as stipulated by the said authorities.

10.  If the Indian Company feel that the services rendered by the Foreign Company and Its experts are not satisfactory or necessary, the Indian Company will have the right to cancel this agreement by giving to the Foreign Company three months' prior notice to that effect.

11.  During the period of this agreement the experts deputed by the Foreign Company will not give any advice or other help or guidance to any other Company or person in India.

12.  The experts deputed by the Foreign Company will not be treated as the employees of the Indian Company and will not be entitled to any of the benefits given to the regular employees of the Indian Company. However the experts will be given off-time or casual leave for such days and at such times as may be agreed upon between the expert and the Managing Director of the Indian Company from time to time.

13.  The Letter of Approval issued by the Govt. of India herein recited and hereto annexed shall be deemed to form part of this Agreement and if any term of this agreement is found inconsistent with or contrary to any term and/or condition contained in the said letter, the same will be treated as null and void.

14.  The duration of this agreement will be........ Months/years subject to what is herein otherwise provided. The said period may be extended by mutual consent.

15.  This agreement will be treated as terminated on the happening of any of the events below mentioned.

a.     If any party hereto commits breach of any provisions of this agreement and the party who is alleged to have committed breach is served with a notice by the other party three months prior to the intended date of termination by the other party and the former party has failed to amend the breach within the said period.

b.    If any event happens which will make the performance of this agreement impossible including any force majeure event.

c.     If either the Indian Company or the Foreign Company goes into either voluntary or compulsory liquidation according to or under the law by which it is governed.

d.    If the parties hereto mutually agree to terminate this Agreement.

16.  All sanctions, approvals, permissions, licences and other requirements of the Government of India and of any statutory authorities required for giving effect to all the terms and conditions of this agreement shall be obtained by the Indian Company.

17.  In the event of any dispute or difference arising between the parties hereto as to the rights and obligations under this agreement or as to any claim, monetary or otherwise of one party against the other or as to the interpretation and effect of any terms and conditions of this agreement such dispute or difference shall be referred to Arbitration of a common Arbitrator if agreed upon, otherwise to two or more Arbitrators, one to be appointed by each of the parties to this agreement and such Arbitrator shall be governed by the Indian Arbitration & Conciliation Act, 1996. The venue for such Arbitration shall be................. in India.

18.  The validity of this agreement and the effect or meaning of the term hereof will be decided according to the Indian Law.

19.  Any communication by one party to the other shall he made by registered post through airmail, with acknowledgement due or by telex o fax or cable. In case the communication is made by telex or fax or cable the same will be subsequently but immediately thereafter confirmed b, written communication sent by registered post as aforesaid. Any evidence showing the communication was posted or telex, fax or cable communication was made will be sufficient to prove the posting or sending the communication.

20.  In this agreement the expression 'know-how' shall include technical information such as inventories formulae processes, engineering and manufacturing skill, scientific data, calculations,' specifications, drawings standards, sketches and all other relevant information and knowledge.

IN WITNESS WHEREOF the parties have put their respective seals the day and year first hereinabove written.

The common seal of M/s. ABC Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................ in the presence of Mr........................,a Director duly authorised in that behalf

The common seal of M/s. XYZ & Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................. in the presence of Mr................... a Director, duly authorised in that behalf.

Witnesses;

1.

2.

**Agreement to Adopt the Preliminary Agreement**

AGREEMENT made at... this... day of... between M/s. A B & Co. Ltd., a Company registered under the Companies Act, 1956 and having its registered office at... hereinafter referred to as 'the Company' of the One Part and Mr. A residing at... and Mr. B residing at.... and Mr. C residing at... all collectively hereinafter referred to as 'the Promoters' of the Other Part.

WHEREAS -

1.     By an agreement dated the... day of... entered into between the Promoters on the one hand and Mr. X of the Other Part it was agreed that the Promoters will form and register a private company limited the shares with the object of taking over the business in electronic goods carried on by Mr. X on the terms and conditions therein mentioned.

2.     Accordingly, the Company being the Party of the First Part hereto has been formed and registered under the Companies Act 1956 on the - day of

3.     It was one of the terms of the said agreement that on the registration of the Company, the Company will adopt the said agreement.

4.     By a resolution of the Board of Directors of the Company dated the... the Board has resolved to adopt the said agreement and to enter into this agreement for that purpose.

NOW IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1.     The Company hereby adopts the said agreement dated... hereinbefore recited and agrees to be bound by the same and the terms and conditions therein mentioned relating to the purchase and faking over of the business of the said M/s X's concern, as if the company was a party t hereto and had agreed to purchase or take over the said business from Mr. X on the terms in the said agreement mentioned in place stead of the Promoters.

2.     And the Company agrees and undertakes to comply with and implement all the terms and conditions mentioned in the said agreement.

IN WITNESS WHEREOF the parties have put their hands the day and year first hereinabove written.

|  |  |
| --- | --- |
| Signed for and on behalf of the | ) |
| said M/s. A B & Co. Ltd., by Mr. Signed for and on behalf of the | ) |
| ... a Director duly authorised to do so by the | ) |
| resolution of the Board of | ) |
| Directors dated... in the | ) |
| presence of......... | ) |
| Signed by the within named | ) |
| Promoters A B & C. in the | ) |
| presence of... | ) |

**Agreement to Appoint Agent in District**

This Agreement is made on this........day of.................... 19...... between :

1.     Mr. A s/o Mr. B r/o XY, hereinafter called the "Principal", on the one part ;

and

2.     Mr. C s/o Mr. D r/o XYZ, hereinafter called the "Agent" on the other part.

WHEREAS the principal is a dealer of ...............and is interested to appoint an agent for the district of.............

AND WHEREAS the agent has approached the principal for his appointment as agent of the principal.

AND WHEREAS the principal has agreed to appoint the agent as agent.

NOW THIS AGREEMENT WITNESSES AS UNDER :

1.     That the agent is hereby appointed as agent of the principal for the district of..............to sell the goods of principal.

2.     That this appointment is made for a period of five years from the date of execution of this deed.

3.     That agent shall sell the goods of the principal on the prices fixed by the principal. The Agent shall have no right to make any representation in the trade. He shall further not be entitled to give warranty other than those printed in the price list of the principal.

4.     That the agent shall get 10% commission on sales price. The agent is entitled to deduct such 10% commission from the sale price on weekly basis on every Saturday and remit the balance amount to the principal on the same day.

5.     That the agent shall make all sales cash down. He is not entitled to make any credit sales, unless permission for such credit sales to some particular customers, is obtained from the principal.

6.     That the agent shall obtain premises on rent in the market area. The expenses in this regard, and agreed rent and securities shall be borne by the principal.

7.     That the agent shall bear all incidental or other expenses relating to agency.

8.     That the agent shall while making a sale to trade take an undertaking from the dealer that no retailing shall be done outside agency territory.

9.     That the agent shall mention himself as agent on all papers, documents, cash memos, bill books and letter head etc. for the principal.

10.  The breach of conditions mentioned in clause 8 and 9 shall entitle the principal to terminate the agreement and recover a sum of Rs.............by way of damages.

11.  That the principal shall keep with the agent stock valuing Rs.............. at all time. For this purpose the agent shall submit weekly stock list of the goods of the principal with the agent.

12.  That the agent shall sell the goods to the purchaser at the current price list of the principal. The agent is entitled to allow a discount of 2% on purchases of Rs. 5000/- and above.

13.  That in case any dispute arises between the purchaser and the agent regarding goods of the principal, the agent shall immediately inform the principal for settlement of the dispute and in no case the agent shall make any compromise with the purchaser without the consent of the principal.

14.  14. That either party may terminate this agreement after expiry of 5 years after giving one month's prior notice of his intention to do so.

15.  That in no case the benefit of the agreement can be assigned to any third person.

16.  That during the continuance of this agreement the principal may supply the goods direct to the dealers of the district in which agency has been given to the dealer. On such direct supply also the agent will get the same commission which he is getting for supply of goods direct to the agent.

17.  That during the currency of this agreement, the agent shall work honestly and diligently in increasing the sales of the goods of the principal and shall not engage himself directly or indirectly in any other business without the written consent of the principal.

18.  That the agent shall make sales of all goods at his place of business but if the agent so desires he can deliver the goods at the purchaser's place on his own cost. The principal will not bear such expenses.

19.  That the principal shall have the right to terminate this agreement without prejudice to any other remedy for any breach or non-performance of any part of this agreement namely :

1.     If the agent is found guilty of a breach of any provision of this agreement or is found guilty of misconduct or negligence of his duties ;

2.     If the agent is found absent from his duties for more than a week without the prior permission of the principal ;

3.     If the agent commits any act of bankruptcy.

20.  That if any dispute arises between the principal and the agent regarding this agreement the same shall be settled by arbitrators duly appointed by both the parties.

21.  That on termination of this agreement the agent shall return all unsold goods to the principal and shall handover principal's cash and other documents and papers etc. within seven days from the date of termination.

We the above mentioned parties have signed this agreement in the presence of the following witnessess :

Witnesses :

1. Name......................................

Address...................................

................................................ .............................Principal

2. Name..................................... . ................................Agent

Address..................................

...............................................

**Agreement to Demolish the Structure, Clear the Site and to Construct New Building on The Plot**

This Agreement made at .............. on this ............ day of ................. 2000, between A son of Shri.......... resident of ........... (hereinafter called 'the Employer') of the ONE PART and XYZ Constructions, a partnership firm, carrying on the business of builders and contractors, having its office at .......... (hereinafter called 'the builders') of the Other Part

Where as the employer is absolutely seized or otherwise well and sufficiently entitled to the old bungalow being House No. ............. Mohalla............ with an area of ........ sq.mts which bungalow is more particularly described in " First Schedule hereunder written, and is hereinafter referred to as 'the said bungalow.

and Where as the said bungalow has become very old and the employer intends to dismantle the said bungalow and construct a new bungalow on the said plot of land.

and Where as the builders are willing to undertake the said job of dismantling and construction of the new bungalow in accordance with the plan and specifications set out in the Second Schedule hereunder written.

**Now it is Agreed between the Parties as Under:**

1.     The builders agree to undertake the work of dismantling the said bungalow and to construct a new bungalow in accordance with the plan, description and specifications set out in the Second Schedule hereunder written (hereinafter referred to as "the said works') in consideration of a sum of Rs.......... to be paid by the employer to the builders in the manner hereinafter provided.

2.     The builders will dismantle the said bungalow, clear the site and construct the bungalow with the best available materials and in workmanship in accordance with the directions of the employer's architect (hereinafter referred to as the architect) in accordance with the plan, description, and specifications set out in the Second Schedule hereunder written. However, the employer may require the builders to alter the drawings and the nature of the work by adding or omitting any items of work. Such alterations shall be paid at such rates as may be mutually agreed upon.

3.     The builders shall take away the building material of the old bungalow and shall clear and level the plot of land.

4.     While demolishing and constructing the bungalow, the builders shall carry out the said Works in accordance with the law, rules and bye laws for the time being in force affecting the said works and shall give the necessary notices to and obtain the requisite sanction of the concerned local authorities in respect of the said works and shall comply with building and other regulations of such authority.

5.     The builders shall complete the said works on or before the expiry of ...... months from the date of execution of these presents in accordance with the plans duly approved by the municipal corporation of ..... and descriptions and specifications and other terms and conditions as are set out in Third Schedule hereunder written:

Provided however the architect, with the previous consent of the employer, may extend the time for completion of the said works, it in his opinion the works are delayed (a) by force majeure; or (b) by reason of any exceptionally inclement weather; or (c) by reason of civil commotion, local combination of workman or strike or lock-out affecting any of building trades; or (d) in consequence of the builders not having received necessary instructions from the architect in due time; or (e) from other causes which the architect may certify as beyond the control of the builders.

6.     The employer shall pay to the builders, weekly during the progress of the work, such sum as may be sufficient to defray the expenses for materials and other out of pocket expenses, as certified by the architect.

7.     The builders hereby indemnify and keep the employer saved, defended and harmless against any claims, demands, actions or proceedings that may be suffered by the employer by reason of anything done by the builders as a result of the builders committing breach of any rules and regulations or causing damage to any adjoining property or any individual or otherwise howsoever in dismantling the property or constructing the new bungalow on the said property or any letters, applications and writings addressed by the builders pursuant to such authority as also for the costs, charges and expenses which may be incurred or for which the employer may become liable in that behalf.

8.     The builders shall be responsible for injury to persons, animals or things and for all structural damages to the property which may arise from the operation or neglect of the builders or their employees, nominees, sub-contractors or their employees, whether such injury or damage arises from carelessness, accident or any other cause whatsoever in any way connected with the carrying out of construction pursuant to these presents. This clause shall be deemed to include, inter alia, any damage to buildings whether immediately adjacent or otherwise, and any damage to roads, streets, foot-paths, bridges or ways as well as all damages caused to the buildings and works forming the subject of this contract by frost, rain, wind or other inclemency of weather.

9.     The builders shall, within one week from the date of commencement of the works, insure the works and keep them insured until the buildings complete in all respects and fit for occupation are handed over to the employer, against loss or damage by fire, earthquake, flood, cyclone, etc. with an insurer, in the joint names of the employer and the builders for the full amount of the contract and for any further sum, if called upon to do so by the employer. The premium of such further sum shall be reimbursed to the builders by the employer. The builders shall deposit the insurance policy and receipts for the premia with the employer within fourteen days from the commencement of the works, unless otherwise instructed by the employer. In case the builders fail to insure as provided above, the employer may so insure the works and may deduct the premium paid from any moneys due or which may become due to the builders without prejudice to the other rights of the employer in respect of such default. In case it becomes necessary to suspend the works due to any of the risks covered under the policy, the builders shall, as soon as the claim under the policy is settled, or the work reinstated should proceed with all due diligence with the completion of the works in the same manner as though the risk had not occurred and in all respects under the same conditions of contract. The builders in case of rebuilding or reinstatement after the risk, shall be entitled to such extension of time for completion of the works, as the architects shall deem fit.

10.  If the builders (i) have abandoned the contract; or (ii) have failed to dismantle the old bungalow and remove, clean and level the plot of land; or (iii) have failed to commence the works or have without any lawful excuse under these presents suspended the progress of the works for fourteen days after receiving from the architect notice to proceed; or (iv) have failed to proceed with the works with such due diligence and failed to make such due progress as would enable the works to be completed within the time agreed upon; or (v) have failed to remove materials from the site or pull down and replace work for seven days after receiving from the architect written notice that the said materials or work were condemned and rejected by the architect under these presents; or have neglected or failed persistently to observe and perform all or any of the acts, matters or things by this contract to be observed and performed by the builders for seven days after written notice shall have been given to the builders requiring them to observe or perform the same; then and in any of the said cases the employer may, after giving seven days notice in writing to the builders, terminate the contract, on such termination of the contract the employer by his agents or servants may enter upon and take possession of the works and all plants, tools, scaffoldings, sheds, machinery and other utensils and materials lying upon the premises or the adjoining lands or roads, and use the same as his own property or and employ the same by means of its own servants and workmen in carrying on and completing the works or by employing any other contractor or other person or persons to complete the works, and the builders shall not in any way interrupt or do any act, matter or things to prevent or hinder such other contractor or other person or persons employed for completing and finishing the works or using the materials and plant for the works. When the works shall be completed or as soon thereafter as convenient the architect shall give a notice in writing to the builders to remove their surplus materials and plant, and should the builders fail to do so within a period of fourteen days after receipt thereof by them, the employer may sell the same by public auction, and give credit to the builders for the net amount realised. The architect shall ascertain and certify what s a be due or payable to or by the employer for the value of the said materials, plants are so taken possession of by the employer and the amount which shall be so certified shall thereupon be paid by the employer to the builders or by the builders to the employer, as the case may be and the architect's certificate shall be final and binding on both the parties.

11.  If the builders fail to complete the said works within the period or extended period, the builders shall at the option of the employer, but without prejudice to the other rights under law of the employer and the other provisions herein shall pay by way of liquidated damages a sum of Rs ......... per day for the entire period of delay and the employer will be entitled to deduct such damages from the amount becoming due and payable to the builders under this Agreement.

12.  The builders shall not assign this contract to any other builder or contractor, without written consent of the employer.

13.  The builders hereby agree and undertake to rectify the defects pointed out to them during the period of 12 calendar months from the date of handing over the said buildings to the employer. If the builders fail to rectify the defects pointed out or decline to cure such defects as pointed out by the employer within fifteen days from the date of reporting to the builders, the employer may get such defects cured by such other contractors as it may deem fit at the entire cost and risk of the builders.

14.  The builders shall deliver all the plans, detailed drawings and specifications to the employer after the completion of the said works or otherwise terminated under these presents.

15.  All disputes arising between the employer and the builders under this Agreement during the continuance of this contract or on its completion or on abandonment thereof, shall be referred to arbitration to a single arbitration appointed by both the parties. It both the parties do not agree upon the appointment of single arbitrator, each party shall nominate his own arbitrator who shall before entering on the reference appoint an umpire. The arbitrator or arbitrators as the case may be shall deliver the award within a period of six months from the date of entering on the reference. The award of the arbitrator or arbitrators shall be final and binding on the parties. The parties agree that arbitration under this clause shall be a condition precedent to any right of action under the contract.

In Witness Where of the employer and builders have signed these presents, the day and year first hereinabove written.

Signed and delivered by A.................... the within named employer

Signed and delivered by M/s. XYZ Constructions, the within named builders by their partners

WITNESSES;

1.

2.

**Appointment Letter of a Probationer**

 ................... ...................

                                                                                                                                                Date.................

To,

Shri ...........................

................................

Dear Sir,

                With reference to your application dated ...................... for the captioned post and subsequent test and interview, we are pleased to advise you that you have been selected as a probationer for a period of two years in the    ............. department of the company on the following terms and conditions:

1.          Date of appointment

You will be appointed as a probationer with effect from ................

2.          Probation period

The probation period will be one year. However, the said period can be extended at the discretion of the company for a further period of ..................... years.

3.          Salary during probation

During the probation period, you will be entitled to fixed salary of Rs. .................. per month.

4.          Appointment after expiry of probation period, in case found suitable

If after the expiry of probation period, you are found suitable by the company, you will be confirmed in your appointment on a salary of Rs. ...................... in the scale of ......................... plus other admissible allowances and contributory provident fund. If you are not found suitable for the job, your appointment will be terminated at the discretion of the company and in case of such termination you will have no right or claim against the company.

5.          Standing orders

You shall abide by the terms and conditions of the standing orders and the rules of the company as in force from time to time.

6.          To obey orders and directions of the Manager

You shall obey the orders, directions of the Manager and other officers of the company.

In case you are agreeable to the above please confirm and sign duplicate copy of this letter as a token of your acceptance.

                                                                                                                                               Yours faithfully,

                                                                                                                                                Manager

I agree and accept the above terms/conditions.

Signature of the Probationer.

**Appointment of Distributor for a District**

THIS AGREEMENT made at .......... on this ......... day of ......... 2000, between M/s ............ a partnership firm having its principal office at ......... (hereinafter referred to as "the principals", which expression shall unless repugnant to the context, be deemed to include the partners for the time being and from time to time constituting the said partnership firm, the survivor of them, the legal representatives, heirs, executors and administrators of such last survivor) of the ONE PART and M/s .......... proprietor Shri ....…………….. (here in after called "the distributor" which expression shall unless repugnant to the context, be deemed to include his heirs, administrators, executors, legal representatives, successors and assigns) of the OTHER PART. WHEREAS the Principals are the sole selling agents of ......... Ltd., for the whole of India and under the Agreement dated ........ executed between ......... Ltd. and the Principals, the Principals are entitled to appoint agents, distributors for marketing the products of ......... Ltd., hereinafter referred to as the company. WHEREAS the distributor of M/s. .................. has got a big showroom at ...... and has requested the Principals to appoint it as its distributor for marketing the company's products. WHEREAS the Principals have agreed to appoint M/s .......... as their distributor to sell the products of the company.

**Now It Is here by Agreed between the Parties as Under:**

1.     The Principals appoint M/s.......... as the sole agent for the district of Agra for the purpose of promotion and sale of the company's products for a period of two years from the date hereof on the terms and conditions set forth hereunder.

2.     The distributor shall work conscientiously and in a business like manner for the promotion and sale of the products of the company.

3.     The distributor shall fix the retail price in consultation with the Principals from time to time and make the sale of the company's products against cash memos.

4.     The distributor shall maintain fifteen days stock of company's to products for sale at his own cost and shall not pledge the stock to bankers or other creditors without obtaining the prior consent from the Principals in writing. The Principals may grant consent for the pledge of the stock subject to terms and conditions and the distributor shall abide by such terms and conditions and bring the same to the notice of the bankers or creditors.

5.     The distributor shall not sell the goods directly or indirectly outside the agency district. The distributor while selling the company's products to persons in trade shall obtain undertaking in writing that the company's products shall not be re-sold outside the district agency and the said products shall not be re-sold to the public below the fixed retail price.

6.     The distributor shall be responsible for the rent and other expenses of the showroom and godown occupied by him for the purpose of agency business. He shall at his own expense keep insured the company's products for full value against all risks. The Principals may inspect the receipts for the rent, rates and taxes of the showroom and godown and for the premium of insurance policies. The Principals will not be liable or responsible for the expenses relating to or incidental to the said agency.

7.     The distributor shall make all sales on cash basis and shall keep record of all sales and shall remit the sum received by him to the Principals on each Saturday. The distributor may deduct the commission at the rate of .......... per cent, while remitting the sale proceeds. The distributor shall send weekly reports of the sales, net realisation, stock in hand, etc. to the Principals.

8.     The distributor shall be entitled to ......... per cent commission on the sale price of the products realised on the basis of accounts maintained by him.

9.     The products supplied by the Principals shall be the property of the Principals and they will be entitled to take possession of the said products at any time. The distributor shall maintain record of stock received by him, goods sold by him and the goods in stock in godown and showroom. The Principals have the right without prior notice to cause a stock checking of the company products supplied by them and if any shortage or deficiency is found on such. stock-checking, the distributor shall pay to the Principals the list price of such shortage or deficiency less the deduction by way of commission.

10.  The Principals will not sell the company's products to any person in the agency territory and will redirect all inquiries or orders for Principals products received by them from persons resident in agency district to the distributor. The distributor shall also refer to the Principals all enquiries or orders for the Principals products from the persons resident outside agency district and enquiries or orders from persons resident in the agency district for the purpose of re-sale outside the agency district. The distributor shall not be entitled to any commission on the sale resulting from such enquiries or orders.

11.  The rights under this agreement shall not be assigned or transferred to any other person, except with the prior permission of the Principals in writing.

12.  In the event of any dispute arising between the distributor and any customer regarding the purchase of company's products, the distributor shall inform the Principals immediately, who will advise the distributor the appropriate action which has to be taken by him in the matter.

13.  The distributor guarantees a minimum sale of the value of Rs. .......... per year. In case, the sale fails short by 25% or more for consecutive two years, the Principals may terminate this agreement.

14.  Any of the parties may terminate this agreement by serving a notice of three months to the other party. The accounts between the parties will be settled and adjusted finally within the aforesaid period of three months.

15.  In the expiry or earlier determination of this agreement, the distributor shall forthwith deliver to the Principals all the unsold stock of goods, all books of account and other documents of agency to the principals and shall pay to the principals for the shortage or deficiency of stocks at list prices less commission allowed to the distributor.

16.  In case any dispute arises between the parties out of or in connection with the agreement, the same shall be referred to the sole arbitration of an arbitrator, who may be appointed by the parties by mutual agreement. The proceedings held by the arbitrator in making the award will be in accordance with the provisions of Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The award of the arbitrator shall be final and binding on the parties.

17.  This agreement shall be executed in duplicate. The original it shall be retained by the Principals and the duplicate by the distributor.

IN WITNESS WHEREOF the parties hereto have set their respective hands to these presents and the duplicate hereof on the date, month and year hereinabove written.

Signed and delivered by  M/s..…………........ the within named Principals by their partners

Signed and delivered by ……………………the within named Distributor by their proprietor Shri ..........

WITNESSES;

1.

2.

**Appointment of Selling Agent for a District or Town**

This Agreement is made on this………………day of between AB son of CD, dealer in……………………at……………………..(hereinafter called the “principal”) of the one part and OP son of XY resident of…………….(hereinafter called the “agent”) of the other part.

Whereas, the principal is a dealer in……………..and is willing to appoint a suitable party as sole agent for the town of……………..(or district of…………….)

And Whereas, the agent has approached the principal and has expressed his consent to act as the sole agent of the principal.

Now this Agreement Witnesses as follows :

1.     That the agent is hereby appointed the sole agent of the principal for the town of………………(or district of……………..) (hereinafter called the agency district) for the purposes of marking sales of the principal’s goods for the terms of…………….years from the date hereof on the terms and conditions set forth hereof on the terms and conditions set forth hereunder.

2.     That the agent shall not while selling the principal’s goods make any representation in the trade to give any warranty other than those contained in the principal’s printed current price list.

3.     That the agent shall be allowed to deduct and retain with himself……………….per cent of the list price of all goods sold on behalf of the principal. The agent shall keep a record of all sales and shall remit to the principal regularly on each Saturday all sums received by the agent in respect of such sales less……………… per cent as his commission. All sales shall be made for cash against delivery of goods unless the principal’s consent in writing to give credit to any particular purchaser be in any case first obtained and in the case of credit sales the principal may direct for such increase in the price of his goods over and above the current list price of the principal.

4.     That the agent shall not make, purchases on behalf of nor in any manner pledge the credit of the principal without the consent in writing of the principal.

5.     That the agent shall at the expense of the principal take on rent and occupy for the purpose of the agency suitable premises with prior approval of the principal and shall keep insured for the full value against all risk of all goods entrusted to his custody by the principal under this agreement and on request by the principal shall, produce to the principal receipts for the rent rates and taxes of the said premises and for the premiums on insurance policies showing that the same have been paid on or about their respective due dates. The agent shall bear all expenses relating to or incidental to the agency.

6.     That the agent while selling to persons in the trade shall obtain the purchasers signature to an agreement to the following effect :

1.     That the said principals goods shall not directly or indirectly be resold outside the agency district

2.     That the said principals goods shall not be resold to the public below the full list price for the time being.

7.     That the agent shall in all his commercial dealing and documents and on the name-head indicating his place of business describe himself as selling agent for the principal.

8.     That a breach of the condition in Cl. 6 hereof shall entitle the principal to put an end to this agreement forthwith and also to recover from the said agent by way of liquidated damages the sum of Rs………………… for each such article sold in breach of such clause. The agent undertakes that all purchasers to whom he may sell the principals goods shall duly enter into, and carry out the aforesaid agreement referred to in Cl. 6 hereof and a breach by any purchaser of any such agreement shall for the purposes of this agreement be deemed to be a breach of Cl. 6 of this agreement by the agent and give the principal the rights and remedies against the agent for breach by the agent of this agreement .

9.     That the principal shall keep with the agent a stock of his goods free of all expenses of delivery to the value of Rs………………… according to the principals current price list and the principal further undertakes to replenish such stock in the close of each month so as to keep it at the agreed value : Provided always that the agent shall have no right of action against the principal for delay resulting from shortage of stock, delays in transit accidents, strikes or other unavoidable occurrence in replenishing such stock . The principal shall always have the right without any prior notice to cause a stock checking of the said goods and on any shortage or deficiency found on such stock-taking the agent shall on demand pay to the principal the list price of such shortage or deficiency less the deduction by way of commission or rebate receivable by the agent. The agent shall not alter, remove, or tamper with the marks or numbers on the goods so entrusted into his custody.

10.  That the agent shall not sell the goods of the principal to any purchaser except at the full current price list of the principal published by him from time to time. The agent may while selling principals goods allow a discount or rebate of ……………….. per cent.

11.  That in the event of any dispute arising between the agent and a purchaser of the principal’s goods, the agent shall immediately inform the principal of the same and shall not without the principal’s approval or consent in writing take any legal proceedings in respect of or compromise such dispute or grant a release to any purchaser of the principal’s goods.

12.  That either party may terminate this agreement at his option at any time after the expiration of…………..years by giving to the other one month’s notice in writings.

13.  That the benefits under this agreement shall not be assignable to any other person.

14.  That during the currency of this agreement the principal shall redirect all inquiries or orders for principal’s goods received by him from persons residing in the agency district of the said agent and in the event where the principal supplies such purchasers directly he shall allow the agent the same commission or rebate as the agent would have been entitled to retain if he had carried out such transaction. A certificate under the signature of the principal’s accountant of the amount of such commission or rebate payable to the agent shall be conclusive evidence of such amount. Such remuneration shall be payable to the agent (half-yearly or monthly). The agent undertakes to refer to the principal all enquiries or orders for the principal’s goods from persons residing outside the agency district of the agent and similar enquiries or orders from persons residing in the agency district for the purpose of re-sale outside the said district and the agent shall not be entitled to any commission or rebate in respect of any sale resulting from any such enquiries or orders.

15.  That the agent shall always during the existence of this agreement devote his whole business, time and energy for pushing the sale of the principal’s goods and shall in all such dealings act honestly and faithfully to the principal and shall carry out orders and instructions and shall not engage or be interested either directly or indirectly as agent or servant in any other business or trade without the prior consent in writing of the principal.

16.  That on the termination of his agreement for any reason whatsoever the agent shall not for the period of one year solicit trade orders from the persons who had been purchasers of the principal’s goods any time within (seven) years immediately preceding the date of such termination and the agent shall not for a period of one year engage or be interested as agent or servant in any business, firm or company manufacturing, selling or dealing in goods similar to those transacted by the principal.

17.  That all goods shall be sold by the agent for delivery at agent’s place of business but the agent shall at his own expenses have the right to deliver goods to purchasers at their places of business.

18.  That without prejudice to any other remedy he may have against the agent for any breach or non-performance of any part of this agreement the principal shall have the right summarily to terminate this agreement-

               i        On the agent being found guilty of a breach of its provisions or being guilty of misconduct or negligence of his duties.

              ii        On the agent absenting himself from his business duties entrusted to him under the agreement for four or five days without the principal’s prior permission in writing :

             iii        On the agent committing an act of bankruptcy.

19.  That in the event of any dispute arising out of or in relation to or touching with the agreement the same shall be decided by arbitration in accordance with the provision of the Arbitration Act of 1940.

20.  That the principal shall be entitled to terminate this agreement by giving one month’s notice in writing to the agent in the event of his ceasing to carry on the said business of the principal.

21.  That on the termination of this agreement for whatever reason the agent shall forthwith deliver to the principal all the unsold stock of goods and shall pay to the principal for the shortage or deficiency or stock at list prices less commission and rebate allowable to the agent. The agent shall also deliver to the charge of the principal all books of account and documents of the agency, cash, cheques, bills of exchange or other securities he may have received during the normal course as a result of sales of the principal’s goods and shall transfer, assign or negotiate in favour of the principal all such securities on demand.

In Witenss Whereof, the parties have signed this agreement on the day and year first above written.

……………………. ……………………….

(Agent) (Principal)

**Appointment of Sole Selling Agents by a Foreign Company**

This Agreement made on this ......... day of ......... 2000, between XYZ Pharmaceuticals Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter called "the company" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART; and ABC Pharmaceuticals Distributors Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...... hereinafter called "the distributor" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the other Part:

Where as the company is engaged in the manufacture of several medicines and has decided to appoint a sale selling agent for the whole of India with canvassing rights and the distributor has agreed to work as such; and

Where as the distributor is being appointed at sole selling agents having exclusive right to sell the medicines manufactured by the company in whole of India; and

Where as the Board of Directors of the company is making this appointment, subject to its approval by the company in its first annual general meeting held after the date of this appointment and approval by Central Government?

**Now This Agreement Witnessed as Follows:**

1.     The company appoints the distributor as sole selling agents for the sale of all the medicines manufactured by it in the whole of India and the distributor agrees to act as such sole selling agents for the whole of India on the terms and conditions contained herein.;

2.     The appointment will be for a period of five years commencing from the date of this agreement. However, it may be extended for further periods not exceeding five years on each occasion.

3.     The distributor shall canvass for, secure orders and push the sale of the medicines manufactured by the company to the best of its ability and experience in the whole of India and guarantees to secure orders for the sale of medicines to the extent of the value of Rs. .......... in a year commencing from the date of this agreement.

4.     The distributor will advertise the company products at its own cost and expenses by advertisements in newspapers, journals, magazines, cinema slides or by any other means. However, the company may advertise at its own costs at its discretion whether in newspapers, journals, cinema slides or by any other means and shall indicate the name of the distributor as its sole selling agents.

5.     The distributor shall employ medical representatives at its own cost and expenses for canvassing the company products amongst the doctors, hospitals, nursing homes, etc. The distributor shall also employ servants, staff at its own cost and expenses for doing the business of sole-selling agency.

6.     The distributor will be entitled to appoint sub-agents for any State/District or any particular area in the country and on such terms and conditions as the distributor may think fit. However the company shall not be liable for any dealing between the distributor and its sub-agents.

7.     The distributor shall submit to the company weekly return of the business secured, the doctors and hospitals approached and canvassed during the previous week.

8.     The distributor shall forward to the company the orders booked and enquiries received by it not later than two days from its booking. The distributor shall remit the money received by it in advance from the customers to the company and an account thereof shall be submitted to the company every Friday.

9.     The distributor shall not make any representation on behalf of the company except in conformity with the instructions issued by the company.

10.  The distributor shall book orders of the company's products on the terms and conditions mentioned in the Schedule attached hereto. The terms and conditions shall be subject to change by circulars or instructions by the company from time to time and the distributor will be bound to follow the instructions issued by the company from time to time.

11.  The company shall pay a commission of ......... % on all orders received directly or indirectly from the customers through the distributor, which have been executed by the company. The company shall make payment of the commission to the distributor at the end of every month.

12.  During the term of this contract, the distributor shall not sell or attempt to sell the medicines for any other Indian or foreign company.

13.  The agency may be terminated by the company, at any time during the agency period of five years, after giving one month's notice thereof, in case the distributor fails to comply with the instructions issued by it or if it omits to comply with its obligation imposed upon it under this agreement or if the distributor fails to obtain or procure orders for the minimum guaranteed amount or if the company feels that the distributor is guilty of any conduct, which is prejudicial to the interest of the company and in this matter the decision of the Board of Directors of the company will be final. The distributor may also terminate this agreement at any time during the agency period, after giving one month's notice thereof, if the company fails to execute the orders booked by the distributor or if the medicines supplied by it are sub standard or if the company without just cause withhold the payment of the commission due to the distributor under the agreement for a period of three months.

14.  The distributor shall be responsible to make the payment of the medicines supplied by the company on the orders received by the distributor, if the constituent to whom medicines were supplied by the company refuses to pay for the same within two months of the receipt of medicines. The distributor shall be liable as the surety for the payment of orders booked by it.

15.  The distributor shall deposit a sum of Rs.......... with the company to ensure the obligations imposed upon it under this agreement. The said sum shall not carry any interest. The said sum will be repayable to the distributor after one month of the termination of the agreement after adjustment of accounts between the parties.

16.  Any and all disputes, controversies, differences arising between the parties hereto out of or in relation to this agreement or any breach thereof shall be finally settled by arbitration by two arbitrators, one to be appointed by each party to the dispute and the arbitrators shall, before taking upon themselves the burden of reference appoint an umpire. The award given by the arbitrators or umpire as the case may be, shall be, final and binding on the parties.

17.  At the termination of this agreement whether by efflux of time or otherwise, the company shall not be liable to pay any commission to the distributor for the orders received after the expiry of agency period.

18.  This agreement shall be executed in duplicate. The company shall retain the original and the distributor the duplicate. Each party shall bear the stamp duty payable in respect of its copy.

19.  Unless otherwise agreed upon, the respective addresses for communication in respect of any matter relating to this agreement shall be as under:

For the Company:..........................

For the Distributor:........................

In Witness Where of the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day, month and year first; hereinabove mentioned.

**Schedule**

The common seal of XYZ Pharmaceuticals Ltd. was hereunto affixed pursuant to the Resolution of its

Board of Directors passed on.......... day of .......... 2000, in the presence of S/Shri .......... and ........... directors of the Company, who have signed in token thereof

The common seal of ABC Pharmaceuticals Distributors Ltd., was hereunto affixed pursuant to the Resolution of its

**Board of Directors passed on ......... day of……….2000, in the presence of S/Shri……………… and………….. Directors of the company who have signed in taken thereof.**

WITNESSES;

 1.

 2.

**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 dealy 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 or 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, fulfillment 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 entitles 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 of ………….between ……………………company, 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 of ……………..and 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 CI. 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 CI.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 CI. (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.

**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 dealy 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 or 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, fulfillment 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 entitles 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 of ………….BETWEEN ……………………company, 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 of ……………..and 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 CI. 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 CI.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. On 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 CI. (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.

**Assets Purchase Agreement for Purchasing the Assets of a Running Restaurant**

**ASSETS PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT (this “Agreement”), dated the \_\_\_\_\_\_ day of ………….. …….., is made by and among:

M/s …………………, a Partnership Firm formed under Indian Partnership Act, 1932 having its office at ………………………, through its partners Mr. ………………., son of \_\_\_\_\_\_, resident of \_\_\_\_\_\_\_\_\_, Mr. …………. son of \_\_\_\_\_\_, resident of \_\_\_\_\_\_\_\_\_, and Mr. ………………. son, of \_\_\_\_\_\_, resident of \_\_\_\_\_\_\_\_\_, (hereinafter referred to as “Seller” which express shall mean and include its representative, administrator, executors, successors in title, successor in interest, nominee, legal heirs and assigns);

And

M/s ………………………. being a Company incorporated under the Indian Companies Act, 1956 and having its registered office at ……………………., through its authorized signatory Mr. ……………, duly authorized by the Board vide Resolution dated \_\_\_\_\_\_\_, 2007 (hereinafter referred to as “Purchaser” which expression shall mean and include its successors in interest)

**RECITALS**

A.    WHEREAS, the Seller is engaged in the business of running a restaurant, managing the same and/ or in marketing there from various Food & Beverages products such as Indian Foods, Pizzas, Burgers, Ice-Creams, Bakery and Confectionary products etc. at ……………… (hereinafter referred to as “Restaurant”)

B.    WHEREAS, the premises bearing number ………………….. (hereinafter referred to as the “Premises”) where the Seller were running the Restaurant has been taken on lease by the Seller from Mr. …………….., the owner of the Premises.

C.    WHEREAS, the Seller is the owner of all the fittings, fixtures, furniture’s, furnishings, Kitchen equipments, Air-conditioning, Generator, Delivery Vehicles and other delivery related equipments, Computer Systems, crockery/ cutlery items, linen and all other items fitted or used in the Restaurant, more appropriately described in Annexure A appended hereto and forming a part hereof (hereinafter referred to as the “Assets”).

D.    WHEREAS the Seller has taken a term loan of Rs. 35,00,000/- from ……………. Bank, …….. Branch for the purpose of meeting the cost of establishment of the Restaurant and had secured the said loan through hypothecation of moveables (Furniture’s and Fixtures) at the Restaurant which form a part of the Assets.

E.    WHEREAS, the Seller is not willing to run the Restaurant and as such the Seller desire to sell, and the Purchaser desires to purchase, directly, upon the terms and conditions hereinafter set forth, all of the Assets of the Seller related to the Restaurant in consideration of certain payments by the Purchaser.

NOW, THEREFORE, in consideration of the premises and the agreements and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the Parties agrees as follows:

**1.     Interpretation**

In this Agreement, unless the context otherwise requires:

a.     Words denoting the singular number shall include the plural and vice versa;

b.    Heading and bold typeface are only for convenience and shall be ignored for the purposes of interpretation;

c.     References to the word “include” or “including” shall be construed without limitation;

d.    References to this Agreement or to any other agreement, deed or other instrument shall be construed as a reference to such agreement, deed, or other instrument as the same may from time to time be amended, varied or supplemented;

e.     Reference to any Party to this Agreement or any other agreement or deed or other instrument shall include its successors or permitted assigns; and

f.     A reference to a section, paragraph or annexure is, unless indicated to the contrary, a reference to a section, paragraph or annexure of this Agreement.

g.    Words denoting a person shall include an individual, corporation, company, partnership, trust or other entity;

h.     References to dates and times shall be construed to be references to Indian dates and times;

i.      References to the word “days” shall, unless otherwise indicated, mean calendar days;

**ARTICLE I**

**PURCHASE AND SALE; PURCHASE PRICE**

1.1. Purchase and Sale of Assets.

At the Closing, the Sellers shall, sell, convey, transfer, assign and deliver to the Purchaser, and the Purchaser shall purchase from the Sellers, the Assets, free and clear of any encumbrances except as mentioned in this Agreement.

1.2. .Purchase Price. In full consideration for the transfer of the Assets, the Purchaser will pay the Sellers a total purchase price not exceeding Rs. ……………../- [Rupees ……………] (the “Purchase Price”). The Purchase Price shall be paid by the Purchaser at the instance and mandate of the Seller to the following:

                      i.        to …………….. Bank, ………… Branch by means of a bank draft, a sum of Rs. \_\_\_\_\_\_\_\_\_\_\_\_, being the amount outstanding against Loan A/c No. ………….. of the Seller with the ………….. Bank, ………..; and

                     ii.        to Mr. …………………, landlord of the Premises, by means of a cheque for a sum of Rs. \_\_\_\_\_\_\_\_\_, being the amount outstanding against rent and other dues payable for the Premises in settlement of full and final. An amount of Rs. \_\_\_\_\_\_\_\_\_ to be paid in favour of the Seller towards the TDS payments that is required to deducted from the payments being made to Mr. ………… and to be deposited with the authorities by the Seller at its own cost and liability. ; and

                    iii.        to the Electricity Board, ………. by means of a bank draft, a sum of Rs. \_\_\_\_\_\_\_\_ being the total outstanding against electricity dues of the Restaurant at the Premises upto \_\_\_\_\_\_\_\_\_\_ payable by the Sellers .

1.3. The Seller agrees that the balance amount of the Purchase Price (if any) after making the payments in accordance with Clause 1.2 shall be retained by the Purchaser with them to be paid in such amounts and to such creditors of the Seller (for the Restaurant and for dues payable prior to the Closing Date) as directed in writing by the Seller. It is further agreed that the Purchaser shall be liable to pay to the creditor’s of the Seller only upto the extent of the balance of the Purchase Price available with the Purchaser after making the payments under Clause 1.2.

1.4. The Seller agrees that the above payment of the Purchase Price is being made on the instruction and mandate of the Seller in the manner set out in Clause 1.2 and such payments shall be deemed to be payments made to the Seller by the Purchaser for the Assets purchased under this Agreement.

**ARTICLE II**

**CLOSING AND DELIVERIES**

2.1.         Closing. The closing of the purchase and sale of the Assets (the “Closing”) shall take place on [Date] simultaneously with the execution of this Agreement (hereinafter referred to as the “Closing Date”).

2.2.         Deliveries.

The Seller has handed over the following to the Purchaser at the time of execution of this Agreement:

a.     a letter of confirmation from …………… Bank, ………… Branch certifying that, upon payment of the outstanding amounts due to them from the Seller, which amounts shall be quantified in the confirmation letter, the encumbrances on the Assets or any part thereof created in their favor by the Seller shall be released.

b.    a letter of confirmation from Electricity Board, …………. certifying that, upon payment of the outstanding amounts due to them from the Seller, which amounts shall be quantified in the confirmation letter, no further amounts shall remain due and payable by the Seller till the closing date.

c.     a letter of confirmation from Mr. ………………., landlord of the premises certifying that, upon payment of the outstanding amounts due to him from the Seller, which amounts shall be quantified in the confirmation letter, against the rent for the Premises and other dues, no further amounts shall remain due and payable by the Seller.

d.    a letter of confirmation certifying that, upon payment of the amounts as per Clause 1.2, no further amounts shall remain due and payable by the Purchaser to the Seller or to anyone else claiming through or on behalf of the Seller.

e.     a letter of confirmation certifying that, upon payment of the amounts as per Clause 1.2, the Purchaser will not be deemed to have assumed any liability or obligation of the Sellers and that the Purchaser will not become responsible for any liability or obligation of the Seller.

2.3. Transfer and Delivery of Purchased Assets.

At the Closing, the Seller shall deliver or cause to be delivered to the Purchaser a Bill of Sale, substantially in the form attached hereto as Annexure B, pursuant to which the Seller will record the delivery and conveyance of the Assets to the Purchaser, and the Purchaser shall record the receipt of the same;

**ARTICLE III**

**REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller and its Partners hereby, jointly and severally, represents and warrants to the Purchaser, as of the Closing Date, that:

3.1. Organization of the Seller. The Seller is a Partnership Firm duly organised under the laws of India and has the requisite power and authority to own and sell the Assets and to carry on its business as presently conducted.

3.2. Authority and Authorization; Enforceability.

a.     The Seller has full power and authority to execute and deliver this Agreement, and to consummate the transactions contemplated hereby and to fully perform its obligations hereunder.

b.    This Agreement has been duly and validly executed and delivered by the Seller and the same constitutes a valid and binding obligation of each of the Partners of the Seller, enforceable against each of the Partners of the Seller in accordance with its terms.

                                          i.    There are no outstanding claims or charge on the Assets, whether direct, indirect, contingent, absolute, accrued or otherwise, nor does there exist any condition, fact or circumstance that will create such claim/ charge on the Assets, except as disclosed in this Agreement.

                                         ii.    On the Closing Date, the Purchaser will own and possess, all right, title and interest in and to the Assets, free and clear of any encumbrances. No claim by any third party contesting the use or ownership of the Assets has been made, is currently outstanding or is threatened, and, to the knowledge of the Seller, there are no reasonable grounds for any such claim. None of the Partners of the Seller has received any notice of, nor are they aware of, any fact which indicates any conflict with, any third party with respect to the Assets, nor has any of the Partners of the Seller received any claims against the Assets and, to the knowledge of the Seller, there are no reasonable grounds for any such claim.

                                        iii.    That by the purchase of the Assets under this Agreement and by making the payments in accordance with Clause 1.2, the Purchaser shall not be deemed to have assumed and will not become responsible for any liability or obligation of the Seller to any creditor of the Seller whether pertaining to the Restaurant or the Premises or otherwise.

3.3 Title to Assets.

**a.     The Sellers:**

                      i.        are the absolute beneficial owner of the Assets, with good and valid title, free and clear of all encumbrances, except such encumbrances that will be released at or subsequent to the Closing; and

                     ii.        are exclusively entitled to possess and dispose of the Assets.

b.    The Assets to be transferred to the Purchaser under this Agreement constitute all the assets, properties, rights and interests necessary to conduct the Restaurant business in substantially the same manner as conducted by the Sellers prior to the date hereof.

c.     The Assets are in good condition, repair and (where applicable) proper working order, having regard to their use and age and such Assets have been properly and regularly maintained.

3.4. Insurance. Annexure C to this Agreement sets forth a list of all insurance policies (specifying the location, insured, insurer, amount of coverage, type of insurance and policy number) maintained by the Sellers relating to the Assets and

                      i.                all such policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the Closing Date have been paid, and no notice of cancellation or termination has been received with respect to any such policy,

                     ii.                such policies (A) are sufficient for compliance with all requirements of Law; (B) are valid, outstanding and enforceable policies; (C) provide reasonable and adequate insurance coverage for the Assets; (D) will remain in full force and effect through the respective date set forth in Annexure C without payment of additional premiums; and (E) will not in any way be affected by, or terminate or lapse by reason of, the transactions contemplated by this Agreement.

3.5. Full Disclosure. The Seller has made available to the Purchaser all information, as sought for by the Purchaser. All information, which has been provided to the Purchaser relating to the Assets are true and accurate in all material respects and no material fact or facts have been omitted there from which would make such information misleading.

**ARTICLE IV**

**CONDITIONS TO CLOSING**

4.1. Conditions to the Purchaser’s Obligations. The obligation of the Purchaser to consummate the transactions contemplated pursuant to this Agreement is subject to the satisfaction or the written waiver by the Purchaser, on or prior to the Closing Date, of each of the following conditions:

a.     Representations and Warranties. Each of the representations and warranties of the Sellers made in this Agreement shall be true and correct, as of the Closing Date as if made on such date.

b.    No Proceeding or Litigation. No action challenging the legality of, or seeking to restrain, prohibit or materially modify, the transactions provided for in this Agreement shall have been threatened or instituted and not settled or otherwise terminated.

c.     Certificate of the Sellers. At the Closing, the Seller shall have delivered to the Purchaser certificates signed by all the Partners of the Seller and dated the Closing Date, certifying that the conditions stipulated in Clause 4.1(a) to Clause 4.1(b) hereof have been satisfied.

d.    Other Deliveries. The Sellers shall have complied with the requirements of Clause 2.2.

**ARTICLE V**

**INDEMNIFICATION**

5.1. Indemnification.

From and after the Closing, the Seller and the each of the partners of the Seller, jointly and severally, agrees to indemnify, defend and hold the Purchaser, its Affiliates, successors, assigns and their respective directors, officers, representatives, employees and agents, harmless from and against any and all losses, liabilities, claims, damages, costs and expenses (including, without limitation, legal fees and disbursements in connection therewith and interest chargeable thereon) (collectively, “Claims”) that may be incurred or suffered by such Persons resulting or arising from or related to, or incurred or suffered in connection with, (a) the Sellers’ operation of the Restaurant on or before the Closing, (b) the failure of the Seller to assume, pay, perform and discharge its liabilities other than those paid off by the Purchaser in accordance with Clause 1.2 of this Agreement, or (c) any breach of any representation, warranty, covenant or agreement made or obligation required to be performed by the Seller under this Agreement.

5.2. Notice of Claim; Right to Participate in and Defend Third Party Claim.

a.     If the Purchaser receives notice of the assertion of any claim, the commencement of any suit, action or proceeding, or the imposition of any penalty or assessment by a third party in respect of which the Purchaser has been indemnified by the Seller (a “Third Party Claim”), then the Purchaser shall promptly provide the Seller with written notice of the Third Party Claim, but in any event not later than 30 calendar days after receipt of such notice of the Third Party Claim. The failure by the Purchaser to notify the Seller of a Third Party Claim shall not relieve the Seller of any indemnification responsibility under Clause 5.1 unless such failure materially prejudices the ability of the Seller to defend such Third Party Claim.

b.    Any indemnifiable claim hereunder that is not a Third Party Claim shall be asserted by the Purchaser by promptly delivering notice thereof to the Seller. If the Seller does not respond to such notice within ten (10) days after its receipt, it shall have no further right to contest the validity of such claim.

**ARTICLE VI**

**ARBITRATION**

6.1. If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with or arising out of this Agreement, Parties shall promptly and in good faith negotiate with a view to its amicable resolution and settlement.

6.2. In the event no amicable resolution or settlement is reached within a period of fifteen (15) days from the date on which the dispute or difference arose, such dispute or difference shall be referred to a mutually acceptance single Arbitrator or, upon the failure of the Parties to agree upon a single Arbitrator, within a period of ten (10) days, each Party shall appoint one arbitrator each and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator under the provisions of the Indian Arbitration and Conciliation Act, 1996. The arbitration proceedings shall be held in New Delhi and the arbitrators shall give a reasoned award. It is agreed that the arbitrators shall also determine and make an award as to the costs of the arbitration proceedings.

6.3. Notwithstanding anything contained herein, the Parties shall have a right to institute legal proceedings to prevent any continuing breach of the provisions of this Agreement to seek an injunctive or any other specific relief.

**ARTICLE VII**

**MISCELLANEOUS**

7.1. **Expenses and Taxes**.

a.     Each Party will bear their own legal, accounting and other expenses incurred by such Party in connection with the negotiation, preparation and execution of this Agreement and the documents and transactions contemplated hereby.

b.    The Purchaser shall be responsible for and shall pay any stamp duty and payable in connection with the transactions contemplated pursuant to this Agreement.

c.     The Sellers shall be responsible for and shall pay any capital gains, taxes, sales tax, income tax and similar taxes payable as a result of the consummation of the transactions contemplated in this Agreement.

**7.2. Notices**

Any notice(s), communication(s), request(s) or instruction(s) contemplated, provided or required to be given hereunder by any Party hereto to the other shall be in writing in English, and shall be deemed sufficiently given if delivered personally; sent by facsimile transmission with confirmatory copies sent by recorded delivery service; or sent by recorded delivery services; the registered mail postage prepaid acknowledgment due;

If to Seller, then at

M/s XYZ & Co.

………………………………

………………………………

Tel: --------------

Fax: -------------

E-mail: ----------

**If to Purchaser, then at**

M/s PQR Private Limited

……………………………

……………………………

Tel : ………………………

Fax: ……………………….

All notice(s), communication(s), request(s) or instruction(s) as aforesaid, if delivered personally shall be deemed to have been received at the time of such delivery; if sent by facsimile transmission shall be deemed to have been received (48) forty-eight hours next after the same shall be proved to have been sent; if sent by recorded delivery services shall be deemed to have been received (7) seven days next after dispatch.

7.3. 7.3 Applicable Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of India without regard to its principles of conflicts of laws. The courts at ………….. shall have exclusive jurisdiction over all disputes or differences arising out of this Agreement.

7.4. 7.4 Counterparts. This Agreement may be executed in two counterparts, each of which will be deemed to be an original, and all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET AND SUBSCRIBED THEIR RESPECTIVE HANDS TO THESE PRESENTS ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN:

Signed and delivered by Mr. ………………………

(Authorized Signatory for PQR Private Limited)

(………………….)

In the presence of:

Witness :

Name :

Address :

Signed and delivered by of M/s XYZ & Co, through its partners Mr. ………………………., Mr. ………….. and Mr. …………………... (…………………….)

(…………………….)

(…………………….)

In the presence of:

Witness :

Name :

Address :

**Building Agreement between the Owners and The Contractor on Fee Plus Cost of Labour and Materials**

This Agreement made at ....................... on this ............. day of ..................2000, between Shri........................ S/o ....................... resident of .............................. (hereinafter called 'the owner' which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and M/s ABC Builders & Contractors, a partnership firm registered under Partnership Act, 1932 and having its registered office at .................. (hereinafter referred to as 'the builders' which expression shall unless repugnant to the context or meaning thereof, be deemed to include every partner for the time being of the said firm, the survivor or survivors or the legal representatives, executors or administrators of the last survivor of the Other Part.

Where as the first party is the owner of the plot of land admeasuring .................... sq. meters bearing plot No. ........... city survey No. ...................... Khasra No. ..................... situate, lying and being at ...................... Tahsil and District ...................... (hereinafter referred to as the "said plot of land") and is desirous of getting a house constructed on the said plot of land.

and Whereas the first party has appointed Shri ................. as the architect and the said architect has prepared the plans, drawings and elevations of the said intended house and the specification of the works to be done and of the materials.

AND WHEREAS the second party is a big contractor and is having vast experience in construction of big buildings and has agreed to construct the house on the said plot of land.

**Now it is Agreed by and Between The Parties as Follows:**

1.     The builders will construct the building on the said plot of land in conformity with the plans, drawings, specifications and elevations as prepared by the architect which has been annexed hereto and marked as Annexure A, with the material of best quality and in the most substantial and workman like manner and to the satisfaction of the architect.

2.     The builders hereby undertake to commence the construction within fifteen days of execution of these presents and complete the construction on or before the expiry of ................... months from the date of execution of these presents in accordance with the plans duly approved and sanctioned by the Municipal Corporation of .................................. and specifications and conditions as are set out in Annexure A hereunder written.

3.     If the builders fail to complete the said work within the period as stipulated in the foregoing provision, the builders shall, at the option of the owner but without prejudice to the other rights under law of the owner and other provisions herein, pay liquidated damages calculated at the rate of Rs.......... per day (but subject to a maximum of 2% of the total contract amount payable by the owner under this agreement) for the period between the said stipulated time for completion of the works. The builders hereby specifically agree and authorise the owner to deduct such liquidated damages, if any, from any installment of payment becoming due and payable to the builders in terms of this agreement.

4.     The owner will pay to the builders a sum of Rs............. out of which the owner shall pay to the builders weekly such sum as may be sufficient to defray the expenses incurred by the builders in respect of materials used in the works, checked and certified by the architect, Rs ......... on the certificate by the architect that the work upto first floor has been completed, the further sum of Rs ............. on the certificate by the architect that the work upto second floor has been completed and the balance shall be paid on the certificate by the architect that the said works have been completed in all respects according to the agreement and the builders have at their own expenses removed and cleared all scaffolding, fencing, unused materials and rubbish from the premises and made and prepared the bungalow fit for use and habitation and immediate occupation. However, a sum equivalent to 5 per cent of the total contract amount payable by the owner under this agreement shall be retained by the owner as retention money, which shall be paid after a period of 12 months from the date of handing over the said bungalow complete in all respects and fit for occupation. The builders hereby agree and undertake to rectify all such defects as may be found or detected during the period of 12 months. If the builders fail to rectify the defects pointed out or decline to cure such defects as pointed by the owner within fifteen days from the date of reporting to the builders, the owner shall be entitled to have such defects cured by such other agencies as it may deem fit at the entire cost and risk of the builders and utilise the retention money; Provided further that in the event of the said retention money being inadequate to meet such costs, charges and expenses incurred by the owner for curing the defects in the construction, the builders shall within 7 days of a demand in writing made by the owner make good the defect, failing which the builders shall be liable to pay the same together with the interest at 15% per annum.

5.     The owner shall allow free ingress to and egress from the premises to the builder’s servants, employees, sub-contractors and all other persons, who are necessary in connection with the carrying out of the works under the agreement.

6.     The builders shall indemnify the owner in respect of all claims, damages or expenses payable in consequence to any injury to any employee, workman, nominee, invitee while in or upon the said premises. The builders shall also be responsible for any damage to buildings, whether immediately adjacent or otherwise and any damage to roads, streets, foot-paths, bridges or ways as well as all damages caused to the buildings, and work forming the subject to this contract by frost, rain, wind or other inclemency of weather.

7.     If the builders abandon the contract or fail to commence the work or suspend the progress of the work for 14 days without any lawful excuse under these conditions, or fail to proceed with the works with such due diligence and fail to make such due progress as would enable d the works to be completed within the time agreed upon or fail to remove materials from the site or to pull down and replace work for seven days after receiving from the architect written notice that the said materials or the works were defective and rejected by the said architect or neglect or fail persistently to observe and perform all or any of the acts, materials or things required by this contract to be observed and performed by the owner for seven days after written notice shall have given to the builders requiring them to observe or perform the same and the architect certifies in writing to the owner to the said effect, then and in any of the said cases the owner may, notwithstanding any previous waiver, after giving seven days notice through the said architect in writing to the builders terminate the licence in favour of the builders and in so far as it relates to the completion of the remaining construction work, but without thereby affecting the powers of the architect, or the obligations and liabilities of the builders, the whole of which shall continue in force as fully as if this Agreement had not been so determined. And the owner by his servants or agents may enter upon and take possession of the work, tools, scaffolding, sheds, machinery, power, utensils and materials lying upon the premises or in the adjoining lands or roads and use the same as its own property or may employ the same by means of its own servants and workmen in carrying on and completing the work or by employing any other contractor or other person to complete the works and the builders shall not in any way interrupt or do any act, matter or thing to prevent or hinder such other contractor or other person or persons employed for completing and finishing the works or using the material and plant for the works.

8.     When the said works are terminated in the manner as stipulated in the foregoing provision, the architect shall give a notice in writing to the builders to remove their surplus materials and plant, and should the builders fail to as so within a period of seven days, after receipt thereof by them, the owner may sell the same by public auction and give credit to the builders for the net amount realised. The architect shall thereafter ascertain and certify in writing, what (if any thing) shall be due or payable to or by the owner, for the value of the said building and materials so taken possession of by the owner and the expense or loss which the owner shall have been put to in procuring the work to be completed and the amount, if any, owing to the builders and the amount which shall be so certified shall thereupon be paid by the owner to the builders or by the builders to the owner, as the case may be, and the certificate of the architect shall be final and conclusive between the parties.

9.     The builders shall be bound to appoint an engineer competent to receive instructions from the architect from time to time, on behalf of the builders at all reasonable hours and all directions given to him by the architect shall be deemed to have been given to the builders.

10.  The owner or his representatives shall be entitled to inspect the progress of the construction work and materials used for the construction and they shall be entitled to point out to the architect any defects in the construction work, quality of workmanship or materials d used when such defective work is in progress or being executed or such material is brought on site. If the architect will be satisfied about the objections raised, the said architect shall certify the same in writing and direct the builders to rectify at their own cost the defect in the said construction work or remove such defective materials and the same shall be rectified or removed by the builders as directed.

11.  All disputes or differences relating to the specifications, designs, drawings and as to quality of workmanship or material used in the work or as to any other question arising out of or relating to the contract, design, drawings, specifications, orders or otherwise in connection with the agreement or the carrying out of the works, whether during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The parties would cooperate and lead evidence, etc. with the arbitrators and if one of the parties does not cooperate or remains absent at the reference, the arbitrators or the umpire would be at liberty to proceed with the reference ex-parte. The arbitrators or the umpire shall keep record of the oral evidence adduced by the parties and submit the same to the court at the time of filing of the award, along with documentary evidence produced before them or him by the parties or their witnesses. The proceeding of the arbitrators or the umpire shall be recorded in English and a carbon copy whereof shall be furnished to each party. The arbitrators or umpire shall be entitled to appoint stenographer, for recording proceedings of the arbitration, consult an expert, after previous notice to the parties to the reference, the cost whereof shall be borne equally by the parties. The fees of the arbitrator appointed by a party shall be borne by the party, so appointing and the fees of the umpire and the other arbitration expenses shall be borne equally by the parties. The arbitrators shall make their award, with reasons for the decision, within six months from the date of entering upon the reference. If the arbitrators have allowed their time to expire without making an award or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference. The umpire shall make his award within tour months of entering on the reference or within such extended time, as the parties may agree. The award of the arbitrators, or umpire, as the case may be, shall be final, conclusive and binding on the parties and shall not be challenged on any ground except collusion, fraud or an error apparent on the face of the award. This reference to arbitration shall be deemed to be a reference within the meaning of the Arbitration and Conciliation Act, 1996 or any statutory modification thereof. No action can be taken under this agreement for the enforcement of any right without resorting to arbitration under this clause.

12.  This agreement shall be executed in duplicate, the original shall be retained by the owner and the duplicate by the builders.

In Witness Where of the parties have signed these presents and a duplicate thereof, the day and year first hereinabove written.

Signed and delivered by .................... the owner

Signed and delivered by M/s ABC Builders and Contractors, the builders, by its partners

WITNESSES;

1.

2.

**Dealership Agreement between a Manufacturing Company and Firm**

This agreement made on this……………day of…………….between chandika & co. Ltd., a company incorporated under the companies act, 1956 and having its registered office at …………(hereinafter called the ‘company’ which expression shall, unless the context admits otherwise, includes its representatives) of the one part and jumb & jumboo, a partnership firm consisting of shri……………..,shri……………………shri……………….and smt……………..w/o shri…………………partners, having its main business place at………………and branches at………….. And ……………..(hereinafter called “the firm” which expression shall, unless the context admits otherwise, include the partners, their heirs, executors, administrators, representatives and assigns) of the other part.

Whereas

1.     The company manufacturers cotton and polyster fibre yarn suitings and shirtings.

2.     The firm has its own well-established marketing network and is selling goods of various manufactures and is desirous of selling the goods of the company at a new sales depot recently taken by it on rent for the purpose.

3.     The company, after having considered the proposal of the firm, has agreed to appoint the firm as its dealer on the terms and conditions as hereinafter appearing.

Now this agreement witnesses as under :

1.     That the company hereby appoints the firm as its dealer for selling its products, more particularly described in the schedule annexed hereto.

2.     That the agreement shall remain in force originally for three years commencing from…………but may be renewed for similar periods on the terms and conditions as may be agreed by and between the parties hereto.

3.     That the firm shall keep a minimum stock of…………pieces each of the company’s products described in the schedule to meet the demand of the ultimate users/consumers, and such quantity shall be reviewed every quarter in the light of the sales during the previous quarter the demands, consumers likings and the market trends.

4.     That the company shall supply to the firm its products on credit for fifteen days from the date of the invoice and shall charge interest at the rate of………….per cent per annum from the sixteenth day of the invoice till payment in full if payments are not made within the period credit aforesaid.

5.     That the company shall supply to the firm publicity and advertisement material in sufficient quantity for display at the firm’s sales depot and for the distribution in its area of operation.

6.     That the company shall bear 60% of the cost of maintaining the firm’s sales depot including rent thereof subject to a maximum of 6% of the invoice value of all the products of the company sold to the firm, which amounts shall be credited to the firm’s running account maintained with the company at the end of each quarter.

7.     That the accounts between the parties will be settled half-yearly and the credit/debit balance shall be squared up by making necessary payment6s by the parties.

8.     The firm shall make all efforts for the promotion of the sale of the company’s products and in the event of the company being of opinion on the basis of sale records that the firm is failing in properly performing its duty as dealer, the company shall be at liberty to terminate this agreement by giving the firm one month’s notice in writing and on the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter.

9.     The company hereby agrees and undertakes to supply to the firm its products as per the firm’s orders and on the company failing to supply the goods under the firm’s orders ,the firm shall be at liberty to terminate the agreement by giving the company one month’s notice in writing and after the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter

10.  The firm shall at no time sell any product of the company at a price higher than that fixed by the company from time to time

11.  The firm shall be free and entitled to appoint sub-dealers, salesmen, commission agents or other sales personnel on salary, commission or any other basis, but with the condition that they will function in accordance with the provisions of this agreement and not do anything which is detrimental to the interest of the company, or the firm and the collective interests of both.

In witness whereof, etc.

Schedule referred to above.

**Dealership Agreements**

      I.        Preliminary.- It is the common feature of the manufacturing operations of the industrial concerns that dealers are appointed to sell the goods so manufactured . it is because of this that dealership agreements are invariably entered into by the manufacturing concerns with the other parties so as to demarcate the contours of relations inter se.

     II.        Model Forms

 Dealership Agreement between a Manufacturing

Company and Firm

This Agreement Made On This……………day of…………….between Chandika & Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at …………(hereinafter called the ‘company’ which expression shall, unless the context admits otherwise, includes its representatives) of the one part and Jumb & Jumboo, a partnership firm consisting of Shri……………..,Shri……………………Shri……………….and Smt……………..w/o Shri…………………partners, having its main business place at………………and branches at………….. and ……………..(hereinafter called “the firm” which expression shall, unless the context admits otherwise, include the partners, their heirs, executors, administrators, representatives and assigns) of the other part.

Whereas

1.     The company manufacturers cotton and polyster fibre yarn suitings and shirtings.

2.     The firm has its own well-established marketing network and is selling goods of various manufactures and is desirous of selling the goods of the company at a new sales depot recently taken by it on rent for the purpose.

3.     The company, after having considered the proposal of the firm, has agreed to appoint the firm as its dealer on the terms and conditions as hereinafter appearing.

Now this Agreement Witnesses as under :

1.     That the company hereby appoints the firm as its dealer for selling its products, more particularly described in the Schedule annexed hereto.

2.     That the agreement shall remain in force originally for three years commencing from…………but may be renewed for similar periods on the terms and conditions as may be agreed by and between the parties hereto.

3.     That the firm shall keep a minimum stock of…………pieces each of the company’s products described in the Schedule to meet the demand of the ultimate users/consumers, and such quantity shall be reviewed every quarter in the light of the sales during the previous quarter the demands, consumers likings and the market trends.

4.     That the company shall supply to the firm its products on credit for fifteen days from the date of the invoice and shall charge interest at the rate of………….per cent per annum from the sixteenth day of the invoice till payment in full if payments are not made within the period credit aforesaid.

5.     That the company shall supply to the firm publicity and advertisement material in sufficient quantity for display at the firm’s sales depot and for the distribution in its area of operation.

6.     That the company shall bear 60% of the cost of maintaining the firm’s sales depot including rent thereof subject to a maximum of 6% of the invoice value of all the products of the company sold to the firm, which amounts shall be credited to the firm’s running account maintained with the company at the end of each quarter.

7.     That the accounts between the parties will be settled half-yearly and the credit/debit balance shall be squared up by making necessary payment6s by the parties.

8.     The firm shall make all efforts for the promotion of the sale of the company’s products and in the event of the company being of opinion on the basis of sale records that the firm is failing in properly performing its duty as dealer, the company shall be at liberty to terminate this agreement by giving the firm one month’s notice in writing and on the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter.

9.     The company hereby agrees and undertakes to supply to the firm its products as per the firm’s orders and on the company failing to supply the goods under the firm’s orders ,the firm shall be at liberty to terminate the agreement by giving the company one month’s notice in writing and after the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter

10.  The firm shall at no time sell any product of the company at a price higher than that fixed by the company from time to time

11.  The firm shall be free and entitled to appoint sub-dealers, salesmen, commission agents or other sales personnel on salary, commission or any other basis, but with the condition that they will function in accordance with the provisions of this agreement and not do anything which is detrimental to the interest of the company, or the firm and the collective interests of both.

In Witness Whereof, etc.

Schedule Reprred to Above

4.     Hire-Purchase Agreements

       i        **Preliminary**.- Hire-purchase agreements have acquired special importance in the developing economy of the country. What does hire-purchase agreement connote ? By a contract of hire-purchase is meant a contract which in addition to terms of hire, provides that on payment of the rent for a certain period, or for a certain number of times, or on the payment of a certain sum after such payment of rent, or at some time during the hiring, the property in the goods hired shall (or may) pass from the owner to the hirer. [Periar’s Law of Hire and Hire-Purchase 2nd Ed., p.2]. In effect hire-purchase agreement is a contract of bailment and is governed by the provisions of Chapter IX of the India Contract Act, 1872. This agreement is with an option to purchase though it is sometimes used in a wider sense to include agreements where there is an irrevocable agreement to buy in Installments are paid. A hire-purchase agreement thus creates a bailment, but is a bailment plus an option to purchase. The transaction is composed of the element of both the law of hire and sale, it would be clearly wrong to assimilate it to a hypothecation of moveable property .[V. Dakshinamurthi Mudaliar v. General & Credit Corporation (India) Ltd., AIR 1960 Mad. 328, 330].

The transaction partakes of a contract or bailment with an element of sale added to it. In such an agreement, the owner of the goods lest them on hire for periodic payments by the hirer upon an agreement that when a certain number of payments by the hirer upon an agreement that when a certain number of payments have been completed, the absolute property in the goods will pass to the hirer, but so that the hirer may return the goods at any time without any obligation to pay any balance of rent accruing after return; until the conditions have been fulfilled, the property remains with the owner. In this agreement the hirer is not bound to purchase the thing hired, he has an option, he may or may not purchase. But in either case, if there an obligation to buy, or an option to buy, the goods delivered to the hirer by the owners on the terms that the hirer on payment of a premium as also of a number of Installments shall enjoy the use of the goods, which ultimately may become his property, the transaction amounts to one of hire-purchaser, even though the title to the goods has remained with the owner and shall not pass to the hirer until certain event has happened, namely that all the stipulated Installments have been paid, or that the hirer has exercised his option to finalise the purchase on payment of a sum nominal or otherwise. [Installment Supply (P) Ltd. v. Union of India, AIR 1962 SC 53, 58: Sundaram Finance Ltd. v. State of Kerala, AIR 1966 SC 1178].

      ii        Hire-Purchase agreement not sale.-It has to be remembered that a hire-purchase agreement is not a sale even if it contains a stipulation in the form of option of the hirer to purchase the article hired. Even where the price for sale is to be pain in Installments later, the property in the goods passes as soon as the sale is made. This follows from the definition of sale in section 4 of the Sale of Goods Act, 1930 (as distinguished from an agreement to sell) which requires that the seller transfers the property in the goods to the buyer for price. The essence of sale is that the property is transferred from the seller to the buyers for a price whether paid at once or paid later in installments. On the other hand , a hire-purchase agreement as its very name implies, has two aspects. There is first an aspect of bailment of the goods subjected to the hire-purchase agreement, and there is next an element of sale which fructifies when the option to purchase, which is usually a term of hire-purchase agreements, is exercised by the intending purchaser. Thus the intending purchaser is known as the hirer so long as the option to purchase is not exercised, and the essence of the hire-purchase agreement properly so called is that the property in the goods does not pass at the time of the agreement but remains in the intending seller, and only passes later when the option is exercised by the intending purchaser. The distinguished feature of a typical hire-purchase agreement is made but only passes when the option is finally exercised after complying with all the terms of the agreement. [K.L. Johar & Co. vi Dy CTO, AIR 1955 SC 1082,1088].

The position of the owner of goods under a hire-purchase agreement is that of a person who has made on irrevocable offer to sell but no obligation to buy. [Helby v. Mathews, (1895) AC 471 ; Lee v. Butler, (1893) 2 Q.B. 318]. T essence of the hire-purchase agreement is that the hirer is not bound to purchase . [Dalpat Rai v. Manohar Lal & Sons, AIR 1974 Raj. 61]. A hire-purchase agreement has two elements ; (I) element of bailment, and (ii) element of sale, in the sense that it contemplates an eventual sale. The element of sale fructifies when the option is exercised by the intending purchaser after fulfilling the terms of the agreement. When all the terms of the agreement are satisfied and the option to purchase is exercised, a sale takes place of the goods which till then had been hired. [K.L.Johar & Co. v. Dy. CTO, AIR 1965 SC 1082, 1090].

     iii        Duty of hirer.-According to section 151 of the Contract Act, 1872, the hirer is bound to take as much care of the goods hired to him as a man of ordinary prudence would under similar circumstances take of his own goods of the same bulk, quality and value as the goods hired. Under Section 152 of the Contract Act, the hirer in the absence of any special contract is not responsible for the loss, destruction or deterioration of the thing hired, if he has taken such care. Accordingly, the parties may provide by stipulation in that behalf that the hirer will be liable for any loss or damage to the goods arising from any cause whatever.

     iv        Parties .-Normally , there are two parties to the hire-purchase agreement, viz., the owner and the hirer. However, sometimes a financier, for example in case of motor vehicles, is also brought in as a necessary party who purchase the vehicle from the owner and lets the same on hire to the hirer on Installments and in such case, a guarantor is also required to be supplied by the hirer to secure fulfilment of the obligations imposed on the hirer under the agreement.

      v        Clauses.-In drafting a hire-purchase agreement, care should be taken to draft the following important clause in the agreement properly ;

a.     No obligation to buy.-The agreement of hire-purchase should not amount to an agreement to buy but it should only give the hirer an option to purchase because where a person under an agreement to buy obtains the possession of the goods and the hirer under the hire-purchase agreement so obtains the possession, he would be able to give little to any one who takes the goods on sale or pledge from him without notice of the hire purchase agreement [See section 30 (2) of the Sales of Goods Act, 1930 and thereby the hirer would be able to defeat the intention of the owner. Where, however, the agreement is not an agreement to buy but it merely give an option to the hirer to buy on the fulfillment of certain conditions, the hirer cannot gives a valid title to any one. [Roopchand Jankidas v. National Bank, 46 Cal. 342].

b.    Property in goods not to pass.-A hire-purchase agreement must contain an express stipulation that the property in the goods shall not pass of the hirer untill all Installments have been paid.

c.     Minimum payment clause.-A hire-purchase agreement may be terminated either by the owner or hirer and the hirer may return the article to the owner after terminating the agreement. But since the articles are subject to usual wear and tear on account of user, it is usual to insert a “minimum payment” clause in the agreement in order to provide for depreciation of the article taken under the hire-purchase agreement. Such a clause provides that in the event of the agreement being determined by the owner or the hirer, the hirer shall be liable to pay 50% of the total price after deduction of the Installments already paid by the hirer.

d.    Seizure clause.-It is also usual to incorporate a clause in the hire-purchase agreement empowering the owner to seize the article hired in the event of the hirer committing a breach of any terms thereof, particularly the non-payment of monthly hire.

     vi        Claim of financier to prevail over the state.-Where under a hire-purchase agreement, the financier, i.e., the owner lets on hire a motor vehicle to the hirer, clause 4 of the agreement states that, on default by the hirer, the owner can seize, remove and retake possession of the vehicle and sue for all the Installments due and for damage for breach of the agreement and for all the costs of retaking of possession of the said vehicle and all costs occasioned by the hirer’s default. Clause 6 would show that, only upon the hirer paying the entire amounts due under the agreement, the said vehicle shall become the sole and absolute property of the hirer. In regard to the registration of the vehicle shall become the sole and absolute property of the hirer. In regard to the registration of the vehicle, thought it is in hirer’s name, clause 8 of the agreement states that the owners-meaning the financing company agree to permit the hirer to have the registration of the vehicle in his name provided that the hirer shall transfer the registration in the name of the owners whenever required to do so by them and especially when the hirer commits breach of any of the conditions of the agreement. In the light of these clauses in the agreement and in the event of the financier seizing the vehicle on default on the hirer in payment of the Installments, the claims of the financier would prevail over that of the State. Where a person has got a prior secured right over the property, the State’s claim will not prevail. In the Income-tax Act, there is no substantive provision for superseding or overriding the claims or rights of a secured creditor. Schedule II mentioned in section 222 of the I.T. Act, 1961, which contains statutory rules in accordance with which the modes of recovery mentioned in that section have to be exercised, relates to procedure only and does not deal with substantive rights. [Sundaram Finance Ltd. v. RTO, (1979) 117 ITR 334 (Ker)].

    vii        Allowability of depreciation of hired article.-The Board has issued the following circular containing instructions regarding depreciation allowance on plant and machinery acquired under hire-purchase agreement.

“The following instructions are issued for dealing with case in which as asset is being acquired under or on what is known as hire-purchase agreement:-

              I.        In every case of payment purporting to be for hire-purchase, production of the agreement under which the payment is made should be insisted on.

             II.        Where the effect of an agreement is that the ownership of the subject is at once transferred to the lessee( e.g. where the lessor obtains a right to sue for arrear of Installments but no right to recovery of the asset) the transaction should be regarded as one of purchase by Installments and no deduction in respect of “hire” should be made. Depreciation should be allowed to the lessee on the entire purchase price as per the agreement.

            III.        Where the terms of the agreement provide that the equipment shall eventually become the property of the hirer or confer on the hirer an option to purchase the equipment, the transaction should be regarded as one of hire-purchase. In such case the periodical payments made by the hirer should not tax purposes be regarded as made up of-

a.     consideration for hire, to be allowed as a deduction in the assessment ; and

b.    payment on account of purchase, to be treated as capital outlay, depreciation being allowed to the lessee on the initial value(i.e., the amount for which the hired subject would have been sold for cash at the date of the agreement).”

The allowance to be made in respect of hire should be the difference between the aggregate amount of the periodical payments under the agreement and the initial value(as described above), the amount of this allowance being spread evenly over the term of agreement. If, however, the agreement was terminated either by outright purchase of the equipment or its return to the owner, the deduction should cease as from the date of the termination.

An assessee claiming this deduction should be asked to furnish a certificate from the vendor or other satisfactory evidence of the initial value (as described above). Where no certificate or satisfactory evidence is forthcoming, the initial value should be arrived at by computing the present value of the amount payable under the agreement at an appropriate rate per centum. In doubtful case the fact should be reported to the Board”.

[Circular No.9 of 1943, R. Dis. No. 27(4) IT/43, dated 23rd March, 1943].

   viii        Registration.-Registration of a hire-purchase agreement is not compulsory.

     ix        Stamp duty.-The hire-purchase agreement requires a stamp of only Re. 1 like an ordinary agreement.

      x        Model Forms

**Deed of Conveyance by a Lunatic through his Legal Guardian or Manager**

Deed of conveyance made this .........day of........between Mr ''X'' a Lunatic by his manager or guardian Mr ''Y'' hereinafter referred to as the vendor of the One Part and Mr.Z hereinafter referred to as the Purchaser'') of the Other Part

WHEREAS

1.     The said Mr. ''X'' is a lunatic or person of unsound mind.

2.     On his becoming lunatic or of unsound mind his brother the said Mr''Y'' made an application to the Court at District for holding an inquisition on his lunacy under Chapter VI of the Mental Health Act 1987 and on the court passing an order for inquisition the necessary inquisition was made and by an order dated the day of --- passed by the court on such inquisition the said Mr''Y'' was appointed as the manager for the management of the properties of the said lunatic.

3.     The Lunatic Mr''X'' owns certain immoveable properties including the one situated at ....... consisting of a piece of land with an old house thereon and which is more particularly described in the schedule hereunder written.

4.     The properties of the said Mr''X'' do not yield sufficient income necessary for the maintenance of the said Mr''X''. There are also some debts and liabilities payable by the said Mr. X including the liability for payment of the cost of the inquisition held into the lunacy as aforesaid.

5.     In order to pay off the debts and liabilities and with a view to make sufficient provision for the maintenance of the said Mr. X the said Mr. Y proposed to dispose of the said property described in the schedule hereunder written ad therefore he entered into an agreement for the sale of the property on the...............day of........ with the purchaser for the price of Rs...... subject to the sale being sanctioned by the Honorable High court.

6.     Accordingly the said Mr''Y'' ad application to the District Court being petition no..........for permission to sell the said property in terms of the agreement under Sec. 59 of the said Act of 1987.

7.     After making due inquiries the District Court by order date the ........day of.......... authorized the said Mr''Y'' to sell the said property in terms of the said agreement subject to terms and conditions mentioned in the said order as to utilization of the purchase price and making provision for the lunatic''s maintenance and authorised the said Mr ''Y'' as the manger of the estate of the said lunatic to execute deed of conveyance in favor of the said purchaser.

NOW THIS DEEED WITNESSETH

That pursuant to the said agreement and the order the District Court and in consideration of the sum of Rs---- paid the purchase as earnest money on the execution of the agreement of sale and in further consideration of the sum of Rs........paid by the purchase to the vendor on the execution of this Deed making together the said sum of Rs.................. being the full consideration to be paid by the purchase tot vendor as aforesaid (receipt whereof the vendor doth herby admit) he the vendor by his said manage doth hereby grant and convey to the purchase all that piece of land with the building thereon situate at.............. and more particularly described in schedule under together with all things permanently attached thereto and standing thereon and all the privileges, easements, profits, advantages, rights and aappurtenances whatsoever to the said property belonging and all the estate, right, title, interest, claim and demand whatsoever in law or otherwise of the vendor to the said property another premises hereby conveyed and every part thereof. To Have and to Hold the same unto and to use of purchase absolutely and forever by the subject to payment of all taxes assessments dues and duties now chargeable or payable and hereafter to become chargeable or payable in respect of the said property herby conveyed to the government or local authority or any other public body.

And the said manger doth hereby covenant with the purchase that he the manager has not done any act deed or thing whereby or by means whereof he is prevented from granting and conveying the said property in the manner aforesaid.

IN WITNESS WHEROF the parties have put their hands the day and year first hereinabove written

The Schedule above referred to

Signed and delivered by the with in named

Mr ''X" by his manager

Mr ''Y'' ---- in the presence of

**Delay Condonation In SLP**

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

I.A. No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_OF 2000

IN

SPECIAL LEAVE PETITION NO.\_\_\_\_\_\_\_\_\_\_OF 2000

AN APPLICATION FOR CONDONATION OF DELAY

IN THE MATTER OF Articles 136,\_\_\_\_\_,and

M/s. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PETITIONER

VERSUS

Mr.\_\_\_\_\_\_\_\_\_\_\_\_\_\_& Others

RESPONDENTS

AN APPLICATION FOR CONDONATION OF DELAY

The Honorable Chief Justice of India and his companion Justices of the Supreme Court The humble Petition of the Petitioner above-named

MOST RESPECTFULLY SHOWETH:

1.     That the petitioner has filed this Special Leave Petition against the final judgment and order dated passed by the High Court of at in Writ Petition No. of 2000.

2.     That the petitioners have stated the facts of the case and the grounds arising there from in the accompanying petition and the same may be treated as part and parcel of this application.

3.     That against the final judgment and order dated passed by the High Court of at in Writ Petition No. \_\_\_\_\_\_\_\_\_\_\_\_\_of the petitioner had preferred a Writ Appeal being Writ Appeal No. of and the same was pending before the Honorable High Court/ or state any other valid reason.

4.     That due to the aforesaid reason a delay has occurred in challenging final judgment and order dated passed by the High Court of \_\_\_\_\_\_at in Writ Petition No.\_\_\_\_\_\_\_\_\_ of 2000.

5.     That the said delay which has occurred is purely technical in nature.

6.     That the instant petition does not suffer from any latches as the delay, if any, in filing this petition is unintentional and as such, the delay which has so occasioned may be condoned.

PRAYER

It is therefore most respectfully prayed that this Honorable court may be pleased to:

A.    Condone the delay if any in filing the instant Special Leave Petition against the impugned Judgment and Order dated passed by the Honorable High Court of at in Writ Petition No.\_\_\_\_\_\_\_\_\_\_\_ of 2000.

B.    Pass any further Orders this Honorable Court may deem fit in and proper under the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER SHALL BE EVER GRATEFUL.

DRAWN AND FILED BY

NEW DELHI:

ADVOCATE FOR THE PETITIONER

FILED ON

**Draft Notice U/S 138 of NIA**

IN THE COURT OF LD. METROPOLITAN MAGISTRATES

23rd COURT AT ESPLANADE, MUMBAI

CASE No. OF 2006

TRADE WINGS HOTELS LIMITED )

Having its Corporate Office at )

18/20 Dubash Marg, Kalaghoda, )

Fort, Mumbai 400 023 )

Having its Registered Office at )

6 Mascarenhas building )

Mahatma Gandhi Road, )

Panaji, Goa 403 001 )

through Mr. Ajay Vageria )

its Authorised Representative ) COMPLAINANT

V/s

1. ABK Enterprises Pvt. Ltd. )

Having its registered office at )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. )

2. Dr. Ajit B. Kerkar )

[Director and Authorized Signatory] )

of ABK Enterprises Pvt. Ltd. )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. ) ACCUSED

**Charge U/s.138 r/w Sec.141 of the Negotiable Instruments Act, 1881.**

**MAY IT PLEASE YOUR WORSHIP:**

The Complainant through Ajay Vageria, the authorized representative of the complainant company abovenamed, hereby states on solemn affirmation as under:

|  |  |
| --- | --- |
| Ex. A | 1.     The Complainant states that it has duly authorized Ajay Vageria to file this complaint against the accused and that he is conversant with the facts of this case. He is aware of the day to day operations of the Complainant company including the transaction in question and therefore able and competent to depose to the same for and on behalf of the Complainant company. Hereto annexed and marked as **Exhibit A**is the copy of the board resolution authorizing him to file this complaint.  2.     The Complainant is a company incorporated under the Companies Act, 1956 having its corporate office at 18/20, K. Dubash Marg, Fort Mumbai 400 023 and having its registered office at 6 Mascarenhas Building, Mahatma Gandhi Road, Panaji, Goa 403 001 carrying on the business of Hotel and Restaurants.  3.     The Accused No. 1 is a Private Limited Company. The Accused No. 2 is a director of Accused No.1 company and is also the authorized signatory of the cheque in question issued on behalf of Accused No. 1.  Accused No. 2 is in charge of the company and is responsible for the day to day affairs of the said company.  4.     The Complainant states that under an MOU dated 26.4.2000 between Accused No.2, acting on behalf of Tulip Hotels Pvt. Ltd. (THPL) and Dr. Shailendra Mittal, wherein the Accused No. 2 had agreed that THPL will buy 50% of the equity capital of the Complainant by itself or through its nominees within 135 days of the Management of Bogmalo Beach Resort (hereinafter referred to as the said Hotel) being taken over by a Joint Venture consisting of THPL and Trade Wings equally. The Complainant states that the management of the said Hotel was handed over on 15.6.2006. Pursuant to the MOU a Shareholders Agreement dated 9th June 2000 was entered into between THPL , Trade Wings Ltd, the Complainant, Dr. Shailendra Mittal and Accused No. 2. Under the MOU the price of the equity shares of the Complainant was agreed to be in the range of 27 to 30 crores and THPL agreed to purchase 50% of the equity capital of the Complainant through itself or its nominees by 28.10.2000.  The Complainant craves leave to refer to and rely upon the said MOU and shareholders agreement as and when required by this Honble Court.  5.     The Complainant states that the Accused No.2 had issued a cheque on behalf of Accused No.1 to the Complainant for a sum of Rs.9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) being the amount towards part payment of 50% of the equity capital of the Complainant as agreed under the MOU. The amount owing to the Complainant on the date of the said cheque was far in excess of Rs. 9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) and though not germane to this complaint, the Accused made certain payments viz. Rs. 30,00,000/- (Rupees Thirty lakhs only) vide a pay order dated 3.11.2006 to Trade Wings Ltd. and Rs. 1,20,00,000/- (Rupees one crore twenty lakhs only) to the Complainant vide a cheque dated 4.11.2006. These payments do not in any way diminish the liability of the accused in respect of the cheque for Rs. 9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) which is subject matter of this Complaint. The Accused No. 1 issued the cheque on behalf of THPL as a nominee of the said THPL and hence has assumed the liability of the said THPL. |
| **Ex. B** | |  | | --- | |  |   6.     The Complainant states that the Accused No.1 and 2 in part discharge of the liability under the MOU towards the Complainant had issued a cheque bearing No.184252 dated 1.11.2006 for Rs.9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) drawn on Industrial Development Bank of India Ltd., Mittal Court, C Wing, Nariman Point, Mumbai 400 021 in favour of the Complainant.  Annexed hereto and marked as **Exhibit B** is the copy of the dishonoured cheque dated 1.11.2006.  7.     The Complainant states that the cheque was presented by the Complainant for encashment with the Complainants banker viz. the National Cooperative Bank Ltd., Nariman Point Branch, Mumbai on 31.10.2006 after banking hours so that it could be presented to the bankers of the Accused on 1.11.2006. Subsequently the Complainant received a faxed letter dated 30.10.2006 on 31.10.2006 from the Accused No.2 requesting the Complainant not to deposit the cheque due to delay caused by an inadvertent reason resulting in difficulty in arranging the funds. In fact the letter further goes on to state that they shall make efforts to pay a partial amount before the end of November 2006. The Complainant however was not obliged to comply with the requisition contained in the said letter as the same had been sent dishonestly to merely stall for time. On 1.11.2006 the said cheque was returned dishonoured by a cheque return memo dated 1.11.2006 of Industrial Development Bank of India Ltd. with the remark Refer to Drawer.  Annexed hereto and marked as **Exhibit C** and **C-1** are copies of the letter dated 30.10.2006 and the cheque return memo dated 1.11.2006 respectively. |
| **Ex. C & C-1** | 8.     The Complainant received the intimation about the dishonour of the cheque from their banker on 1.11.2006.  9.     As the said cheque was dishonoured the Complainant issued the statutory notice dated 15.11.2006 through its advocates Dave & Girish & Co. to Accused Nos.1 and 2 calling upon them to make payment of the dishonoured cheque amounting to Rs.9,79,70,000/- within 15 days from the date of receipt of the said notice.  Annexed hereto and marked as **Exhibit D**is the copy of the statutory notice dated 15.11.2006. |
| **Ex. D** | 10.    The Complainant states that the said notice was sent to the Accused Nos.1 and 2 by registered A/D post and Under Certificate of Posting on 15.11.2006.  Annexed hereto and marked as **Exhibit E collectively**are the copies of the postal receipts of Registered A/D post and Under Certificate of Posting. |
| **Ex. F** | |  | | --- | |  |   11.    The Accused Nos.1 and 2 received the notice dated 15.11.2006 on 16.11.2006. Annexed hereto and marked as **Exhibit F** are the postal acknowledgement receipts which were duly acknowledged by the Accused on 16.11.2006. |
| **Ex. G** | 12.    Although the Accused Nos.1 and 2 have received the notice dated 15.11.2006 they have failed to make the entire payment to the Complainant which the Accused is liable to make within 15 days from the date of receipt of the notice. The Accused No.1 addressed a letter dated 1.12.2006, with a post-dated cheque for Rs.7,29,70,000/- (Rupees seven crores twenty-nine lakhs and seventy thousand) enclosed, purportedly in reply to the Complainants notice dated 15.11.2006 in which it was falsely contended, inter alia, that the Complainants notice is premature, that the payment was in full settlement of the Accuseds liability towards the Complainant, that certain further payments were made to the Complainant in respect of the amount of the dishonoured cheque. The Complainant says and submits that the issuance of a fresh post-dated cheque for a reduced amount in no way constitutes compliance with the Complainants notice u/s 138 of the Negotiable Instruments Act, 1881 and also says and submits that the so-called defense taken by the Accused in their reply dated 1.12.2006 is false and irrelevant and is also a means to stall for time. Annexed hereto and marked as **Exhibit G** is a copy of the letter dated 1.12.2006 sent by the Accused No.1. The Complainant adds that though the said notice makes mention of a pay order of Rs. 1,00,00,000/- (Rupees one crore only) given to Mr. Om Navani and Mr. Ashok Advani, no copy of such pay order was enclosed in the said letter thus demonstrating the dishonesty of the Accused. In fact all the annexures mentioned in the letter are missing except the cheque dated 21.12.2006 bearing no. 184265 for Rs. 7,29,70,000/-. |
| **Ex. G** | |  | | --- | |  |   13.    The complainants cause of action arose on 1.12.2006 i.e. 15 days from the receipt of the notice dated 15.11.2006.  14.    The cheque was issued by the Accused in favour of the Complainant towards the part discharge of the liability of THPL towards the Complainant under the MOU and since the Accused No.2 is the authorized signatory of the cheque in question and is responsible for the day to day affairs of the business of Accused No.1 and hence is responsible for the said payment due to the Complainant.  The cheque was issued by Accused No. 2, on behalf of THPL, from the account maintained by the Accused No.1 with its banker for the payment of the amount to the Complainant in part discharge of the liability of THPL and since the cheque was dishonoured for the reasons stated hereinabove the Accused have committed an offence under section 138 read with section 141 of the Negotiable Instruments Act, 1881, as amended.  The Accused Nos.1 and 2 are thus liable to be prosecuted for the offence under section 138 read with section 141 of the Negotiable Instruments Act, 1881, as amended.  15.    The complaint has been filed within the period of limitation as prescribed under the Negotiable Instruments Act, 1881 as amended, i.e. within one month from the date on which the cause of action arose.  16.    The Complainant has appended a list witnesses that it proposes to examine to prove its case and also craves leave to refer to and rely upon the documents mentioned in the complaint.  17.    The Complainant states that the Complainants bank as well as the Accused No. 1s bank are situated within the jurisdiction of this Honorable Court and therefore this Honorable Court has jurisdiction to entertain, try and dispose of the above complaint. |

In the circumstances aforesaid, the Accused above named are guilty of offences u/s. 138 r/w. 141 of the Negotiable Instruments Act and pray that they be dealt with according to law.

For this Act of kindness, the Complainant in duty bound shall for ever pray.

Solemnly affirmed at Mumbai on )

this 8th day of December, 2006 ) For Trade Wings Hotels Ltd.

Before me

Advocate for the Complainant

**MbsinghDAssociatesHemangiDr. S. Mittal 8 complaint Final.doc**

**LIST OF WITNESSES**

1.                       Mr. Ajay Vageria, the authorized representative of the Complainant.

2.                       Representative of the Complainant Banker, The National Cooperative Bank Ltd., Nariman Point, Mumbai.

3.                       Representative of the Accused Banker, The Industrial Development Bank of India, Nariman Point, Mumbai.

4.                       Dr. Shailendra Mittal, Director of the Complainant Company

5.                       Mr. Om Navani, Director Tulip Hotels Pvt. Ltd.

6.                       Any other witnesses/documents with the permission of this Honble Court.

Advocate for the Complainant

IN THE COURT OF LD. METROPOLITAN MAGISTRATES

23rd COURT AT ESPLANADE, MUMBAI

CASE No. OF 2006

TRADE WINGS HOTELS LIMITED )

Having its Corporate Office at )

18/20 Dubash Marg, Kalaghoda, )

Fort, Mumbai 400 023 )

Having its Registered Office at )

6 Mascarenhas building, )

Mahatma Gandhi Road, )

Panaji, Goa 403 001 )

through Mr. Ajay Vageria )

its Authorised Representative ) COMPLAINANT

V/s

1.ABK Enterprises Pvt. Ltd. )

Having its registered office at )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. )

2.Dr. Ajit B. Kerkar )

[Director and Authorized Signatory] )

of ABK Enterprises Pvt. Ltd. )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. ) ACCUSED

**VAKALATNAMA**

I, Ajay Vageria, the authorized representative of the complainant abovenamed, do hereby appoint, nominate and authorize M/s. Haresh Jagtiani & Associates, Advocates to act, appear and plead on the Complainants behalf in the above matter.

In witness whereof, I have signed this writing on this 8th day of December 2006.

(Complainant)

ACCEPTED

Haresh Jagtiani & Associates,

Advocates

205, Neelkanth

98, Marine Drive

Mumbai 400 002.

N.B. We are not the members of an advocates welfare fund.

IN THE COURT OF LD. METROPOLITAN MAGISTRATES

23rd COURT AT ESPLANADE, MUMBAI

CASE No. OF 2006

TRADE WINGS HOTELS LIMITED COMPLAINANT

V/s

1. ABK Enterprises Pvt. Ltd.

2. DR. AJIT B. KERKAR ACCUSED

**I N D E X**

|  |  |
| --- | --- |
| **Sr. No.** | **Particulars** |

**Exclusive Distributorship Agreement**

This agreement made and entered into day of by and between ......................... INC, a corporation duly organized and existing under the laws of Taiwan with its principal place of business at Taipei Taiwan (hereinafter called Seller )

and

.................................... LIMITED, a company registered under the Companies Act, 1956 with its principal place of business at .............................................. NEW DELHI, INDIA (hereinafter called Distributor ).

Whereas Clause

WHEREAS, Seller is desirous of exporting the products stipulated in article 4 hereof to the territory stipulated in Article 3 hereof and WHEREAS , Distributor is desirous of importing from Seller and selling the said products in the said territory; NOW, THEREFORE, in consideration of the promises and the mutual covenants to be faithfully performed herein contained, IT IS HEREBY AGREED AND UNDERSTOOD AS FOLLOWS:

**Article 1. Appointment**

During the effective period of this agreement, Seller hereby appoints Distributor as its exclusive distributor and Distributor accepts and assumes such appointment.

**Article 2. Privity**

The relationship hereby established between Seller and Distributor during the effective period of this Agreement, shall be solely that of Seller and Distributor has no authority to assume or create any obligation in the name of or of any kind on behalf of Seller.

**Article 3. Territory**

The territory covered under this Agreement shall be expressly combined to entire territory of INDIA. (hereinafter called territory ).

**Article 4. Products**

The products covered under this agreement shall be expressly confined to Uninterruptedly Power Supply (UPS) (hereinafter called Products).

**Article 5. Prices**

As applicable from time to time and conveyed by the Seller to the Distributor in writing & Distributor giving its consent in writing to the Seller.

**Article 6. Technical Improvement and Patent Application**

During the term of this Agreement, Seller shall furnish to Distributor any technical improvements and inventions relating to the Products made by Seller without any delay and free of charge. As Seller has right to apply for the issuance of patents thereon, Distributor agrees to make reasonable efforts to obtain such protection in India. During the term of this Agreement, Distributor agrees to furnish to Seller all technical improvement and inventions related to the Products required by Distributor without any delay and free of charge in consideration of services in Article 6-1 above.

**Article 7. After Sale Service**

Seller will provide one year full guarantee to Distributor after the shipping date. In case of faulty Products, Seller shall replace the faulty units with new All-in one PCB. Distributor shall send faulty PCB back to Seller for repairing. Whenever Seller has received a complaint as to the products from distributor, Seller shall immediately make investigation and take a proper action.

**Article 8. Exclusive Right**

In consideration of the exclusive right herein granted, Distributor shall not purchase, import, sell, distribute or otherwise deal in any products competitive with or similar to Products in Territory, and Seller shall not offer, sell or export Products to Territory through other channel than Distributor during the effective period of this Agreement. The Seller shall not provide assist, supply directly or indirectly to the technical details of the products to anyone in the Territory.

**Article 9.Minimum Purchase**

Distributor shall purchase at least US$ ……………………(U.S. Dollar …………………only ) of product during one (1) year ( 12 months ) during the effective period of this Agreement and its extension thereof, if any.

**Article 10.Individual Contract**

Each individual contract under this Agreement shall be subject to this Agreement but such contract shall be concluded and carried out by Seller's sale note or confirmation which shall set forth the terms, conditions, rights and obligations of the parties hereto arising from or in relation to or in connection with such contract except those stipulated in this Agreement.

**Article 11. Payment**

Payment by either irrevocable letter of credit or remittance by telegraphic transfer through bank. Letter of credit: Within 7 days after the receipt of Seller's confirmation of order, Distributor shall cause irrevocable confirmed Letter of Credit(s) available by Seller's sight draft to be established with a prime bank satisfactory to Seller. Remittance by Telegraphic Transfer. Payment shall be received by Seller 7 days prior to shipment effect.

**Article 12. Information and Report**

Both Seller and Distributor shall periodically and/or on the request of either party furnish information and market reports to each other to promote the sale of Products as much as possible. Distributor shall give Seller such reports as inventory, market conditions and other activities of Distributor.

**Article 13. Sales Promotion**

Distributor shall diligently and adequately advertise and promote the sale of Products throughout Territory. Seller shall furnish with or without charge to Distributor reasonable quantity of advertising literatures, catalogues, leaflets, folders etc.

Representatives of Seller may periodically visit Distributor and advise Distributor in methods and means best suited to promote the sale of Products throughout Territory.

**Article 14. Industrial Property Rights**

Distributor may use the trade-mark(s) of Seller during the effective period of this Agreement only in connection with the sales of Products, provided that even after the termination of this Agreement Distributor may use the trade-mark(s) in connection with the sale of Products held by it in stock at the time of termination. Distributor shall also acknowledge that any and all patents, trademarks, copyrights and other industrial property rights used or embodied in Products shall remain to be sole properties of Seller, and shall not dispute them in any way

**.Article 15. Duration**

This Agreement shall become effective on the day appearing at the first above written upon the signing of both Seller and Distributor and shall remain effective for a period of one year. At least three (3) months before the expiration of the term, Seller and Distributor shall consult with each other for renewal of this Agreement.

**Article 16. Prohibition of sale outside Territory**

Unless prior notice and approved by Seller, Distributor shall not sell or export, nor cause any other person, firm or corporation in Territory to sell or export Products outside Territory during the effective period of this Agreement.

**Article 17. Assignment**

Neither party shall assign and/or transfer this Agreement in whole or in part to any individual, firm or corporation without the prior written consent of the other party.

**Article 18. Observance of Secrecy**

Both Seller and Distributor shall keep in strict confidence from any third party(s) and all important matters as to the business affairs and transactions covered by this Agreement.

**Article 19 .Notice**

All notice which may or shall be given under this agreement shall be made by registered airmail or cable to the address mentioned below or to such address as are notified in writing by the parties hereto. If either party has changed its address, a written notice thereof shall be given to the other party. All notices shall also be deemed to have been given on the day when deposited in post.

**TAIPEI 10560 TAIWAN,R.O.C.**

**Article 20. Assembling**

To secure regular supplies in the territory, if both the parties agree, the seller shall provide all parts of the product to assemble the product in the territory. If the Seller wish to establish its manufacturing unit in the territory, the Distributor shall be given preference to establish such unit.

**Article 21. Governing Law & Arbitration**

This Agreement shall be governed and interpreted by the laws of India. In case that any dispute or controversy arises out of or in relation to this Agreement between both parties shall be settled amicably but, in case of failure, these disputes or controversies shall be finally settled in London by arbitration in accordance with International Commercial Arbitration Association where the award shall be final binding upon the parties hereto.

**Article 22. Entire Agreement**

This Agreement constitutes the entire and only agreement between the parties hereto and supersedes all previous negotiations, agreements, commitments relating to the sale of Products and shall not be released, discharged, changed or modified in any manner, except by instruments signed by duly authorized officer or representative of each of the parties hereto. IN WITNESS WHEREOF, the parties hereto have caused this Agreement in English and duplicate to be executed by their respective duly authorized officer or representative as of the day first above written

.......................................... INC.

[SELLER] ................................................ LTD.

[DISTRIBUTOR]

WITNESSTH

**Form for agreement between the Employer and Employees for Reference of Disputes to Arbitration**

AGREEMENT

BETWEEN

Names of the Parties;

Representing employers:

Representing workmen/workman:

It is hereby agreed between the parties to refer the following dispute to the arbitration of .............................. **[**here specify the name(s) and addressees) of the arbitrator(s)**]**:

                      i.        Specific matters in dispute;

                     ii.        Details of the parties to the dispute including the name and address of the establishment or undertaking involved;

                    iii.        Name of the workman in case he himself is involved in the dispute or the name of the Union, if any, representing the workmen or workman in question;

                    iv.        Total number of workmen employed in the undertaking affected;

                     v.        Estimated number of workmen affected or likely to be affected by the dispute.

We further agree that the majority decisions of the arbitrator(s) be binding on us. In case the arbitrators are equally divided in their opinion, that they shall appoint another person as umpire whose award shall be binding on us.

The arbitrator(s) shall make his (their) award within a period of ............................ (here specify the period agreed upon by the parties) or within such further time as is extended by mutual agreement between us in writing. In case the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

                                                                             Signature of the parties.

                                                                             Representing employer.

                                                                             Workman/Representing

WORKMAN / WORKMEN WITNESSES;

1.

2.

Copy to:

      i.        The Assistant Labour Commissioner (Central), .................. (here enter office address of the Conciliation Officer in local area concerned).

     ii.        The Regional Labour Commissioner (Central)...........................

    iii.        The Chief Labour Commissioner (Central), New Delhi.

    iv.        The Secretary to the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), New Delhi.

**Form of Technical Collaboration Agreement**

THIS AGREEMENT made on this…………..day of……………BETWEEN ………………an Indian company having its registered office at………………. (hereinafter referred to as “A”) of the one part AND……………a foreign firm having its principal place of business at…………..(hereinafter called “B”) of the other part.

WHEREAS “A” is engaged in the manufacturing and marketing of………….and has considerable engineering know-how and technical information and equipment regarding said……………..and their method of manufacture.

AND WHEREAS “A” is desirous of manufacturing in India and marketing in India and other countries of various types of items which are set out in Schedule “A” hereto annexed (hereinafter referred to as PRODUCTS) on the terms and conditions herein contained.

NOW THEREFORE IT IS AGREED between the parties that :

1.           Know how” means and includes all inventions, processes, patents, engineering and manufacturing skill and other technical information whether patent or patentable or not which are presently owned by “B” or which may be so owned, during the term of this agreement including without limitation :

1.       Technical and engineering data, calculations and information.

2.       Design data, calculations and information.

3.       Details of layout of works, including details and specification of machinery

4.       All other forms of recovered information, technique and design in making of jigs, tools, dies, patterns and moulds.

2.

a.     “B” shall fully and promptly furnish “A” with such “know-how” as “A” may require from time to time during the term of this agreement in connection with the manufacture of the products.

b.    “B” will depute ……………technicians at the expense of “A” to held to establish and operate the plant at…………….and to train………..Indian technicians in its work in…………….at expense of “A”.

c.     “A” at their expense, shall procure and maintain patents in India on such inventions and improvements made by “A” : as “A” in their sole discretion shall choose. “B” shall also have the right to use the invention and improvements in all countries outside Indian and shall take full title to such procured by “B” outside India. However, “B” shall not, without the consent of “A”, licence any third party under said patents except its subsidiaries, its parent company or other subsidiaries of the parent company.

d.    “A” shall manufacture the PRODUCTS in strict accordance with the said know-how, the STANDARD of quality embodied therein or as may be set from time to time by “B”. To ensure the performance of this provision, “B” shall have the right to inspect at reasonable intervals and during business hours the facilities of “A” to the manufacture of the said PRODUCTS.

3.       Subject to other provisions of this agreement, “B” hereby grants to “A”.

a.     an exclusive licence to make in India the products by the use of any or all of “Bs” know-how.

b.    b.    a non-exclusive licenses to use and sell the said PRODUCTS throughout the world.

4.

a.     in consideration of “B” having agreed to disclose to “A” the latest method of manufacture of PRODUCTS and other processes and having further agreed to supply technical advice and date, “A” agrees to pay “B” a sum of …………..which due and payable in installments as follows.

                                      i.        Upon effective date.

                                     ii.        Upon delivery by “B” of the complete design and engineering documents.

                                    iii.        Within………….months after tender or certificate of Discharge of guarantees.

……………………..

Total ……………………..

a.     In consideration of “B” for having agreed to disclose to “A” the latest method of manufacture of products and other process, and having further agreed to supply technical advice and date, “A” will arrange to allot “B”…………shares at Rs……….each without any payment by “B”

b.    “A” further agrees to pay to “B” a royalty of………..per cent of the net selling price of the products covered by the agreement for a period of……….years from the date of execution of the agreement. The net selling price would means the ex-works price of the products covered (less the landed cost of all imported components) including ocean freight, insurance, customs duties payable thereon, etc., irrespective of the source of import. Such royalty payments are subject to Indian taxes.



a.     “A” shall render to “B” bi-annual/annual reports on or before the last day of………..following each calendar year with respect to which royalties are payable under this agreement, stating the amount of PRODUCT manufactured in the plant during the preceding year the amount of royalty due and payable with respect thereto. At the time of rendering such reports A shall pay to B the amount of royalty stated therein to be due and payable.

b.    A agrees to keep complete records of the account concerning the products which are the subject- matter of this agreement, which records shall be open to inspection of B ‘its appointed representative agreeable to both parties, during regular business hours for verifying the payments due to B under this agreement .

1. All payments due by A to B under the agreement are to be made in …………………….. to B's account in any bank hit designates.

a.     “A” shall maintain secrecy at all time during this agreement of all the know how, drawings and the like disclosed by “B” to “A” and/or pursuant to the terms herein or about which “A” learns during the performance of this agreement.

b.    “A” will, however, be free to sub-license the technical know-how, product design/engineering design under the agreement to another Indian party/parties, should it become necessary. The terms of such sub-licence will, however, be as mutually agreed to by all parties concerned including “B” and will be subject to the approval of the Government.

1. This agreement shall become effective after it has been duly approved and signed by “A” and “B” and the approval of the Government of India has been obtained thereto.

a.     this agreement shall remain effective for a period of……….. years from the date of signing the agreement. Upon the expiration of this agreement, the KNOW HOW THEREFORE delivered to “A” shall remain its property for its full and free use thereof.

b.    Subject to the approval of the Indian Government, this agreement may be renewed in whole or in part for further period by mutual agreement.

1. This agreement shall be binding upon and ensure to the benefit of the successors and assigns of the respective parties hereto, and the obligations hereunder shall not be assignable by either party without written consent being first obtained from the other.
2. This agreement embodies entire understanding of the parties as to its subject matter, and it shall not be amended except in writing executed by both parties to the agreement.
3. Either party may by notice in writing to the other terminate this agreement in the event of :

a.     Any default by such other party in the performance or observation of any of its obligations under this agreement which is not remedied to the satisfaction of the party giving such notice within ninety (90) days following delivery of such notice, such notice to contain reasonable particulars of such default and to state the intention to terminate the agreement under this clause unless such default is made good or remedied.

b.    Judicial proceedings for bankruptcy, composition with creditors, sequestration of assets for creditors, or receivership instituted by or against such other party, insolvency of such other party or its failure to meet its obligations as they mature for any material period of time.

c.     Liquidation , compulsory or voluntary of such other party except in connection with an amalgamation, reconstruction, merger, consolidation, re-organisation or disposition of assets as a going concern voluntarily undertaken and with a view to the continuance of the business by the transferee thereof, provided, however, that upon such event the business entity continuing the business formerly carried on by such other party shall, in an appropriate instrument delivered to the other party to this agreement, undertake to perform all of the obligations of such other party hereunder.

1. Neither party shall be in default under this agreement by reason of its failure or delay in the performance of its obligations is such failure or delay is caused by acts of God, Government laws and regulations, strikes, lock-outs, war or any other cause beyond its control and without its fault or negligence.
2. All disputes, questions, or differences, etc., arising in connection with this agreement shall be referred to a single arbitrator in India in case parties agree upon one, otherwise two arbitrators in India are to be appointed by each party in accordance with and subject to the provision of the Arbitration & Conciliation Act, 1996, or any other enactment or statutory modification thereof for the time being in force.
3. Notices and other communications under the agreement shall be in writing, or by established cable, radio or facsimile service, addressed as indicated in the description of parties above or as either party may request in writing, and the effective date of each is the date of its repaid deposit in the mail for dispatch by air or such service properly addressed.
4. The agreement should be construed in accordance with and be governed by the laws of India.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

For “B”

……………………….

(Chairman of the Board)

For “A”

……………………….

(Director)

**Letter of Appointment of an Officer**

Shri ................................. .......................................

Dear Sir,

With reference to your application dated ................... and further tests and interview, we are pleased to inform you that you have been appointed by the company as an officer on the following terms and conditions:

1.     Your salary will be Rs. .............. p.m. in the pay scale of .......... plus other allowances as admissible to the officers of the company from time to time.

2.     You will be on probation for a period of one year (extendable upto two years at the discretion of the company) from the date of your appointment. You will be eligible to draw annual increments during the probation period. However, grant of an increment would not mean that the company considers you suitable for being confirmed in the company's service.

3.     You are liable to be posted in any of the offices of the company and to work in any of its departments. You are also liable for transfer to any place in India as the company may decide from time to time without payment of any allowance other than travelling allowance.

4.     You will be governed by the XYZ Co. (Staff Regulations, as amended from time to time.

5.     You will not engage in any other work or carry out any other business except with the permission of the company.

If the above terms and conditions are acceptable to you, please advise us on or before ……………………………….. If no reply is received upto that date, it will be presumed that you are not interested in the companys appointment and your name will be deleted from the selected list.

Yours faithfully

(……..…………..)

Personal Manager

**Agreement between a Company and an Advertising Agency**

**ADVERTISING AGREEMENT**

THIS AGREEMENT executed on this……………..day of 20... at ………….between:

M/s. …….. Manufactures Ltd., a company incorporated under Companies Act, 1956 and having its registered office at…………….. here in after referred to as "the Company" through its Director Mr. ……………. (Which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the FIRST PART

**and**

M/s. XY Advertising Agency, a partnership firm registered under the Partnership Act, 1932 and having its registered office at ........ here in after referred to as "the Agency" through its Partner Mr. ………… (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include every partner for the time being of the said firm, the survivor or survivors or the legal representatives, executors or administrators of the last survivor) of the OTHER PART.

WHEREAS the company is manufacturer of various plastic and fiber products like Office Stationeries, Furniture, kitchen utensils, electronic gadget cabinets etc. hereinafter referred to as "the said products" and desirous to engage the services of an advertising agency for the purpose of advertisement of their products in India and abroad.

AND WHEREAS the Agency has agreed to act as advertising agents for the company on the terms and conditions hereinafter mentioned.

NOW IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1.     The company appoints the Agency to advertise the said products in the newspapers, magazines, journals, cinema slides, video magazines, radio, television or public hoardings as may be determined by the parties.

2.     The Agency shall submit the estimate of cost and method and period of the advertisement to the company and after the said estimate and methods of advertisements is approved by the company in writing, the advertisements will be released to the concerned newspapers, magazines, television centre, etc.

3.     The Agency shall be responsible for preparing all the material for advertising, publicity including art work, photography, cinematography, documentary films, drawing, engraving, advertising writing, preparation of video films for T.V. advertisements and video magazines and if the said works are got done by the Agency at its own office with the help of its employees, the company shall pay for the same at the market rates and settled between the parties. If the said works are got done through outside agencies, the company shall pay all expenses incurred by the Agency for getting the work done through outside agencies.

4.     The company shall pay to the Agency . ……………..per cent above the cost and other expenses incurred by the Agency in this behalf as its commission.

5.     The Agency will be responsible for advertising the said products in India and other countries of the world, wherever the said products are exported or the company proposes to export its products.

6.     Whenever the company manufactures any new product and launches the same in the market for sale, the Agency shall undertake special advertisement campaign for the said new product in consultation with the company.

7.     The Agency will not act as Advertisement Agent of any company/person, who is manufacturing similar products and who are competitors of the company.

8.     The Agency shall observe the laws applicable and the rules or code of conduct of advertisers associations, association of newspapers or rules prescribed by television and radio.

9.     The Agency shall submit a weekly report to the company showing in detail the advertisements given regarding each of the said products separately and showing the dates, the timing or appearance of the advertisements, the names of newspapers/channel of TV given during the previous week. The report shall also accompany the cutting of newspapers/journals/magazines/clippings of T.V. Programme published/broadcast of the products.

10.  The Agency will not infringe any copyright of any person/company while displaying or publishing any advertisement of the company.

11.  The Agency shall indemnify and keep indemnified the company against any loss, claims, demands, actions, proceedings, damages, costs, charges and expenses which may be made or brought or commenced against the company for any act contrary to the provisions of this Agreement or due to or resulting from the breach of any agreement between the Agency and any newspaper/T.V. or any other person relating to the advertisement of the products of the company.

12.  The company shall indemnify and keep indemnified the Agency against any loss, claims, demands, actions, proceedings, losses, damages, costs, charges and expenses which may be made or brought or commenced against the Agency for the publication of any advertisement of the company, which has been prepared on the basis of the material furnished by the company.

13.  The company's budget for advertisement is Rs . ……………..crores per year, and the company agrees and undertakes that it shall get the advertising of its products done through the Agency.

14.  14. This agreement shall be for a period of one year from the date of these presents. However, any party may terminate this agreement before the period of one year by giving two months notice in advance to the other party. In case the Agency commits a breach of any covenant herein contained, the company is entitled to terminate the agreement by giving one week's notice.

15.  On the termination of the agreement, all the advertisement material in the possession of the Agency will be returned to the company forthwith and will not be used by the Agency for any other purpose or persons.

16.  The Agency shall submit bill to the company every month for the expenses incurred by it in advertising and the company shall pay the bill within a period of 10 days of the submission of the bill there for. The commission payable to the Agency shall be payable on the gross value of the work done or undertaken on behalf of the company and shall be paid along with the payment of bill of cost and expenses submitted by the Agency.

17.  The Agency shall also charge service tax on their bills at the rates applicable from time to time.

18.  The Agency shall advise the company of the most up to date, decent and profitable mode of advertisements at moderate

19.  The company shall Endeavour to keep the agency with sufficient funds to pay the expected charges for advertisement.

20.  All disputes between the parties hereto arising out of this Agreement or in relation thereto or regarding the interpretation of this Agreement, shall be referred to an arbitrator appointed by the Indian Council of Arbitration, New Delhi and the provisions of the Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof shall be applicable to such reference.

IN WITNESS WHEREOF the parties hereto have signed this Agreement on the day and year first above written.

WITNESSES

1 The Company

For ………………… Ltd.

(………………………)

Director

2. The Agency

For …………………. Agency

(………………………)

Partner

**Agreement between a Company and Manager**

This Agreement made at ................................ this ............ day of ........................2000, between XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ................................ hereinafter called the company, of the One Part and Shri A son of B resident of ....................................... hereinafter called Shri a of the Other Part.

Where as the company is engaged in manufacture of steel in various forms at its factory at ……....................................................

and Whereas Shri....................................... who was working as the factory manager with the company has resigned and went abroad for higher studies.

And Whereas The company wanted to employ a manager for its factory and for that purpose advertised the vacancy in the leading newspapers and after interviewing all the candidates, who had applied for the post, has selected Shri A for the post of Manager.

**Agreement between a Company and Security Service Company for Providing Security Services to the Company's Property**

This Agreement made at ......... on this ......... day of ....... 2000, between ABC Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ................ (hereinafter referred to as "the Employer", which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors and assigns) of the ONE PART and XYZ Security Guards (P) Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ..........  (hereinafter referred to as "the Company" which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include its successors and assigns) of the Other Part.

Where as the employer is having its factory at .......... hereinafter referred

to as "the said factory" and it wants to employ security guards to provide security services to the said factory.

and Where as The company, who is experienced in providing security services to the industrial units and other organisations has offered to provide security services to the Employer at the said factory and the employer has agreed to avail the said services being provided by the company.

**Now this Agreement Witnesseth as Follows:**

1.     The company shall provide .......... security guards to keep ward and watch and protection of the said factory as per the employer's requirement. The security guards provided by the company will be for twenty-four hours in the shift of 8 hours and shall provide complete security arrangement and protection of the said factory round the clock.

2.     The employer shall give the watchmen's hut constructed on the gate of the said factory to the security guards and the said guards shall cheek all the vehicles and personnel entering into and going out of the said factory as per the instructions issued by the employer's representative from time to time and shall maintain proper record of the vehicles and personnel coming and going out of the factory.

3.     The company at its own expenses shall provide its security guards with necessary uniform, arms, outfit, etc. required for the effective discharge of security services to the employer.

4.     The company shall ensure that the security guards provided by it maintain perfect discipline and behavior and they shall not in any manner cause any interference, annoyance, nuisance to the management of the employer or its business or work or its officers/ employees/other contractors.

5.     The company agrees and undertakes that the security services provided by the security guards shall be to the entire satisfaction of the employer and the company will make it clear to the security guards that the latter are employees of the company and they shall have no claims against the employer and the employer shall not be liable to wages, salary, compensation and any statutory benefits due to the security guards under the labour law and other legislation and the company shall be responsible for providing such amenities to its employees admissible under the law/rules/service conditions.

6.     The company will indemnify the employer against any claim, loss, damage occurred, or caused to the employer due to willful acts or omissions or carelessness or negligence of the security guards employed by the company, while on duty.

7.     The employer shall pay a sum of Rs. .........  (Rupees............... only) per security guard per month and a sum of Rs. ......... per security guard for three national holidays for the services provided by the company on submission of the bill by the company by 10th day of the following month. The employer shall not make any payment to the security guards and payment will be made to the company only.

8.     The company will obtain licence, if any, required under the local or central laws for providing security services to the employer.

9.     The employer shall be entitled to supervise the services provided by the company and if it finds that the conduct, behavior and performance of work of any of its security guard is unsatisfactory, it may issue directions to the company to immediately recall the particular person and substitute him by another and the company shall comply with such directions issued by the employer forthwith.

10.  This agreement will be for a period of one year from the date of execution of these presents. The employer shall, in the event of the company committing any breach of any of the terms and conditions of this agreement or if the services provided by the company is considered to be unsatisfactory by the employer or for any other reason considered by the employer as sufficient, be entitled to terminate this agreement by giving one month's notice in writing and the company shall not be entitled to any compensation in case of such termination. The company may also terminate this Agreement by giving one month's notice in writing to the employer.

11.  On expiry or earlier determination of this agreement, the company and the security guards shall vacate the factory premises, without in any way causing any damage to the said premises and the factory's property therein.

12.  In case of any dispute or difference arising between the parties under this agreement, the decision of  ......... will be final and binding and the company will not be entitled to lodge any claim against the decision of the said Shri ……………...........

13.  The stamp duty on this agreement and duplicate thereof shall be borne by the company. The original shall be retained by the employer and the company shall retain the duplicate.

14.  Unless otherwise agreed upon, the respective addresses for communication in respect of any matter relating to this agreement shall be as under:-

For the Employer ...........................................................

For the Company ............................................................

In Witness Where of, the parties have caused their common seal to be affixed to these presents and the duplicate, the day and year first hereinabove written.

The common seal of ABC Co. Ltd., the within named employer is hereunto affixed pursuant to the resolution of its Board of

Directors passed at the meeting held on   .......………..

The common seal of A B Security Guards (P) Ltd.,

the within named company is hereunto affixed pursuant

to the resolution of its Board of Directors passed at the

meeting held on   ………………......

 WITNESSES;

1.

2.

**Agreement between a Company and Sole Selling Agents**

This Agreement made on this ………………….. day of …………………. BETWEEN Bande & Bande Ltd. (hereinafter referred to as the company ) having its registered office and factory at Mokamganj, Warle, Bombay , of the one part and Jai Jai & Sons (P.) Ltd., carrying on business at Chandni Chowk, Delhi ( hereinafter called the sole selling agents ) of the other part.

Whereas

1.     The company is engaged in the manufacture of cotton and textiles polyester fibre yarn suitings and shirtings.

2.     The sole-selling agents are the whole-sale traders in suitings and shirtings and other textile goods in north India with headquarter at Delhi.

3.     The company in its general meeting held on……………has decided to appoint Jai Jai & Sons (P.) Ltd. as the sole-selling agents for northern India for whole-sale business of the company’s manufactured suitings and shirtings and the Central Government has also approved the appointment of the said sole-selling agents vide letter NO……………………..dated………………

4.     It is agreed between the parties that the company shall appoint Jai Jai & Sons (P.)Ltd. as the sole selling agents for the suitings and shirtings manufactured by the company and the said Jai Jai & Sons (P.) Ltd, have agreed to act as the sole-selling agents for the company.

Now this Agreement Witnesses as Follows :

1.     That the company appoints Jai Jai & Sons (P.) Ltd, Delhi as the sole-selling agents for the North India including the States of J. & K., Haryana, Punjab, Bihar, Rajasthan, Uttar Pradesh, Union territory of Chandigarh and Delhi for the suitings and shirtings manufactured by the company and the said sole-selling agents will have the exclusive right and authority to sell whether in cash or on credit and procure the orders for sale of the said product of the company in any manner in the territories mentioned above.

2.     The appointment of sole-selling agents shall take effect from 1 st day of………….198……………..and shall operate for a period of five years from the said date without prejudice to the right of reappointment but subject to the approval by the Company in general meeting and also subject to the approval by the Central Government as required under section 294 of the Companies Act, 1956, and Rule 2 of the Companies (Appointment of Sole Agents) Rule, 1975.

3.     The sole-selling agents shall have the right to operate in the entire territories of North India as mentioned above either directly or through their branch offices, associates or sub-agents for giving effect to this agreement.

4.     The sole-selling agents in consideration their selling and procuring orders for the sale of the company’s products shall be paid a commission at a rate not exceeding 30% but determinable by the mutual agreement of the parties at the commencement of every year on sales effected by them at agreed intervals of time on the amount actually collected by them in accordance with the incentive rates on the amount collected, agreed to, and described in the Schedule hereinafter annexed.

5.     The sole-selling agents hereby covenant:

               i        That they will exclusively engage in the sale of the company’s products to the best of their efforts and shall not engage in the sale of similar or identical products of other manufactures.

              ii        That they will protect preserve and maintain patents and trade mark of the company’s products sold by them in all possible manner at their own cost and will never allow others to use the same unauthorisedly.

             iii        That they will keep and maintain the full and complete accounts of the sale of the company’s products, area-wise and region-wise and submit quarterly reports of sale, stock in hand, realisation of credit bills and any other information as may be desired by the company at any time or from time to time;

             iv        That they will not create any obligation involving payments either in cash or king on behalf of the company and shall not assign the interest, rights and obligations arising out of these presents to any third party;

              v        That they shall keep the company will informed of the demands of the company’s products arising in the territories of their operation from time to time.

6.     The company also hereby covenants as under :

                      I.        That it shall provide the sole-selling agents complete catalogue, instruction books, circulars for promoting sales of its products and publish advertisements in local and regional newspapers for promoting sales of the company’s products.

                     II.        That it shall execute orders placed by the sole-selling agents with all reasonable despatch

                    III.        That it shall not entertain and execute direct orders from the territories assigned to the sole-selling agents and in case any orders are received by it the same shall be passed on to the sole-selling agents and they will be paid commission 20% on such orders.

7.     The parties hereto hereby agree as under :

                      I.        That nothing contained herein shall prejudice the rights of the company to appoint another selling agents in any of the aforesaid States or to open its own retail shop in writing where it is found necessary to promote public distribution system or to execute any special programme of the Government of India. However, so the company shall obtain prior consent in writing of the sole-selling agents in that behalf.

                     II.        That the retail price of the product shall always be determined by the company in consultation with the sole-selling agents.

                    III.        That the agreement is renewable subject to mutual consent of the parties hereto on the expiry of five years.

                   IV.        That the agreement may be terminated by either party on giving six months, notice in advance to the other party in writing but by registered post.

                    V.        That any dispute arising between the parties hereto shall be referred to the sole arbitrator Shri……………….and the decision/award of such arbitrator shall be binding upon the parties hereto.

                   VI.        That the Delhi courts will have the sole and exclusive jurisdiction of decide the issues in dispute between the parties hereto.

in Witness Whereof, Etc. Schedule Referred to above.

**Agreement between a Company and the Contractors for the Maintenance of Computers for a Fixed Period**

      i.        This Agreement made at ......... on this......... day of ........ 2000, between XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ........... (hereinafter referred to as "the Company", which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART and TNT Computers Pvt. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter referred to as "the TNT", which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the Other Part.

     ii.        Whereas the company has purchased 5 computers, the details of which have been given in the Schedule hereunder written, hereinafter referred to as "the said Computers" from TNT on ......... and TNT offered free service of the said computers for a period of one year from the date of purchase of the said computers. and Where as after the expiry of free service period, the company has requested TNT to provide service of the said computers for a period of one year, which TNT has agreed to provide on the terms and conditions hereinafter contained.

Now These Presents Witness and the Parties hereto agree hereby as Follows:

a.     TNT will provide at the company's office all labour, parts and material that it deems necessary to maintain in good operating condition the said computers. Replacement parts shall be new or their equivalent, replaced parts become the property of TNT. Services provided by TNT include and are limited to the following:

b.    Preventive maintenance is maintenance and includes cleaning, adjusting, lubricating, inspecting, testing and calibrating procedures designed to endure proper operation, reduce product failure and/or extend useful product life. This maintenance will be performed according to the procedures and at the frequencies recommended by the company. Preventive maintenance will be performed at company office at the company's facility during the contract period (regular business days/hours), as mutually agreed or coincident with remedial maintenance, by authorised TNT's service representative. Preventive maintenance is limited to two regular work days unless, at the discretion of TNT, additional days are necessary to complete the preventive maintenance, such days not to exceed five working days. Remedial maintenance during a preventive maintenance that requires additional days will be charged as remedial maintenance call or at the current hourly rate if all remedial calls have been used.

c.     Remedial maintenance is unscheduled maintenance at the company's facility. Remedial maintenance includes the diagnosis and correction of product malfunctions and failures. Remedies may consist of temporary procedures to be followed by the company while a permanent remedy is being sought. Remedial maintenance will commence during the period of this agreement and will continue uninterrupted as long as reasonable progress is being made or until the product(s) is/are operational. If TNT determines that additional parts or resources are required, service will resume as soon as these parts or resources are available. After all remedial maintenance calls have been used, additional remedial maintenance will be allowed at the current TNT hourly rate.

d.    Assembly repair is unscheduled repair of returnable assembly level components (printed circuit boards, power supplies, switching units, etc.) at TNT's factory. Assembly repair includes the diagnosis and correction of product malfunctions and failures. Assembly repair will commence during the period of coverage and will continue uninterrupted as long as reasonable progress is being made or until the product(s) is/are operational. If TNT determines that additional parts or resources are required, service will resume as soon as these parts or resources are available. The number of repairs of assemblies related to equipment covered under this agreement is unlimited.

e.     The periods of coverage specified below shall uniformly apply to all products covered by this Agreement. The company may request a change in the specified periods of coverage at any time. Such change is subject to written approval by TNT.

Monday through Friday 7.30 A.M. to 4.00 P.M.

(excluding TNT holidays)

Saturday N/A TO NIA

Sunday NIA TO NIA

f.     The response time is 48 hours. TNT shall respond to a request for remedial maintenance or technical support within the specified response time measured in clock hours. Availability of TNT personnel and telephone answering service is limited to the specified period of coverage. "Response Time" is defined as the duration of time necessary for TNT personnel to initiate action upon a specified company request and advise the company of either action to take to complete that particular request or action to take to provide TNT with additional information needed to assist in such company's request completion, or the embarkation of TNT personnel for arrival at the company's equipment site.

g.    TNT shall be under no obligation to furnish support service under this agreement should repair be required because of.-

h.     improper use;

i.      natural disasters such as flood or earthquake;

j.      strikes, riots or acts of war or nuclear disaster;

k.     repairs, maintenance, modifications or relocation and re- installation made by other than TNT personnel or without TNT's supervision and approval;

l.      unusual shock or electrical damage, neglect, air-conditioning failure, humidity control failure, a corrosive atmosphere harmful to electronic circuitry, damage during transportation by the company or causes other than ordinary use; and

m.   failure by company to maintain the site specifications recommended by TNT. If support services are required as a result of the causes stated above, such service shall be provided at TNT standard service rates for labour, travel and material in effect at the time of service. TNT may also, at its option, terminate this agreement as a result of the causes stated above. Termination is subject to the guidelines specified under Item 8 of this Agreement.

n.     TNT may, at its option, with no additional charge to the company, make modifications to improve the operation and or reliability of the products being serviced under this agreement.

o.    If the company intends to relocate the products covered under this agreement, it shall give TNT sixty days written notice prior to any relocation of products covered by on-site support services being provided under this agreement. The products moved to a location within the country of original installation shall continue to be serviced under this agreement. The response time and charges will be adjusted to reflect the new location. Products moved outside the country of original installation may continue to be serviced under this agreement, at the option of TNT. The services to be provided and charges for such services shall be subject to mutual agreement. For installed products, which will continue to be serviced, TNT at its option, shall supervise the dismantling and packing of the product and shall inspect and re-install the products at the new location. These services, if provided, shall be at additional charge based on TNT's standard service rates in effect at the time. The company shall furnish all labour and materials for the dismantling, packing and placement of the products during relocation.

p.    TNT's services do not include:

q.    operating supplies and consumables;

r.      refinishing the products or furnishing materials for that purpose;

    iii.        electrical work external to the products;

a.     maintenance of accessories, attachments or products not specified herein or on subsequent orders; or

b.    any other services not specifically described herein.

c.     This agreement shall be for a period of one year from the date of these presents, unless terminated by either party on not less than ninety days written notice (given prior to the expiration of the successive period then in effect).

d.    The company shall pay a sum of Rs.......... per month per computer for services provided by TNT. The said charges are exclusive of State and local use, sales, property (ad valorem) and similar taxes. The company shall pay such taxes and when applicable such taxes will appear as separate items on TNT's invoice.

e.     The TNT shall submit invoice for charges in advance or as soon as it become applicable. Any administration charge will be invoiced in advance as soon as it becomes applicable. Invoices for other charges will be submitted as the charges are incurred. Unless otherwise stated in writing by TNT, the company shall pay all invoices submitted under this agreement within twenty days from date of invoice.

f.     Any attempt to assign or transfer any of the rights, duties, or obligations herein shall render such attempted assignment or transfer null and void.

g.    TNT reserves the right to withhold without liability, but with prior written notice, any services authorised by the company under this agreement, if the company is delinquent in payment for any services, and to change the credit terms herein when, in TNT's opinion, the financial condition or previous payment record of the company so warrants.

h.     In the event of any proceedings, voluntary or involuntary, in it bankruptcy or insolvency or winding-up by or against the company or in the event of the appointment, with or without the company's consent of an assignee for the benefit of creditors, or of a receiver, TNT may y elect to cancel the unfulfilled part of this Agreement without refund or liability for said unfulfilled part.

i.      TNT's failure to exercise any of its rights hereunder shall not constitute or be deemed waiver or forfeiture of such rights.

j.      Any notice required to be given hereunder shall be given in writing at the address of each party set forth within or to such other address either party may substitute by written notice to the other.

k.     All disputes and differences of any kind whatever arising out of or in connection with this agreement shall be referred to the arbitration and final decision of an arbitrator to be agreed upon and appointed by the parties or in case of disagreement as to the appointment of a single arbitrator, to the appointment of two arbitrators, one to be appointed by each party and if there are two arbitrators, they shall before taking upon themselves the burden of reference appoint an umpire. The arbitrator or arbitrators, as the case may be, shall make his or their award within one year or such further extended lime as may be decided by him or them, as the case may be, with the consent of the parties the date of entering on the reference. This submission to the arbitrators shall be deemed to be a submission to arbitration within the meaning of the Indian Arbitration Act, 1940 or any statutory modification thereof. The award of arbitrator or arbitrators, as the case may be, shall be final and binding on the parties.

l.      This agreement shall be executed in duplicate. The original shall be retained by the company and duplicate by the TNT.

in witness Whereof the parties have executed these presents on the day and year hereinabove written and in the manner hereinafter mentioned.

Signed and delivered by X Y Co. Ltd., the within

named company, by its Managing Director Shri.........

Signed and delivered by TNT Computers Pvt. Ltd., the

within named TNT, by its Marketing Director Shri...........

WITNESSES;

1.

2.

**Agreement between a Manufacturer and Selling Agent**

An Agreement made on this………………..day of …………………between ABC & Co. Ltd. having its registered office at………….(hereinafter called the “manufacturer”) of the one part AND PN son of………………..resident of…………….(hereinafter called the agent) of the other part.

Whereas the manufacturer carries on the business of manufacturing banyans, underwear’s, hosiery and other wearing apparel of all kinds.

and Whereas the manufacturers is desirous of opening retail shops in various towns of India and is willing to appoint agents for this purpose who shall have to act exclusively as the selling agents of the products of the manufacturer.

and whereas the said agent has approached the manufacturer and expressed his consent to act as such agent on the terms and conditions mutually agreed upon.

Now, therefore, this Agreement Witnesses as Follows:

1.     The manufacturer carries on the business of manufacturing baniyans, underwears, hosiery and other wearing apparel of all kinds.

2.     The manufacturer is desirous of opening retail shops in various towns of India and is willing to appoint agents for this purpose who shall have to act exclusively has the selling agents of the products of the manufacture.

3.     The said agent has approached the manufacturer and expressed his consent to act as such agent on the terms and conditions mutually agreed upon;

Now, therefore, this Agreement Witnesses as Follows :

1.     That the agent shall deposit a sum of Rs…………..as security for the due fulfilment of the terms of this agreement as well as for the adjustment thereof against the price of the goods supplied to the agent by the manufacturer from time to time.

2.     That the manufacturer shall supply an assortment of goods manufactured by it approximately of the value of Rs……………in the first instance and thereafter shall furnish to the agent at his request in writing such further goods as may be so requisitioned by him or as the manufacturer may think expedient to supply to the agent to be kept in the shop run by the agent, so that the total value thereof at any time may not, if requisitioned by the agent, exceed the value of Rs…………………but it shall be at the option of the manufacturer to supply further goods of its manufacture, which it may deem expedient, subject, however, to the compliance with the requisition made to the manufacturer by agent as aforesaid to replenish the stock which, in the opinion of the agent, finds a ready market for its sale.

3.     That the agent shall keep proper account and shall issue cash voucher for every article sold by him, which shall be prepared in triplicate, one legible copy whereof shall be submitted to the manufacturer by the agent every Friday or the next day on which the shop is opened by the agent in case Friday should be a close-day. The copies of such vouchers shall be accompanied with a statement of account showing the goods received by the agent from the manufacturer during the previous week ending with Saturday previous to Friday on which the return is so submitted.

4.     That all the goods supplied by the manufacturer shall be deemed to be in trust with the agent for the purposes of sale on behalf of the manufacturer and any willful omission or non-mention thereof in the return of the sale and receipt of goods submitted to the manufacturer weekly as aforesaid shall be deemed to be a misappropriation thereof unless such omission when pointed out and notified by the manufacturer is not rectified or appropriately explained within one week of such notification.

5.     That the manufacturer shall pay to the agent a commission of……….per cent on the sale of the goods so supplied to the agent. The agent shall be entitled to deduct the commission out of the sale-proceeds and shall be bound to remit to the manufacturer the balance of the sale-proceeds receive by the agent up to Saturday previous, which shall be so remitted on or before Friday next ensuing. The agent, however, shall, at his discretion, be entitled to sell not more than 10 per cent of the sales effected during the week on credit and he shall be bound to realise such out standings within two months of the sale be bound to pay in cash from his own pocket for the price of the foods so sold on credit. The return submitted by the agent shall show in a separate account the sales so made on credit and the realizations made thereon from time to time.

6.     That the agent shall not sell any article at a price less than the one marked thereon by the manufacturer or fixed in respect of the article by the manufacturer from time to time. Any article which becomes soiled or partly broken or otherwise unfit for sale or otherwise apparently diminished in value shall not be exposed for sale by the agent except with the prior approval of the manufacturer, and at prices to be mutually settled between the parties. The agent shall be entitled to give a concession of not more than 5 per cent of the saleable value of any article to any old customer of the agent or any relation of the agent. The agent shall indicate in the return submitted by him weekly as provided in the agreement the fact of such sale at concessional rates.

7.     That the agent shall take reasonable care of the goods supplied by the manufacturer and in case of any theft or injury thereto destruction thereof, he shall make a report to the police in case of a cognizable offence having been committed in respect thereof and forward a copy thereof to the manufacturer or submit a report in respect thereof within three days of the occurrence or its cognizance by the agent. the agent shall assist the manufacturer in the apprehension of the offender or in alleviating or removing the cause of such injury, if any. In the event of the manufacturer making a claim for compensation or otherwise from any insurance company the agent shall assist the manufacturer as if the agent was himself the assured.

8.     That the agent shall keep the goods of the manufacturer for sale in a premises approved by the manufacturer which shall kept clean and well equipped with furniture and other conveniences for the customers.

9.     That this agreement is made to run for a period of two years liable, however, to be terminated earlier, ipso facto in the event of bankruptcy or death of the agent or at the expiry of a notice of a fortnight served on or delivered to the agent at his address aforementioned or sent by registered post to him at the said address in case of default of or breach committed by the agent in respect of any of the terms of this agreement. The agent may also terminate this agreement after giving one month’s notice to the manufacturer in any of the aforementioned modes in case the manufacturer should fail to comply with or commit a breach of the terms of this agreement.

10.  That any dispute arising between the parties touching the interpretation or compliance or non-compliance with the terms or conditions of this agreement shall be referred to the arbitration of the President of the District Bar Association who may determine the dispute himself or refer the dispute to the arbitration of any other member of the Bar Association at …………….The fees of the arbitrator shall be determined by the said President with the assent of the parties, failing which by Court having jurisdiction at…………..to try and decide the dispute.

11.  That at the termination of this agreement, the accounts between the parties shall be mutually adjusted within one month of such termination . In case any party fails to assist in such examination or adjustment of accounts and the taking of stock, the other party may refer the examination and taking of accounts to the determination of the President of the District Bar Association at………….and the provision of CI. 9 aforesaid shall apply thereto.

12.  That no commission shall be payable to the agent after the termination of the agreement whether by efflux of time or otherwise under this agreement, except when this agreement is renewed and the parties mutually further agree thereto or the arbitrator in the event of reference thereto, thinks fit to allow such commission either by interlocutory award or finally subject to such terms as the arbitrator may deem proper.

13.  That the agent shall not, during the period of two years fixed in the agreement (and notwithstanding prior determination thereof by any party thereto), sell goods of any other manufacturer or person and the manufacturer shall not appoint any other selling agent within a radius of ……. Yards of the shop of the agent.

in witness whereof the parties have signed this agreement on the day and year first above written.

……………………………….. ……………………………..

(Agent) (Manufacturer)

**Agreement between a Newspaper Publisher and an Advertising Agency for Securing Advertisements**

**ADVERTISING AGREEMENT**

THIS AGREEMENT made at……………..on this……………..day of……………..20………...

**Between:**

M/s. ………………………..., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter called "the company", (which expression, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the FIRST PART

And

M/s. ………………………..., a company incorporated under the Companies Act, 1956 and having its registered office at………….. here in after called "the advertising agency" (which expression, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the OTHER PART.

WHEREAS the company publishes a newspaper……………..hereinafter referred to as "the said newspaper" an English daily in circulation all over India.

AND WHEREAS the company is desirous to appoint advertising agents for securing advertisements for the said newspaper.

AND WHEREAS the advertising agency has agreed to act as the advertising agents for securing advertisements for the said newspaper on the terms and conditions hereinafter mentioned:

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS HEREIN CONTAINED. THE PARTIES HEREBY AGREE AS FOLLOWS:

The company appoints advertising agency as the agents for securing the advertisements for the publication in the newspaper I at the rates mentioned in the First Schedule hereunder written. If the advertising rates are changed by the company, the company shall deliver the copy thereof to the advertising agency under registered post.

The advertising agency shall secure such number of advertisements for the company as shall occupy the space covered by pages of the said newspaper.

The Advertising Agency shall send to the company the matter of each advertisement including block of the photograph to be included in the advertisement two weeks before the intended date of publication. The Agency shall also give a statement about the size of the advertisement, on which dates and on which page of the newspaper the advertisement will be published.

If the advertising agency books any advertisement in the language other than English, the company shall make arrangements for translating the same into English without any extra charge.

The advertising agency will collect the advertisement charges in respect of the advertisements secured by it and shall remit the same to the company every week. If any advertisement charges are not recovered for a period of six months from the date of its publication, the advertising agency shall be liable to pay the same to the company. However, if the said charges are recovered by the company later on, the company shall pay the same to the advertising agency.

The company shall pay a commission of……………..% on the amount, for which the advertisements are secured by the advertising agency and are published in the said newspaper. The company shall pay the amount of commission to the advertising agency by tenth of the next succeeding month in respect of the advertisements secured during a month. The advertising agency shall be entitled to inspect the accounts of the company in respect of advertisements published in the said newspaper.

The advertising agency shall not secure advertisements for any other newspaper during the currency of this Agreement. However, it can act as advertising agency to secure advertisements for the magazines and journals.

The editor of the said newspaper will have the power to refuse publication of any advertisement secured by the advertising agency, if in his opinion the said advertisement is obscene or of such a character that it should not be published in public interest or if published it will violate the provisions of any law in force. If the advertising agency is not satisfied with the decision of the editor, the matter shall be referred to the Managing Director of the Company, whose decision thereon shall be final and binding on both parties.

This Agreement shall continue in force for a period of……………..years from the date of these presents. However, the Agreement may be terminated before the expiry of the period of …………….. years by one month's notice in writing delivered by any party to the other. If the company ceases to publish the said newspaper, this agreement shall be deemed to be cancelled.

If the advertising agency commits breach of any term of this agreement, the company may terminate this Agreement and on such termination, the company shall not be liable for any damages or loss thereunder arising to the advertising agency.

The Advertising Agency shall indemnify and keep indemnified the company against any claim, loss, costs, charges and expenses made by or incurred by or suffered by the company on account of breach of copyright in any advertisement or on account of any advertisement being found defamatory or otherwise objectionable or on any other ground whatsoever.

Any dispute, difference or claim arising out of or in connection with or incidental to this Agreement shall be first attempted to be settled by mutual discussion, failing which the parties shall refer the same to arbitration by an independent Arbitrator appointed by the Mutual consent of both the parties. The Arbitrator shall conduct arbitration proceedings in accordance with the Arbitration and Conciliation Act, 1996 or any amendments thereto. The venue of arbitration shall be at ……………...

IN WITNESS WHEREOF, the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day and year hereinabove written

WITNESSES

1 The Company

For ……………………..

(………………………)

Director

2. The Advertising Agency

For ……………………….

(………………………)

Director

**Agreement between an Owner and an Architect for Construction of a Building**

this agreement made at ......... on this ....... day of........ 2000 and .......... between A, son of Shri X residing at .......... (hereinafter called "the Employer" which expression, unless it be repugnant to the context or meaning thereof be deemed to mean and include his heirs, administrators, executors, legal representatives, successors and assigns) of the ONE PART and Shri........... ......... carrying on business in the partnership name and style of M/s ......... , having their place of work at .......... (hereinafter called "the architects" which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include every partner for the time being of the said firm, the survivor or survivors of the legal representatives, administrators and assigns of the last survivor) of the OTHER PART.

where as the employer is desirous of constructing a building for his residence at ........……….

and Whereas the employer is desirous of appointing the architects as architects for the said building (hereinafter referred to as the "said works") and Where as the architects have accepted the said appointment on the terms and conditions hereinafter contained.

Now, therefore, it is hereby agreed by and between the parties hereto as follows:-

1.     The employer appoints M/s............ Architects, as architects for the said works.

2.     The architects shall render the following services in connection with and in regard to the said works:-

a.     Preparation of sketch designs (including carrying out necessary revisions till the sketch designs are finally approved by the employer), making approximate estimates to enable the employer to take a decision on the sketch designs;

b.    Submission of the site plans and other drawings to the municipal corporation ........... and obtaining its approval;

c.     Preparation of architectural working drawings, making structural calculations and preparing all structural, mechanical, sanitary, plumbing, drainage, electrical drawings, specifications, detailed estimates of cost or such other particulars as may be necessary for the preparation of bills of quantities;

d.    Preparation of landscapes and planting drawings;

e.     Preparation of six copies of the contract documents including all drawings, specifications, bill of quantities, or other particulars and such further details and drawings, as are necessary for the proper execution of the works; (f)Supervision and inspection of the said works by the general contractor, sub-contractor, consultant, etc. that may be engaged from time to time by visiting the site periodically;

f.     To check measurements of works at site, checking contractor's bills, issuing periodical certificates for payment and passing and certifying accounts, so as to enable the employer to make payments to the contractors and making adjustment of all accounts between the contractors and the employer;

g.    Submission of detailed account of the steel, cement and any such other material as the employer may specify, and certify the quantities utilised in the works;

h.     Obtaining of building completion certificate and securing permission of Municipal Corporation or other authority for the occupation of the building and obtaining refund of deposits, if any, made by the employer to the Municipal Corporation or other authority;

i.      Any other service connected with the said works usually and normally rendered by architects and not referred to in any of the items referred to above.

3.     The architects shall submit to the employer the sketch plans, tender documents, etc. within the period stipulated in the Schedule hereto annexed.

4.     The architects shall exercise all reasonable skill, care and diligence in the discharge of duties hereby covenanted to be performed by them and shall exercise such general superintendence and inspection in regard to the said works as may be necessary to ensure that the work is being executed in accordance with the working drawings and specifications aforesaid and that the work is free from defects and deficiencies. The architects shall be fully responsible for the structural soundness of the works.

5.     The construction cost shall not exceed Rs. ........... per square meter and should conform to the norms of ......... The construction cost shall not include:-

a.     cost of land;

b.    architects fees;

c.     any services relating to fitting or fixtures not designed by the architects; and

d.    soil testing fees.

6.     The architects shall not make any deviation, alteration, addition or omission from the approved drawings without the prior written consent of the employer.

7.     The architects shall on the completion of the work supply to the employer at their expenses two copies of one-eighth scale drawings (one of which shall be in tracing cloth); two complete sets of structural drawings and two sets of drawings sufficient to show the main lines of drainage, electrical installation and other essential services.

8.     The architects shall arrange for taking trial bores, test pits, or other preliminary tests required to be carried out before the commencement of the said works and submit their report to the employer. The cost of carrying out such tests shall be borne by the employer.

9.     The architects shall prepare a comprehensive program of work in consultation with the contractors, and arrange to have the work completed in an expeditious manner and in accordance with the program drawn up.

10.  The architects shall, at their own expenses engage a qualified (i) Electrical Engineer; and (ii) Sanitary, Drainage and Water Supply Consultant with the qualifications and experience approved by the employer to assist them in their work.

11.  Either party may terminate this agreement at any time by giving a written notice of two months to the other party. Even after the termination of their employment, the architects shall remain liable and be responsible for due certification/approval of any bills submitted by the contractors at any time, in respect of the work, executed before the termination of the architect's appointment; but shall not be entitled to additional remuneration therefor. If the architects shall close their business or die or become incapacitated from acting as such architects, then the Agreement shall stand terminated. If the architects fail to adhere to the time Schedule stipulated in the Schedule hereto annexed or the extended time which may be granted by the employer in its sole discretion, or in case there is any change in the constitution of the firm of the architects for any reason whatsoever, the employer shall be entitled to terminate this agreement and entrust the work to some other architect.

12.  The employer or the architects shall not assign, sublet or transfer their interest in this agreement without the written consent of the other.

13.  The employer shall pay to the architects as remuneration for the services to be rendered by the architects in relation to the said works, and in particular for the services hereinbefore mentioned, a fee calculated at the rate of 3% on the value of the works as estimated (including the authorised extra) or the value of the works actually executed and completed whichever is less.

14.  The employer shall pay fees to the architects in stages as follows:-

a.     10% of the total fees, payable after completion and approval of the site plans by the employer;

b.    30% of the total fees [less any amounts paid under clause (a) above], payable after completion of all drawings and the approval of site plan by the Municipal Corporation or other authorities;

c.     10% on completion of detailed estimates, submission or recommendations on the contractor's rate to the employer, and execution of the contract documents for the various trades. The employer may make part payments in proportion to the services completed in respect of particular trades;

d.    Out of the remaining 50% of the total fees, 30% of the total fees shall be paid by installments as the building work proceeds, and in proportion to the value of the said works as certified from time to time and balance 10% after final completion of the building and closing of accounts;

e.     In case this agreement is terminated earlier, fees shall be paid to the architects for the actual services rendered as per stages referred to in this clause.

15.  If the architects fail to observe the time schedule, they shall be liable to pay to the employer-liquidated damages at the rate of Rs. ......... per day till the work remains incomplete. The employer shall be entitled to recover the said liquidated damages from any sum payable to the architects under this agreement.

16.  Notwithstanding anything contained hereinabove, it shall always be open to the employer to exclude from the scope of the services to be rendered by the architects under these presents the supervision and execution part of the project and reduce the scale of fees, in which case the terms, conditions, scale of fees, etc. shall be as detailed in the Annexure hereto.

17.  If any dispute, difference or question shall at any time arise between the parties as to the interpretation of this agreement or arising out of this agreement or as to the rights, liabilities and duties of the parties hereunder, or as to the execution of the said works, the same shall be referred to the arbitration and final decision of an arbitrator to be agreed upon and appointed by both the parties or in case of disagreement as to the appointment of a single arbitrator, to the appointment of two arbitrators one to be appointed by each party, which arbitrators shall, before taking upon themselves the burden of reference, appoint an umpire whose decision in the matter shall be binding on both the parties. It is hereby provided that the arbitrator so appointed shall make his award within six months from the date of the arbitrator or arbitrators, as the case may be, entering on the reference. This submission to arbitration shall be deemed to be a submission to arbitration within the meaning of Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The award of the arbitrator or arbitrators, as the case may be, shall be final and binding on the parties. The parties agree that if work under this agreement has not been completed at the time of reference of dispute to arbitration, the work shall continue during the arbitration proceedings and the employer shall make the payment to the architects within the provisions of this agreement and shall not withhold any money payable to the architects on account of arbitration proceedings unless authorised by the arbitrators.

18.  This agreement shall be executed in duplicate and the architects shall bear the stamp duty on the original. The employer shall retain the original and the architects shall retain the duplicate.

In Witness Where of the parties hereto have subscribed their respective hands hereto and on a duplicate hereof on the day and year hereinabove first mentioned.

Signed and delivered by the within named employer A Signed and delivered by the within named architects by its Managing Partner

WITNESSES;

1.

2.

Schedule Period

1.     Submission of site plan with in .......... days from the date of the execution of this agreement.

2.     Submission of the required plans with in .......... days from the to the Municipal Corporation and date of receipt other local authorities of employees approval of the site plan.

3.     Submission of detailed working with in .......... weeks from the drawings and estimates date of receipt of employer's approval of the site plans.

4.     Submission of architect's Within 2 weeks from the date of recommendations on the receipt of the tenders from the contractor's rates employer.

5.     Other drawings, etc., if any within a reasonable time.

**Agreement between Builder and a Broker for Selling the Flats to be constructed**

THIS AGREEMENT made at .................. on this ............... day of ....................., 2000, between ABC Construction Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at     ....................... hereinafter called 'the Builder" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART; and Shri XYZ son of Late Shri............................ resident of ........................ hereinafter called "the Broker" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his heirs, legal representatives, executors and administrators) of the

**Other Part**

Where as The builder is constructing residential flats at ................. more particularly described in the Schedule hereunder written; and wants to sell those flats and for the said purpose the services of the brokers are required.and Whereas the broker has approached the builder and expressed his consent to act as broker for the sale of the flats on the terms and conditions mutually agreed upon.

**Now This Agreement Witnesses As Follows:**

1.             The builder appoints the broker for selling the flats being constructed by him, more particularly described in the Schedule hereunder written at the price and on the terms and conditions laid down in Annexure 1 to this agreement

2.             The broker will be entitled to the commission at the rate of 5 per cent on the cost of the flats booked by him.

3.             The builder hereby represents and warrants that he is having clear and marketable title to the flats, free from any encumbrance, charge, lien, mortgage or attachment. The builder also represents and warrants that the material used in the flats is of best quality.

4.             The builder hereby gives the period of six- months hereof for the sale of the flats described in the Schedule hereunder written and he shall not be authorised to sell the flats after the period of six months.

In Witness Where of the parties have set their respective hands to these presents on the date, month and year hereinabove written.

**Schedule**

Annexure 1

Signed and delivered by ABC Construction Co. Ltd. through the hands of Shri..............................

Managing Director

Signed and delivered by XYZ

WITNESSES;

1.

2.

**Agreement between Manufacturer and Commission Agent**

This Agreement made on this ………………….. day of …………………. between Bande & Bande Ltd. (hereinafter referred to as the company ) having its registered office and factory at Mokamganj, Warle, Bombay , of the one part and Jai Jai & Sons (P.) Ltd., carrying on business at Chandni Chowk, Delhi ( hereinafter called the sole selling agents ) of the other part.

Whereas

1.     The company is engaged in the manufacture of cotton and textiles polyester fibre yarn suitings and shirtings.

2.     The sole-selling agents are the whole-sale traders in suitings and shirtings and other textile goods in north India with headquarter at Delhi.

3.     The company in its general meeting held on……………has decided to appoint Jai Jai & Sons (P.) Ltd. as the sole-selling agents for northern India for whole-sale business of the company’s manufactured suitings and shirtings and the Central Government has also approved the appointment of the said sole-selling agents vide letter NO……………………..dated………………

4.     It is agreed between the parties that the company shall appoint Jai Jai & Sons (P.)Ltd. as the sole selling agents for the suitings and shirtings manufactured by the company and the said Jai Jai & Sons (P.) Ltd, have agreed to act as the sole-selling agents for the company.

Now this Agreement Witnesses as follows:

1.     That the company appoints Jai Jai & Sons (P.) Ltd, Delhi as the sole-selling agents for the North India including the States of J. & K., Haryana, Punjab, Bihar, Rajasthan, Uttar Pradesh, Union territory of Chandigarh and Delhi for the suitings and shirtings manufactured by the company and the said sole-selling agents will have the exclusive right and authority to sell whether in cash or on credit and procure the orders for sale of the said product of the company in any manner in the territories mentioned above.

2.     The appointment of sole-selling agents shall take effect from 1 st day of………….198……………..and shall operate for a period of five years from the said date without prejudice to the right of reappointment but subject to the approval by the Company in general meeting and also subject to the approval by the Central Government as required under section 294 of the Companies Act, 1956, and Rule 2 of the Companies (Appointment of Sole Agents) Rule, 1975.

3.     The sole-selling agents shall have the right to operate in the entire territories of North India as mentioned above either directly or through their branch offices, associates or sub-agents for giving effect to this agreement.

4.     The sole-selling agents in consideration their selling and procuring orders for the sale of the company’s products shall be paid a commission at a rate not exceeding 30% but determinable by the mutual agreement of the parties at the commencement of every year on sales effected by them at agreed intervals of time on the amount actually collected by them in accordance with the incentive rates on the amount collected, agreed to, and described in the Schedule hereinafter annexed.

5.     The sole-selling agents hereby covenant:

               i        That they will exclusively engage in the sale of the company’s products to the best of their efforts and shall not engage in the sale of similar or identical products of other manufactures.

              ii        That they will protect preserve and maintain patents and trade mark of the company’s products sold by them in all possible manner at their own cost and will never allow others to use the same unauthorisedly.

             iii        That they will keep and maintain the full and complete accounts of the sale of the company’s products, area-wise and region-wise and submit quarterly reports of sale, stock in hand, realisation of credit bills and any other information as may be desired by the company at any time or from time to time;

             iv        That they will not create any obligation involving payments either in cash or king on behalf of the company and shall not assign the interest, rights and obligations arising out of these presents to any third party;

              v        That they shall keep the company will informed of the demands of the company’s products arising in the territories of their operation from time to time.

6.     The company also hereby covenants as under :

               i        That it shall provide the sole-selling agents complete catalogue, instruction books, circulars for promoting sales of its products and publish advertisements in local and regional newspapers for promoting sales of the company’s products.

              ii        That it shall execute orders placed by the sole-selling agents with all reasonable despatch

             iii        That it shall not entertain and execute direct orders from the territories assigned to the sole-selling agents and in case any orders are received by it the same shall be passed on to the sole-selling agents and they will be paid commission 20% on such orders.

7.     The parties hereto hereby agree as under :

               i        That nothing contained herein shall prejudice the rights of the company to appoint another selling agents in any of the aforesaid States or to open its own retail shop in writing where it is found necessary to promote public distribution system or to execute any special programme of the Government of India. However, so the company shall obtain prior consent in writing of the sole-selling agents in that behalf.

              ii        That the retail price of the product shall always be determined by the company in consultation with the sole-selling agents.

             iii        That the agreement is renewable subject to mutual consent of the parties hereto on the expiry of five years.

             iv        That the agreement may be terminated by either party on giving six months, notice in advance to the other party in writing but by registered post.

              v        That any dispute arising between the parties hereto shall be referred to the sole arbitrator Shri……………….and the decision/award of such arbitrator shall be binding upon the parties hereto.

             vi        That the Delhi courts will have the sole and exclusive jurisdiction of decide the issues in dispute between the parties hereto.

in Witness Whereof, Etc. Schedule Referred to Above.

**Agreement between Manufacturer and Sole Selling Agents with Canvassing Rights**

THIS AGREEMENT made on this ......... day of ......... 2000, between XYZ Pharmaceuticals Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter called "the company" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART; and ABC Pharmaceuticals Distributors Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...... hereinafter called "the distributor" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the OTHER PART:

Where as the company is engaged in the manufacture of several medicines and has decided to appoint a sale selling agent for the whole of India with canvassing rights and the distributor has agreed to work as such and

Where as the distributor is being appointed at sole selling agents having exclusive right to sell the medicines manufactured by the company in whole of India; and

Where as the Board of Directors of the company is making this appointment, subject to its approval by the company in its first annual general meeting held after the date of this appointment and approval by Central government?

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

1.     The company appoints the distributor as sole selling agents for the sale of all the medicines manufactured by it in the whole of India and the distributor agrees to act as such sole selling agents for the whole of India on the terms and conditions contained herein.;

2.     The appointment will be for a period of five years commencing from the date of this agreement. However, it may be extended for further periods not exceeding five years on each occasion.

3.     The distributor shall canvass for, secure orders and push the sale of the medicines manufactured by the company to the best of its ability and experience in the whole of India and guarantees to secure orders for the sale of medicines to the extent of the value of Rs. .......... in a year commencing from the date of this agreement.

4.     The distributor will advertise the company products at its own cost and expenses by advertisements in newspapers, journals, magazines, cinema slides or by any other means. However, the company may advertise at its own costs at its discretion whether in newspapers, journals, cinema slides or by any other means and shall indicate the name of the distributor as its sole selling agents.

5.     The distributor shall employ medical representatives at its own cost and expenses for canvassing the company products amongst the doctors, hospitals, nursing homes, etc. The distributor shall also employ servants, staff at its own cost and expenses for doing the business of sole-selling agency.

6.     The distributor will be entitled to appoint sub-agents for any State/District or any particular area in the country and on such terms and conditions as the distributor may think fit. However the company shall not be liable for any dealing between the distributor and its sub-agents.

7.     The distributor shall submit to the company weekly return of the business secured, the doctors and hospitals approached and canvassed during the previous week.

8.     The distributor shall forward to the company the orders booked and enquiries received by it not later than two days from its booking. The distributor shall remit the money received by it in advance from the customers to the company and an account thereof shall be submitted to the company every Friday.

9.     The distributor shall not make any representation on behalf of the company except in conformity with the instructions issued by the company.

10.  The distributor shall book orders of the company's products on the terms and conditions mentioned in the Schedule attached hereto. The terms and conditions shall be subject to change by circulars or instructions by the company from time to time and the distributor will be bound to follow the instructions issued by the company from time to time.

11.  The company shall pay a commission of ......... % on all orders received directly or indirectly from the customers through the distributor, which have been executed by the company. The company shall make payment of the commission to the distributor at the end of every month.

12.  During the term of this contract, the distributor shall not sell or attempt to sell the medicines for any other Indian or foreign company.

13.  The agency may be terminated by the company, at any time during the agency period of five years, after giving one month's notice thereof, in case the distributor fails to comply with the instructions issued by it or if it omits to comply with its obligation imposed upon it under this agreement or if the distributor fails to obtain or procure orders for the minimum guaranteed amount or if the company feels that the distributor is guilty of any conduct, which is prejudicial to the interest of the company and in this matter the decision of the Board of Directors of the company will be final. The distributor may also terminate this agreement at any time during the agency period, after giving one month's notice thereof, if the company fails to execute the orders booked by the distributor or if the medicines supplied by it are sub standard or if the company without just cause withhold the payment of the commission due to the distributor under the agreement for a period of three months.

14.  The distributor shall be responsible to make the payment of the medicines supplied by the company on the orders received by the distributor, if the constituent to whom medicines were supplied by the company refuses to pay for the same within two months of the receipt of medicines. The distributor shall be liable as the surety for the payment of orders booked by it.

15.  The distributor shall deposit a sum of Rs.......... with the company to ensure the obligations imposed upon it under this agreement. The said sum shall not carry any interest. The said sum will be repayable to the distributor after one month of the termination of the agreement after adjustment of accounts between the parties.

16.  Any and all disputes, controversies, differences arising between the parties hereto out of or in relation to this agreement or any breach thereof shall be finally settled by arbitration by two arbitrators, one to be appointed by each party to the dispute and the arbitrators shall, before taking upon themselves the burden of reference appoint an umpire. The award given by the arbitrators or umpire as the case may be, shall be, final and binding on the parties.

17.  At the termination of this agreement whether by efflux of time or otherwise, the company shall not be liable to pay any commission to the distributor for the orders received after the expiry of agency period.

18.  This agreement shall be executed in duplicate. The company shall retain the original and the distributor the duplicate. Each party shall bear the stamp duty payable in respect of its copy.

19.  Unless otherwise agreed upon, the respective addresses for communication in respect of any matter relating to this agreement shall be as under:

For the Company:..........................

For the Distributor:........................

In Witness Where of the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day, month and year first; hereinabove mentioned.

**Schedule**

The common seal of XYZ Pharmaceuticals Ltd. was hereunto affixed pursuant to the Resolution of its

Board of Directors passed on.......... day of .......... 2000, in the presence of S/Shri .......... and ........... directors of the Company, who have signed in token thereof

 The common seal of ABC Pharmaceuticals Distributors Ltd., was hereunto affixed pursuant to the Resolution of its Board of Directors passed on ......... day of……….2000, in the presence of S/Shri……………… and………….. directors of the company who have signed in token thereof.

WITNESSES;

1.

2.

**Agreement between Owners and Labour Contractor for Supply of Labour**

This Agreement made between A, son of B, resident's of ............... hereinafter referred to as the owner of the ONE PART and C, son of D, resident of .......... hereinafter referred to as the contractors of the Other Part.

Whereas the owner is getting the construction of building on the land bearing Plot No.......... Survey No. ......... House No. ...... situate, lying and being in village......... Tehsil ........ District.......... hereinafter referred to as the 'said work' and is desirous of availing of labour for the said work.

And Whereas The contractors are the contractor for the supply of all types of labour required for the construction work and offered their services to the owner, which the owner has agreed on the terms and conditions hereafter set forth.

**Now It Is Mutually Agreed Between The Parties As Under:**

1.     The contractors will supply all labour viz. masons, labourers, water carriers and other necessary workers required for the said work to the owner at site provided that the requisition thereof is made .......... hours in advance.

2.     The labour shall be paid at the prevailing market rate. The present prevailing market rate of labour of all type has been given in the Schedule hereunder written. The said rates may be changed by the mutual consent of the parties.

3.     The contractors will be entitled to a commission of .......... on the total disbursement made to the labour so supplied by them. The said commission shall be payable to the contractors every week.

4.     The contractors will be liable for and make good any loss or damage, caused by any act or default on the part of the labour supplied by them.

5.     If the contractors fail to supply necessary labour on a requisition made by the owner in time, they will be liable to pay a sum of Rs. ............. as liquidated damages per labourer, mason, water carrier or any other worker not supplied by them in accordance with the requisition by the owner.

In Witness Where of the parties hereto have set their respective hands to these presents on the date, month and year hereinabove written.

Signed and delivered by the within named owner A

Signed and delivered by the within named contractors C

WITNESSES;

1.

2.

**Agreement by Manufacturing Company to Appoint Agent**

This Agreement is made on this ..............day of................. 19...... between :

1.     X. Co. Ltd. Of Bombay, hereinafter called the manufacturer ;

and

2.     Mr. C s/o Mr. D r/o XYZ, hereinafter called the agent.

1.     Whereas the manufacturers are manufacturing Electronic Products and are desirous to appoint an agent for the sale of the products.

2.     And whereas the agent has approached and is willing to work as agent of the manufacturer.

**NOW THIS AGREEMENT WITNESSES AS UNDER :**

1.     The manufacturer appoint Mr. C as agent of the products of the manufacturer for the area specified here under ....................... (Specify the area for which agent has been appointed).

2.     The appointment of the agent is made by the Board of Directors with the condition that the appointment is subject to approval by the General Body at its first general meeting after the appointment of the agent and if it does not approve the agreement shall cease to be valid.

3.     This appointment shall be effective for a period of three years from the date of appointment. However, the period can further be extended for the period not exceeding more than three years' on each period of extension.

4.     The manufacturer undertakes that no retailing shall be made below the rates as under (here specify the rates).

5.     The agent undertakes not to sell goods in retail below the rates given in the agreement.

6.     The agent shall be entitled to an agency commission of 5% on the sale price of the goods.

7.     That the agent shall get the consignment on 30 days' credit. The agent shall make the payment of the consignment within 30 days' from the date of receipt of the goods.

8.     That the manufacturer shall not sell the goods in the areas for which the agent has been appointed. All correspondence etc. In this regard, if received by the manufactured shall be forwarded to the agent for doing the needful.

9.     The agent can appoint sub-agents in the areas of agency.

10.  The manufacturer shall execute all orders of the agent according to availability of the stock with them.

11.  That the agent shall not place any order for a quantity below the minimum supply of the goods. In the same way the manufacturer shall not supply below the minimum quantity of goods to the agent.

IN WITNESS whereof the parties have executed these presents of the day, month and year first above written.

Sealed, signed and delivered

by Mr. A pursuant to

Board Resolusion dated

......... of X & Co. Ltd \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Secretary)

Sealed, signed and delivered

by Mr. C. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mr. C ( Agent )

In the presence of

1. ...............

2. ...............

**Agreement for Appointment of a Broker for Selling a House**

This Agreement made at ......... on this ................. day of ......................, 2000, between A S/o. B resident of .................. hereinafter called "the owner" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his heirs, legal representatives, executors and administrators) of the ONE PART and C S/o D resident of ........................... hereinafter called "the broker" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his heirs, legal representatives, executors and administrators) of the OTHER PART.

Where as the owner is the absolute owner of the property described in the Schedule hereunder written and he wants to sell the same and for that purpose he requires the services of a broker.

and Whereas the broker, who is a reputed broker dealing in real estate in the area has shown his willingness to sell the said property.

and Whereas the owner has agreed to appoint the broker for the sale of his property described in the Schedule hereto on the terms and conditions as hereinafter appearing.

**Now this Agreement Witnesses as Under:**

1.     The owner authorises the broker to sell the property for a consideration of Rs.................. out of which the purchaser shall pay Rs ...................... in advance as earnest money and the balance of Rs ...................... shall be paid within a period of three months at the time of registration of the conveyance deed.

2.     The owner hereby represents and warrants that the details of the property as described in the Schedule hereunder written are true and the title of the owner to the said property is clear, marketable and free from encumbrances.

3.     The owner hereby undertakes that after the receipt of earnest money from the purchaser, he shall deliver the abstract of title showing that he is the owner of the property and the property is free from mortgage, lien, charge or any encumbrance.

4.     The owner hereby agrees that on receipt of entire consideration in respect of the property, he shall execute conveyance deed in favour of the purchaser.

5.     The broker hereby agrees that he shall be able to sell the property within a period of one month from the date of these presents.

6.     The owner shall pay to the broker the commission at the rate of 2% of the consideration, which shall be payable at the time of execution of the conveyance deed of the property.

In the Witness Where of the parties have hereunto set their hands, the day, month and year first above written.

**Schedule of the above property**

Signed and delivered by A s/o B, the within named owner

Signed and delivered by C s/o D, the within named broker

WITNESSES;

1.

2.

**Agreement for Appointment of a Distributor for a Specified City**

**DISTRIBUTOR AGREEMENT**

THIS Agreement is made at……………..on this……………..day of……………20……… between:

M/s. ……………, a partnership firm having its principal office at………… (hereinafter referred to as "the Principals", which expression shall unless repugnant to the context, be deemed to include the partners for the time being and from time to time constituting the said partnership firm, the survivor of them, the legal representatives, heirs, executors and administrators of such last survivor) of the ONE PART.

And

M/s. PQR Enterprisers, through its proprietor Shri…………….. (hereinafter called "the Distributor" which expression shall unless repugnant to the context, be deemed to include his heirs, administrators, executors, legal representatives, successors and assigns) of the OTHER PART.

WHEREAS the Principals are the sole selling agents of M/s. ABC Ltd., for the whole of India and under the Agreement dated……………..executed between M/s. ABC Ltd and the Principals, the Principals are entitled to appoint agents, distributors for marketing the products of ABC Ltd, hereinafter referred to as the company.

AND WHEREAS the distributor has got a big showroom at……………..and has requested the Principals to appoint it as its distributor for marketing the company's products.

AND WHEREAS the Principals have agreed to appoint M/s. PQR Enterprisers as their distributor to sell the products of the company.

NOW IT IS HEREBY AGREED BETWEEN THE PARTIES AS UNDER:

1.     The Principals appoint M/s. PQR Enterprisers as the sole distributor for the city of Jaipur, Rajashtan for the purpose of promotion and sale of the company's products for a period of …… years from the date hereof on the terms and conditions set forth hereunder.

2.     The distributor shall work conscientiously and in a business like manner for the promotion and sale of the products of the company.

3.     The distributor shall fix the retail price in consultation with the Principals from time to time and make the sale of the company's products against cash memos.

4.     The distributor shall maintain fifteen days stock of company's products for sale at his own cost and shall not pledge the stock to bankers or other creditors without obtaining the prior consent from the Principals in writing. The Principals may grant consent for the pledge of the stock subject to terms and conditions and the distributor shall abide by such terms and conditions and bring the same to the notice of the bankers or creditors.

5.     The distributor shall not sell the goods directly or indirectly outside the agency district. The distributor while selling the company's products to persons in trade shall obtain undertaking in writing that the company's products shall not be re‑sold outside the district agency and the said products shall not be re‑sold to the public below the fixed retail price.

6.     The distributor shall be responsible for the rent and other expenses of the showroom and godown occupied by him for the purpose of agency business. He shall at his own expense keep insured the company's products for full value against all risks. The Principals may inspect the receipts for the rent, rates and taxes of the showroom and godown and for the premium of insurance policies. The Principals will not be liable or responsible for the expenses relating to or incidental to the said agency.

7.     The distributor shall make all sales on cash basis and shall keep record of all sales and shall remit the sum received by him to the Principals on each Saturday. The distributor may deduct the commission at the rate of……………..per cent, while remitting the sale proceeds. The distributor shall send weekly reports of the sales, net­ realisation, stock in hand, etc. to the Principals.

8.     The distributor shall be entitled to……………..per cent commission on the sale price of the products realised on the basis of accounts maintained by him.

9.     The products supplied by the Principals shall be the property of the Principals and they will be entitled to take possession of the said products at any time. The distributor shall maintain record of stock received by him, goods sold by him and the goods in stock in godown and showroom. The Principals have the right without prior notice to cause a stock checking of the company products supplied by them and if any shortage or deficiency is found on such stock‑checking, the distributor shall pay to the Principals the list price of such shortage or deficiency less the deduction by way of commission.

10.  The Principals will not sell the company's products to any person in the agency territory and will redirect all inquiries or orders for Principal's products received by them from persons resident in agency district to the distributor. The distributor shall also refer to the Principals all enquiries or orders for the Principal's products from the person’s resident outside agency district and enquiries or orders from persons resident in the agency district for the purpose of re‑sale outside the agency district. The distributor shall not be entitled to any commission on the sale resulting from such enquiries or orders.

11.  The rights under this agreement shall not be assigned or transferred to any other person, except with the prior permission of the Principals in writing.

12.  In the event of any dispute arising between the distributor and any customer regarding the purchase of company's products, the distributor shall inform the Principals immediately, who will advise the distributor the appropriate action which has to be taken by him in the matter.

13.  The distributor guarantees a minimum sale of the value of Rs ……………..per year. In case, the sale falls short by 25% or more for consecutive two years, M/s agreement may be terminated by the Principals.

14.  Any of the parties may terminate this agreement by serving a notice of three months to the other party. The accounts between the parties will be settled and adjusted finally within the aforesaid period of three months.

15.  On the expiry or earlier determination of this agreement, the distributor shall forthwith deliver to the Principals all the unsold stock of goods, all books of account and other documents of agency to the principals and shall pay to the principals for the shortage or deficiency of stocks at list prices less commission allowed to the distributor.

16.  Any dispute, difference or claim arising out of or in connection with or incidental to this Agreement shall be first attempted to be settled by mutual discussion, failing which the parties shall refer the same to arbitration by an independent Arbitrator appointed by the Mutual consent of both the parties. The Arbitrator shall conduct arbitration proceedings in accordance with the Arbitration and Conciliation Act, 1996 or any amendments thereto. The venue of arbitration shall be at ……………...

17.  This agreement shall be executed in duplicate. The original shall be retained by the Principals and the duplicate by the distributor.

IN WITNESS WHEREOF, the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day and year hereinabove written

WITNESSES

1 The Company

For …………………..

(………………………)

Partner

2. The ………………….

For ………………….

(………………………)

Proprietor

Partner

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Top of Form  **Agreement for Appointment of a Sole Selling Agent for a Specific Territory**  **SOLE SELLING AGENCY AGREEMENT**  THIS Agreement is made at……………..this……………..day of……………..20…………… between:  M/s ……………….., a company incorporated under the Companies Act, 1956 and having its registered office at ........... hereinafter called "the Company" (which expression shall unless it be repugnant to the context or meaning thereof, mean and include its successors and assigns) of the First Part  And  M/s. ………………., a partnership firm registered under the Indian Partnership Act, 1932 comprised of its three partners viz. (1)………..(2)…………..and (3)…….. and having their office at ....…….......hereinafter called "the Agents"(which expression shall unless it be repugnant to the context or meaning thereof, mean and include the partners for the time being and from time to time constituting the said partnership firm, the survivors or survivor of them, the heirs, executors and administrators of such last survivor) of the Second Part.  WHEREAS the company is manufacturing various electronic and home appliance products and the agents, having a proper infrastructure to exhibit the company's products, have approached the company to appoint them as its Agent in the State of Rajasthan for the promotion and sale of the products of the company in the said area.  AND WHEREAS the company has accepted the offer of the agents to be its sole selling agents for the State of Rajasthan.  NOW THIS DEED WITNESSES AND THE PARTIES HERETO HEREBY AGREE AS UNDER  1.     The company appoints the agents and the agents agree to act as company's sole selling agents for the State of Rajasthan with effect from ………….or a period of five years for the promotion and sale of the company's products in the said area.  2.     The agents shall make sale of the company's products and shall work conscientiously for the promotion and sale of company's products.  3.     The agents shall sell the goods in retail at the retail rates fixed by the company. The agents shall not sell the goods in retail below the retail price fixed by the company.  4.     The agents shall be entitled to a commission of 4% (four per cent) on the net proceeds of the sale of such goods. However, the commission shall be payable upon money actually received and not on outstanding debts.  5.     The company will not effect direct sale of its products within the area of the State of Rajasthan and all inquiries, orders and correspondence received by the company in relation to that area shall be forwarded to the agents to be dealt with.  6.     The company shall supply the goods to the agents at its own cost and charge as early as possible after receipt of the order in writing.  7.     The company shall reimburse to the agents all reasonable expenses for carriage or delivery of said goods, and other reasonable expenses attending the sale thereof.  8.     The agents shall maintain proper accounts of (i) all goods received by them; (ii) the particulars of the sale thereof; (iii) all credits given on account of any goods. The company's executive and authorized officials shall be entitled to inspect such accounts at reasonable times, who may also take copies or extracts from the same or any of them.  9.     The agents will submit true and proper accounts of (i) all goods received by them; (ii) all orders received by them; (iii) the particulars of all sales; (iv) other transactions made and (v) of all money received and spent by them for and on account of the goods of every quarter to the company in the first week of every quarter. The company will have the right to check the accounts with the account books.  10.  The parties shall settle accounts respecting the sale of goods and other matters on the day in every year.  11.  The company will be entitled to issue reasonable directions and instructions to the agents relating to the sale of the company's products or otherwise relating to the agency business during the continuance of the agency and the agents will be bound to obey and observe the said directions and instructions, unless prevented by unavoidable cause.  12.  The agents shall not during the continuance of the agency buy, sell or deal in the products manufactured by the company, for or on account of any other person other than the company without the consent of the company in writing.  13.  The agents shall not pledge the company's goods supplied to them without the consent in writing of the company.  14.  The agents shall deposit with the company a security of Rs………..in cash for the due performance of this Agreement. The agents shall be entitled to simple interest at the rate of 18% per annum on the amount of the security deposited by them with the company, which shall be paid at the time of settlement of accounts every year. Without prejudice to its other rights, the company may at its discretion, adjust dues or losses suffered by it on account of breach or non­ compliance of the terms of this agreement from the security.  15.  The company may terminate this agreement, if the agents fail to comply with the terms of this agreement or do not make satisfactory sale of the company's products. The company's opinion shall be final in this regard. However, the company shall give one month's notice to the agents to submit its explanation on the grounds on which the company intends to terminate the agreement.  16.  Either party may terminate the agreement by giving three months notice in writing to the other party. The accounts between the parties shall be settled and finally adjusted within the three months from the date of termination of agency.  17.  On the termination of this agreement, the agents will deliver the goods as shall remain unsold, all books of account and documents relating to the said agency to the company.  18.  The agents shall not assign or transfer the agency to any other person in any manner without the consent of the company in writing.  19.  All disputes and differences of any kind whatever arising out of or in connection with this agreement shall be referred to the arbitration and final decision of an arbitrator to be agreed upon and appointed by both the parties or in case of disagreement as to the appointment of a single arbitrator to the appointment of two arbitrators, one to be appointed by each party and if there are two arbitrators, they shall before taking upon themselves the burden of reference appoint a third arbitrator who shall act as Presiding Arbitrator. This submission to the arbitrators shall be deemed to be a submission to arbitration within the meaning of the Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The award of the arbitrator or arbitrators as the case may be, shall be final and binding on the parties.  20.  This agreement shall be executed in duplicate. The original shall be retained by the company and duplicate by the agents. The agents shall bear the stamp duty and other expenses on the original and the duplicate of this agreement.  IN WITNESS WHEREOF, the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day and year hereinabove written  WITNESSES  1 The Company  For ABC Ltd.,  (………………………)  Director  2. The Sole Selling Agent  For XYZ Associates  (………………………)  PartnerBottom of Form | | | | | | |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
|  |  |  |  |  |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Top of Form  **Agreement for Building Where Owner Supplies Plot and All Materials**  An Agreement made on the ………..day of …………….BETWEEN AB, etc. (hereinafter called the “owner”) of the part and CD, etc, (hereinafter called the “contractor”) of the second part.  WHEREAS the owner owns a plot of land measuring ……… meters situate at …. And more particularly described in the plan attached.  and Whereas the owner is desirous of erecting a building on the said plot. and Whereas the plans, drawings, designs and elevations of the said intended building and specifications of the works to be done and of the materials to be provided in and for the erection of the same as prepared by the architect have been approved by the parties.  and Whereas the contractor is willing to execute the said works for the sum of Rs……  and Whereas the materials to be used for the building will be supplied by the owner himself and the contractor will supply labour as well as the building tools and other accessories necessary for the completion of the said building.  Now the Parties Hereto hereby Mutually agree as Follows :  1.     The contractor will clear and prepare the site for and will erect and complete the building in conformity with the plans, drawings, designs and elevations with the materials supplied by the owner in a thorough and work-manlike manner.  2.     Subject to the conditions hereinafter appearing, the owner will pay to the contractor a sum of Rs……. within six months after the contractor has completed the works in accordance with the terms of this agreement and handed over the same to the owner.  3.     The contractor will finish and complete the said building on or before the ….. day of ….. and if the said building shall not be completed on or before the said date, the contractor shall forfeit, out of the moneys which shall be due to him by virtue of this agreement, the sum of Rs….. for every days which shall elapse after the …… day of …… until the said building shall be completed : Provided if the contractor is prevented by any strike among the workmen or by reason of any event beyond his control, the owner may extend time for the completion of the work for such reasonable period as he may think fit under CI. (10).  4.     The contractor will do and perform all works incidental to the proper execution and completion of the building including all works rendered necessary in consequence of the doing of the works and will supply labour necessary for the same and no additional payment will be made for the same.  5.     The contractor will permit the owner to have access to the works while the same are under construction and to inspect the same.  6.     The contractor will not vary or deviate from the said plans and specifications without having first obtained the permission in writing of the owner.  7.     The contractor will, if so required by order in writing signed by the owner, alter the design or size of the works and the materials to be used in constructing the same, provided that he shall not be bound to do so unless the sum to be paid for any extras or to be allowed for any omission has been first fixed by agreement between him and the owner and, in default of agreement, the sum to be so paid or allowed shall be settled by ………………  8.     The contractor shall make good any defects, shrinkage or other faults that may appear in the works within six months after their completion.  9.     While the works are in course of construction and until the owner takes over the same, they and all materials or plants used or to be used in constructing the same shall remain at the contractor’s risk and he shall not be entitled to any compensation for injury, to or loss or destruction of, such works or materials arising from any cause whatever.  10.  If the contractor requires any extension of time for completing the works he must apply to the owner within seven days from the date of the occurrence of the event on account of which he desires such extension; and the owner may, if he thinks such request reasonable, grant such extension of time as he may think necessary.  11.  If the owner is at any time dissatisfied with the progress of the work or with the quality of materials used or of the workmanship he may apply to ……. To depute an Engineer to inspect the works, and if such officer certifies in writing that the rate of progress or the materials used or the workmanship or any or all of them is or are unsatisfactory or not in accordance with this agreement, the owner may then enter upon the site of the works and may employ another builder to complete the same and may pay such builder the cost of such completion out of the sum payable to the contractor under this agreement or the balance of such sum if advances have been made to the contractor, and, if such cost is more than such sum of balance, then the contractor will pay the excess to the owner.  12.  Unless the terms are extended under clause (10) hereof, the contractor will complete a portion of the works of the value of not less than Rs….. on or before the …. And will complete the whole work and will remove from the site of the works all plant, scaffolding, unused materials and rubbish and will leave the works and site clean on or before…….  13.  If the contractor fails to comply with the provision of CI. (12) on or before the dates mentioned therein or within such extended time as be permitted in accordance with CI. (13) hereof, he will pay to the owner as liquidated damages a sum of Rs……………for every day’s delay, and the owner may deduct such sum or sums from any money due to the contractor under these presents or may recover it otherwise.  14.  At the end of each calendar month commencing from the date when the contractor commences work the owner will pay the contractor a sum equal to 80 per cent of the value as estimated by the parties or in case of disagreement between the parties by…………… of the work executed by the contractor during the month and the owner will make final payment to the contractor at the end of six months from the date when the works are completed.  15.  If at any time during the progress of the works or after completion or the alleged completion thereof and at any time during the continuance of this agreement any dispute or differences arise between the parties hereto in relation to or in connection with this agreement, the same shall be referred to the arbitration of Sri…………….as the sole arbitrator or to two arbitrators one to be appointed by each party and provisions or the Indian Arbitration Act, 1940, shall apply . The decision so given shall be final and binding upon the parties.  16.  The contractor will indemnify the owner from all claims for injury caused to any person, whether a workman or not, while in or upon the works or the site of the same the said owner shall not be bound to defend any claim brought under the Workman’s Compensation Act unless the contractor first deposits with the owner might incur by reason of defending any such claim.  in Witness Whereof the parties hereto have signed this agreement on the day and year first written above.  …………………… …………………..  (Contractor)  (Owner)Bottom of Form | | | | | | |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
| https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |
| https://www.advocatekhoj.com/webtemplates/akhome/images/akhome_r8_c1.png | | | | | | https://www.advocatekhoj.com/webtemplates/akhome/images/spacer.gif |  |
| https://www.advocatekhoj.com/webtemplates/akhome/images/akhome_r9_c1.png |  |  |  |  |  |  |  |

**Agreement for Building Where Owner Supplies Plot of Land Only.**

An Agreement made on the ………..day of …………….BETWEEN AB, etc. (hereinafter called the “contractor”) of the part and CD, etc, (hereinafter called the “owner”) of the second part. Whereas

1.     The party of the second part is the owner of the plot of land measuring …………..metres at………………and more particularly described in the plan attached and therein delineated as red.

2.     The owner being desirous of erecting building on the said plot has appointed Shri……………as the architect.

3.     The plans, designs, drawings and elevations of the said intended building and specifications of the works to be done and of the materials to be provided in and for the erection of the said building have been prepared by the purposes of identification by both the parties.

4.     The contractor is willing to enter into an agreement for the execution of the said works for the sum of Rs…………..

Now it is hereby Mutully agreed as Follows:

1.     The contractor shall erect on the said plot of land a building in conformity with the plans, drawing and elevations and complete all the and workmanlike manner and to the satisfaction of the said architect and thesaid specifications, plans, drawings and elevations and of this agreement.

2.     The contractor will finish and compete the said building on or before the………………….day of……………..and if the said building shall not be completed on or before the said date the contractor shall forfeit, out of the moneys which shall be due which shall elapse after the……….day of ………..until the said building shall be completed : Provided that if the contractor is prevented by any strike among the workman or by reason of any event beyond his control, the said architect may extend the time for the completion of the works for such reasonable period as he may think fit.

3.     If the contractor shall become bankrupt, or sahll from any cause whatsoever be prevented from or delayed in proceeding with and completing the said works according to the terms and conditions of this agreement, or shall not proceed with the said works to the satisfaction of the said architect, it shall be lawful for the said architect to leave or cause to be left at the usual place of abode or business of the contractor, a notice or notices in writing for the said contractor to proceed regularly and effectually with the said contractor to proceed regularly and effectually with the said works and in case the said contractor shall , for 7 days after such notice is so left as aforesaid, make default in regularity and effectually proceeding with the said work it shall be lawful for the said architect to employ any other workmen either by contract or measure and value or otherwise to proceed with the said works and complete the same and pay to the said workmen out of the moneys which shall be then due to the said contractor on account of this agreement’s the amount of their charges for the same and ; for all necessary materials to be found and provided for such completion ; and if the amount of balance to the credit of the contractor be insufficient to cover such charges for workmen and materials as are last heretobefore directed to be paid there out, and then in such case the said contractor shall and will make good and pay such deficiency on demand.

4.     If the said architect shall at any time or times consider any of the workmen employed by the said contractor on the works as in any ways incompetent or as acting improperly it shall in every such case be lawful for the said architect to discharge such workman or workmen, and the said contractor shall without delay put another workman or other workmen in his or their place.

5.     In case any of the materials brought on the said premises by the said contractor shall be considered by the said architect unsound or in any respect improper, the said contractor will, upon notice in writing to him or his foreman on the premises given by the said architect cause the same to be removed from off the ground and proceed with the said works with materials corresponding with the said specifications and instructions and approved of by the said architect and on default of such removal within \_\_\_\_\_ days after such last mentioned notice, it shall be lawful for the said architect to cause the same to be removed to such place or places as he may think proper, without being in any way answerable or accountable for the loss or damage that shall happen to any materials so removed as aforesaid, and to cause proper materials to be substituted for the same, and to pay all expenses attending such removal and substitution out of the moneys which shall become due to the said contractor by virtue of this agreement.

6.     In case the said architect shall consider any part of the said works to have been executed in an unsound and improper manner, the said contractor will cause the same immediately to be taken down and executed in a proper manner to the satisfaction of the said architect without any extra charge or expense whatsoever.

7.     If the said architect or the parties hereto of the second part, shall think proper at any time or times to make any alterations or additions to or omission in the works hereby contracted for he or they shall give to the said contractor written instructions for such alterations or omissions signed by the said architect, but the said contractor shall not be considered to claim for the value or otherwise in respect thereof, without such written instructions so signed as aforesaid. Any additional charge by the contractor with respect to such alterations if certified to be correct by the architect shall be paid for in the same manner and at the same time as hereinafter expressed for the payment of the ultimate balance of the said sum of Rs……………….

8.     Any damage arising from accidents or carelessness of the workmen or otherwise to the said work hereby contracted for, or to the materials or implements therein used, shall be borne and effectually made good by the said contractor at his own costs and charges.

9.     The said contractor shall provide all the materials of the best kind available in the market for the said building in accordance with the specification mentioned above.

10.  The said contractor will not, unless with the consent of the said architect, make any sub-contract for the execution of the works hereby contracted for, or any part thereof, nor unless with such consent as aforesaid assign or underlet the present contract.

11.  The contractor shall be paid Rs……. as his remuneration for the labour supplied and material used by him for the aforesaid building in the following manner :Rs……. shall be paid by 12 monthly installments of Rs…… each, the first installment to be paid on ….. and the balance of Rs….. within three months of the completion of the building, provided that in the case of each payment the architect certifies that the work and materials to a sufficient amount shall have been done, executed or provided by the said contractor to the satisfaction of the said architect. Provided also that the said contractor shall not be entitled to payment or receive the said balance of Rs……. until the said architect shall certify under his own hand that whole of said works have been completed and finished to his satisfaction. The decision of the architect shall be binding on the parties and shall be final.

In Witness Where of the parties hereto have signed this agreement on the day and year first written above.

**Agreement for Construction of Building between the Owners and The Contractors on Turnkey Basis**

This Agreement made at ................ on this .................. day of .......... 2000, between A S/o B resident of ............................. (hereinafter referred to as "the Employer", which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...................................... (hereinafter referred to as "the Contractors" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assigns) of the Other Part.

Whereas the employer is desirous of constructing XYZ Bungalow and its vacant land bearing Final Plot No. ............... Survey No. ............... Khasra No. ............ situate, lying and being at .................. Tehsil and District ................... (hereinafter referred to as "the said property") and the contractors have offered to construct the same on a 'turnkey basis' and also to prepare the site layout plans, preliminary sketch designs, architectural drawings, structural drawings, service drawings and all other detailed plans and drawings as may be necessary for the proper construction and completion of the said works and also obtain necessary permissions from the Municipal Corporation ........... and other local authorities for executing and completing the said works as hereinafter specified upon and subject to the terms and conditions set forth herein and the conditions set forth in the special conditions hereto annexed and marked as Annexure 1 (all of which are collectively hereinafter referred to as "the said works") at the rate of Rs. .......... per sq. ft. of the built up area of the buildings (hereinafter referred to as "the said contract amount").

and Where as The employer has agreed to appoint the contractors for the said works; and

and Where as the contractors have requested the employer to execute these presents which he has agreed to do so.

Now This Agreement Witnesseth as Follows:

1.     In consideration of the said contract amount to be paid at the times and in the manner set forth in the Schedule of Payments hereto annexed, the contractors shall on and subject to the said conditions, execute and complete the said works more particularly described in Schedule 1 annexed hereto and shown on the said drawings, strictly in accordance with the general specifications annexed hereto and marked as Annexure III.

2.     The employer shall pay the contractors the said contract amount or such other sum as shall become payable at the times and in the manner specified in Annexure II.

3.     For the purposes of this contract, "built up area" means the total a covered area of the building at floor level out-to-out measurement of wall surface (architectural projection excepted) and shall be inclusive of staircase and balconies.

4.     The contractors shall prepare layout plans and general building plans in consultation with the employer and get the same approved by the Municipal Corporation of ......................

5.     It is hereby agreed that the contract amount shall be inclusive of-

a.     Preparation of the layout plans, general building plans, detailed architectural drawings, sketches, structural drawings and designs for execution.

b.    Technical supervision of the works.

c.     Obtaining of permission and approvals from all the authorities for the construction, supply of power, water, drainage and other services for the said works.

d.    Cost of all materials for construction.

e.     Wages of labour, technical supervisors, all other workers and staff required for execution of the said works in accordance with the general specifications in Annexure Ill.

f.     Cost of all electrical, sanitary, and plumbing fittings.

g.    Cost of all other items as mentioned in special conditions in Annexure I hereto.

6.     The layout plans, general building plans, detailed architectural drawings and other drawings shall be and remain the property of the employer. All the drawings shall remain in custody of the contractors during the progress of the work and they shall deliver them to the employer on the performance of the said works or termination of the contract.

7.     The employer may require alteration of the drawings and the nature of the work by adding or omitting any items of work or having portions of the same carried out. The employer shall make payment for the alterations at such rates as may be mutually agreed upon.

8.     The contractors shall commence the work within 15 days of the handing over of the site to them and complete the entire work within .......... months thereafter, subject nevertheless to the provision for extension of time as provided in the said conditions.

9.     The contractors, while carrying out the said works, shall comply with the provisions of all laws, rules and bye-laws for the time being in force affecting the said works and will give all necessary notices to and obtain the requisite sanction of the concerned local authorities in respect of the said works and will comply with the building and other regulations of such authority and will keep the employer indemnified against all fines, penalties and losses incurred by reason of the breach of the contractors of any such laws, bye-laws and regulations.

10.  The employer shall make all payments under this contract at ........................

11.  In case any dispute or difference should arise between the parties, whether in respect of quality of material used by the contractors or work done or in respect of delay in completion of works or in respect of payment of extra work required to be done and so executed or in respect of measurement of work done or in respect of delay of payment to the contractors or touching the interpretation, fulfillment of any of the terms of these presents or any other matter arising out of or in connection with these presents or the carrying out of the work, shall be referred to arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The arbitrators shall make their award within six months from the date of entering on the reference. If the arbitrators do not make their award within the stipulated period or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference and shall make his award within three months of entering on the reference or within such extended time as the parties may agree and in the absence of such agreement, as the Court may allow. The arbitrators or umpire, as the case may be, shall be entitled to consult any expert, after previous notice to the parties, the cost whereof shall be borne by the parties equally. The proceedings of the arbitrators shall be recorded in English, a copy whereof shall be furnished to each party. The provisions of the Arbitration and Conciliation Act, 1996 so far as applicable and are not inconsistent or repugnant to these presents, shall apply to this reference to arbitration. The cost of the reference and award shall be in the discretion of the arbitrators, who may direct by whom and in what manner, the same or any part thereof shall be paid. The award of the arbitrators or umpire shall be final and binding on the parties and the parties, their executors and administrators shall on their respective parts obey, abide by the award and shall not challenge on any ground excepting fraud or collusion or error apparent on the face of the award. It is hereby agreed between the parties that the parties shall resort to arbitration, before filing any suit for the enforcement of any right under these presents.

12.  This agreement shall be executed in duplicate. The original shall be retained by the employer and the duplicate by the contractors.

In Witness Where of the employer has set his hands to these presents and a duplicate hereof and the contractors have caused its common seal to be affixed hereunto and a duplicate hereof the day and the year first hereinabove written.

Signed and delivered by the hand of Shri a The common seal of XYZ Co. Ltd. was hereunto affixed

pursuant to the resolution passed by the Board of

Directors at the meeting held on ....................... in the presence of Shri .........................a director

of the company, who has signed in token thereof

Seal

Signatures

WITNESSES;

1.

2.

**Agreement for Construction of Building between the Owners and The Contractors on Turnkey Basis**

This Agreement made at ................ on this .................. day of .......... 2000, between A S/o B resident of ............................. (hereinafter referred to as "the Employer", which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and XYZ Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...................................... (hereinafter referred to as "the Contractors" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assigns) of the Other Part.

Whereas the employer is desirous of constructing XYZ Bungalow and its vacant land bearing Final Plot No. ............... Survey No. ............... Khasra No. ............ situate, lying and being at .................. Tehsil and District ................... (hereinafter referred to as "the said property") and the contractors have offered to construct the same on a 'turnkey basis' and also to prepare the site layout plans, preliminary sketch designs, architectural drawings, structural drawings, service drawings and all other detailed plans and drawings as may be necessary for the proper construction and completion of the said works and also obtain necessary permissions from the Municipal Corporation ........... and other local authorities for executing and completing the said works as hereinafter specified upon and subject to the terms and conditions set forth herein and the conditions set forth in the special conditions hereto annexed and marked as Annexure 1 (all of which are collectively hereinafter referred to as "the said works") at the rate of Rs. .......... per sq. ft. of the built up area of the buildings (hereinafter referred to as "the said contract amount").

and Where as The employer has agreed to appoint the contractors for the said works; and

and Where as the contractors have requested the employer to execute these presents which he has agreed to do so.

Now This Agreement Witnesseth as Follows:

1.     In consideration of the said contract amount to be paid at the times and in the manner set forth in the Schedule of Payments hereto annexed, the contractors shall on and subject to the said conditions, execute and complete the said works more particularly described in Schedule 1 annexed hereto and shown on the said drawings, strictly in accordance with the general specifications annexed hereto and marked as Annexure III.

2.     The employer shall pay the contractors the said contract amount or such other sum as shall become payable at the times and in the manner specified in Annexure II.

3.     For the purposes of this contract, "built up area" means the total a covered area of the building at floor level out-to-out measurement of wall surface (architectural projection excepted) and shall be inclusive of staircase and balconies.

4.     The contractors shall prepare layout plans and general building plans in consultation with the employer and get the same approved by the Municipal Corporation of ......................

5.     It is hereby agreed that the contract amount shall be inclusive of-

a.     Preparation of the layout plans, general building plans, detailed architectural drawings, sketches, structural drawings and designs for execution.

b.    Technical supervision of the works.

c.     Obtaining of permission and approvals from all the authorities for the construction, supply of power, water, drainage and other services for the said works.

d.    Cost of all materials for construction.

e.     Wages of labour, technical supervisors, all other workers and staff required for execution of the said works in accordance with the general specifications in Annexure Ill.

f.     Cost of all electrical, sanitary, and plumbing fittings.

g.    Cost of all other items as mentioned in special conditions in Annexure I hereto.

6.     The layout plans, general building plans, detailed architectural drawings and other drawings shall be and remain the property of the employer. All the drawings shall remain in custody of the contractors during the progress of the work and they shall deliver them to the employer on the performance of the said works or termination of the contract.

7.     The employer may require alteration of the drawings and the nature of the work by adding or omitting any items of work or having portions of the same carried out. The employer shall make payment for the alterations at such rates as may be mutually agreed upon.

8.     The contractors shall commence the work within 15 days of the handing over of the site to them and complete the entire work within .......... months thereafter, subject nevertheless to the provision for extension of time as provided in the said conditions.

9.     The contractors, while carrying out the said works, shall comply with the provisions of all laws, rules and bye-laws for the time being in force affecting the said works and will give all necessary notices to and obtain the requisite sanction of the concerned local authorities in respect of the said works and will comply with the building and other regulations of such authority and will keep the employer indemnified against all fines, penalties and losses incurred by reason of the breach of the contractors of any such laws, bye-laws and regulations.

10.  The employer shall make all payments under this contract at ........................

11.  In case any dispute or difference should arise between the parties, whether in respect of quality of material used by the contractors or work done or in respect of delay in completion of works or in respect of payment of extra work required to be done and so executed or in respect of measurement of work done or in respect of delay of payment to the contractors or touching the interpretation, fulfillment of any of the terms of these presents or any other matter arising out of or in connection with these presents or the carrying out of the work, shall be referred to arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The arbitrators shall make their award within six months from the date of entering on the reference. If the arbitrators do not make their award within the stipulated period or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference and shall make his award within three months of entering on the reference or within such extended time as the parties may agree and in the absence of such agreement, as the Court may allow. The arbitrators or umpire, as the case may be, shall be entitled to consult any expert, after previous notice to the parties, the cost whereof shall be borne by the parties equally. The proceedings of the arbitrators shall be recorded in English, a copy whereof shall be furnished to each party. The provisions of the Arbitration and Conciliation Act, 1996 so far as applicable and are not inconsistent or repugnant to these presents, shall apply to this reference to arbitration. The cost of the reference and award shall be in the discretion of the arbitrators, who may direct by whom and in what manner, the same or any part thereof shall be paid. The award of the arbitrators or umpire shall be final and binding on the parties and the parties, their executors and administrators shall on their respective parts obey, abide by the award and shall not challenge on any ground excepting fraud or collusion or error apparent on the face of the award. It is hereby agreed between the parties that the parties shall resort to arbitration, before filing any suit for the enforcement of any right under these presents.

12.  This agreement shall be executed in duplicate. The original shall be retained by the employer and the duplicate by the contractors.

In Witness Where of the employer has set his hands to these presents and a duplicate hereof and the contractors have caused its common seal to be affixed hereunto and a duplicate hereof the day and the year first hereinabove written.

Signed and delivered by the hand of Shri a The common seal of XYZ Co. Ltd. was hereunto affixed

pursuant to the resolution passed by the Board of

Directors at the meeting held on ....................... in the presence of Shri .........................a director

of the company, who has signed in token thereof

Seal

Signatures

WITNESSES;

1.

2.

**Agreement form between Owner and a Builder for Construction of the Building**

This Agreement made at ....................... on this .............  day of   ..................2000, between Shri........................ S/o ....................... resident of ..............................  (hereinafter called 'the owner' which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and M/s ABC Builders & Contractors, a partnership firm registered under Partnership Act, 1932 and having its registered office at .................. (hereinafter referred to as 'the builders' which expression shall unless repugnant to the context or meaning thereof, be deemed to include every partner for the time being of the said firm, the survivor or survivors or the legal representatives, executors or administrators of the last survivor of the Other Part.

Where as the first party is the owner of the plot of land admeasuring .................... sq. meters bearing plot No. ........... city survey No.               ...................... Khasra No. ..................... situate, lying and being at ...................... Tahsil and District ......................   (hereinafter referred to as the "said plot of land") and is desirous of getting a house constructed on the said plot of land. and Whereas the first party has appointed Shri ................. as the architect and the said architect has prepared the plans, drawings and elevations of the said intended house and the specification of the works to be done and of the materials.

and Where as the second party is a big contractor and is having vast experience in construction of big buildings and has agreed to construct the house on the said plot of land.

**Now it is Agreed by and between The Parties as Follows:**

1.             The builders will construct the building on the said plot of land in conformity with the plans, drawings, specifications and elevations as prepared by the architect which has been annexed hereto and marked as Annexure A, with the material of best quality and in the most substantial and workman like manner and to the satisfaction of the architect.

2.             The builders hereby undertake to commence the construction within fifteen days of execution of these presents and complete the construction on or before the expiry of ................... months from the date of execution of these presents in accordance with the plans duly approved and sanctioned by the Municipal Corporation of .................................. and specifications and conditions as are set out in Annexure A hereunder written.

3.             If the builders fail to complete the said work within the period as stipulated in the foregoing provision, the builders shall, at the option of the owner but without prejudice to the other rights under law of the owner and other provisions herein, pay liquidated damages calculated at the rate of Rs.......... per day (but subject to a maximum of 2% of the total contract amount payable by the owner under this agreement) for the period between the said stipulated time for completion of the works. The builders hereby specifically agree and authorise the owner to deduct such liquidated damages, if any, from any installment of payment becoming due and payable to the builders in terms of this agreement.

4.             The owner will pay to the builders a sum of Rs............. out of which the owner shall pay to the builders weekly such sum as may be sufficient to defray the expenses incurred by the builders in respect of materials used in the works, checked and certified by the architect, Rs ......... on the certificate by the architect that the work upto first floor has been completed, the further sum of Rs ............. on the certificate by the architect that the work upto second floor has been completed and the balance shall be paid on the certificate by the architect that the said works have been completed in all respects according to the agreement and the builders have at their own expenses removed and cleared all scaffolding, fencing, unused materials and rubbish from the premises and made and prepared the bungalow fit for use and habitation and immediate occupation. However, a sum equivalent to 5 per cent of the total contract amount payable by the owner under this agreement shall be retained by the owner as retention money, which shall be paid after a period of 12 months from the date of handing over the said bungalow complete in all respects and fit for occupation. The builders hereby agree and undertake to rectify all such defects as may be found or detected during the period of 12 months. If the builders fail to rectify the defects pointed out or decline to cure such defects as pointed by the owner within fifteen days from the date of reporting to the builders, the owner shall be entitled to have such defects cured by such other agencies as it may deem fit at the entire cost and risk of the builders and utilise the retention money; Provided further that in the event of the said retention money being inadequate to meet such costs, charges and expenses incurred by the owner for curing the defects in the construction, the builders shall within 7 days of a demand in writing made by the owner make good the defect, failing which the builders shall be liable to pay the same together with the interest at 15% per annum.

5.             The owner shall allow free ingress to and egress from the premises to the builder’s servants, employees, sub-contractors and all other persons, who are necessary in connection with the carrying out of the works under the agreement.

6.             The builders shall indemnify the owner in respect of all claims, damages or expenses payable in consequence to any injury to any employee, workman, nominee, invitee while in or upon the said premises. The builders shall also be responsible for any damage to buildings, whether immediately adjacent or otherwise and any damage to roads, streets, foot-paths, bridges or ways as well as all damages caused to the buildings, and work forming the subject to this contract by frost, rain, wind or other inclemency of weather.

7.             If the builders abandon the contract or fail to commence the work or suspend the progress of the work for 14 days without any lawful excuse under these conditions, or fail to proceed with the works with such due diligence and fail to make such due progress as would enable d  the works to be completed within the time agreed upon or fail to remove materials from the site or to pull down and replace work for seven days after receiving from the architect written notice that the said materials or the works were defective and rejected by the said architect or neglect or fail persistently to observe and perform all or any of the acts, materials or things required by this contract to be observed and performed by the owner for seven days after written notice shall have given to the builders requiring them to observe or perform the same and the architect certifies in writing to the owner to the said effect, then and in any of the said cases the owner may, notwithstanding any previous waiver, after giving seven days notice through the said architect in writing to the builders terminate the licence in favour of the builders and in so far as it relates to the completion of the remaining construction work, but without thereby affecting the powers of the architect, or the obligations and liabilities of the builders, the whole of which shall continue in force as fully as if this Agreement had not been so determined. And the owner by his servants or agents may enter upon and take possession of the work, tools, scaffolding, sheds, machinery, power, utensils and materials lying upon the premises or in the adjoining lands or roads and use the same as its own property or may employ the same by means of its own servants and workmen in carrying on and completing the work or by employing any other contractor or other person to complete the works and the builders shall not in any way interrupt or do any act, matter or thing to prevent or hinder such other contractor or other person or persons employed for completing and finishing the works or using the material and plant for the works.

8.             When the said works are terminated in the manner as stipulated in the foregoing provision, the architect shall give a notice in writing to the builders to remove their surplus materials and plant, and should the builders fail to as so within a period of seven days, after receipt thereof by them, the owner may sell the same by public auction and give credit to the builders for the net amount realised. The architect shall thereafter ascertain and certify in writing, what (if any thing) shall be due or payable to or by the owner, for the value of the said building and materials so taken possession of by the owner and the expense or loss which the owner shall have been put to in procuring the work to be completed and the amount, if any, owing to the builders and the amount which shall be so certified shall thereupon be paid by the owner to the builders or by the builders to the owner, as the case may be, and the certificate of the architect shall be final and conclusive between the parties.

9.             The builders shall be bound to appoint an engineer competent to receive instructions from the architect from time to time, on behalf of the builders at all reasonable hours and all directions given to him by the architect shall be deemed to have been given to the builders.

10.          The owner or his representatives shall be entitled to inspect the progress of the construction work and materials used for the construction and they shall be entitled to point out to the architect any defects in the construction work, quality of workmanship or materials d  used when such defective work is in progress or being executed or such material is brought on site. If the architect will be satisfied about the objections raised, the said architect shall certify the same in writing and direct the builders to rectify at their own cost the defect in the said construction work or remove such defective materials and the same shall be rectified or removed by the builders as directed.

11.          All disputes or differences relating to the specifications, designs, drawings and as to quality of workmanship or material used in the work or as to any other question arising out of or relating to the contract, design, drawings, specifications, orders or otherwise in connection with the agreement or the carrying out of the works, whether during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The parties would cooperate and lead evidence, etc. with the arbitrators and if one of the parties does not cooperate or remains absent at the reference, the arbitrators or the umpire would be at liberty to proceed with the reference ex-parte. The arbitrators or the umpire shall keep record of the oral evidence adduced by the parties and submit the same to the court at the time of filing of the award, along with documentary evidence produced before them or him by the parties or their witnesses. The proceeding of the arbitrators or the umpire shall be recorded in English and a carbon copy whereof shall be furnished to each party. The arbitrators or umpire shall be entitled to appoint stenographer, for recording proceedings of the arbitration, consult an expert, after previous notice to the parties to the reference, the cost whereof shall be borne equally by the parties. The fees of the arbitrator appointed by a party shall be borne by the party, so appointing and the fees of the umpire and the other arbitration expenses shall be borne equally by the parties. The arbitrators shall make their award, with reasons for the decision, within six months from the date of entering upon the reference. If the arbitrators have allowed their time to expire without making an award or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference. The umpire shall make his award within tour months of entering on the reference or within such extended time, as the parties may agree. The award of the arbitrators, or umpire, as the case may be, shall be final, conclusive and binding on the parties and shall not be challenged on any ground except collusion, fraud or an error apparent on the face of the award. This reference to arbitration shall be deemed to be a reference within the meaning of the Arbitration and Conciliation Act, 1996 or any statutory modification thereof. No action can be taken under this agreement for the enforcement of any right without resorting to arbitration under this clause.

12.          This agreement shall be executed in duplicate, the original shall be retained by the owner and the duplicate by the builders.

In Witness Where of the parties have signed these presents and a duplicate thereof, the day and year first hereinabove written.

Signed and delivered by .................... the owner

Signed and delivered by M/s ABC Builders and Contractors, the builders, by its partners

WITNESSES;

1.

2.

**Agreement of Dealership between Manufacturer and Firm**

This Agreement is made on this.......day of ........................ at ..............between :

1.     Messers XYZ Ltd., incorporated under the Companies Act, 1956 having its registered office at ...................................................... hereinafter called the company of the one part ;

and

2.     Messers ABC & Co, a partnership concern consisting of its partners Mr. ................... , Mr............................ and Mr.......................through its partners Mr......................having its office at..........................hereinafter called the firm of the other part.

WHEREAS the manufacturer is engaged in manufacturing electronics and electrical products of different varieties.

AND WHEREAS the firm has its own establishment and is making sales of the products of other companies and has shown its desire of selling the product of the company from its new showroom recently taken on rent.

AND WHEREAS the company, after considering the proposals put forward by the firm has decided to appoint the firm.

NOW THIS AGREEMENT WITNESSES AS UNDER :

1.     That the company hereby appoints the firm as its dealer to sell the products of the company.

2.     That the appointment of the firm as dealer shall remain in force for three years from the date of this agreement, but this agreement may be renewed for the same period on the terms and conditioned that may be settled between the parties at that time.

3.     That the firm shall keep the stock of the company for Rs................at any time. The firm shall submit a quarterly return of the product received, product sold and product in hand.

4.     That the company shall allow credit of one month to the firm on all invoices. But an interest of 18% per annum shall be charged on all payments received after one month.

5.     That advertisement material shall be supplied by the company to the firm in sufficient quantity in order to display the same at sales depot and for distribution in the areas of its operation.

6.     That the company shall bear 60% cost of rent, and staff subject to maximum of 6% of the invoice value of all products of the company sold to the firm. This amount shall be credited in running account of the firm with the company on quarterly basis.

7.     That accounts between the parties shall be settled half yearly and debit or credit notes shall be issued half yearly in order to square up the accounts.

8.     That the firm shall make every efforts to promote the sales of the company. In case it is felt by the company that the firm is not taking proper interest, it may terminate the dealership by giving one months prior notice.

9.     That on termination of the agreement the accounts shall be settled within a fortnight. The company shall take back all unsold stock and settle the account.

10.  That firm shall not sell any goods of the company on a price higher or lower than what may be fixed by the company from time to time.

11.  That the firm is entitled to appoint sub-dealer, agents, salesmen clerk etc. in salary or commission basis, but with the condition that they shall work strictly within the terms an conditions of this agreement.

IN WITNESS WHEREOF the parties have executed these presents on the day, month and year first above written.

Sealed, signed and delivered

by Mr. A pursuant to Board

Resolution dated ......... of

XYZ Ltd. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Secretary)

Sealed, signed and delivered

by Mr. C. Firm

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mr. C. (Partner of ABC & Co.)

In the presence of

1. ...............

2. ...............

**Agreement to Act as Technical or Management Adviser**

THIS AGREEMENT is made at............... this... day of................ between M/s. ABC Co. Ltd., a Company registered under the Indian Companies Act, 1956, having its registered office at... hereinafter referred to as the Indian company of the One Part and M/s. XYZ Co. Ltd., a Company Incorporated under the laws in force in (Name of country) having its registered office at..................... hereinafter referred to as the Foreign Company of the Other Part.

WHEREAS the Indian Company is carrying on the business of manufacturing................. and owns a large factory/ factories at................

AND WHEREAS as the manufacturing process In the Indian Company's factories is highly technical and complicated and the production turnover of the Indian Company is very large and requires also administrative skill, the Indian Company approached the Foreign Company, who is carrying on business at... as technical and management advisers to different companies carrying on more or less similar business all over the world for collaboration to act as technical and management adviser.

AND WHEREAS after some negotiations the Foreign Company has agreed to act as the technical and management advisers of the Indian Company on the following terms and conditions and it is proposed to record the same in a formal agreement.

AND WHEREAS this agreement has been approved by the Government of India and the Reserve Bank of India on the terms and conditions a copy of which is hereto annexed.

NOW IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS. --

1.     The Indian Company hereby appoints the Foreign Company as the technical and management adviser of the Indian Company.

2.     The Foreign Company agrees to depute Its technical and management experts not exceeding... in number fully qualified as regards the business carried on by the Company to advise the India Company as to the technical matters relating to the machinery installed by the Indian Company in its factories at......... and relating to -the quality of production as well as regarding the management of the factories.

3.     The Office of the said experts will be at the registered office of the Indian Company at.......... and the experts will attend to the office work during the Company's working hours except when they are on a visit to the factories.

4.     The Indian Company will arrange for spacious residential accommodation of the experts befitting their position and in a good locality of the city where the registered office of the Indian Company Is situate at the cost of the Indian Company.

5.     The said experts will visit the factories of the Indian Company as and when they think necessary or required but at least once in a week and the Indian Company shall make arrangements for their overnight stays at such place or places.

6.     The said experts will also visit the factory or factories for giving advice and assistance whenever required by the Indian Company or by the local manager of the factory.

7.     The experts will use and make available all their expertise in carrying on the production in the said factories in an efficient manner and also make all suggestions for the efficient management of the factories.

8.     The Foreign Company will make available all the know-how including all literature, formulae, drawings, and other material to the said experts to enable them to advise the Indian Company and to use their expert knowledge in solving any problem as to the running of the machinery and plant and as to the manufacture of the products.

9.     Apart from the expenses required to be incurred for the residence and household purposes of the said experts and their family members namely wives and children and their travelling expenses, the Indian Company shall pay to the Foreign Company for the services to be rendered by the Company and Its experts as follows (Include the list of expenses).

The personal expenses of the experts and their families for food and other normal amenities shall not, however, exceed Rs.......... per month per expert. All payments to be made by the Indian Company to the Foreign Company and its experts will be subject to the approval of the Government of India and/or Reserved Bank of India and will he made as stipulated by the said authorities.

10.  If the Indian Company feel that the services rendered by the Foreign Company and Its experts are not satisfactory or necessary, the Indian Company will have the right to cancel this agreement by giving to the Foreign Company three months' prior notice to that effect.

11.  During the period of this agreement the experts deputed by the Foreign Company will not give any advice or other help or guidance to any other Company or person in India.

12.  The experts deputed by the Foreign Company will not be treated as the employees of the Indian Company and will not be entitled to any of the benefits given to the regular employees of the Indian Company. However the experts will be given off-time or casual leave for such days and at such times as may be agreed upon between the expert and the Managing Director of the Indian Company from time to time.

13.  The Letter of Approval issued by the Govt. of India herein recited and hereto annexed shall be deemed to form part of this Agreement and if any term of this agreement is found inconsistent with or contrary to any term and/or condition contained in the said letter, the same will be treated as null and void.

14.  The duration of this agreement will be........ Months/years subject to what is herein otherwise provided. The said period may be extended by mutual consent.

15.  This agreement will be treated as terminated on the happening of any of the events below mentioned.

a.     If any party hereto commits breach of any provisions of this agreement and the party who is alleged to have committed breach is served with a notice by the other party three months prior to the intended date of termination by the other party and the former party has failed to amend the breach within the said period.

b.    If any event happens which will make the performance of this agreement impossible including any force majeure event.

c.     If either the Indian Company or the Foreign Company goes into either voluntary or compulsory liquidation according to or under the law by which it is governed.

d.    If the parties hereto mutually agree to terminate this Agreement.

16.  All sanctions, approvals, permissions, licences and other requirements of the Government of India and of any statutory authorities required for giving effect to all the terms and conditions of this agreement shall be obtained by the Indian Company.

17.  In the event of any dispute or difference arising between the parties hereto as to the rights and obligations under this agreement or as to any claim, monetary or otherwise of one party against the other or as to the interpretation and effect of any terms and conditions of this agreement such dispute or difference shall be referred to Arbitration of a common Arbitrator if agreed upon, otherwise to two or more Arbitrators, one to be appointed by each of the parties to this agreement and such Arbitrator shall be governed by the Indian Arbitration & Conciliation Act, 1996. The venue for such Arbitration shall be................. in India.

18.  The validity of this agreement and the effect or meaning of the term hereof will be decided according to the Indian Law.

19.  Any communication by one party to the other shall he made by registered post through airmail, with acknowledgement due or by telex o fax or cable. In case the communication is made by telex or fax or cable the same will be subsequently but immediately thereafter confirmed b, written communication sent by registered post as aforesaid. Any evidence showing the communication was posted or telex, fax or cable communication was made will be sufficient to prove the posting or sending the communication.

20.  In this agreement the expression 'know-how' shall include technical information such as inventories formulae processes, engineering and manufacturing skill, scientific data, calculations,' specifications, drawings standards, sketches and all other relevant information and knowledge.

IN WITNESS WHEREOF the parties have put their respective seals the day and year first hereinabove written.

The common seal of M/s. ABC Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................ in the presence of Mr........................,a Director duly authorised in that behalf

The common seal of M/s. XYZ & Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................. in the presence of Mr................... a Director, duly authorised in that behalf.

Witnesses;

1.

2.

**Agreement to Act as Technical or Management Adviser**

THIS AGREEMENT is made at............... this... day of................ between M/s. ABC Co. Ltd., a Company registered under the Indian Companies Act, 1956, having its registered office at... hereinafter referred to as the Indian company of the One Part and M/s. XYZ Co. Ltd., a Company Incorporated under the laws in force in (Name of country) having its registered office at..................... hereinafter referred to as the Foreign Company of the Other Part.

WHEREAS the Indian Company is carrying on the business of manufacturing................. and owns a large factory/ factories at................

AND WHEREAS as the manufacturing process In the Indian Company's factories is highly technical and complicated and the production turnover of the Indian Company is very large and requires also administrative skill, the Indian Company approached the Foreign Company, who is carrying on business at... as technical and management advisers to different companies carrying on more or less similar business all over the world for collaboration to act as technical and management adviser.

AND WHEREAS after some negotiations the Foreign Company has agreed to act as the technical and management advisers of the Indian Company on the following terms and conditions and it is proposed to record the same in a formal agreement.

AND WHEREAS this agreement has been approved by the Government of India and the Reserve Bank of India on the terms and conditions a copy of which is hereto annexed.

NOW IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS. --

1.     The Indian Company hereby appoints the Foreign Company as the technical and management adviser of the Indian Company.

2.     The Foreign Company agrees to depute Its technical and management experts not exceeding... in number fully qualified as regards the business carried on by the Company to advise the India Company as to the technical matters relating to the machinery installed by the Indian Company in its factories at......... and relating to -the quality of production as well as regarding the management of the factories.

3.     The Office of the said experts will be at the registered office of the Indian Company at.......... and the experts will attend to the office work during the Company's working hours except when they are on a visit to the factories.

4.     The Indian Company will arrange for spacious residential accommodation of the experts befitting their position and in a good locality of the city where the registered office of the Indian Company Is situate at the cost of the Indian Company.

5.     The said experts will visit the factories of the Indian Company as and when they think necessary or required but at least once in a week and the Indian Company shall make arrangements for their overnight stays at such place or places.

6.     The said experts will also visit the factory or factories for giving advice and assistance whenever required by the Indian Company or by the local manager of the factory.

7.     The experts will use and make available all their expertise in carrying on the production in the said factories in an efficient manner and also make all suggestions for the efficient management of the factories.

8.     The Foreign Company will make available all the know-how including all literature, formulae, drawings, and other material to the said experts to enable them to advise the Indian Company and to use their expert knowledge in solving any problem as to the running of the machinery and plant and as to the manufacture of the products.

9.     Apart from the expenses required to be incurred for the residence and household purposes of the said experts and their family members namely wives and children and their travelling expenses, the Indian Company shall pay to the Foreign Company for the services to be rendered by the Company and Its experts as follows (Include the list of expenses).

The personal expenses of the experts and their families for food and other normal amenities shall not, however, exceed Rs.......... per month per expert. All payments to be made by the Indian Company to the Foreign Company and its experts will be subject to the approval of the Government of India and/or Reserved Bank of India and will he made as stipulated by the said authorities.

10.  If the Indian Company feel that the services rendered by the Foreign Company and Its experts are not satisfactory or necessary, the Indian Company will have the right to cancel this agreement by giving to the Foreign Company three months' prior notice to that effect.

11.  During the period of this agreement the experts deputed by the Foreign Company will not give any advice or other help or guidance to any other Company or person in India.

12.  The experts deputed by the Foreign Company will not be treated as the employees of the Indian Company and will not be entitled to any of the benefits given to the regular employees of the Indian Company. However the experts will be given off-time or casual leave for such days and at such times as may be agreed upon between the expert and the Managing Director of the Indian Company from time to time.

13.  The Letter of Approval issued by the Govt. of India herein recited and hereto annexed shall be deemed to form part of this Agreement and if any term of this agreement is found inconsistent with or contrary to any term and/or condition contained in the said letter, the same will be treated as null and void.

14.  The duration of this agreement will be........ Months/years subject to what is herein otherwise provided. The said period may be extended by mutual consent.

15.  This agreement will be treated as terminated on the happening of any of the events below mentioned.

a.     If any party hereto commits breach of any provisions of this agreement and the party who is alleged to have committed breach is served with a notice by the other party three months prior to the intended date of termination by the other party and the former party has failed to amend the breach within the said period.

b.    If any event happens which will make the performance of this agreement impossible including any force majeure event.

c.     If either the Indian Company or the Foreign Company goes into either voluntary or compulsory liquidation according to or under the law by which it is governed.

d.    If the parties hereto mutually agree to terminate this Agreement.

16.  All sanctions, approvals, permissions, licences and other requirements of the Government of India and of any statutory authorities required for giving effect to all the terms and conditions of this agreement shall be obtained by the Indian Company.

17.  In the event of any dispute or difference arising between the parties hereto as to the rights and obligations under this agreement or as to any claim, monetary or otherwise of one party against the other or as to the interpretation and effect of any terms and conditions of this agreement such dispute or difference shall be referred to Arbitration of a common Arbitrator if agreed upon, otherwise to two or more Arbitrators, one to be appointed by each of the parties to this agreement and such Arbitrator shall be governed by the Indian Arbitration & Conciliation Act, 1996. The venue for such Arbitration shall be................. in India.

18.  The validity of this agreement and the effect or meaning of the term hereof will be decided according to the Indian Law.

19.  Any communication by one party to the other shall he made by registered post through airmail, with acknowledgement due or by telex o fax or cable. In case the communication is made by telex or fax or cable the same will be subsequently but immediately thereafter confirmed b, written communication sent by registered post as aforesaid. Any evidence showing the communication was posted or telex, fax or cable communication was made will be sufficient to prove the posting or sending the communication.

20.  In this agreement the expression 'know-how' shall include technical information such as inventories formulae processes, engineering and manufacturing skill, scientific data, calculations,' specifications, drawings standards, sketches and all other relevant information and knowledge.

IN WITNESS WHEREOF the parties have put their respective seals the day and year first hereinabove written.

The common seal of M/s. ABC Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................ in the presence of Mr........................,a Director duly authorised in that behalf

The common seal of M/s. XYZ & Co. Ltd., is hereunto affixed pursuant to the resolution of the Board of Directors dated................. in the presence of Mr................... a Director, duly authorised in that behalf.

Witnesses;

1.

2.

**Agreement to Adopt the Preliminary Agreement**

AGREEMENT made at... this... day of... between M/s. A B & Co. Ltd., a Company registered under the Companies Act, 1956 and having its registered office at... hereinafter referred to as 'the Company' of the One Part and Mr. A residing at... and Mr. B residing at.... and Mr. C residing at... all collectively hereinafter referred to as 'the Promoters' of the Other Part.

WHEREAS -

1.     By an agreement dated the... day of... entered into between the Promoters on the one hand and Mr. X of the Other Part it was agreed that the Promoters will form and register a private company limited the shares with the object of taking over the business in electronic goods carried on by Mr. X on the terms and conditions therein mentioned.

2.     Accordingly, the Company being the Party of the First Part hereto has been formed and registered under the Companies Act 1956 on the - day of

3.     It was one of the terms of the said agreement that on the registration of the Company, the Company will adopt the said agreement.

4.     By a resolution of the Board of Directors of the Company dated the... the Board has resolved to adopt the said agreement and to enter into this agreement for that purpose.

NOW IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1.     The Company hereby adopts the said agreement dated... hereinbefore recited and agrees to be bound by the same and the terms and conditions therein mentioned relating to the purchase and faking over of the business of the said M/s X's concern, as if the company was a party t hereto and had agreed to purchase or take over the said business from Mr. X on the terms in the said agreement mentioned in place stead of the Promoters.

2.     And the Company agrees and undertakes to comply with and implement all the terms and conditions mentioned in the said agreement.

IN WITNESS WHEREOF the parties have put their hands the day and year first hereinabove written.

|  |  |
| --- | --- |
| Signed for and on behalf of the | ) |
| said M/s. A B & Co. Ltd., by Mr. Signed for and on behalf of the | ) |
| ... a Director duly authorised to do so by the | ) |
| resolution of the Board of | ) |
| Directors dated... in the | ) |
| presence of......... | ) |
| Signed by the within named | ) |
| Promoters A B & C. in the | ) |
| presence of... | ) |

**Agreement to Appoint Agent in District**

This Agreement is made on this........day of.................... 19...... between :

1.     Mr. A s/o Mr. B r/o XY, hereinafter called the "Principal", on the one part ;

and

2.     Mr. C s/o Mr. D r/o XYZ, hereinafter called the "Agent" on the other part.

WHEREAS the principal is a dealer of ...............and is interested to appoint an agent for the district of.............

AND WHEREAS the agent has approached the principal for his appointment as agent of the principal.

AND WHEREAS the principal has agreed to appoint the agent as agent.

NOW THIS AGREEMENT WITNESSES AS UNDER :

1.     That the agent is hereby appointed as agent of the principal for the district of..............to sell the goods of principal.

2.     That this appointment is made for a period of five years from the date of execution of this deed.

3.     That agent shall sell the goods of the principal on the prices fixed by the principal. The Agent shall have no right to make any representation in the trade. He shall further not be entitled to give warranty other than those printed in the price list of the principal.

4.     That the agent shall get 10% commission on sales price. The agent is entitled to deduct such 10% commission from the sale price on weekly basis on every Saturday and remit the balance amount to the principal on the same day.

5.     That the agent shall make all sales cash down. He is not entitled to make any credit sales, unless permission for such credit sales to some particular customers, is obtained from the principal.

6.     That the agent shall obtain premises on rent in the market area. The expenses in this regard, and agreed rent and securities shall be borne by the principal.

7.     That the agent shall bear all incidental or other expenses relating to agency.

8.     That the agent shall while making a sale to trade take an undertaking from the dealer that no retailing shall be done outside agency territory.

9.     That the agent shall mention himself as agent on all papers, documents, cash memos, bill books and letter head etc. for the principal.

10.  The breach of conditions mentioned in clause 8 and 9 shall entitle the principal to terminate the agreement and recover a sum of Rs.............by way of damages.

11.  That the principal shall keep with the agent stock valuing Rs.............. at all time. For this purpose the agent shall submit weekly stock list of the goods of the principal with the agent.

12.  That the agent shall sell the goods to the purchaser at the current price list of the principal. The agent is entitled to allow a discount of 2% on purchases of Rs. 5000/- and above.

13.  That in case any dispute arises between the purchaser and the agent regarding goods of the principal, the agent shall immediately inform the principal for settlement of the dispute and in no case the agent shall make any compromise with the purchaser without the consent of the principal.

14.  14. That either party may terminate this agreement after expiry of 5 years after giving one month's prior notice of his intention to do so.

15.  That in no case the benefit of the agreement can be assigned to any third person.

16.  That during the continuance of this agreement the principal may supply the goods direct to the dealers of the district in which agency has been given to the dealer. On such direct supply also the agent will get the same commission which he is getting for supply of goods direct to the agent.

17.  That during the currency of this agreement, the agent shall work honestly and diligently in increasing the sales of the goods of the principal and shall not engage himself directly or indirectly in any other business without the written consent of the principal.

18.  That the agent shall make sales of all goods at his place of business but if the agent so desires he can deliver the goods at the purchaser's place on his own cost. The principal will not bear such expenses.

19.  That the principal shall have the right to terminate this agreement without prejudice to any other remedy for any breach or non-performance of any part of this agreement namely :

1.     If the agent is found guilty of a breach of any provision of this agreement or is found guilty of misconduct or negligence of his duties ;

2.     If the agent is found absent from his duties for more than a week without the prior permission of the principal ;

3.     If the agent commits any act of bankruptcy.

20.  That if any dispute arises between the principal and the agent regarding this agreement the same shall be settled by arbitrators duly appointed by both the parties.

21.  That on termination of this agreement the agent shall return all unsold goods to the principal and shall handover principal's cash and other documents and papers etc. within seven days from the date of termination.

We the above mentioned parties have signed this agreement in the presence of the following witnessess :

Witnesses :

1. Name......................................

Address...................................

................................................ .............................Principal

2. Name..................................... . ................................Agent

Address..................................

...............................................

**Agreement to Demolish the Structure, Clear the Site and to Construct New Building on The Plot**

This Agreement made at .............. on this ............ day of ................. 2000, between A son of Shri.......... resident of ........... (hereinafter called 'the Employer') of the ONE PART and XYZ Constructions, a partnership firm, carrying on the business of builders and contractors, having its office at .......... (hereinafter called 'the builders') of the Other Part

Where as the employer is absolutely seized or otherwise well and sufficiently entitled to the old bungalow being House No. ............. Mohalla............ with an area of ........ sq.mts which bungalow is more particularly described in " First Schedule hereunder written, and is hereinafter referred to as 'the said bungalow.

and Where as the said bungalow has become very old and the employer intends to dismantle the said bungalow and construct a new bungalow on the said plot of land.

and Where as the builders are willing to undertake the said job of dismantling and construction of the new bungalow in accordance with the plan and specifications set out in the Second Schedule hereunder written.

**Now it is Agreed between the Parties as Under:**

1.     The builders agree to undertake the work of dismantling the said bungalow and to construct a new bungalow in accordance with the plan, description and specifications set out in the Second Schedule hereunder written (hereinafter referred to as "the said works') in consideration of a sum of Rs.......... to be paid by the employer to the builders in the manner hereinafter provided.

2.     The builders will dismantle the said bungalow, clear the site and construct the bungalow with the best available materials and in workmanship in accordance with the directions of the employer's architect (hereinafter referred to as the architect) in accordance with the plan, description, and specifications set out in the Second Schedule hereunder written. However, the employer may require the builders to alter the drawings and the nature of the work by adding or omitting any items of work. Such alterations shall be paid at such rates as may be mutually agreed upon.

3.     The builders shall take away the building material of the old bungalow and shall clear and level the plot of land.

4.     While demolishing and constructing the bungalow, the builders shall carry out the said Works in accordance with the law, rules and bye laws for the time being in force affecting the said works and shall give the necessary notices to and obtain the requisite sanction of the concerned local authorities in respect of the said works and shall comply with building and other regulations of such authority.

5.     The builders shall complete the said works on or before the expiry of ...... months from the date of execution of these presents in accordance with the plans duly approved by the municipal corporation of ..... and descriptions and specifications and other terms and conditions as are set out in Third Schedule hereunder written:

Provided however the architect, with the previous consent of the employer, may extend the time for completion of the said works, it in his opinion the works are delayed (a) by force majeure; or (b) by reason of any exceptionally inclement weather; or (c) by reason of civil commotion, local combination of workman or strike or lock-out affecting any of building trades; or (d) in consequence of the builders not having received necessary instructions from the architect in due time; or (e) from other causes which the architect may certify as beyond the control of the builders.

6.     The employer shall pay to the builders, weekly during the progress of the work, such sum as may be sufficient to defray the expenses for materials and other out of pocket expenses, as certified by the architect.

7.     The builders hereby indemnify and keep the employer saved, defended and harmless against any claims, demands, actions or proceedings that may be suffered by the employer by reason of anything done by the builders as a result of the builders committing breach of any rules and regulations or causing damage to any adjoining property or any individual or otherwise howsoever in dismantling the property or constructing the new bungalow on the said property or any letters, applications and writings addressed by the builders pursuant to such authority as also for the costs, charges and expenses which may be incurred or for which the employer may become liable in that behalf.

8.     The builders shall be responsible for injury to persons, animals or things and for all structural damages to the property which may arise from the operation or neglect of the builders or their employees, nominees, sub-contractors or their employees, whether such injury or damage arises from carelessness, accident or any other cause whatsoever in any way connected with the carrying out of construction pursuant to these presents. This clause shall be deemed to include, inter alia, any damage to buildings whether immediately adjacent or otherwise, and any damage to roads, streets, foot-paths, bridges or ways as well as all damages caused to the buildings and works forming the subject of this contract by frost, rain, wind or other inclemency of weather.

9.     The builders shall, within one week from the date of commencement of the works, insure the works and keep them insured until the buildings complete in all respects and fit for occupation are handed over to the employer, against loss or damage by fire, earthquake, flood, cyclone, etc. with an insurer, in the joint names of the employer and the builders for the full amount of the contract and for any further sum, if called upon to do so by the employer. The premium of such further sum shall be reimbursed to the builders by the employer. The builders shall deposit the insurance policy and receipts for the premia with the employer within fourteen days from the commencement of the works, unless otherwise instructed by the employer. In case the builders fail to insure as provided above, the employer may so insure the works and may deduct the premium paid from any moneys due or which may become due to the builders without prejudice to the other rights of the employer in respect of such default. In case it becomes necessary to suspend the works due to any of the risks covered under the policy, the builders shall, as soon as the claim under the policy is settled, or the work reinstated should proceed with all due diligence with the completion of the works in the same manner as though the risk had not occurred and in all respects under the same conditions of contract. The builders in case of rebuilding or reinstatement after the risk, shall be entitled to such extension of time for completion of the works, as the architects shall deem fit.

10.  If the builders (i) have abandoned the contract; or (ii) have failed to dismantle the old bungalow and remove, clean and level the plot of land; or (iii) have failed to commence the works or have without any lawful excuse under these presents suspended the progress of the works for fourteen days after receiving from the architect notice to proceed; or (iv) have failed to proceed with the works with such due diligence and failed to make such due progress as would enable the works to be completed within the time agreed upon; or (v) have failed to remove materials from the site or pull down and replace work for seven days after receiving from the architect written notice that the said materials or work were condemned and rejected by the architect under these presents; or have neglected or failed persistently to observe and perform all or any of the acts, matters or things by this contract to be observed and performed by the builders for seven days after written notice shall have been given to the builders requiring them to observe or perform the same; then and in any of the said cases the employer may, after giving seven days notice in writing to the builders, terminate the contract, on such termination of the contract the employer by his agents or servants may enter upon and take possession of the works and all plants, tools, scaffoldings, sheds, machinery and other utensils and materials lying upon the premises or the adjoining lands or roads, and use the same as his own property or and employ the same by means of its own servants and workmen in carrying on and completing the works or by employing any other contractor or other person or persons to complete the works, and the builders shall not in any way interrupt or do any act, matter or things to prevent or hinder such other contractor or other person or persons employed for completing and finishing the works or using the materials and plant for the works. When the works shall be completed or as soon thereafter as convenient the architect shall give a notice in writing to the builders to remove their surplus materials and plant, and should the builders fail to do so within a period of fourteen days after receipt thereof by them, the employer may sell the same by public auction, and give credit to the builders for the net amount realised. The architect shall ascertain and certify what s a be due or payable to or by the employer for the value of the said materials, plants are so taken possession of by the employer and the amount which shall be so certified shall thereupon be paid by the employer to the builders or by the builders to the employer, as the case may be and the architect's certificate shall be final and binding on both the parties.

11.  If the builders fail to complete the said works within the period or extended period, the builders shall at the option of the employer, but without prejudice to the other rights under law of the employer and the other provisions herein shall pay by way of liquidated damages a sum of Rs ......... per day for the entire period of delay and the employer will be entitled to deduct such damages from the amount becoming due and payable to the builders under this Agreement.

12.  The builders shall not assign this contract to any other builder or contractor, without written consent of the employer.

13.  The builders hereby agree and undertake to rectify the defects pointed out to them during the period of 12 calendar months from the date of handing over the said buildings to the employer. If the builders fail to rectify the defects pointed out or decline to cure such defects as pointed out by the employer within fifteen days from the date of reporting to the builders, the employer may get such defects cured by such other contractors as it may deem fit at the entire cost and risk of the builders.

14.  The builders shall deliver all the plans, detailed drawings and specifications to the employer after the completion of the said works or otherwise terminated under these presents.

15.  All disputes arising between the employer and the builders under this Agreement during the continuance of this contract or on its completion or on abandonment thereof, shall be referred to arbitration to a single arbitration appointed by both the parties. It both the parties do not agree upon the appointment of single arbitrator, each party shall nominate his own arbitrator who shall before entering on the reference appoint an umpire. The arbitrator or arbitrators as the case may be shall deliver the award within a period of six months from the date of entering on the reference. The award of the arbitrator or arbitrators shall be final and binding on the parties. The parties agree that arbitration under this clause shall be a condition precedent to any right of action under the contract.

In Witness Where of the employer and builders have signed these presents, the day and year first hereinabove written.

Signed and delivered by A.................... the within named employer

Signed and delivered by M/s. XYZ Constructions, the within named builders by their partners

WITNESSES;

1.

2.

**Appointment Letter of a Probationer**

 ................... ...................

                                                                                                                                                Date.................

To,

Shri ...........................

................................

Dear Sir,

                With reference to your application dated ...................... for the captioned post and subsequent test and interview, we are pleased to advise you that you have been selected as a probationer for a period of two years in the    ............. department of the company on the following terms and conditions:

1.          Date of appointment

You will be appointed as a probationer with effect from ................

2.          Probation period

The probation period will be one year. However, the said period can be extended at the discretion of the company for a further period of ..................... years.

3.          Salary during probation

During the probation period, you will be entitled to fixed salary of Rs. .................. per month.

4.          Appointment after expiry of probation period, in case found suitable

If after the expiry of probation period, you are found suitable by the company, you will be confirmed in your appointment on a salary of Rs. ...................... in the scale of ......................... plus other admissible allowances and contributory provident fund. If you are not found suitable for the job, your appointment will be terminated at the discretion of the company and in case of such termination you will have no right or claim against the company.

5.          Standing orders

You shall abide by the terms and conditions of the standing orders and the rules of the company as in force from time to time.

6.          To obey orders and directions of the Manager

You shall obey the orders, directions of the Manager and other officers of the company.

In case you are agreeable to the above please confirm and sign duplicate copy of this letter as a token of your acceptance.

                                                                                                                                               Yours faithfully,

                                                                                                                                                Manager

I agree and accept the above terms/conditions.

Signature of the Probationer.

**Appointment of Distributor for a District**

THIS AGREEMENT made at .......... on this ......... day of ......... 2000, between M/s ............ a partnership firm having its principal office at ......... (hereinafter referred to as "the principals", which expression shall unless repugnant to the context, be deemed to include the partners for the time being and from time to time constituting the said partnership firm, the survivor of them, the legal representatives, heirs, executors and administrators of such last survivor) of the ONE PART and M/s .......... proprietor Shri ....…………….. (here in after called "the distributor" which expression shall unless repugnant to the context, be deemed to include his heirs, administrators, executors, legal representatives, successors and assigns) of the OTHER PART. WHEREAS the Principals are the sole selling agents of ......... Ltd., for the whole of India and under the Agreement dated ........ executed between ......... Ltd. and the Principals, the Principals are entitled to appoint agents, distributors for marketing the products of ......... Ltd., hereinafter referred to as the company. WHEREAS the distributor of M/s. .................. has got a big showroom at ...... and has requested the Principals to appoint it as its distributor for marketing the company's products. WHEREAS the Principals have agreed to appoint M/s .......... as their distributor to sell the products of the company.

**Now It Is here by Agreed between the Parties as Under:**

1.     The Principals appoint M/s.......... as the sole agent for the district of Agra for the purpose of promotion and sale of the company's products for a period of two years from the date hereof on the terms and conditions set forth hereunder.

2.     The distributor shall work conscientiously and in a business like manner for the promotion and sale of the products of the company.

3.     The distributor shall fix the retail price in consultation with the Principals from time to time and make the sale of the company's products against cash memos.

4.     The distributor shall maintain fifteen days stock of company's to products for sale at his own cost and shall not pledge the stock to bankers or other creditors without obtaining the prior consent from the Principals in writing. The Principals may grant consent for the pledge of the stock subject to terms and conditions and the distributor shall abide by such terms and conditions and bring the same to the notice of the bankers or creditors.

5.     The distributor shall not sell the goods directly or indirectly outside the agency district. The distributor while selling the company's products to persons in trade shall obtain undertaking in writing that the company's products shall not be re-sold outside the district agency and the said products shall not be re-sold to the public below the fixed retail price.

6.     The distributor shall be responsible for the rent and other expenses of the showroom and godown occupied by him for the purpose of agency business. He shall at his own expense keep insured the company's products for full value against all risks. The Principals may inspect the receipts for the rent, rates and taxes of the showroom and godown and for the premium of insurance policies. The Principals will not be liable or responsible for the expenses relating to or incidental to the said agency.

7.     The distributor shall make all sales on cash basis and shall keep record of all sales and shall remit the sum received by him to the Principals on each Saturday. The distributor may deduct the commission at the rate of .......... per cent, while remitting the sale proceeds. The distributor shall send weekly reports of the sales, net realisation, stock in hand, etc. to the Principals.

8.     The distributor shall be entitled to ......... per cent commission on the sale price of the products realised on the basis of accounts maintained by him.

9.     The products supplied by the Principals shall be the property of the Principals and they will be entitled to take possession of the said products at any time. The distributor shall maintain record of stock received by him, goods sold by him and the goods in stock in godown and showroom. The Principals have the right without prior notice to cause a stock checking of the company products supplied by them and if any shortage or deficiency is found on such. stock-checking, the distributor shall pay to the Principals the list price of such shortage or deficiency less the deduction by way of commission.

10.  The Principals will not sell the company's products to any person in the agency territory and will redirect all inquiries or orders for Principals products received by them from persons resident in agency district to the distributor. The distributor shall also refer to the Principals all enquiries or orders for the Principals products from the persons resident outside agency district and enquiries or orders from persons resident in the agency district for the purpose of re-sale outside the agency district. The distributor shall not be entitled to any commission on the sale resulting from such enquiries or orders.

11.  The rights under this agreement shall not be assigned or transferred to any other person, except with the prior permission of the Principals in writing.

12.  In the event of any dispute arising between the distributor and any customer regarding the purchase of company's products, the distributor shall inform the Principals immediately, who will advise the distributor the appropriate action which has to be taken by him in the matter.

13.  The distributor guarantees a minimum sale of the value of Rs. .......... per year. In case, the sale fails short by 25% or more for consecutive two years, the Principals may terminate this agreement.

14.  Any of the parties may terminate this agreement by serving a notice of three months to the other party. The accounts between the parties will be settled and adjusted finally within the aforesaid period of three months.

15.  In the expiry or earlier determination of this agreement, the distributor shall forthwith deliver to the Principals all the unsold stock of goods, all books of account and other documents of agency to the principals and shall pay to the principals for the shortage or deficiency of stocks at list prices less commission allowed to the distributor.

16.  In case any dispute arises between the parties out of or in connection with the agreement, the same shall be referred to the sole arbitration of an arbitrator, who may be appointed by the parties by mutual agreement. The proceedings held by the arbitrator in making the award will be in accordance with the provisions of Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The award of the arbitrator shall be final and binding on the parties.

17.  This agreement shall be executed in duplicate. The original it shall be retained by the Principals and the duplicate by the distributor.

IN WITNESS WHEREOF the parties hereto have set their respective hands to these presents and the duplicate hereof on the date, month and year hereinabove written.

Signed and delivered by  M/s..…………........ the within named Principals by their partners

Signed and delivered by ……………………the within named Distributor by their proprietor Shri ..........

WITNESSES;

1.

2.

**Appointment of Selling Agent for a District or Town**

This Agreement is made on this………………day of between AB son of CD, dealer in……………………at……………………..(hereinafter called the “principal”) of the one part and OP son of XY resident of…………….(hereinafter called the “agent”) of the other part.

Whereas, the principal is a dealer in……………..and is willing to appoint a suitable party as sole agent for the town of……………..(or district of…………….)

And Whereas, the agent has approached the principal and has expressed his consent to act as the sole agent of the principal.

Now this Agreement Witnesses as follows :

1.     That the agent is hereby appointed the sole agent of the principal for the town of………………(or district of……………..) (hereinafter called the agency district) for the purposes of marking sales of the principal’s goods for the terms of…………….years from the date hereof on the terms and conditions set forth hereof on the terms and conditions set forth hereunder.

2.     That the agent shall not while selling the principal’s goods make any representation in the trade to give any warranty other than those contained in the principal’s printed current price list.

3.     That the agent shall be allowed to deduct and retain with himself……………….per cent of the list price of all goods sold on behalf of the principal. The agent shall keep a record of all sales and shall remit to the principal regularly on each Saturday all sums received by the agent in respect of such sales less……………… per cent as his commission. All sales shall be made for cash against delivery of goods unless the principal’s consent in writing to give credit to any particular purchaser be in any case first obtained and in the case of credit sales the principal may direct for such increase in the price of his goods over and above the current list price of the principal.

4.     That the agent shall not make, purchases on behalf of nor in any manner pledge the credit of the principal without the consent in writing of the principal.

5.     That the agent shall at the expense of the principal take on rent and occupy for the purpose of the agency suitable premises with prior approval of the principal and shall keep insured for the full value against all risk of all goods entrusted to his custody by the principal under this agreement and on request by the principal shall, produce to the principal receipts for the rent rates and taxes of the said premises and for the premiums on insurance policies showing that the same have been paid on or about their respective due dates. The agent shall bear all expenses relating to or incidental to the agency.

6.     That the agent while selling to persons in the trade shall obtain the purchasers signature to an agreement to the following effect :

1.     That the said principals goods shall not directly or indirectly be resold outside the agency district

2.     That the said principals goods shall not be resold to the public below the full list price for the time being.

7.     That the agent shall in all his commercial dealing and documents and on the name-head indicating his place of business describe himself as selling agent for the principal.

8.     That a breach of the condition in Cl. 6 hereof shall entitle the principal to put an end to this agreement forthwith and also to recover from the said agent by way of liquidated damages the sum of Rs………………… for each such article sold in breach of such clause. The agent undertakes that all purchasers to whom he may sell the principals goods shall duly enter into, and carry out the aforesaid agreement referred to in Cl. 6 hereof and a breach by any purchaser of any such agreement shall for the purposes of this agreement be deemed to be a breach of Cl. 6 of this agreement by the agent and give the principal the rights and remedies against the agent for breach by the agent of this agreement .

9.     That the principal shall keep with the agent a stock of his goods free of all expenses of delivery to the value of Rs………………… according to the principals current price list and the principal further undertakes to replenish such stock in the close of each month so as to keep it at the agreed value : Provided always that the agent shall have no right of action against the principal for delay resulting from shortage of stock, delays in transit accidents, strikes or other unavoidable occurrence in replenishing such stock . The principal shall always have the right without any prior notice to cause a stock checking of the said goods and on any shortage or deficiency found on such stock-taking the agent shall on demand pay to the principal the list price of such shortage or deficiency less the deduction by way of commission or rebate receivable by the agent. The agent shall not alter, remove, or tamper with the marks or numbers on the goods so entrusted into his custody.

10.  That the agent shall not sell the goods of the principal to any purchaser except at the full current price list of the principal published by him from time to time. The agent may while selling principals goods allow a discount or rebate of ……………….. per cent.

11.  That in the event of any dispute arising between the agent and a purchaser of the principal’s goods, the agent shall immediately inform the principal of the same and shall not without the principal’s approval or consent in writing take any legal proceedings in respect of or compromise such dispute or grant a release to any purchaser of the principal’s goods.

12.  That either party may terminate this agreement at his option at any time after the expiration of…………..years by giving to the other one month’s notice in writings.

13.  That the benefits under this agreement shall not be assignable to any other person.

14.  That during the currency of this agreement the principal shall redirect all inquiries or orders for principal’s goods received by him from persons residing in the agency district of the said agent and in the event where the principal supplies such purchasers directly he shall allow the agent the same commission or rebate as the agent would have been entitled to retain if he had carried out such transaction. A certificate under the signature of the principal’s accountant of the amount of such commission or rebate payable to the agent shall be conclusive evidence of such amount. Such remuneration shall be payable to the agent (half-yearly or monthly). The agent undertakes to refer to the principal all enquiries or orders for the principal’s goods from persons residing outside the agency district of the agent and similar enquiries or orders from persons residing in the agency district for the purpose of re-sale outside the said district and the agent shall not be entitled to any commission or rebate in respect of any sale resulting from any such enquiries or orders.

15.  That the agent shall always during the existence of this agreement devote his whole business, time and energy for pushing the sale of the principal’s goods and shall in all such dealings act honestly and faithfully to the principal and shall carry out orders and instructions and shall not engage or be interested either directly or indirectly as agent or servant in any other business or trade without the prior consent in writing of the principal.

16.  That on the termination of his agreement for any reason whatsoever the agent shall not for the period of one year solicit trade orders from the persons who had been purchasers of the principal’s goods any time within (seven) years immediately preceding the date of such termination and the agent shall not for a period of one year engage or be interested as agent or servant in any business, firm or company manufacturing, selling or dealing in goods similar to those transacted by the principal.

17.  That all goods shall be sold by the agent for delivery at agent’s place of business but the agent shall at his own expenses have the right to deliver goods to purchasers at their places of business.

18.  That without prejudice to any other remedy he may have against the agent for any breach or non-performance of any part of this agreement the principal shall have the right summarily to terminate this agreement-

               i        On the agent being found guilty of a breach of its provisions or being guilty of misconduct or negligence of his duties.

              ii        On the agent absenting himself from his business duties entrusted to him under the agreement for four or five days without the principal’s prior permission in writing :

             iii        On the agent committing an act of bankruptcy.

19.  That in the event of any dispute arising out of or in relation to or touching with the agreement the same shall be decided by arbitration in accordance with the provision of the Arbitration Act of 1940.

20.  That the principal shall be entitled to terminate this agreement by giving one month’s notice in writing to the agent in the event of his ceasing to carry on the said business of the principal.

21.  That on the termination of this agreement for whatever reason the agent shall forthwith deliver to the principal all the unsold stock of goods and shall pay to the principal for the shortage or deficiency or stock at list prices less commission and rebate allowable to the agent. The agent shall also deliver to the charge of the principal all books of account and documents of the agency, cash, cheques, bills of exchange or other securities he may have received during the normal course as a result of sales of the principal’s goods and shall transfer, assign or negotiate in favour of the principal all such securities on demand.

In Witenss Whereof, the parties have signed this agreement on the day and year first above written.

……………………. ……………………….

(Agent) (Principal)

**Appointment of Sole Selling Agents by a Foreign Company**

This Agreement made on this ......... day of ......... 2000, between XYZ Pharmaceuticals Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ......... hereinafter called "the company" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the ONE PART; and ABC Pharmaceuticals Distributors Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at ...... hereinafter called "the distributor" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the other Part:

Where as the company is engaged in the manufacture of several medicines and has decided to appoint a sale selling agent for the whole of India with canvassing rights and the distributor has agreed to work as such; and

Where as the distributor is being appointed at sole selling agents having exclusive right to sell the medicines manufactured by the company in whole of India; and

Where as the Board of Directors of the company is making this appointment, subject to its approval by the company in its first annual general meeting held after the date of this appointment and approval by Central Government?

**Now This Agreement Witnessed as Follows:**

1.     The company appoints the distributor as sole selling agents for the sale of all the medicines manufactured by it in the whole of India and the distributor agrees to act as such sole selling agents for the whole of India on the terms and conditions contained herein.;

2.     The appointment will be for a period of five years commencing from the date of this agreement. However, it may be extended for further periods not exceeding five years on each occasion.

3.     The distributor shall canvass for, secure orders and push the sale of the medicines manufactured by the company to the best of its ability and experience in the whole of India and guarantees to secure orders for the sale of medicines to the extent of the value of Rs. .......... in a year commencing from the date of this agreement.

4.     The distributor will advertise the company products at its own cost and expenses by advertisements in newspapers, journals, magazines, cinema slides or by any other means. However, the company may advertise at its own costs at its discretion whether in newspapers, journals, cinema slides or by any other means and shall indicate the name of the distributor as its sole selling agents.

5.     The distributor shall employ medical representatives at its own cost and expenses for canvassing the company products amongst the doctors, hospitals, nursing homes, etc. The distributor shall also employ servants, staff at its own cost and expenses for doing the business of sole-selling agency.

6.     The distributor will be entitled to appoint sub-agents for any State/District or any particular area in the country and on such terms and conditions as the distributor may think fit. However the company shall not be liable for any dealing between the distributor and its sub-agents.

7.     The distributor shall submit to the company weekly return of the business secured, the doctors and hospitals approached and canvassed during the previous week.

8.     The distributor shall forward to the company the orders booked and enquiries received by it not later than two days from its booking. The distributor shall remit the money received by it in advance from the customers to the company and an account thereof shall be submitted to the company every Friday.

9.     The distributor shall not make any representation on behalf of the company except in conformity with the instructions issued by the company.

10.  The distributor shall book orders of the company's products on the terms and conditions mentioned in the Schedule attached hereto. The terms and conditions shall be subject to change by circulars or instructions by the company from time to time and the distributor will be bound to follow the instructions issued by the company from time to time.

11.  The company shall pay a commission of ......... % on all orders received directly or indirectly from the customers through the distributor, which have been executed by the company. The company shall make payment of the commission to the distributor at the end of every month.

12.  During the term of this contract, the distributor shall not sell or attempt to sell the medicines for any other Indian or foreign company.

13.  The agency may be terminated by the company, at any time during the agency period of five years, after giving one month's notice thereof, in case the distributor fails to comply with the instructions issued by it or if it omits to comply with its obligation imposed upon it under this agreement or if the distributor fails to obtain or procure orders for the minimum guaranteed amount or if the company feels that the distributor is guilty of any conduct, which is prejudicial to the interest of the company and in this matter the decision of the Board of Directors of the company will be final. The distributor may also terminate this agreement at any time during the agency period, after giving one month's notice thereof, if the company fails to execute the orders booked by the distributor or if the medicines supplied by it are sub standard or if the company without just cause withhold the payment of the commission due to the distributor under the agreement for a period of three months.

14.  The distributor shall be responsible to make the payment of the medicines supplied by the company on the orders received by the distributor, if the constituent to whom medicines were supplied by the company refuses to pay for the same within two months of the receipt of medicines. The distributor shall be liable as the surety for the payment of orders booked by it.

15.  The distributor shall deposit a sum of Rs.......... with the company to ensure the obligations imposed upon it under this agreement. The said sum shall not carry any interest. The said sum will be repayable to the distributor after one month of the termination of the agreement after adjustment of accounts between the parties.

16.  Any and all disputes, controversies, differences arising between the parties hereto out of or in relation to this agreement or any breach thereof shall be finally settled by arbitration by two arbitrators, one to be appointed by each party to the dispute and the arbitrators shall, before taking upon themselves the burden of reference appoint an umpire. The award given by the arbitrators or umpire as the case may be, shall be, final and binding on the parties.

17.  At the termination of this agreement whether by efflux of time or otherwise, the company shall not be liable to pay any commission to the distributor for the orders received after the expiry of agency period.

18.  This agreement shall be executed in duplicate. The company shall retain the original and the distributor the duplicate. Each party shall bear the stamp duty payable in respect of its copy.

19.  Unless otherwise agreed upon, the respective addresses for communication in respect of any matter relating to this agreement shall be as under:

For the Company:..........................

For the Distributor:........................

In Witness Where of the parties have caused their common seal to be affixed to these presents and a duplicate thereof, the day, month and year first; hereinabove mentioned.

**Schedule**

The common seal of XYZ Pharmaceuticals Ltd. was hereunto affixed pursuant to the Resolution of its

Board of Directors passed on.......... day of .......... 2000, in the presence of S/Shri .......... and ........... directors of the Company, who have signed in token thereof

The common seal of ABC Pharmaceuticals Distributors Ltd., was hereunto affixed pursuant to the Resolution of its

**Board of Directors passed on ......... day of……….2000, in the presence of S/Shri……………… and………….. Directors of the company who have signed in taken thereof.**

WITNESSES;

 1.

 2.

**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 dealy 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 or 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, fulfillment 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 entitles 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 of ………….between ……………………company, 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 of ……………..and 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 CI. 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 CI.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 CI. (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.

**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 dealy 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 or 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, fulfillment 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 entitles 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 of ………….BETWEEN ……………………company, 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 of ……………..and 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 CI. 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 CI.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. On 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 CI. (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.

**Assets Purchase Agreement for Purchasing the Assets of a Running Restaurant**

**ASSETS PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT (this “Agreement”), dated the \_\_\_\_\_\_ day of ………….. …….., is made by and among:

M/s …………………, a Partnership Firm formed under Indian Partnership Act, 1932 having its office at ………………………, through its partners Mr. ………………., son of \_\_\_\_\_\_, resident of \_\_\_\_\_\_\_\_\_, Mr. …………. son of \_\_\_\_\_\_, resident of \_\_\_\_\_\_\_\_\_, and Mr. ………………. son, of \_\_\_\_\_\_, resident of \_\_\_\_\_\_\_\_\_, (hereinafter referred to as “Seller” which express shall mean and include its representative, administrator, executors, successors in title, successor in interest, nominee, legal heirs and assigns);

And

M/s ………………………. being a Company incorporated under the Indian Companies Act, 1956 and having its registered office at ……………………., through its authorized signatory Mr. ……………, duly authorized by the Board vide Resolution dated \_\_\_\_\_\_\_, 2007 (hereinafter referred to as “Purchaser” which expression shall mean and include its successors in interest)

**RECITALS**

A.    WHEREAS, the Seller is engaged in the business of running a restaurant, managing the same and/ or in marketing there from various Food & Beverages products such as Indian Foods, Pizzas, Burgers, Ice-Creams, Bakery and Confectionary products etc. at ……………… (hereinafter referred to as “Restaurant”)

B.    WHEREAS, the premises bearing number ………………….. (hereinafter referred to as the “Premises”) where the Seller were running the Restaurant has been taken on lease by the Seller from Mr. …………….., the owner of the Premises.

C.    WHEREAS, the Seller is the owner of all the fittings, fixtures, furniture’s, furnishings, Kitchen equipments, Air-conditioning, Generator, Delivery Vehicles and other delivery related equipments, Computer Systems, crockery/ cutlery items, linen and all other items fitted or used in the Restaurant, more appropriately described in Annexure A appended hereto and forming a part hereof (hereinafter referred to as the “Assets”).

D.    WHEREAS the Seller has taken a term loan of Rs. 35,00,000/- from ……………. Bank, …….. Branch for the purpose of meeting the cost of establishment of the Restaurant and had secured the said loan through hypothecation of moveables (Furniture’s and Fixtures) at the Restaurant which form a part of the Assets.

E.    WHEREAS, the Seller is not willing to run the Restaurant and as such the Seller desire to sell, and the Purchaser desires to purchase, directly, upon the terms and conditions hereinafter set forth, all of the Assets of the Seller related to the Restaurant in consideration of certain payments by the Purchaser.

NOW, THEREFORE, in consideration of the premises and the agreements and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the Parties agrees as follows:

**1.     Interpretation**

In this Agreement, unless the context otherwise requires:

a.     Words denoting the singular number shall include the plural and vice versa;

b.    Heading and bold typeface are only for convenience and shall be ignored for the purposes of interpretation;

c.     References to the word “include” or “including” shall be construed without limitation;

d.    References to this Agreement or to any other agreement, deed or other instrument shall be construed as a reference to such agreement, deed, or other instrument as the same may from time to time be amended, varied or supplemented;

e.     Reference to any Party to this Agreement or any other agreement or deed or other instrument shall include its successors or permitted assigns; and

f.     A reference to a section, paragraph or annexure is, unless indicated to the contrary, a reference to a section, paragraph or annexure of this Agreement.

g.    Words denoting a person shall include an individual, corporation, company, partnership, trust or other entity;

h.     References to dates and times shall be construed to be references to Indian dates and times;

i.      References to the word “days” shall, unless otherwise indicated, mean calendar days;

**ARTICLE I**

**PURCHASE AND SALE; PURCHASE PRICE**

1.1. Purchase and Sale of Assets.

At the Closing, the Sellers shall, sell, convey, transfer, assign and deliver to the Purchaser, and the Purchaser shall purchase from the Sellers, the Assets, free and clear of any encumbrances except as mentioned in this Agreement.

1.2. .Purchase Price. In full consideration for the transfer of the Assets, the Purchaser will pay the Sellers a total purchase price not exceeding Rs. ……………../- [Rupees ……………] (the “Purchase Price”). The Purchase Price shall be paid by the Purchaser at the instance and mandate of the Seller to the following:

                      i.        to …………….. Bank, ………… Branch by means of a bank draft, a sum of Rs. \_\_\_\_\_\_\_\_\_\_\_\_, being the amount outstanding against Loan A/c No. ………….. of the Seller with the ………….. Bank, ………..; and

                     ii.        to Mr. …………………, landlord of the Premises, by means of a cheque for a sum of Rs. \_\_\_\_\_\_\_\_\_, being the amount outstanding against rent and other dues payable for the Premises in settlement of full and final. An amount of Rs. \_\_\_\_\_\_\_\_\_ to be paid in favour of the Seller towards the TDS payments that is required to deducted from the payments being made to Mr. ………… and to be deposited with the authorities by the Seller at its own cost and liability. ; and

                    iii.        to the Electricity Board, ………. by means of a bank draft, a sum of Rs. \_\_\_\_\_\_\_\_ being the total outstanding against electricity dues of the Restaurant at the Premises upto \_\_\_\_\_\_\_\_\_\_ payable by the Sellers .

1.3. The Seller agrees that the balance amount of the Purchase Price (if any) after making the payments in accordance with Clause 1.2 shall be retained by the Purchaser with them to be paid in such amounts and to such creditors of the Seller (for the Restaurant and for dues payable prior to the Closing Date) as directed in writing by the Seller. It is further agreed that the Purchaser shall be liable to pay to the creditor’s of the Seller only upto the extent of the balance of the Purchase Price available with the Purchaser after making the payments under Clause 1.2.

1.4. The Seller agrees that the above payment of the Purchase Price is being made on the instruction and mandate of the Seller in the manner set out in Clause 1.2 and such payments shall be deemed to be payments made to the Seller by the Purchaser for the Assets purchased under this Agreement.

**ARTICLE II**

**CLOSING AND DELIVERIES**

2.1.         Closing. The closing of the purchase and sale of the Assets (the “Closing”) shall take place on [Date] simultaneously with the execution of this Agreement (hereinafter referred to as the “Closing Date”).

2.2.         Deliveries.

The Seller has handed over the following to the Purchaser at the time of execution of this Agreement:

a.     a letter of confirmation from …………… Bank, ………… Branch certifying that, upon payment of the outstanding amounts due to them from the Seller, which amounts shall be quantified in the confirmation letter, the encumbrances on the Assets or any part thereof created in their favor by the Seller shall be released.

b.    a letter of confirmation from Electricity Board, …………. certifying that, upon payment of the outstanding amounts due to them from the Seller, which amounts shall be quantified in the confirmation letter, no further amounts shall remain due and payable by the Seller till the closing date.

c.     a letter of confirmation from Mr. ………………., landlord of the premises certifying that, upon payment of the outstanding amounts due to him from the Seller, which amounts shall be quantified in the confirmation letter, against the rent for the Premises and other dues, no further amounts shall remain due and payable by the Seller.

d.    a letter of confirmation certifying that, upon payment of the amounts as per Clause 1.2, no further amounts shall remain due and payable by the Purchaser to the Seller or to anyone else claiming through or on behalf of the Seller.

e.     a letter of confirmation certifying that, upon payment of the amounts as per Clause 1.2, the Purchaser will not be deemed to have assumed any liability or obligation of the Sellers and that the Purchaser will not become responsible for any liability or obligation of the Seller.

2.3. Transfer and Delivery of Purchased Assets.

At the Closing, the Seller shall deliver or cause to be delivered to the Purchaser a Bill of Sale, substantially in the form attached hereto as Annexure B, pursuant to which the Seller will record the delivery and conveyance of the Assets to the Purchaser, and the Purchaser shall record the receipt of the same;

**ARTICLE III**

**REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller and its Partners hereby, jointly and severally, represents and warrants to the Purchaser, as of the Closing Date, that:

3.1. Organization of the Seller. The Seller is a Partnership Firm duly organised under the laws of India and has the requisite power and authority to own and sell the Assets and to carry on its business as presently conducted.

3.2. Authority and Authorization; Enforceability.

a.     The Seller has full power and authority to execute and deliver this Agreement, and to consummate the transactions contemplated hereby and to fully perform its obligations hereunder.

b.    This Agreement has been duly and validly executed and delivered by the Seller and the same constitutes a valid and binding obligation of each of the Partners of the Seller, enforceable against each of the Partners of the Seller in accordance with its terms.

                                          i.    There are no outstanding claims or charge on the Assets, whether direct, indirect, contingent, absolute, accrued or otherwise, nor does there exist any condition, fact or circumstance that will create such claim/ charge on the Assets, except as disclosed in this Agreement.

                                         ii.    On the Closing Date, the Purchaser will own and possess, all right, title and interest in and to the Assets, free and clear of any encumbrances. No claim by any third party contesting the use or ownership of the Assets has been made, is currently outstanding or is threatened, and, to the knowledge of the Seller, there are no reasonable grounds for any such claim. None of the Partners of the Seller has received any notice of, nor are they aware of, any fact which indicates any conflict with, any third party with respect to the Assets, nor has any of the Partners of the Seller received any claims against the Assets and, to the knowledge of the Seller, there are no reasonable grounds for any such claim.

                                        iii.    That by the purchase of the Assets under this Agreement and by making the payments in accordance with Clause 1.2, the Purchaser shall not be deemed to have assumed and will not become responsible for any liability or obligation of the Seller to any creditor of the Seller whether pertaining to the Restaurant or the Premises or otherwise.

3.3 Title to Assets.

**a.     The Sellers:**

                      i.        are the absolute beneficial owner of the Assets, with good and valid title, free and clear of all encumbrances, except such encumbrances that will be released at or subsequent to the Closing; and

                     ii.        are exclusively entitled to possess and dispose of the Assets.

b.    The Assets to be transferred to the Purchaser under this Agreement constitute all the assets, properties, rights and interests necessary to conduct the Restaurant business in substantially the same manner as conducted by the Sellers prior to the date hereof.

c.     The Assets are in good condition, repair and (where applicable) proper working order, having regard to their use and age and such Assets have been properly and regularly maintained.

3.4. Insurance. Annexure C to this Agreement sets forth a list of all insurance policies (specifying the location, insured, insurer, amount of coverage, type of insurance and policy number) maintained by the Sellers relating to the Assets and

                      i.                all such policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the Closing Date have been paid, and no notice of cancellation or termination has been received with respect to any such policy,

                     ii.                such policies (A) are sufficient for compliance with all requirements of Law; (B) are valid, outstanding and enforceable policies; (C) provide reasonable and adequate insurance coverage for the Assets; (D) will remain in full force and effect through the respective date set forth in Annexure C without payment of additional premiums; and (E) will not in any way be affected by, or terminate or lapse by reason of, the transactions contemplated by this Agreement.

3.5. Full Disclosure. The Seller has made available to the Purchaser all information, as sought for by the Purchaser. All information, which has been provided to the Purchaser relating to the Assets are true and accurate in all material respects and no material fact or facts have been omitted there from which would make such information misleading.

**ARTICLE IV**

**CONDITIONS TO CLOSING**

4.1. Conditions to the Purchaser’s Obligations. The obligation of the Purchaser to consummate the transactions contemplated pursuant to this Agreement is subject to the satisfaction or the written waiver by the Purchaser, on or prior to the Closing Date, of each of the following conditions:

a.     Representations and Warranties. Each of the representations and warranties of the Sellers made in this Agreement shall be true and correct, as of the Closing Date as if made on such date.

b.    No Proceeding or Litigation. No action challenging the legality of, or seeking to restrain, prohibit or materially modify, the transactions provided for in this Agreement shall have been threatened or instituted and not settled or otherwise terminated.

c.     Certificate of the Sellers. At the Closing, the Seller shall have delivered to the Purchaser certificates signed by all the Partners of the Seller and dated the Closing Date, certifying that the conditions stipulated in Clause 4.1(a) to Clause 4.1(b) hereof have been satisfied.

d.    Other Deliveries. The Sellers shall have complied with the requirements of Clause 2.2.

**ARTICLE V**

**INDEMNIFICATION**

5.1. Indemnification.

From and after the Closing, the Seller and the each of the partners of the Seller, jointly and severally, agrees to indemnify, defend and hold the Purchaser, its Affiliates, successors, assigns and their respective directors, officers, representatives, employees and agents, harmless from and against any and all losses, liabilities, claims, damages, costs and expenses (including, without limitation, legal fees and disbursements in connection therewith and interest chargeable thereon) (collectively, “Claims”) that may be incurred or suffered by such Persons resulting or arising from or related to, or incurred or suffered in connection with, (a) the Sellers’ operation of the Restaurant on or before the Closing, (b) the failure of the Seller to assume, pay, perform and discharge its liabilities other than those paid off by the Purchaser in accordance with Clause 1.2 of this Agreement, or (c) any breach of any representation, warranty, covenant or agreement made or obligation required to be performed by the Seller under this Agreement.

5.2. Notice of Claim; Right to Participate in and Defend Third Party Claim.

a.     If the Purchaser receives notice of the assertion of any claim, the commencement of any suit, action or proceeding, or the imposition of any penalty or assessment by a third party in respect of which the Purchaser has been indemnified by the Seller (a “Third Party Claim”), then the Purchaser shall promptly provide the Seller with written notice of the Third Party Claim, but in any event not later than 30 calendar days after receipt of such notice of the Third Party Claim. The failure by the Purchaser to notify the Seller of a Third Party Claim shall not relieve the Seller of any indemnification responsibility under Clause 5.1 unless such failure materially prejudices the ability of the Seller to defend such Third Party Claim.

b.    Any indemnifiable claim hereunder that is not a Third Party Claim shall be asserted by the Purchaser by promptly delivering notice thereof to the Seller. If the Seller does not respond to such notice within ten (10) days after its receipt, it shall have no further right to contest the validity of such claim.

**ARTICLE VI**

**ARBITRATION**

6.1. If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with or arising out of this Agreement, Parties shall promptly and in good faith negotiate with a view to its amicable resolution and settlement.

6.2. In the event no amicable resolution or settlement is reached within a period of fifteen (15) days from the date on which the dispute or difference arose, such dispute or difference shall be referred to a mutually acceptance single Arbitrator or, upon the failure of the Parties to agree upon a single Arbitrator, within a period of ten (10) days, each Party shall appoint one arbitrator each and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator under the provisions of the Indian Arbitration and Conciliation Act, 1996. The arbitration proceedings shall be held in New Delhi and the arbitrators shall give a reasoned award. It is agreed that the arbitrators shall also determine and make an award as to the costs of the arbitration proceedings.

6.3. Notwithstanding anything contained herein, the Parties shall have a right to institute legal proceedings to prevent any continuing breach of the provisions of this Agreement to seek an injunctive or any other specific relief.

**ARTICLE VII**

**MISCELLANEOUS**

7.1. **Expenses and Taxes**.

a.     Each Party will bear their own legal, accounting and other expenses incurred by such Party in connection with the negotiation, preparation and execution of this Agreement and the documents and transactions contemplated hereby.

b.    The Purchaser shall be responsible for and shall pay any stamp duty and payable in connection with the transactions contemplated pursuant to this Agreement.

c.     The Sellers shall be responsible for and shall pay any capital gains, taxes, sales tax, income tax and similar taxes payable as a result of the consummation of the transactions contemplated in this Agreement.

**7.2. Notices**

Any notice(s), communication(s), request(s) or instruction(s) contemplated, provided or required to be given hereunder by any Party hereto to the other shall be in writing in English, and shall be deemed sufficiently given if delivered personally; sent by facsimile transmission with confirmatory copies sent by recorded delivery service; or sent by recorded delivery services; the registered mail postage prepaid acknowledgment due;

If to Seller, then at

M/s XYZ & Co.

………………………………

………………………………

Tel: --------------

Fax: -------------

E-mail: ----------

**If to Purchaser, then at**

M/s PQR Private Limited

……………………………

……………………………

Tel : ………………………

Fax: ……………………….

All notice(s), communication(s), request(s) or instruction(s) as aforesaid, if delivered personally shall be deemed to have been received at the time of such delivery; if sent by facsimile transmission shall be deemed to have been received (48) forty-eight hours next after the same shall be proved to have been sent; if sent by recorded delivery services shall be deemed to have been received (7) seven days next after dispatch.

7.3. 7.3 Applicable Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of India without regard to its principles of conflicts of laws. The courts at ………….. shall have exclusive jurisdiction over all disputes or differences arising out of this Agreement.

7.4. 7.4 Counterparts. This Agreement may be executed in two counterparts, each of which will be deemed to be an original, and all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET AND SUBSCRIBED THEIR RESPECTIVE HANDS TO THESE PRESENTS ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN:

Signed and delivered by Mr. ………………………

(Authorized Signatory for PQR Private Limited)

(………………….)

In the presence of:

Witness :

Name :

Address :

Signed and delivered by of M/s XYZ & Co, through its partners Mr. ………………………., Mr. ………….. and Mr. …………………... (…………………….)

(…………………….)

(…………………….)

In the presence of:

Witness :

Name :

Address :

**Building Agreement between the Owners and The Contractor on Fee Plus Cost of Labour and Materials**

This Agreement made at ....................... on this ............. day of ..................2000, between Shri........................ S/o ....................... resident of .............................. (hereinafter called 'the owner' which expression shall unless repugnant to the context or meaning thereof, be deemed to include his heirs, legal representatives, executors and administrators) of the ONE PART and M/s ABC Builders & Contractors, a partnership firm registered under Partnership Act, 1932 and having its registered office at .................. (hereinafter referred to as 'the builders' which expression shall unless repugnant to the context or meaning thereof, be deemed to include every partner for the time being of the said firm, the survivor or survivors or the legal representatives, executors or administrators of the last survivor of the Other Part.

Where as the first party is the owner of the plot of land admeasuring .................... sq. meters bearing plot No. ........... city survey No. ...................... Khasra No. ..................... situate, lying and being at ...................... Tahsil and District ...................... (hereinafter referred to as the "said plot of land") and is desirous of getting a house constructed on the said plot of land.

and Whereas the first party has appointed Shri ................. as the architect and the said architect has prepared the plans, drawings and elevations of the said intended house and the specification of the works to be done and of the materials.

AND WHEREAS the second party is a big contractor and is having vast experience in construction of big buildings and has agreed to construct the house on the said plot of land.

**Now it is Agreed by and Between The Parties as Follows:**

1.     The builders will construct the building on the said plot of land in conformity with the plans, drawings, specifications and elevations as prepared by the architect which has been annexed hereto and marked as Annexure A, with the material of best quality and in the most substantial and workman like manner and to the satisfaction of the architect.

2.     The builders hereby undertake to commence the construction within fifteen days of execution of these presents and complete the construction on or before the expiry of ................... months from the date of execution of these presents in accordance with the plans duly approved and sanctioned by the Municipal Corporation of .................................. and specifications and conditions as are set out in Annexure A hereunder written.

3.     If the builders fail to complete the said work within the period as stipulated in the foregoing provision, the builders shall, at the option of the owner but without prejudice to the other rights under law of the owner and other provisions herein, pay liquidated damages calculated at the rate of Rs.......... per day (but subject to a maximum of 2% of the total contract amount payable by the owner under this agreement) for the period between the said stipulated time for completion of the works. The builders hereby specifically agree and authorise the owner to deduct such liquidated damages, if any, from any installment of payment becoming due and payable to the builders in terms of this agreement.

4.     The owner will pay to the builders a sum of Rs............. out of which the owner shall pay to the builders weekly such sum as may be sufficient to defray the expenses incurred by the builders in respect of materials used in the works, checked and certified by the architect, Rs ......... on the certificate by the architect that the work upto first floor has been completed, the further sum of Rs ............. on the certificate by the architect that the work upto second floor has been completed and the balance shall be paid on the certificate by the architect that the said works have been completed in all respects according to the agreement and the builders have at their own expenses removed and cleared all scaffolding, fencing, unused materials and rubbish from the premises and made and prepared the bungalow fit for use and habitation and immediate occupation. However, a sum equivalent to 5 per cent of the total contract amount payable by the owner under this agreement shall be retained by the owner as retention money, which shall be paid after a period of 12 months from the date of handing over the said bungalow complete in all respects and fit for occupation. The builders hereby agree and undertake to rectify all such defects as may be found or detected during the period of 12 months. If the builders fail to rectify the defects pointed out or decline to cure such defects as pointed by the owner within fifteen days from the date of reporting to the builders, the owner shall be entitled to have such defects cured by such other agencies as it may deem fit at the entire cost and risk of the builders and utilise the retention money; Provided further that in the event of the said retention money being inadequate to meet such costs, charges and expenses incurred by the owner for curing the defects in the construction, the builders shall within 7 days of a demand in writing made by the owner make good the defect, failing which the builders shall be liable to pay the same together with the interest at 15% per annum.

5.     The owner shall allow free ingress to and egress from the premises to the builder’s servants, employees, sub-contractors and all other persons, who are necessary in connection with the carrying out of the works under the agreement.

6.     The builders shall indemnify the owner in respect of all claims, damages or expenses payable in consequence to any injury to any employee, workman, nominee, invitee while in or upon the said premises. The builders shall also be responsible for any damage to buildings, whether immediately adjacent or otherwise and any damage to roads, streets, foot-paths, bridges or ways as well as all damages caused to the buildings, and work forming the subject to this contract by frost, rain, wind or other inclemency of weather.

7.     If the builders abandon the contract or fail to commence the work or suspend the progress of the work for 14 days without any lawful excuse under these conditions, or fail to proceed with the works with such due diligence and fail to make such due progress as would enable d the works to be completed within the time agreed upon or fail to remove materials from the site or to pull down and replace work for seven days after receiving from the architect written notice that the said materials or the works were defective and rejected by the said architect or neglect or fail persistently to observe and perform all or any of the acts, materials or things required by this contract to be observed and performed by the owner for seven days after written notice shall have given to the builders requiring them to observe or perform the same and the architect certifies in writing to the owner to the said effect, then and in any of the said cases the owner may, notwithstanding any previous waiver, after giving seven days notice through the said architect in writing to the builders terminate the licence in favour of the builders and in so far as it relates to the completion of the remaining construction work, but without thereby affecting the powers of the architect, or the obligations and liabilities of the builders, the whole of which shall continue in force as fully as if this Agreement had not been so determined. And the owner by his servants or agents may enter upon and take possession of the work, tools, scaffolding, sheds, machinery, power, utensils and materials lying upon the premises or in the adjoining lands or roads and use the same as its own property or may employ the same by means of its own servants and workmen in carrying on and completing the work or by employing any other contractor or other person to complete the works and the builders shall not in any way interrupt or do any act, matter or thing to prevent or hinder such other contractor or other person or persons employed for completing and finishing the works or using the material and plant for the works.

8.     When the said works are terminated in the manner as stipulated in the foregoing provision, the architect shall give a notice in writing to the builders to remove their surplus materials and plant, and should the builders fail to as so within a period of seven days, after receipt thereof by them, the owner may sell the same by public auction and give credit to the builders for the net amount realised. The architect shall thereafter ascertain and certify in writing, what (if any thing) shall be due or payable to or by the owner, for the value of the said building and materials so taken possession of by the owner and the expense or loss which the owner shall have been put to in procuring the work to be completed and the amount, if any, owing to the builders and the amount which shall be so certified shall thereupon be paid by the owner to the builders or by the builders to the owner, as the case may be, and the certificate of the architect shall be final and conclusive between the parties.

9.     The builders shall be bound to appoint an engineer competent to receive instructions from the architect from time to time, on behalf of the builders at all reasonable hours and all directions given to him by the architect shall be deemed to have been given to the builders.

10.  The owner or his representatives shall be entitled to inspect the progress of the construction work and materials used for the construction and they shall be entitled to point out to the architect any defects in the construction work, quality of workmanship or materials d used when such defective work is in progress or being executed or such material is brought on site. If the architect will be satisfied about the objections raised, the said architect shall certify the same in writing and direct the builders to rectify at their own cost the defect in the said construction work or remove such defective materials and the same shall be rectified or removed by the builders as directed.

11.  All disputes or differences relating to the specifications, designs, drawings and as to quality of workmanship or material used in the work or as to any other question arising out of or relating to the contract, design, drawings, specifications, orders or otherwise in connection with the agreement or the carrying out of the works, whether during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of two arbitrators, one to be appointed by each party. The arbitrators shall appoint an umpire before entering upon the reference. The parties would cooperate and lead evidence, etc. with the arbitrators and if one of the parties does not cooperate or remains absent at the reference, the arbitrators or the umpire would be at liberty to proceed with the reference ex-parte. The arbitrators or the umpire shall keep record of the oral evidence adduced by the parties and submit the same to the court at the time of filing of the award, along with documentary evidence produced before them or him by the parties or their witnesses. The proceeding of the arbitrators or the umpire shall be recorded in English and a carbon copy whereof shall be furnished to each party. The arbitrators or umpire shall be entitled to appoint stenographer, for recording proceedings of the arbitration, consult an expert, after previous notice to the parties to the reference, the cost whereof shall be borne equally by the parties. The fees of the arbitrator appointed by a party shall be borne by the party, so appointing and the fees of the umpire and the other arbitration expenses shall be borne equally by the parties. The arbitrators shall make their award, with reasons for the decision, within six months from the date of entering upon the reference. If the arbitrators have allowed their time to expire without making an award or have delivered to any party or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference. The umpire shall make his award within tour months of entering on the reference or within such extended time, as the parties may agree. The award of the arbitrators, or umpire, as the case may be, shall be final, conclusive and binding on the parties and shall not be challenged on any ground except collusion, fraud or an error apparent on the face of the award. This reference to arbitration shall be deemed to be a reference within the meaning of the Arbitration and Conciliation Act, 1996 or any statutory modification thereof. No action can be taken under this agreement for the enforcement of any right without resorting to arbitration under this clause.

12.  This agreement shall be executed in duplicate, the original shall be retained by the owner and the duplicate by the builders.

In Witness Where of the parties have signed these presents and a duplicate thereof, the day and year first hereinabove written.

Signed and delivered by .................... the owner

Signed and delivered by M/s ABC Builders and Contractors, the builders, by its partners

WITNESSES;

1.

2.

**Dealership Agreement between a Manufacturing Company and Firm**

This agreement made on this……………day of…………….between chandika & co. Ltd., a company incorporated under the companies act, 1956 and having its registered office at …………(hereinafter called the ‘company’ which expression shall, unless the context admits otherwise, includes its representatives) of the one part and jumb & jumboo, a partnership firm consisting of shri……………..,shri……………………shri……………….and smt……………..w/o shri…………………partners, having its main business place at………………and branches at………….. And ……………..(hereinafter called “the firm” which expression shall, unless the context admits otherwise, include the partners, their heirs, executors, administrators, representatives and assigns) of the other part.

Whereas

1.     The company manufacturers cotton and polyster fibre yarn suitings and shirtings.

2.     The firm has its own well-established marketing network and is selling goods of various manufactures and is desirous of selling the goods of the company at a new sales depot recently taken by it on rent for the purpose.

3.     The company, after having considered the proposal of the firm, has agreed to appoint the firm as its dealer on the terms and conditions as hereinafter appearing.

Now this agreement witnesses as under :

1.     That the company hereby appoints the firm as its dealer for selling its products, more particularly described in the schedule annexed hereto.

2.     That the agreement shall remain in force originally for three years commencing from…………but may be renewed for similar periods on the terms and conditions as may be agreed by and between the parties hereto.

3.     That the firm shall keep a minimum stock of…………pieces each of the company’s products described in the schedule to meet the demand of the ultimate users/consumers, and such quantity shall be reviewed every quarter in the light of the sales during the previous quarter the demands, consumers likings and the market trends.

4.     That the company shall supply to the firm its products on credit for fifteen days from the date of the invoice and shall charge interest at the rate of………….per cent per annum from the sixteenth day of the invoice till payment in full if payments are not made within the period credit aforesaid.

5.     That the company shall supply to the firm publicity and advertisement material in sufficient quantity for display at the firm’s sales depot and for the distribution in its area of operation.

6.     That the company shall bear 60% of the cost of maintaining the firm’s sales depot including rent thereof subject to a maximum of 6% of the invoice value of all the products of the company sold to the firm, which amounts shall be credited to the firm’s running account maintained with the company at the end of each quarter.

7.     That the accounts between the parties will be settled half-yearly and the credit/debit balance shall be squared up by making necessary payment6s by the parties.

8.     The firm shall make all efforts for the promotion of the sale of the company’s products and in the event of the company being of opinion on the basis of sale records that the firm is failing in properly performing its duty as dealer, the company shall be at liberty to terminate this agreement by giving the firm one month’s notice in writing and on the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter.

9.     The company hereby agrees and undertakes to supply to the firm its products as per the firm’s orders and on the company failing to supply the goods under the firm’s orders ,the firm shall be at liberty to terminate the agreement by giving the company one month’s notice in writing and after the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter

10.  The firm shall at no time sell any product of the company at a price higher than that fixed by the company from time to time

11.  The firm shall be free and entitled to appoint sub-dealers, salesmen, commission agents or other sales personnel on salary, commission or any other basis, but with the condition that they will function in accordance with the provisions of this agreement and not do anything which is detrimental to the interest of the company, or the firm and the collective interests of both.

In witness whereof, etc.

Schedule referred to above.

**Dealership Agreements**

      I.        Preliminary.- It is the common feature of the manufacturing operations of the industrial concerns that dealers are appointed to sell the goods so manufactured . it is because of this that dealership agreements are invariably entered into by the manufacturing concerns with the other parties so as to demarcate the contours of relations inter se.

     II.        Model Forms

 Dealership Agreement between a Manufacturing

Company and Firm

This Agreement Made On This……………day of…………….between Chandika & Co. Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at …………(hereinafter called the ‘company’ which expression shall, unless the context admits otherwise, includes its representatives) of the one part and Jumb & Jumboo, a partnership firm consisting of Shri……………..,Shri……………………Shri……………….and Smt……………..w/o Shri…………………partners, having its main business place at………………and branches at………….. and ……………..(hereinafter called “the firm” which expression shall, unless the context admits otherwise, include the partners, their heirs, executors, administrators, representatives and assigns) of the other part.

Whereas

1.     The company manufacturers cotton and polyster fibre yarn suitings and shirtings.

2.     The firm has its own well-established marketing network and is selling goods of various manufactures and is desirous of selling the goods of the company at a new sales depot recently taken by it on rent for the purpose.

3.     The company, after having considered the proposal of the firm, has agreed to appoint the firm as its dealer on the terms and conditions as hereinafter appearing.

Now this Agreement Witnesses as under :

1.     That the company hereby appoints the firm as its dealer for selling its products, more particularly described in the Schedule annexed hereto.

2.     That the agreement shall remain in force originally for three years commencing from…………but may be renewed for similar periods on the terms and conditions as may be agreed by and between the parties hereto.

3.     That the firm shall keep a minimum stock of…………pieces each of the company’s products described in the Schedule to meet the demand of the ultimate users/consumers, and such quantity shall be reviewed every quarter in the light of the sales during the previous quarter the demands, consumers likings and the market trends.

4.     That the company shall supply to the firm its products on credit for fifteen days from the date of the invoice and shall charge interest at the rate of………….per cent per annum from the sixteenth day of the invoice till payment in full if payments are not made within the period credit aforesaid.

5.     That the company shall supply to the firm publicity and advertisement material in sufficient quantity for display at the firm’s sales depot and for the distribution in its area of operation.

6.     That the company shall bear 60% of the cost of maintaining the firm’s sales depot including rent thereof subject to a maximum of 6% of the invoice value of all the products of the company sold to the firm, which amounts shall be credited to the firm’s running account maintained with the company at the end of each quarter.

7.     That the accounts between the parties will be settled half-yearly and the credit/debit balance shall be squared up by making necessary payment6s by the parties.

8.     The firm shall make all efforts for the promotion of the sale of the company’s products and in the event of the company being of opinion on the basis of sale records that the firm is failing in properly performing its duty as dealer, the company shall be at liberty to terminate this agreement by giving the firm one month’s notice in writing and on the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter.

9.     The company hereby agrees and undertakes to supply to the firm its products as per the firm’s orders and on the company failing to supply the goods under the firm’s orders ,the firm shall be at liberty to terminate the agreement by giving the company one month’s notice in writing and after the expiry of the notice period, this agreement shall stand terminated and the parties shall settle their accounts within a week thereafter

10.  The firm shall at no time sell any product of the company at a price higher than that fixed by the company from time to time

11.  The firm shall be free and entitled to appoint sub-dealers, salesmen, commission agents or other sales personnel on salary, commission or any other basis, but with the condition that they will function in accordance with the provisions of this agreement and not do anything which is detrimental to the interest of the company, or the firm and the collective interests of both.

In Witness Whereof, etc.

Schedule Reprred to Above

4.     Hire-Purchase Agreements

       i        **Preliminary**.- Hire-purchase agreements have acquired special importance in the developing economy of the country. What does hire-purchase agreement connote ? By a contract of hire-purchase is meant a contract which in addition to terms of hire, provides that on payment of the rent for a certain period, or for a certain number of times, or on the payment of a certain sum after such payment of rent, or at some time during the hiring, the property in the goods hired shall (or may) pass from the owner to the hirer. [Periar’s Law of Hire and Hire-Purchase 2nd Ed., p.2]. In effect hire-purchase agreement is a contract of bailment and is governed by the provisions of Chapter IX of the India Contract Act, 1872. This agreement is with an option to purchase though it is sometimes used in a wider sense to include agreements where there is an irrevocable agreement to buy in Installments are paid. A hire-purchase agreement thus creates a bailment, but is a bailment plus an option to purchase. The transaction is composed of the element of both the law of hire and sale, it would be clearly wrong to assimilate it to a hypothecation of moveable property .[V. Dakshinamurthi Mudaliar v. General & Credit Corporation (India) Ltd., AIR 1960 Mad. 328, 330].

The transaction partakes of a contract or bailment with an element of sale added to it. In such an agreement, the owner of the goods lest them on hire for periodic payments by the hirer upon an agreement that when a certain number of payments by the hirer upon an agreement that when a certain number of payments have been completed, the absolute property in the goods will pass to the hirer, but so that the hirer may return the goods at any time without any obligation to pay any balance of rent accruing after return; until the conditions have been fulfilled, the property remains with the owner. In this agreement the hirer is not bound to purchase the thing hired, he has an option, he may or may not purchase. But in either case, if there an obligation to buy, or an option to buy, the goods delivered to the hirer by the owners on the terms that the hirer on payment of a premium as also of a number of Installments shall enjoy the use of the goods, which ultimately may become his property, the transaction amounts to one of hire-purchaser, even though the title to the goods has remained with the owner and shall not pass to the hirer until certain event has happened, namely that all the stipulated Installments have been paid, or that the hirer has exercised his option to finalise the purchase on payment of a sum nominal or otherwise. [Installment Supply (P) Ltd. v. Union of India, AIR 1962 SC 53, 58: Sundaram Finance Ltd. v. State of Kerala, AIR 1966 SC 1178].

      ii        Hire-Purchase agreement not sale.-It has to be remembered that a hire-purchase agreement is not a sale even if it contains a stipulation in the form of option of the hirer to purchase the article hired. Even where the price for sale is to be pain in Installments later, the property in the goods passes as soon as the sale is made. This follows from the definition of sale in section 4 of the Sale of Goods Act, 1930 (as distinguished from an agreement to sell) which requires that the seller transfers the property in the goods to the buyer for price. The essence of sale is that the property is transferred from the seller to the buyers for a price whether paid at once or paid later in installments. On the other hand , a hire-purchase agreement as its very name implies, has two aspects. There is first an aspect of bailment of the goods subjected to the hire-purchase agreement, and there is next an element of sale which fructifies when the option to purchase, which is usually a term of hire-purchase agreements, is exercised by the intending purchaser. Thus the intending purchaser is known as the hirer so long as the option to purchase is not exercised, and the essence of the hire-purchase agreement properly so called is that the property in the goods does not pass at the time of the agreement but remains in the intending seller, and only passes later when the option is exercised by the intending purchaser. The distinguished feature of a typical hire-purchase agreement is made but only passes when the option is finally exercised after complying with all the terms of the agreement. [K.L. Johar & Co. vi Dy CTO, AIR 1955 SC 1082,1088].

The position of the owner of goods under a hire-purchase agreement is that of a person who has made on irrevocable offer to sell but no obligation to buy. [Helby v. Mathews, (1895) AC 471 ; Lee v. Butler, (1893) 2 Q.B. 318]. T essence of the hire-purchase agreement is that the hirer is not bound to purchase . [Dalpat Rai v. Manohar Lal & Sons, AIR 1974 Raj. 61]. A hire-purchase agreement has two elements ; (I) element of bailment, and (ii) element of sale, in the sense that it contemplates an eventual sale. The element of sale fructifies when the option is exercised by the intending purchaser after fulfilling the terms of the agreement. When all the terms of the agreement are satisfied and the option to purchase is exercised, a sale takes place of the goods which till then had been hired. [K.L.Johar & Co. v. Dy. CTO, AIR 1965 SC 1082, 1090].

     iii        Duty of hirer.-According to section 151 of the Contract Act, 1872, the hirer is bound to take as much care of the goods hired to him as a man of ordinary prudence would under similar circumstances take of his own goods of the same bulk, quality and value as the goods hired. Under Section 152 of the Contract Act, the hirer in the absence of any special contract is not responsible for the loss, destruction or deterioration of the thing hired, if he has taken such care. Accordingly, the parties may provide by stipulation in that behalf that the hirer will be liable for any loss or damage to the goods arising from any cause whatever.

     iv        Parties .-Normally , there are two parties to the hire-purchase agreement, viz., the owner and the hirer. However, sometimes a financier, for example in case of motor vehicles, is also brought in as a necessary party who purchase the vehicle from the owner and lets the same on hire to the hirer on Installments and in such case, a guarantor is also required to be supplied by the hirer to secure fulfilment of the obligations imposed on the hirer under the agreement.

      v        Clauses.-In drafting a hire-purchase agreement, care should be taken to draft the following important clause in the agreement properly ;

a.     No obligation to buy.-The agreement of hire-purchase should not amount to an agreement to buy but it should only give the hirer an option to purchase because where a person under an agreement to buy obtains the possession of the goods and the hirer under the hire-purchase agreement so obtains the possession, he would be able to give little to any one who takes the goods on sale or pledge from him without notice of the hire purchase agreement [See section 30 (2) of the Sales of Goods Act, 1930 and thereby the hirer would be able to defeat the intention of the owner. Where, however, the agreement is not an agreement to buy but it merely give an option to the hirer to buy on the fulfillment of certain conditions, the hirer cannot gives a valid title to any one. [Roopchand Jankidas v. National Bank, 46 Cal. 342].

b.    Property in goods not to pass.-A hire-purchase agreement must contain an express stipulation that the property in the goods shall not pass of the hirer untill all Installments have been paid.

c.     Minimum payment clause.-A hire-purchase agreement may be terminated either by the owner or hirer and the hirer may return the article to the owner after terminating the agreement. But since the articles are subject to usual wear and tear on account of user, it is usual to insert a “minimum payment” clause in the agreement in order to provide for depreciation of the article taken under the hire-purchase agreement. Such a clause provides that in the event of the agreement being determined by the owner or the hirer, the hirer shall be liable to pay 50% of the total price after deduction of the Installments already paid by the hirer.

d.    Seizure clause.-It is also usual to incorporate a clause in the hire-purchase agreement empowering the owner to seize the article hired in the event of the hirer committing a breach of any terms thereof, particularly the non-payment of monthly hire.

     vi        Claim of financier to prevail over the state.-Where under a hire-purchase agreement, the financier, i.e., the owner lets on hire a motor vehicle to the hirer, clause 4 of the agreement states that, on default by the hirer, the owner can seize, remove and retake possession of the vehicle and sue for all the Installments due and for damage for breach of the agreement and for all the costs of retaking of possession of the said vehicle and all costs occasioned by the hirer’s default. Clause 6 would show that, only upon the hirer paying the entire amounts due under the agreement, the said vehicle shall become the sole and absolute property of the hirer. In regard to the registration of the vehicle shall become the sole and absolute property of the hirer. In regard to the registration of the vehicle, thought it is in hirer’s name, clause 8 of the agreement states that the owners-meaning the financing company agree to permit the hirer to have the registration of the vehicle in his name provided that the hirer shall transfer the registration in the name of the owners whenever required to do so by them and especially when the hirer commits breach of any of the conditions of the agreement. In the light of these clauses in the agreement and in the event of the financier seizing the vehicle on default on the hirer in payment of the Installments, the claims of the financier would prevail over that of the State. Where a person has got a prior secured right over the property, the State’s claim will not prevail. In the Income-tax Act, there is no substantive provision for superseding or overriding the claims or rights of a secured creditor. Schedule II mentioned in section 222 of the I.T. Act, 1961, which contains statutory rules in accordance with which the modes of recovery mentioned in that section have to be exercised, relates to procedure only and does not deal with substantive rights. [Sundaram Finance Ltd. v. RTO, (1979) 117 ITR 334 (Ker)].

    vii        Allowability of depreciation of hired article.-The Board has issued the following circular containing instructions regarding depreciation allowance on plant and machinery acquired under hire-purchase agreement.

“The following instructions are issued for dealing with case in which as asset is being acquired under or on what is known as hire-purchase agreement:-

              I.        In every case of payment purporting to be for hire-purchase, production of the agreement under which the payment is made should be insisted on.

             II.        Where the effect of an agreement is that the ownership of the subject is at once transferred to the lessee( e.g. where the lessor obtains a right to sue for arrear of Installments but no right to recovery of the asset) the transaction should be regarded as one of purchase by Installments and no deduction in respect of “hire” should be made. Depreciation should be allowed to the lessee on the entire purchase price as per the agreement.

            III.        Where the terms of the agreement provide that the equipment shall eventually become the property of the hirer or confer on the hirer an option to purchase the equipment, the transaction should be regarded as one of hire-purchase. In such case the periodical payments made by the hirer should not tax purposes be regarded as made up of-

a.     consideration for hire, to be allowed as a deduction in the assessment ; and

b.    payment on account of purchase, to be treated as capital outlay, depreciation being allowed to the lessee on the initial value(i.e., the amount for which the hired subject would have been sold for cash at the date of the agreement).”

The allowance to be made in respect of hire should be the difference between the aggregate amount of the periodical payments under the agreement and the initial value(as described above), the amount of this allowance being spread evenly over the term of agreement. If, however, the agreement was terminated either by outright purchase of the equipment or its return to the owner, the deduction should cease as from the date of the termination.

An assessee claiming this deduction should be asked to furnish a certificate from the vendor or other satisfactory evidence of the initial value (as described above). Where no certificate or satisfactory evidence is forthcoming, the initial value should be arrived at by computing the present value of the amount payable under the agreement at an appropriate rate per centum. In doubtful case the fact should be reported to the Board”.

[Circular No.9 of 1943, R. Dis. No. 27(4) IT/43, dated 23rd March, 1943].

   viii        Registration.-Registration of a hire-purchase agreement is not compulsory.

     ix        Stamp duty.-The hire-purchase agreement requires a stamp of only Re. 1 like an ordinary agreement.

      x        Model Forms

**Deed of Conveyance by a Lunatic through his Legal Guardian or Manager**

Deed of conveyance made this .........day of........between Mr ''X'' a Lunatic by his manager or guardian Mr ''Y'' hereinafter referred to as the vendor of the One Part and Mr.Z hereinafter referred to as the Purchaser'') of the Other Part

WHEREAS

1.     The said Mr. ''X'' is a lunatic or person of unsound mind.

2.     On his becoming lunatic or of unsound mind his brother the said Mr''Y'' made an application to the Court at District for holding an inquisition on his lunacy under Chapter VI of the Mental Health Act 1987 and on the court passing an order for inquisition the necessary inquisition was made and by an order dated the day of --- passed by the court on such inquisition the said Mr''Y'' was appointed as the manager for the management of the properties of the said lunatic.

3.     The Lunatic Mr''X'' owns certain immoveable properties including the one situated at ....... consisting of a piece of land with an old house thereon and which is more particularly described in the schedule hereunder written.

4.     The properties of the said Mr''X'' do not yield sufficient income necessary for the maintenance of the said Mr''X''. There are also some debts and liabilities payable by the said Mr. X including the liability for payment of the cost of the inquisition held into the lunacy as aforesaid.

5.     In order to pay off the debts and liabilities and with a view to make sufficient provision for the maintenance of the said Mr. X the said Mr. Y proposed to dispose of the said property described in the schedule hereunder written ad therefore he entered into an agreement for the sale of the property on the...............day of........ with the purchaser for the price of Rs...... subject to the sale being sanctioned by the Honorable High court.

6.     Accordingly the said Mr''Y'' ad application to the District Court being petition no..........for permission to sell the said property in terms of the agreement under Sec. 59 of the said Act of 1987.

7.     After making due inquiries the District Court by order date the ........day of.......... authorized the said Mr''Y'' to sell the said property in terms of the said agreement subject to terms and conditions mentioned in the said order as to utilization of the purchase price and making provision for the lunatic''s maintenance and authorised the said Mr ''Y'' as the manger of the estate of the said lunatic to execute deed of conveyance in favor of the said purchaser.

NOW THIS DEEED WITNESSETH

That pursuant to the said agreement and the order the District Court and in consideration of the sum of Rs---- paid the purchase as earnest money on the execution of the agreement of sale and in further consideration of the sum of Rs........paid by the purchase to the vendor on the execution of this Deed making together the said sum of Rs.................. being the full consideration to be paid by the purchase tot vendor as aforesaid (receipt whereof the vendor doth herby admit) he the vendor by his said manage doth hereby grant and convey to the purchase all that piece of land with the building thereon situate at.............. and more particularly described in schedule under together with all things permanently attached thereto and standing thereon and all the privileges, easements, profits, advantages, rights and aappurtenances whatsoever to the said property belonging and all the estate, right, title, interest, claim and demand whatsoever in law or otherwise of the vendor to the said property another premises hereby conveyed and every part thereof. To Have and to Hold the same unto and to use of purchase absolutely and forever by the subject to payment of all taxes assessments dues and duties now chargeable or payable and hereafter to become chargeable or payable in respect of the said property herby conveyed to the government or local authority or any other public body.

And the said manger doth hereby covenant with the purchase that he the manager has not done any act deed or thing whereby or by means whereof he is prevented from granting and conveying the said property in the manner aforesaid.

IN WITNESS WHEROF the parties have put their hands the day and year first hereinabove written

The Schedule above referred to

Signed and delivered by the with in named

Mr ''X" by his manager

Mr ''Y'' ---- in the presence of

**Delay Condonation In SLP**

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

I.A. No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_OF 2000

IN

SPECIAL LEAVE PETITION NO.\_\_\_\_\_\_\_\_\_\_OF 2000

AN APPLICATION FOR CONDONATION OF DELAY

IN THE MATTER OF Articles 136,\_\_\_\_\_,and

M/s. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PETITIONER

VERSUS

Mr.\_\_\_\_\_\_\_\_\_\_\_\_\_\_& Others

RESPONDENTS

AN APPLICATION FOR CONDONATION OF DELAY

The Honorable Chief Justice of India and his companion Justices of the Supreme Court The humble Petition of the Petitioner above-named

MOST RESPECTFULLY SHOWETH:

1.     That the petitioner has filed this Special Leave Petition against the final judgment and order dated passed by the High Court of at in Writ Petition No. of 2000.

2.     That the petitioners have stated the facts of the case and the grounds arising there from in the accompanying petition and the same may be treated as part and parcel of this application.

3.     That against the final judgment and order dated passed by the High Court of at in Writ Petition No. \_\_\_\_\_\_\_\_\_\_\_\_\_of the petitioner had preferred a Writ Appeal being Writ Appeal No. of and the same was pending before the Honorable High Court/ or state any other valid reason.

4.     That due to the aforesaid reason a delay has occurred in challenging final judgment and order dated passed by the High Court of \_\_\_\_\_\_at in Writ Petition No.\_\_\_\_\_\_\_\_\_ of 2000.

5.     That the said delay which has occurred is purely technical in nature.

6.     That the instant petition does not suffer from any latches as the delay, if any, in filing this petition is unintentional and as such, the delay which has so occasioned may be condoned.

PRAYER

It is therefore most respectfully prayed that this Honorable court may be pleased to:

A.    Condone the delay if any in filing the instant Special Leave Petition against the impugned Judgment and Order dated passed by the Honorable High Court of at in Writ Petition No.\_\_\_\_\_\_\_\_\_\_\_ of 2000.

B.    Pass any further Orders this Honorable Court may deem fit in and proper under the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER SHALL BE EVER GRATEFUL.

DRAWN AND FILED BY

NEW DELHI:

ADVOCATE FOR THE PETITIONER

FILED ON

**Draft Notice U/S 138 of NIA**

IN THE COURT OF LD. METROPOLITAN MAGISTRATES

23rd COURT AT ESPLANADE, MUMBAI

CASE No. OF 2006

TRADE WINGS HOTELS LIMITED )

Having its Corporate Office at )

18/20 Dubash Marg, Kalaghoda, )

Fort, Mumbai 400 023 )

Having its Registered Office at )

6 Mascarenhas building )

Mahatma Gandhi Road, )

Panaji, Goa 403 001 )

through Mr. Ajay Vageria )

its Authorised Representative ) COMPLAINANT

V/s

1. ABK Enterprises Pvt. Ltd. )

Having its registered office at )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. )

2. Dr. Ajit B. Kerkar )

[Director and Authorized Signatory] )

of ABK Enterprises Pvt. Ltd. )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. ) ACCUSED

**Charge U/s.138 r/w Sec.141 of the Negotiable Instruments Act, 1881.**

**MAY IT PLEASE YOUR WORSHIP:**

The Complainant through Ajay Vageria, the authorized representative of the complainant company abovenamed, hereby states on solemn affirmation as under:

|  |  |
| --- | --- |
| Ex. A | 1.     The Complainant states that it has duly authorized Ajay Vageria to file this complaint against the accused and that he is conversant with the facts of this case. He is aware of the day to day operations of the Complainant company including the transaction in question and therefore able and competent to depose to the same for and on behalf of the Complainant company. Hereto annexed and marked as **Exhibit A**is the copy of the board resolution authorizing him to file this complaint.  2.     The Complainant is a company incorporated under the Companies Act, 1956 having its corporate office at 18/20, K. Dubash Marg, Fort Mumbai 400 023 and having its registered office at 6 Mascarenhas Building, Mahatma Gandhi Road, Panaji, Goa 403 001 carrying on the business of Hotel and Restaurants.  3.     The Accused No. 1 is a Private Limited Company. The Accused No. 2 is a director of Accused No.1 company and is also the authorized signatory of the cheque in question issued on behalf of Accused No. 1.  Accused No. 2 is in charge of the company and is responsible for the day to day affairs of the said company.  4.     The Complainant states that under an MOU dated 26.4.2000 between Accused No.2, acting on behalf of Tulip Hotels Pvt. Ltd. (THPL) and Dr. Shailendra Mittal, wherein the Accused No. 2 had agreed that THPL will buy 50% of the equity capital of the Complainant by itself or through its nominees within 135 days of the Management of Bogmalo Beach Resort (hereinafter referred to as the said Hotel) being taken over by a Joint Venture consisting of THPL and Trade Wings equally. The Complainant states that the management of the said Hotel was handed over on 15.6.2006. Pursuant to the MOU a Shareholders Agreement dated 9th June 2000 was entered into between THPL , Trade Wings Ltd, the Complainant, Dr. Shailendra Mittal and Accused No. 2. Under the MOU the price of the equity shares of the Complainant was agreed to be in the range of 27 to 30 crores and THPL agreed to purchase 50% of the equity capital of the Complainant through itself or its nominees by 28.10.2000.  The Complainant craves leave to refer to and rely upon the said MOU and shareholders agreement as and when required by this Honble Court.  5.     The Complainant states that the Accused No.2 had issued a cheque on behalf of Accused No.1 to the Complainant for a sum of Rs.9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) being the amount towards part payment of 50% of the equity capital of the Complainant as agreed under the MOU. The amount owing to the Complainant on the date of the said cheque was far in excess of Rs. 9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) and though not germane to this complaint, the Accused made certain payments viz. Rs. 30,00,000/- (Rupees Thirty lakhs only) vide a pay order dated 3.11.2006 to Trade Wings Ltd. and Rs. 1,20,00,000/- (Rupees one crore twenty lakhs only) to the Complainant vide a cheque dated 4.11.2006. These payments do not in any way diminish the liability of the accused in respect of the cheque for Rs. 9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) which is subject matter of this Complaint. The Accused No. 1 issued the cheque on behalf of THPL as a nominee of the said THPL and hence has assumed the liability of the said THPL. |
| **Ex. B** | |  | | --- | |  |   6.     The Complainant states that the Accused No.1 and 2 in part discharge of the liability under the MOU towards the Complainant had issued a cheque bearing No.184252 dated 1.11.2006 for Rs.9,79,70,000/- (Rupees Nine Crores Seventy Nine Lakhs Seventy Thousand only) drawn on Industrial Development Bank of India Ltd., Mittal Court, C Wing, Nariman Point, Mumbai 400 021 in favour of the Complainant.  Annexed hereto and marked as **Exhibit B** is the copy of the dishonoured cheque dated 1.11.2006.  7.     The Complainant states that the cheque was presented by the Complainant for encashment with the Complainants banker viz. the National Cooperative Bank Ltd., Nariman Point Branch, Mumbai on 31.10.2006 after banking hours so that it could be presented to the bankers of the Accused on 1.11.2006. Subsequently the Complainant received a faxed letter dated 30.10.2006 on 31.10.2006 from the Accused No.2 requesting the Complainant not to deposit the cheque due to delay caused by an inadvertent reason resulting in difficulty in arranging the funds. In fact the letter further goes on to state that they shall make efforts to pay a partial amount before the end of November 2006. The Complainant however was not obliged to comply with the requisition contained in the said letter as the same had been sent dishonestly to merely stall for time. On 1.11.2006 the said cheque was returned dishonoured by a cheque return memo dated 1.11.2006 of Industrial Development Bank of India Ltd. with the remark Refer to Drawer.  Annexed hereto and marked as **Exhibit C** and **C-1** are copies of the letter dated 30.10.2006 and the cheque return memo dated 1.11.2006 respectively. |
| **Ex. C & C-1** | 8.     The Complainant received the intimation about the dishonour of the cheque from their banker on 1.11.2006.  9.     As the said cheque was dishonoured the Complainant issued the statutory notice dated 15.11.2006 through its advocates Dave & Girish & Co. to Accused Nos.1 and 2 calling upon them to make payment of the dishonoured cheque amounting to Rs.9,79,70,000/- within 15 days from the date of receipt of the said notice.  Annexed hereto and marked as **Exhibit D**is the copy of the statutory notice dated 15.11.2006. |
| **Ex. D** | 10.    The Complainant states that the said notice was sent to the Accused Nos.1 and 2 by registered A/D post and Under Certificate of Posting on 15.11.2006.  Annexed hereto and marked as **Exhibit E collectively**are the copies of the postal receipts of Registered A/D post and Under Certificate of Posting. |
| **Ex. F** | |  | | --- | |  |   11.    The Accused Nos.1 and 2 received the notice dated 15.11.2006 on 16.11.2006. Annexed hereto and marked as **Exhibit F** are the postal acknowledgement receipts which were duly acknowledged by the Accused on 16.11.2006. |
| **Ex. G** | 12.    Although the Accused Nos.1 and 2 have received the notice dated 15.11.2006 they have failed to make the entire payment to the Complainant which the Accused is liable to make within 15 days from the date of receipt of the notice. The Accused No.1 addressed a letter dated 1.12.2006, with a post-dated cheque for Rs.7,29,70,000/- (Rupees seven crores twenty-nine lakhs and seventy thousand) enclosed, purportedly in reply to the Complainants notice dated 15.11.2006 in which it was falsely contended, inter alia, that the Complainants notice is premature, that the payment was in full settlement of the Accuseds liability towards the Complainant, that certain further payments were made to the Complainant in respect of the amount of the dishonoured cheque. The Complainant says and submits that the issuance of a fresh post-dated cheque for a reduced amount in no way constitutes compliance with the Complainants notice u/s 138 of the Negotiable Instruments Act, 1881 and also says and submits that the so-called defense taken by the Accused in their reply dated 1.12.2006 is false and irrelevant and is also a means to stall for time. Annexed hereto and marked as **Exhibit G** is a copy of the letter dated 1.12.2006 sent by the Accused No.1. The Complainant adds that though the said notice makes mention of a pay order of Rs. 1,00,00,000/- (Rupees one crore only) given to Mr. Om Navani and Mr. Ashok Advani, no copy of such pay order was enclosed in the said letter thus demonstrating the dishonesty of the Accused. In fact all the annexures mentioned in the letter are missing except the cheque dated 21.12.2006 bearing no. 184265 for Rs. 7,29,70,000/-. |
| **Ex. G** | |  | | --- | |  |   13.    The complainants cause of action arose on 1.12.2006 i.e. 15 days from the receipt of the notice dated 15.11.2006.  14.    The cheque was issued by the Accused in favour of the Complainant towards the part discharge of the liability of THPL towards the Complainant under the MOU and since the Accused No.2 is the authorized signatory of the cheque in question and is responsible for the day to day affairs of the business of Accused No.1 and hence is responsible for the said payment due to the Complainant.  The cheque was issued by Accused No. 2, on behalf of THPL, from the account maintained by the Accused No.1 with its banker for the payment of the amount to the Complainant in part discharge of the liability of THPL and since the cheque was dishonoured for the reasons stated hereinabove the Accused have committed an offence under section 138 read with section 141 of the Negotiable Instruments Act, 1881, as amended.  The Accused Nos.1 and 2 are thus liable to be prosecuted for the offence under section 138 read with section 141 of the Negotiable Instruments Act, 1881, as amended.  15.    The complaint has been filed within the period of limitation as prescribed under the Negotiable Instruments Act, 1881 as amended, i.e. within one month from the date on which the cause of action arose.  16.    The Complainant has appended a list witnesses that it proposes to examine to prove its case and also craves leave to refer to and rely upon the documents mentioned in the complaint.  17.    The Complainant states that the Complainants bank as well as the Accused No. 1s bank are situated within the jurisdiction of this Honorable Court and therefore this Honorable Court has jurisdiction to entertain, try and dispose of the above complaint. |

In the circumstances aforesaid, the Accused above named are guilty of offences u/s. 138 r/w. 141 of the Negotiable Instruments Act and pray that they be dealt with according to law.

For this Act of kindness, the Complainant in duty bound shall for ever pray.

Solemnly affirmed at Mumbai on )

this 8th day of December, 2006 ) For Trade Wings Hotels Ltd.

Before me

Advocate for the Complainant

**MbsinghDAssociatesHemangiDr. S. Mittal 8 complaint Final.doc**

**LIST OF WITNESSES**

1.                       Mr. Ajay Vageria, the authorized representative of the Complainant.

2.                       Representative of the Complainant Banker, The National Cooperative Bank Ltd., Nariman Point, Mumbai.

3.                       Representative of the Accused Banker, The Industrial Development Bank of India, Nariman Point, Mumbai.

4.                       Dr. Shailendra Mittal, Director of the Complainant Company

5.                       Mr. Om Navani, Director Tulip Hotels Pvt. Ltd.

6.                       Any other witnesses/documents with the permission of this Honble Court.

Advocate for the Complainant

IN THE COURT OF LD. METROPOLITAN MAGISTRATES

23rd COURT AT ESPLANADE, MUMBAI

CASE No. OF 2006

TRADE WINGS HOTELS LIMITED )

Having its Corporate Office at )

18/20 Dubash Marg, Kalaghoda, )

Fort, Mumbai 400 023 )

Having its Registered Office at )

6 Mascarenhas building, )

Mahatma Gandhi Road, )

Panaji, Goa 403 001 )

through Mr. Ajay Vageria )

its Authorised Representative ) COMPLAINANT

V/s

1.ABK Enterprises Pvt. Ltd. )

Having its registered office at )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. )

2.Dr. Ajit B. Kerkar )

[Director and Authorized Signatory] )

of ABK Enterprises Pvt. Ltd. )

Chandramukhi Building (Basement), )

Nariman Point, Mumbai 400 0021. ) ACCUSED

**VAKALATNAMA**

I, Ajay Vageria, the authorized representative of the complainant abovenamed, do hereby appoint, nominate and authorize M/s. Haresh Jagtiani & Associates, Advocates to act, appear and plead on the Complainants behalf in the above matter.

In witness whereof, I have signed this writing on this 8th day of December 2006.

(Complainant)

ACCEPTED

Haresh Jagtiani & Associates,

Advocates

205, Neelkanth

98, Marine Drive

Mumbai 400 002.

N.B. We are not the members of an advocates welfare fund.

IN THE COURT OF LD. METROPOLITAN MAGISTRATES

23rd COURT AT ESPLANADE, MUMBAI

CASE No. OF 2006

TRADE WINGS HOTELS LIMITED COMPLAINANT

V/s

1. ABK Enterprises Pvt. Ltd.

2. DR. AJIT B. KERKAR ACCUSED

**I N D E X**

|  |  |
| --- | --- |
| **Sr. No.** | **Particulars** |

**Exclusive Distributorship Agreement**

This agreement made and entered into day of by and between ......................... INC, a corporation duly organized and existing under the laws of Taiwan with its principal place of business at Taipei Taiwan (hereinafter called Seller )

and

.................................... LIMITED, a company registered under the Companies Act, 1956 with its principal place of business at .............................................. NEW DELHI, INDIA (hereinafter called Distributor ).

Whereas Clause

WHEREAS, Seller is desirous of exporting the products stipulated in article 4 hereof to the territory stipulated in Article 3 hereof and WHEREAS , Distributor is desirous of importing from Seller and selling the said products in the said territory; NOW, THEREFORE, in consideration of the promises and the mutual covenants to be faithfully performed herein contained, IT IS HEREBY AGREED AND UNDERSTOOD AS FOLLOWS:

**Article 1. Appointment**

During the effective period of this agreement, Seller hereby appoints Distributor as its exclusive distributor and Distributor accepts and assumes such appointment.

**Article 2. Privity**

The relationship hereby established between Seller and Distributor during the effective period of this Agreement, shall be solely that of Seller and Distributor has no authority to assume or create any obligation in the name of or of any kind on behalf of Seller.

**Article 3. Territory**

The territory covered under this Agreement shall be expressly combined to entire territory of INDIA. (hereinafter called territory ).

**Article 4. Products**

The products covered under this agreement shall be expressly confined to Uninterruptedly Power Supply (UPS) (hereinafter called Products).

**Article 5. Prices**

As applicable from time to time and conveyed by the Seller to the Distributor in writing & Distributor giving its consent in writing to the Seller.

**Article 6. Technical Improvement and Patent Application**

During the term of this Agreement, Seller shall furnish to Distributor any technical improvements and inventions relating to the Products made by Seller without any delay and free of charge. As Seller has right to apply for the issuance of patents thereon, Distributor agrees to make reasonable efforts to obtain such protection in India. During the term of this Agreement, Distributor agrees to furnish to Seller all technical improvement and inventions related to the Products required by Distributor without any delay and free of charge in consideration of services in Article 6-1 above.

**Article 7. After Sale Service**

Seller will provide one year full guarantee to Distributor after the shipping date. In case of faulty Products, Seller shall replace the faulty units with new All-in one PCB. Distributor shall send faulty PCB back to Seller for repairing. Whenever Seller has received a complaint as to the products from distributor, Seller shall immediately make investigation and take a proper action.

**Article 8. Exclusive Right**

In consideration of the exclusive right herein granted, Distributor shall not purchase, import, sell, distribute or otherwise deal in any products competitive with or similar to Products in Territory, and Seller shall not offer, sell or export Products to Territory through other channel than Distributor during the effective period of this Agreement. The Seller shall not provide assist, supply directly or indirectly to the technical details of the products to anyone in the Territory.

**Article 9.Minimum Purchase**

Distributor shall purchase at least US$ ……………………(U.S. Dollar …………………only ) of product during one (1) year ( 12 months ) during the effective period of this Agreement and its extension thereof, if any.

**Article 10.Individual Contract**

Each individual contract under this Agreement shall be subject to this Agreement but such contract shall be concluded and carried out by Seller's sale note or confirmation which shall set forth the terms, conditions, rights and obligations of the parties hereto arising from or in relation to or in connection with such contract except those stipulated in this Agreement.

**Article 11. Payment**

Payment by either irrevocable letter of credit or remittance by telegraphic transfer through bank. Letter of credit: Within 7 days after the receipt of Seller's confirmation of order, Distributor shall cause irrevocable confirmed Letter of Credit(s) available by Seller's sight draft to be established with a prime bank satisfactory to Seller. Remittance by Telegraphic Transfer. Payment shall be received by Seller 7 days prior to shipment effect.

**Article 12. Information and Report**

Both Seller and Distributor shall periodically and/or on the request of either party furnish information and market reports to each other to promote the sale of Products as much as possible. Distributor shall give Seller such reports as inventory, market conditions and other activities of Distributor.

**Article 13. Sales Promotion**

Distributor shall diligently and adequately advertise and promote the sale of Products throughout Territory. Seller shall furnish with or without charge to Distributor reasonable quantity of advertising literatures, catalogues, leaflets, folders etc.

Representatives of Seller may periodically visit Distributor and advise Distributor in methods and means best suited to promote the sale of Products throughout Territory.

**Article 14. Industrial Property Rights**

Distributor may use the trade-mark(s) of Seller during the effective period of this Agreement only in connection with the sales of Products, provided that even after the termination of this Agreement Distributor may use the trade-mark(s) in connection with the sale of Products held by it in stock at the time of termination. Distributor shall also acknowledge that any and all patents, trademarks, copyrights and other industrial property rights used or embodied in Products shall remain to be sole properties of Seller, and shall not dispute them in any way

**.Article 15. Duration**

This Agreement shall become effective on the day appearing at the first above written upon the signing of both Seller and Distributor and shall remain effective for a period of one year. At least three (3) months before the expiration of the term, Seller and Distributor shall consult with each other for renewal of this Agreement.

**Article 16. Prohibition of sale outside Territory**

Unless prior notice and approved by Seller, Distributor shall not sell or export, nor cause any other person, firm or corporation in Territory to sell or export Products outside Territory during the effective period of this Agreement.

**Article 17. Assignment**

Neither party shall assign and/or transfer this Agreement in whole or in part to any individual, firm or corporation without the prior written consent of the other party.

**Article 18. Observance of Secrecy**

Both Seller and Distributor shall keep in strict confidence from any third party(s) and all important matters as to the business affairs and transactions covered by this Agreement.

**Article 19 .Notice**

All notice which may or shall be given under this agreement shall be made by registered airmail or cable to the address mentioned below or to such address as are notified in writing by the parties hereto. If either party has changed its address, a written notice thereof shall be given to the other party. All notices shall also be deemed to have been given on the day when deposited in post.

**TAIPEI 10560 TAIWAN,R.O.C.**

**Article 20. Assembling**

To secure regular supplies in the territory, if both the parties agree, the seller shall provide all parts of the product to assemble the product in the territory. If the Seller wish to establish its manufacturing unit in the territory, the Distributor shall be given preference to establish such unit.

**Article 21. Governing Law & Arbitration**

This Agreement shall be governed and interpreted by the laws of India. In case that any dispute or controversy arises out of or in relation to this Agreement between both parties shall be settled amicably but, in case of failure, these disputes or controversies shall be finally settled in London by arbitration in accordance with International Commercial Arbitration Association where the award shall be final binding upon the parties hereto.

**Article 22. Entire Agreement**

This Agreement constitutes the entire and only agreement between the parties hereto and supersedes all previous negotiations, agreements, commitments relating to the sale of Products and shall not be released, discharged, changed or modified in any manner, except by instruments signed by duly authorized officer or representative of each of the parties hereto. IN WITNESS WHEREOF, the parties hereto have caused this Agreement in English and duplicate to be executed by their respective duly authorized officer or representative as of the day first above written

.......................................... INC.

[SELLER] ................................................ LTD.

[DISTRIBUTOR]

WITNESSTH

**Form for agreement between the Employer and Employees for Reference of Disputes to Arbitration**

AGREEMENT

BETWEEN

Names of the Parties;

Representing employers:

Representing workmen/workman:

It is hereby agreed between the parties to refer the following dispute to the arbitration of .............................. **[**here specify the name(s) and addressees) of the arbitrator(s)**]**:

                      i.        Specific matters in dispute;

                     ii.        Details of the parties to the dispute including the name and address of the establishment or undertaking involved;

                    iii.        Name of the workman in case he himself is involved in the dispute or the name of the Union, if any, representing the workmen or workman in question;

                    iv.        Total number of workmen employed in the undertaking affected;

                     v.        Estimated number of workmen affected or likely to be affected by the dispute.

We further agree that the majority decisions of the arbitrator(s) be binding on us. In case the arbitrators are equally divided in their opinion, that they shall appoint another person as umpire whose award shall be binding on us.

The arbitrator(s) shall make his (their) award within a period of ............................ (here specify the period agreed upon by the parties) or within such further time as is extended by mutual agreement between us in writing. In case the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

                                                                             Signature of the parties.

                                                                             Representing employer.

                                                                             Workman/Representing

WORKMAN / WORKMEN WITNESSES;

1.

2.

Copy to:

      i.        The Assistant Labour Commissioner (Central), .................. (here enter office address of the Conciliation Officer in local area concerned).

     ii.        The Regional Labour Commissioner (Central)...........................

    iii.        The Chief Labour Commissioner (Central), New Delhi.

    iv.        The Secretary to the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), New Delhi.

**Form of Technical Collaboration Agreement**

THIS AGREEMENT made on this…………..day of……………BETWEEN ………………an Indian company having its registered office at………………. (hereinafter referred to as “A”) of the one part AND……………a foreign firm having its principal place of business at…………..(hereinafter called “B”) of the other part.

WHEREAS “A” is engaged in the manufacturing and marketing of………….and has considerable engineering know-how and technical information and equipment regarding said……………..and their method of manufacture.

AND WHEREAS “A” is desirous of manufacturing in India and marketing in India and other countries of various types of items which are set out in Schedule “A” hereto annexed (hereinafter referred to as PRODUCTS) on the terms and conditions herein contained.

NOW THEREFORE IT IS AGREED between the parties that :

1.           Know how” means and includes all inventions, processes, patents, engineering and manufacturing skill and other technical information whether patent or patentable or not which are presently owned by “B” or which may be so owned, during the term of this agreement including without limitation :

1.       Technical and engineering data, calculations and information.

2.       Design data, calculations and information.

3.       Details of layout of works, including details and specification of machinery

4.       All other forms of recovered information, technique and design in making of jigs, tools, dies, patterns and moulds.

2.

a.     “B” shall fully and promptly furnish “A” with such “know-how” as “A” may require from time to time during the term of this agreement in connection with the manufacture of the products.

b.    “B” will depute ……………technicians at the expense of “A” to held to establish and operate the plant at…………….and to train………..Indian technicians in its work in…………….at expense of “A”.

c.     “A” at their expense, shall procure and maintain patents in India on such inventions and improvements made by “A” : as “A” in their sole discretion shall choose. “B” shall also have the right to use the invention and improvements in all countries outside Indian and shall take full title to such procured by “B” outside India. However, “B” shall not, without the consent of “A”, licence any third party under said patents except its subsidiaries, its parent company or other subsidiaries of the parent company.

d.    “A” shall manufacture the PRODUCTS in strict accordance with the said know-how, the STANDARD of quality embodied therein or as may be set from time to time by “B”. To ensure the performance of this provision, “B” shall have the right to inspect at reasonable intervals and during business hours the facilities of “A” to the manufacture of the said PRODUCTS.

3.       Subject to other provisions of this agreement, “B” hereby grants to “A”.

a.     an exclusive licence to make in India the products by the use of any or all of “Bs” know-how.

b.    b.    a non-exclusive licenses to use and sell the said PRODUCTS throughout the world.

4.

a.     in consideration of “B” having agreed to disclose to “A” the latest method of manufacture of PRODUCTS and other processes and having further agreed to supply technical advice and date, “A” agrees to pay “B” a sum of …………..which due and payable in installments as follows.

                                      i.        Upon effective date.

                                     ii.        Upon delivery by “B” of the complete design and engineering documents.

                                    iii.        Within………….months after tender or certificate of Discharge of guarantees.

……………………..

Total ……………………..

a.     In consideration of “B” for having agreed to disclose to “A” the latest method of manufacture of products and other process, and having further agreed to supply technical advice and date, “A” will arrange to allot “B”…………shares at Rs……….each without any payment by “B”

b.    “A” further agrees to pay to “B” a royalty of………..per cent of the net selling price of the products covered by the agreement for a period of……….years from the date of execution of the agreement. The net selling price would means the ex-works price of the products covered (less the landed cost of all imported components) including ocean freight, insurance, customs duties payable thereon, etc., irrespective of the source of import. Such royalty payments are subject to Indian taxes.



a.     “A” shall render to “B” bi-annual/annual reports on or before the last day of………..following each calendar year with respect to which royalties are payable under this agreement, stating the amount of PRODUCT manufactured in the plant during the preceding year the amount of royalty due and payable with respect thereto. At the time of rendering such reports A shall pay to B the amount of royalty stated therein to be due and payable.

b.    A agrees to keep complete records of the account concerning the products which are the subject- matter of this agreement, which records shall be open to inspection of B ‘its appointed representative agreeable to both parties, during regular business hours for verifying the payments due to B under this agreement .

1. All payments due by A to B under the agreement are to be made in …………………….. to B's account in any bank hit designates.

a.     “A” shall maintain secrecy at all time during this agreement of all the know how, drawings and the like disclosed by “B” to “A” and/or pursuant to the terms herein or about which “A” learns during the performance of this agreement.

b.    “A” will, however, be free to sub-license the technical know-how, product design/engineering design under the agreement to another Indian party/parties, should it become necessary. The terms of such sub-licence will, however, be as mutually agreed to by all parties concerned including “B” and will be subject to the approval of the Government.

1. This agreement shall become effective after it has been duly approved and signed by “A” and “B” and the approval of the Government of India has been obtained thereto.

a.     this agreement shall remain effective for a period of……….. years from the date of signing the agreement. Upon the expiration of this agreement, the KNOW HOW THEREFORE delivered to “A” shall remain its property for its full and free use thereof.

b.    Subject to the approval of the Indian Government, this agreement may be renewed in whole or in part for further period by mutual agreement.

1. This agreement shall be binding upon and ensure to the benefit of the successors and assigns of the respective parties hereto, and the obligations hereunder shall not be assignable by either party without written consent being first obtained from the other.
2. This agreement embodies entire understanding of the parties as to its subject matter, and it shall not be amended except in writing executed by both parties to the agreement.
3. Either party may by notice in writing to the other terminate this agreement in the event of :

a.     Any default by such other party in the performance or observation of any of its obligations under this agreement which is not remedied to the satisfaction of the party giving such notice within ninety (90) days following delivery of such notice, such notice to contain reasonable particulars of such default and to state the intention to terminate the agreement under this clause unless such default is made good or remedied.

b.    Judicial proceedings for bankruptcy, composition with creditors, sequestration of assets for creditors, or receivership instituted by or against such other party, insolvency of such other party or its failure to meet its obligations as they mature for any material period of time.

c.     Liquidation , compulsory or voluntary of such other party except in connection with an amalgamation, reconstruction, merger, consolidation, re-organisation or disposition of assets as a going concern voluntarily undertaken and with a view to the continuance of the business by the transferee thereof, provided, however, that upon such event the business entity continuing the business formerly carried on by such other party shall, in an appropriate instrument delivered to the other party to this agreement, undertake to perform all of the obligations of such other party hereunder.

1. Neither party shall be in default under this agreement by reason of its failure or delay in the performance of its obligations is such failure or delay is caused by acts of God, Government laws and regulations, strikes, lock-outs, war or any other cause beyond its control and without its fault or negligence.
2. All disputes, questions, or differences, etc., arising in connection with this agreement shall be referred to a single arbitrator in India in case parties agree upon one, otherwise two arbitrators in India are to be appointed by each party in accordance with and subject to the provision of the Arbitration & Conciliation Act, 1996, or any other enactment or statutory modification thereof for the time being in force.
3. Notices and other communications under the agreement shall be in writing, or by established cable, radio or facsimile service, addressed as indicated in the description of parties above or as either party may request in writing, and the effective date of each is the date of its repaid deposit in the mail for dispatch by air or such service properly addressed.
4. The agreement should be construed in accordance with and be governed by the laws of India.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

For “B”

……………………….

(Chairman of the Board)

For “A”

……………………….

(Director)

**Letter of Appointment of an Officer**

Shri ................................. .......................................

Dear Sir,

With reference to your application dated ................... and further tests and interview, we are pleased to inform you that you have been appointed by the company as an officer on the following terms and conditions:

1.     Your salary will be Rs. .............. p.m. in the pay scale of .......... plus other allowances as admissible to the officers of the company from time to time.

2.     You will be on probation for a period of one year (extendable upto two years at the discretion of the company) from the date of your appointment. You will be eligible to draw annual increments during the probation period. However, grant of an increment would not mean that the company considers you suitable for being confirmed in the company's service.

3.     You are liable to be posted in any of the offices of the company and to work in any of its departments. You are also liable for transfer to any place in India as the company may decide from time to time without payment of any allowance other than travelling allowance.

4.     You will be governed by the XYZ Co. (Staff Regulations, as amended from time to time.

5.     You will not engage in any other work or carry out any other business except with the permission of the company.

If the above terms and conditions are acceptable to you, please advise us on or before ……………………………….. If no reply is received upto that date, it will be presumed that you are not interested in the companys appointment and your name will be deleted from the selected list.

Yours faithfully

(……..…………..)

Personal Manager

**APaying Guest Agreement**

BETWEEN

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AND

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Re: One room in Flat No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AGREEMENT made at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2000 BETWEEN Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as "the Owner" of the One Part AND (i) Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and (ii) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as "the Paying Guest" of the Second Part;

WHEREAS the Owner is seized and possessed of and is occupying Flat No.\_\_\_\_ on the \_\_\_\_\_\_ floor of the building named and known as \_\_\_\_\_\_\_\_\_\_\_ situated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_;

AND WHEREAS the Paying Guest have requested the Owner to allow them use of one bedroom in the flat in the aforesaid premises for their own use only on a temporary basis on the terms and conditions hereinafter written.

NOW THIS AGREEMENT WITNESSETH:

1.     The Owner hereby agrees to permit the Paying Guest to use one bedroom in the aforesaid premises being Flat No.\_\_\_\_\_\_\_\_\_ in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ situated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ together with the use of the attached bathroom, on paying guest basis.

2.     This Paying Guest Agreement shall be for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only commencing from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

3.     The Paying Guest shall pay an amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only) for every quarter (Three months). The charges shall include the use of bathroom, and other incidentals and society charges. The Paying Guest have agreed to pay the entire electricity bill, less an amount of Rs.200/- (Rupees two hundred) per month.

4.     The Paying Guest have paid at the time of execution hereof a security deposit of Rs.\_\_\_\_\_\_\_\_\_\_\_ (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only) which shall remain with the Owner free of interest, until the termination of this agreement, and shall be returned to the Paying Guest, subject to any deduction for payments due hereunder. The Paying Guest shall pay a further sum of Rs.\_\_\_\_\_\_\_\_\_\_\_\_\_ (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only) as Security Deposit on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

5.     The Owner may allot to the Paying Guest any of the bedrooms in the said flat for the use of the Paying Guest and the Owner may change the allocation at any time during the pendency of the Agreement.

6.     The Paying Guest hereby specifically confirm and agree that they have no right whatsoever to the said premises nor shall claim to be tenant/sub-tenant or licensees nor shall claim any other right whatsoever in or to the said premises.

7.     It is clearly agreed and understood that the Paying Guest have not been given any key to the entrance door of the flat nor even to the room that is allocated to them for their temporary use from time to time.

8.     They Paying Guest may use the passages in the flat for access to the room and may use the kitchen for cooking their own food only provided that no disturbance whatsoever is caused to the use of the kitchen and passages and other portions of the flat by the Owner and his servants and others.

9.     The Paying Guest shall not cause any disturbance at any time and may permit guests or any outsider to enter the flat only with the permission of the Owner.

10.  In the event that the Paying Guest misuse any of the facilities in the flat or causes any disturbance or delays in making payment of the Paying Guest charges, this Agreement shall stand terminated forthwith and it is hereby specifically agreed and confirmed that the Owner shall be entitled to enter the room allocated to the Paying Guest for the time being and to remove all the belongings of the Paying Guest and dispose of them.

11.  This Agreement shall stand terminated immediately upon the expiry of the period mentioned hereinabove.

12.  The Paying Guest shall be responsible for any damage caused by them or by any other outsider who has entered the flat through them to the said flat and to any of the furniture, fixtures and equipment therein, reasonable wear and tear excepted.

IN WITNESS WHEREOF the parties hereto have hereunto set and subscribed their respective hands the day and year first hereinabove written.

SIGNED AND DELIVERED by the within- )

named MR. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

in the presence of )

SIGNED AND DELIVERED by the within- )

named (i) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

and (ii)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

in the presence of )

**--------------------------------------------------------------------------------------------------------------------------------------------**

**R E C E I P T**

Received this day the sum of Rs.\_\_\_\_\_\_\_\_\_\_\_\_\_ (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only) by cheque bearing No. \_\_\_\_\_\_\_\_\_\_\_\_ and Rs.\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only) by Cheque bearing No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_dated \_\_\_\_\_\_\_\_\_\_\_\_\_ both drawn on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Bank \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Branch from Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and Mrs.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Paying Guests towards security deposit.

WE SAY RECEIVED

Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Preliminary Agreement to Form a Company to Purchase and Develop Property**

AGREEMENT is made between Mr. A, residing at... of the First Part, Mr. B. residing at... of the Second Part and Mr. C residing at... of the Third Part, as follows:

WHEREAS -

1.        The parties hereto propose to carry on business of buying and developing properties through the medium of a company limited by shares.

2.        The parties have negotiated with the owner of an immoveable property situate at... for the purchase thereof and the terms and conditions are also settled but no formal agreement for purchase is entered into.

3.        Before the said agreement is entered into it is necessary to enter into a formal promotion agreement between the parties hereto and which the parties hereby intend to do.

NOW IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1.        The parties hereto agree to form and register a private company limited by shares with the main object of buying or otherwise acquiring immoveable properties, and selling them either as such or after developing them by construction of new buildings and selling or leasing flats and other premises therein on ownership basis or otherwise.

2.        The name of the Company will be... or such other name as the parties will agree to and will be approved by the Registrar of Companies.

3.        The initial nominal or authorised capital of the Company will be Rs.... divided into... equity shares of Rs. 1000/- each.

4.        The parties will get the Memorandum and Articles of Association prepared by M/s... Solicitors/Chartered Accountants and all other papers required to register the Company under the said Act.

5.        The Articles of Association will provide that the Parties hereto shall be permanent directors of the Company, without liability to retire and the number of directors will not be less than three and more than five. The remaining two directors will be appointed by the Parties hereto after registration of the Company if thought advisable and in the interest of the Company. The Articles will also provide for right of preemption to the Parties hereto or any of them if any of them or any other share holder desires to sell his shares at the valuation the basis of which will be provided in the Articles. Articles will also provide that none of the parties hereto will take any action for removal of any of the other of them as director. Articles will also make such other special provisions as may be agreed upon between the parties and with the advice of the legal adviser.

6.        Alter the execution of this agreement the parties hereto shall enter into an agreement for purchase of the said property situate at... with the owner thereof for the price of Rs.... agreed upon and containing all usual terms and conditions and such other terms as the legal adviser will think fit and will be agreed to by the Parties to such agreement. The earnest money required to be paid to the owner of the said property will be paid by the parties hereto in equal shares. The agreement will reserve the right of the parties hereto as purchasers to transfer the benefit of the said agreement to the nominees of the parties hereto including the proposed Company and to obtain the deed of conveyance in the name of the said Company.

7.        On the execution of the agreement to purchase the said property, the Parties shall get the proposed company registered under the Companies Act, 1956. The Memorandum and Articles of Association will be subscribed by the Parties hereto only and each of them will agree to take shares of the face value of Rs.... in cash to enable the company to purchase the said property.

8.        The further amount of capital required for developing the said property will be contributed by the parties hereto in equal shares in the form of debentures to be issued by the Company and the parties may also issue shares and/or debentures to a few friends of the parties hereto who may be interested in buying the same.

9.        On the registration of the Company the parties hereto shall get the agreement for purchase to be entered into by them with the owner of the said property adopted by the Board of Directors and if the completion of the purchase is expected to take some time after registration, the Parties hereto shall enter into an agreement with the Company for assigning the benefit of the said agreement for purchase by way of sub sale for the same price and on the same terms and conditions and such agreement will also be got approved by the Board of Directors.

10.     If by the time the Company is registered, the purchase of the said property is ready for completion, the parties hereto shall procure the deed of conveyance from the owner of the said property and any other persons found interested therein in favour of the Company direct and the parties hereto shall execute the same as confirming parties.

11.     All the expenses of and incidental to the said agreement and the conveyance including stamp duty and registration charges will be paid out of the funds of the Company.

12.     The parties agree that none of them will carry on directly or indirectly the said business of dealing in immoveable properties except through the said Company.

IN WITNESS WHEREOF the parties have put their hands the day and year first hereinabove written.

|  |  |
| --- | --- |
| Signed and delivered by the | ) |
| withinnamed Vendor Mr. B in | ) |
| the presence of... | ) |
| Signed and delivered by the | ) |
| withinnamed Promoters X, Y & | ) |
| Z in the presence of | ) |

**Preliminary Agreement to Takeover Business**

AGREEMENT is made at... this... day of... between Mr. A carrying on business at.... hereinafter referred to as 'the Vendor' of the One Part and Mr. X, Mr. Y and Mr. Z all carrying on business at... hereinafter referred to as 'the Promoters' of the Other Part;

WHEREAS -

1.     The Vendor is carrying on business as sole proprietor of manufacturing some products mentioned in the First Schedule hereunder written hereinafter referred to as 'the said products.'

2.     The Vendor is carrying on the manufacture of the said products at his factory premises at... and which premises consist of a plot of land with a factory shed and other incidental structures thereon and which are more particularly described in the Second Schedule hereunder written.

3.     A detail inventory of the machinery, tools, equipment and other articles and things in the said factory is given in the Third Schedule hereunder written.

4.     The Vendor has represented and hereby declares that the said factory premises, machinery etc. are mortgaged to the Bank of... to secure a term loan of Rs.... with interest at... per cent per annum but: except that there is no other encumbrance on the said property.

5.     The Vendor is handicapped with shortage of funds and knowing this the Promoters have approached the Vendor with a proposal that the Promoters will form and register a private company limited by shares under the Companies Act, 1956, and the Company will take over the said business of the Vendor together with all the assets belonging thereto on the following terms and conditions to which the Vendor has agreed.

NOW IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

1.     The Promoters shall form and register a private company limited by shares under the Companies Act, 1956 and they will be the first subscribers to the Memorandum & Articles of Association of the Company.

2.     The name of the Company will be... being the name in which the Vendor is carrying on his said business, subject to the same being approved by the Registrar of Companies at... If the said name is not approved, such other name will be given to the Company as will be acceptable to the Vendor and approved by the Registrar of Companies.

3.     The authorised or nominal capital of the Company will be Rs.... divided into... equity shares of Rs. 100/- each.

4.     The draft of the Memorandum & Articles of Association of the said Company has been kept ready and approved by the parties hereto. The main object of the said Company will be to take over the said business of the Vendor as a going concern together with the assets mentioned in the Second and Third Schedule hereunder written but subject to the said mortgage created in favour of the said Bank of... and to carry on the business of manufacturing the said products. The incidental and other objects of the said Company will be as set out in the said draft Memorandum of Association.

5.     The said business of the Vendor together with the said assets and the goodwill thereof but subject to the said mortgage are valued at Rs.... Out of the said amount a sum of Rs.\_\_ has been paid by the Promoters for and on behalf of and for the benefit of the said proposed company, to the Vendors, as earnest and out of the balance a sum of Rs.... will be paid to the Vendor in cash and the remaining amount of Rs.... will be paid and deemed to be paid by allotting equity shares of the face value of Rs.... each in the capital of the said Company.

6.     The Vendor will obtain the consent of the said Bank to the transfer of the said business with assets to the proposed company and to the company taking over the liability of the said mortgage on such terms as the Bank may stipulate.

7.     The costs of and incidental to the registration of the said Company will be initially spent by the Promoters and after registration of the Company, they will be reimbursed out of the funds of the Company.

8.     On the registration of the Company the Vendor shall transfer the said business together with the assets thereof described in the Second and Third Schedule hereunder written together with all stock-in trade, in consideration of the said sum of Rs.... to be paid to the Vendor partly in cash and partly by allotment of shares as aforesaid and he will execute all necessary documents of transfer as will be required under the legal advice of the lawyers to be appointed by the Promoters. The capital gains tax if any payable on the transfer of such assets will be paid by the Vendor and the Vendor will indemnify and keep indemnified the Promoters as well as the said Company against any such liability.

9.     All the expenses of and incidental to such documents of transfer including stamp duty and registration charges will be borne by the said Company.

10.  The Promoters and the Vendor will be the first directors of the said company and one of the promoters will be the Chairman of the Board of Directors.

11.  The Vendor will be in charge of the business of the Company and will make available to the Company all the know-how and technical expertise. The Vendor will be paid remuneration as may be decided by the Board but it will not be less than Rs.... per month.

12.  On the registration of the Company the Directors shall allot the said shares of the face value of Rs.... to the Vendor as aforesaid and shall also allot shares of the face value of Rs.... to each of the said Promoters and which will be payable in cash.

13.  On registration of the Company the Board of Directors constituted as aforesaid will adopt this agreement so as to be binding on the Company and the Company as well as the Promoters and the Vendor will also execute such document or documents in favour of the said Bank as may be necessary for taking over the said mortgage liability by the said Company.

14.  If the Bank for any reason refuses to give its consent to the transfer of the said business and the assets to the company, this agreement will be treated as cancelled. Such consent will be obtained by the Vendor before the registration of the Company.

15.  The Vendor agrees and undertakes that so long as he will be the share holder and director of the Company he will not start any similar business alone or in collaboration with any other person or make the know-how and technical expertise available to any other person.

16.  The Promoters and the Vendor as directors of the Company or any of them will not be liable to retire by rotation. Subject to this, they will be bound by the Articles of Association and the provisions of the Companies Act.

17.  Except as aforesaid, all liabilities outstanding on the date of transfer, in respect of the said business, if any, and the liabilities by way of income tax, sales tax and other taxes of the Vendor will be borne and paid by the Vendor and he shall hold the Promoters and the Company indemnified against the same.

         THE FIRST SCHEDULE ABOVE REFERRED TO:

         x x x x

         THE SECOND SCHEDULE ABOVE REFERRED TO:

         x x x x

         THE THIRD SCHEDULE ABOVE REFERRED TO:

         x x x x

IN WITNESS WHEREOF the parties have put their hands the day and year first hereinabove written.

|  |  |
| --- | --- |
| Signed and delivered by the | ) |
| withinnamed Vendor Mr. B in | ) |
| the presence of... | ) |
| Signed and delivered by the | ) |
| withinnamed Promoters X, Y & | ) |
| Z in the presence of | ) |

**Sales Agency Agreement**

Draft Sales Agency Agreement

The below mentioned and undersigned representatives of

XYZ

on the one part

And

M/s\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as " \* ")

on the other part

On dated......have made the following agreement.

**Article 1**

1.     " XYZ" undertakes to develop on the contractual territory India Legal agency activity for (" \* ") in the spirit of developing Business relations. "XYZ" activities according to contract to promote (" \* ") product range from (products you deal in) supply to all related Facilities in India.

2.     In the Contractual territory (" \* ") has right to conclude regarding the contractual subject direct business transactions, however the copy of all direct dealing will be provided to "XYZ" for local support.

3.     "XYZ" will undertake discussions on the behalf of (" \* ") with local supplier /Partners and long term business opportunities and other services agencies to support (" \* ") to support business activities. "XYZ" will inform all discussion with such Parties to (" \* ") and such association will be finalized only subject to final clearance from (" \* ").

4.     "XYZ" will support (" \* ") to locate local partners for technologies transfer, assembling support, technical support and will undertake marketing planning etc. for (" \* ").

5.     (" \* ") gives authority to ("XYZ" to represent them self as a Authorized Representative / agents in India for (" \* "), related to products they deal in and permitted too.

**Article 2**

"XYZ" will exercise his agent's activity with professional care and to this aim they will especially:

a.     "XYZ" will promote (" \* ") and introduce their products through their business-to-business portal to their regular clients as well as to registered buyers on regular basis.

b.    Ensure sales and see to their enlargement and increasement of the volume according to the instructions of (" \* ").

c.     "XYZ" will mediate business transactions only clients of good reputation where there is guarantee of fulfilling of the obligations. ("XYZ") will follow the economic and property situation of the clients till the payments of the cost price and will inform (" \* ")

d.    "XYZ" will send to (" \* ") regularly minimally yearly marketing analyses and informations on the contractual subject and inform (" \* ") on sale possibilities.

e.     "XYZ" will help the staff of (" \* ") - who will visit the contractual territory - by advice and arrange meetings, presentations, participations in exhibition and all other services required during their stay to promote the (" \* ") in Contractual Territory.

f.     F) "XYZ" will inform (" \* ") on all circumstances that might have influence on the sales (regulations concerning prices, customs, pricing etc.) and will supply (" \* ") with recommendations to remove obstacles and difficulties, which might result from situation at that time in order to protect (" \* ") interest to procure the orders in the contractual territory.

g.    If necessary, "XYZ" shall introduce (" \* ") to experienced local manufacturers and/ or contractor with good reputation, and steel structure processing facilities, so that (" \* ") could be competitive by utilizing local resources.

h.     "XYZ" will not inform third person / party which "XYZ" received in relation with fulfilling this agreement unless this concerns information meant by (" \* ") to be passed on to the clients.

**Article 3**

"XYZ" is not entitled to make on behalf of (" \* ") and to her account any legal actions without a special full power given in writing, especially to sign contracts, to approve damage claims etc.

**Article 4**

Obligations of the (" \* ")

1.     (" \* "), will supply sufficient product information, technical details, the company brochure / product brochure in sufficient quantity to promote aggressively.

2.     (" \* "), will provide all promotional cost, bidding cost etc. in case (" \* ") agree to participate in bidding process.

3.     "XYZ" undertake to co-operate with (" \* ") in the field of publicity and promotion of the subject of the agreement and to assist (" \* ") during participation in fairs and exhibitions in the contractual territory. The expenditure must be arranged by (" \* ").

4.     "XYZ" undertakes to take full care of the publicity material "XYZ" receive from (" \* "), to distribute it efficiently and to ensure that it is not abused by the competition.

5.     (" \* ") will furnish quotes (prices) with minimum 3 months validity along with the relevant details to "XYZ". And in case want to change any terms & conditions will inform "XYZ" well in advance.

**Article 5**

1.     1 Each party will pay itself its own postage, telegraph and other expenses resulting from this agreement.

2.     If it is necessary - according to the valid regulations in the contractual territory - to register this agreement with the authorities the agent is obliged to provide for the registration at his costs and after expiration of the contract "XYZ" is obliged to provide for the deletion from the register files and to inform (" \* ") about on this. During his agent activity "XYZ" is responsible for respecting legal rules and regulations valid in the contractual territory.

3.     This agreement does not create an employment for "XYZ".

4.     "XYZ" have not the right to register for herself the firm's name (" \* ") even after cancellation of this agreement.

5.     "XYZ" has no right to code wholly or partially his own rights following from the present agreements to third party, however authorized to appoint consultant, if and when need to help "XYZ" for promotion of (" \* ") Product range in contractual territory.

**Article 6**

1.     "XYZ" agrees for association on commission basis, which will be paid subject to successful business. The percentage shall be determined according to the contract price and will be decided after mutual discussion between "XYZ" and (" \* ") before quoting price offer to the client. (" \* ") committing the commission to "XYZ" at that point of time along with payment terms etc.

2.     (" \* ") agree to pay some promotional cost to "XYZ". Subject to justification of such advance requirements to promote (" \* ") products in Indian Territory.

3.     In case of longterm contracts or of contracts with regular payments - for instance payments in short installments - an adequate payment for commissions from received payments will be agreed between (" \* ") and "XYZ".

4.     The commission will be paid by (" \* ") within 30 Days from receiving the payment from the client - that means to the Bank account about which (" \* ") will be informed by the "XYZ" in writing, or another way of payment may be agreed between the "XYZ" and (" \* "). The commission will be paid in the currency used by the foreign client for payments to (" \* ").

5.     The commission covers all claims of the agent connected with his mediation work, however additional expenses may required and such expenses will be decided at the time of contract finalization will be included in commission part.

**Article 7**

1.     This agreement is valid for a period of 3 years and can be prolonged by mutual agreement.

2.     This agreement can be cancelled before the time for which it has been signed either

a.     by mutual agreement or

b.    loss of the trade licence of any of the party, in case of declaring bankruptcy or compounding procedure or in case of the loss of possibilities to realize of this agreement through his mediation. The notice is realized by a registered letter to the last known address of the second contractual parties. The notice is made in time when it was posted before the beginning of notice term.

**Article 8**

The relations resulting from this contract and legal consequences related to it including the questions of its validity or its invalidity are governed by the Indian La

**Article 9**

All disputes which might arise in connection with this agreement will be settled in an amicable way in the first place. If the parties of this agreement will not reach an accord by friendly discussion all disputes will be referred to three arbitrators who will be appointed and will act in accordance with Rules of Arbitration Court of India. Both parties undertake to carry out the award of such arbitration and take it for final.

This agreement is made in 2 copies for each party in English language.

Date:

.......................................................

............................................................

Authorized Signatory Director

for XYZ.com,

...................................................

a unit of, (" \* ")

Matrix net-on-line Ltd.

**SEBI Debenture Trust Deed**

This Debenture Trust. Deed is made at...... this...... day of....... between A 13 and Company Limited, a Public Limited Company registered under the Companies Act, 1956 and having its registered office at........ hereinafter referred to as "the Company" of the one part and M/s X Y Z Bank, a Banking Corporation constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 having its head office at...... hereinafter referred to as the Trustee of the other part.

WHEREAS

1.     The Company is a public Company limited by shares under the provisions of the Companies Act, 1956 and has an authorised capital of rupees........ issued capital of rupees..... and subscribed capital of rupees..... divided into....... equity of rupees 100 each

2.     The Company is carrying oil business of manufacturing....... and proposes to expand the production by introducing a scheme of production of certain additional items of goods.

3.     The Company therefore proposes to raise capital by issuing debentures of the face value of rupees 1000 each and aggregating to rupees.............the debentures being partly convertible and partly non convertible.

4.     By its Memorandum of Association the Company is authorised to raise loan by issuing debentures and to secure them by a mortgage- and hypothecation of the Company's immovable and moveable properties on such terms as the Board of Directors may think fit and proper and in the interest of the Company.

5.     In the extraordinary general meeting of the share holders of the Company held on the...... day of........ a resolution has been passed unanimously under section 293(1) (a) of the Companies Act authorising the Board of Directors of the Company to raise the capital by issuing debentures as aforesaid and securing the same by mortgage and hypothecation of the immoveable and moveable assets of the Company by executing a deed of debenture trust in favour of the trustees.

6.     The Security and Exchange Board constituted under the SEBI Act of 1992, on the application of the Company has given its approval to the Company raising the capital by offering debentures to the public as proposed by the Company as aforesaid by letter (order) dated........

7.     The X Y Z Bank the Trustee herein above mentioned has been registered as debenture trustee under the Regulations of the SEBI and has consented to act as sole trustee: under this deed.

8.     The trustee has on the day of...... 2001 entered into an agreement With the company whereby he has agreed to act as the trustee under these presents for securing an issue of debentures for the company and this agreement also prescribes the time limit within which the security for the debentures shall be created that is within.... period from the date of an agreement.

9.     The trustee declares that it is not. an associate of the company and that it has not lent nor proposes to lend any moneys to the company.

10.  The SEBI has also approved the name of the trustee above named to be the sole trustee under this deed draft of whose has also been approved by the SEBI.

11.  The Company has also issued and published a prospectus as required by the Companies Act regarding the issue of the debentures.

12.  The Board of Directors in its meeting held on...... by a resolution proposed to issue debentures in terms and of the value and kind mentioned in the fourth schedule hereunder written.

NOW THIS DEED WITNESSETH and it is hereby agreed and declared by and between the parties hereto as follows -

1.     The head notes given to the clauses hereinafter appearing shall not affect the construction thereof and in these Presents the expressions or words following shall have the meaning given to (hem as hereinafter mentioned namely

a.     'The Trustee' means the Party hereto of the second or other part or the Trustee for (he lime being this draft deed.

b.    'Act means the Companies Act, 1956

c.     'Regulations' means the Regulations, 1993 made by SEBI with the modifications made therein made by SEBI from lime to time and any substituted Regulations made by SEBI or the Govt. of India for and governing the issue of debentures by a corporate body.

d.    'Debenture' means the debenture issued by the Company under the provisions of and secured by this deed.

e.     the SEBI' or 'Board' means the Board constituted by and under the Regulations made under SEBI Act of 1992.

f.     'The mortgaged premises' means the land and interest of the Company in the land, the buildings, the fixed machinery and the plant and the equipment, articles and things and expressed to be granted or transferred by this Deed and all other property of the Company hereby made specific security for the repayment of the monies for the time being owing and intended to be secured by these Presents and all future property hereafter to be assigned or transferred to the Trustee by the Company under the provisions hereof.

g.    The general assets means assels of the Company comprised in the floating charge created by clause 8 hereof and does not include specifically mortgaged properly.

2.

a.     Debentures covered by these Presents. The debentures to be issued hereunder and which are entitled to the benefits of these presents are....... debentures of Rs. 1000 each of the aggregate nominal value of Rs........ (Rupees.......) and shall be in the form set out in the Third Schedule hereto.

b.    The debentures may be issued or re-issued to such persons and on such terms and either at par or at a premium or if and to the extent permissible by law, at a discount as stated in the Prospectus or advertisement.

3.     Power to issue further debentures. The Company shall be at liberty with such sanction if any, as may be required by law from time to time hereinafter during the continuance of the security hereby created, to issue at such date or dates and in such amount or amounts on such terms and conditions as the Board of Directors of the Company may from time to time decide upon, further debentures upto an amount not exceeding in the aggregate a further sum of Rs........ (Rupees.......) to be secured upon the mortgaged premises by one or more deeds either supplemental to these in point of security with the debentures hereby created and secured. In the event of the Company at any time or times exercising the right hereby given to issue further Debentures, it shall be entitled to call upon the Trustee to join with the Company in executing such Supplemental or further Deed or Deeds which shall, on execution, be duly stamped with ad-valorem stamp duty (if any) in respect of the mortgage thereby created and covering the issue of such further debentures.

4.     Interest payable on debentures. The Company shall, so long as the Debentures are outstanding, pay to the holders for the time being thereof on the nominal amount of the Debentures held by them respectively, interest at the rate of.......% per annum (subject to Income-Tax) and such interest shall be paid by equal half-yearly payments on the 1st day of....... and the 1st day of....... in each year. Interest shall be deemed to accrue due from day to day and the Company shall pay overdue interest at the same rate from the due date of payment upto the date the interest shall have been actually paid.

5.     Covenant to redeem. The Company hereby covenants with the Trustees that the Company shall redeem the debentures issued hereunder in the manner quoted in the debenture by paying to the holders for the time being of the Debentures then outstanding the nominal amount of the debentures together with interest upto the date of redemption against surrender of the debentures to be redeemed.

6.     Grant of land and buildings. The Company doth hereby grant and convey unto the Trustees All and Singular the said lands and premises particularly described in the First Schedule hereunder written TOGETHER with all other buildings standing and being thereon or on some part thereof and all things attached thereto together with all liberties, privileges, easements and appurtenances whatsoever to the said lands and premises or any of them or any part thereof respectively belonging or in anywise appertaining or usually held occupied or enjoyed therewith or reputed to belong or be appurtenant thereto AND all the estate, right, title, interest, claim and demand whatsoever of the Company in to and upon the said lands and premises and every part thereof respectively TO HOLD the same unto and to the use of the Trustee so as to secure equally and rateably the repayment of the principal moneys and interest and other moneys secured by these presents but upon the trusts and for the purposes hereinafter expressed declared of and concerning the same.

7.     Transfer of moveable’s. The Company doth hereby transfer and assign unto the Trustees All and Singular the fixed machinery, plant, electrical and other equipment, fixtures, pipelines, implements, tools, appliances, accessories, furniture, articles, and things which now are and which are more particular but broadly set in the second Schedule herein-under written and shall from time to time hereafter during the continuance of this security be brought in affixed and installed in or upon or about the premises hereinbefore expressed to be granted, assigned and conveyed or fixed, placed or lying elsewhere and used or intended to be used for the purposes of the undertaking and business of the Company and All the estate, right, title, interest, claim and demand whatsoever of the Company and into and upon the said premises TO HOLD the same unto the Trustees absolutely so as to secure equally and rateably the repayment of the principal moneys and interest and other moneys secured by these presents but upon the Trusts and for the purposes hereinafter expressed declared of and concerning the same.

8.     Floating charge. The Company hereby charges in favour of the Trustees with the payment of the debentures and the interest payable in respect of the debentures and all other moneys hereby secured all the property and assets of the Company for the time being both present and future including uncalled capital of the Company and its goodwill and undertaking and the benefit of all contracts of the Company for the supply of goods, power or energy and any fund created by the Company and investments for the time being representing the same so as to secure equally and rateataly the repayment of the principal moneys and interest and other moneys, but upon the trusts and for the purposes hereinafter expressed, declared of and concerning the same and also subject to all subsisting pledges thereof by the Company, and the charge created by this clause shall rank as a floating charge and shall accordingly in no way hinder or prevent the Company from mortgaging, charging, selling, alienating, leasing, paying, dividends out of profits after providing for full and adequate depreciation or otherwise disposing of or dealing with the premises charged by this clause in the ordinary course of its business and for the purpose of carrying on the same but so that the Company shall not, except as herein provided, be at liberty to create without the previous consent in writing of the Trustee any mortgage or charge upon the property and assets charged by this clause or any part thereof ranking in priority to or part passu with the security hereby created.

9.     Security of future assets. The Company will without any demand on the part of the Trustee convey unto the Trustee but upon the Trusts and for the purposes hereinafter expressed, declared of and concerning the same, also all other lands and premises which may hereafter be acquired by the Company for the purposes of the Company's undertaking and business upon and for the trusts and purposes in these presents contained and assign unto the Trustee all machinery plant, equipment articles and things of the nature mentioned in Clause 7 hereof which may hereafter be acquired by the Company for the purposes of the undertaking and business upon and for the trusts and purposes herein contained and all such lands, machinery, plant, equipment, articles and things shall as and when the same shall be acquired by the Company become and be part of the mortgaged premises. Any buildings and structures, machinery and plant, fixtures, fittings, equipment, installations, articles and things which shall from time to time hereafter during the continuance of this security be erected or installed or be in or upon or about the premises hereinbefore expressed to be hereby granted, conveyed, transferred and assigned or upon the lands that may hereafter be granted, conveyed, transferred and assigned or fixed or attached to or be brought in or upon any buildings or structures now standing or hereafter to be erected on the said premises and/or any part thereof respectively and used or intended to be used in connection with the business of the Company whether in substitution or replacement of or in addition to any buildings and structures, machinery and plant now standing or being or fixed or attached or used or intended to be used in connection with the business of the Company or otherwise shall be included in the present security and be subject to the trusts, provisions and covenants in these presents contained and the Company shall at its own cost forthwith vest the same, subject to the said charges thereon, in the Trustee.

10.  Trustee's power to sell the premises. The Trustee shall permit the Company to hold and enjoy the mortgaged premises and every part thereof and to carry on therein and therewith the business or any of the businesses of the Company authorised by the Memorandum of Association of the Company until the security hereby constituted shall become enforceable as hereinafter provided and at any time after the same shall have become enforceable and the Trustee may in their discretion without any such request as next hereinafter mentioned and shall upon being requested in writing by the holder or holders of at least three fourths of the debentures for the time being outstanding under these presents or by a special Resolution of a meeting of the debenture holders passed in accordance with the provisions of the Fourth Schedule hereunder written (but in either case without any further consent on the part of the Company) enter upon and take possession of the mortgaged premises or any of them respectively and may at the like discretion and shall upon the like request sell, call in, collect and convert into money the mortgaged premises or any part thereof with full power to sell any of the mortgaged premises either together or in parcels (and as to the fixed machinery and plant cither together with the buildings or land to or upon which the same shall be fixed or stand or be or separately or detached therefrom) and either by public auction or private contract and with full power upon every such sale to make any special or other stipulations as to title or evidence or commencement of title or otherwise or as to the removal of any property which may be sold separately or detached from the buildings and land or otherwise which the Trustee shall deem proper and with full power to buy in rescind or vary any contract for sale and to resell the same without being responsible for any loss which may be occasioned thereby and with full power to compromise and effect compositions and without the request or concurrence of the Company to do with regard to the mortgaged premises generally all or any of the things which the Trustee is hereby authorised to do or concur in doing with regard to the specifically mortgaged premises and for the purposes aforesaid or any of them to execute and do all such assurances instruments and things as the Trustees shall think fit.

11.  The first charge. The principal moneys interest and all other moneys payable in respect of the debentures and the principal moneys and interest and other moneys secured by these presents shall be a first mortgage so as to secure equally and rateably the repayment of the principal moneys and interest and other moneys secured by these presents on the premises hereby respectively granted conveyed transferred assigned and assured or hereby covenanted to be assured and also subject as provided in Clause 8 hereof so as to secure equally and rateably the repayment of the principal money and interest and other moneys secured by these presents on the premises hereby charged and subject as aforesaid shall have precedence except as herein provided over all moneys which may hereafter be raised by the Company by any means whatsoever otherwise than by such dealings with the general assets as are permitted by clause 8 hereof and as between the holders inter of the debentures issued hereunder the debentures shall rank pari passa without any preference or priority by reason of date of issue or allotment or otherwise.

12.  Principal amount to become payable of default. The whole of the principal moneys shall be deemed forthwith to have become due and payable and the security hereby constituted shall (subject to the next succeeding clause hereof) become enforceable in each and every one of the following events:--

a.     If the Company makes default in the payment of any principal moneys which ought to be paid in accordance with these presents.

b.    If the Company makes default in the payment of any interest hereby secured on the date when such interest is by these presents made payable.

c.     If a distress or execution is levied upon any part of the mortgaged premises or if a Receiver of the Company's undertaking or property or any part thereof is appointed and such distress or execution is not satisfied or such Receiver discharged within fifteen days from the date of the levy or the appointment of the Receiver as the case may be.

d.    If the Company ceases or threatens to cease to carry on its business or stops payment or if it appears to the Trustee that the Company is carrying on business at a loss and that the further prosecution by the Company of its business will endanger the security of the debenture holders.

e.     If an order shall be made or an effective resolution passed for winding up the Company.

f.     If the Company commits a breach of any of the covenants, conditions or provisions herein contained and on its part to be observed and performed.

g.    If the Company shall make any alteration in the provisions of its Memorandum or Articles of Association which in the opinion of the Trustee is likely detrimentally to affect the interest of the debenture-holders and shall upon demand by the Trustees refuse or neglect or be unable to rescind such alteration.

h.     If the Company shall, except as herein provided, without the consent of in writing of the Trustee, create or purport or attempt to create any charge or mortgage ranking or which by any means may be made to rank on the premises hereby respectively mortgaged and charged pari passu with or in priority to the security hereby constituted.

i.      If at any time it appears from the Balance Sheet of the Company or the Trustee shall certify in writing, that in their opinion the liabilities of the Company exceed its assets including its uncalled capital or that the Company is carrying on its business at a loss.

13.  Notice to be given before enforcing power of sale etc. Before enforcing the security hereby created whether by entry, sale, calling in, collection or conversion or other dealing under the aforesaid trust in that behalf (hereinafter referred to as the Trust for conversion) the trustees shall, except in the case of such order or resolution for winding up the Company as aforesaid having been made or passed or of the happening of any of the events in sub clauses (d) (g) (h) and (i) mentioned in the last preceding clause and except when the trustee shall certify in writing that further delay would in its opinion be detrimental to the interests of the debenture-holders, give written notice of its intention to the Company and shall not execute the trust for conversion if in the case of such trust arising by reason of any default in payment of any principal moneys or interest the Company shall pay to the trustee payment of the principal moneys or interest so in arrears within one calendar month next after such notice shall have been given to the Company or if in the case of such trust arising by reason of any breach of covenant or provisions as aforesaid the Company shall upon such notice as aforesaid being given, fully perform the covenant or provision so broken if capable of then being performed or make good the breach thereof to the satisfaction of the Trustee: Provided that, no sale shall be effected in connection with the trust for conversion so far as regards any immoveable property of the Company unless and until the conditions for exercise of the power of sale specified in Section 69 of the Transfer of Property Act, 1882 or any statutory amendment thereof have been satisfied.

14.  Company to assist trustee in exercise of any power. In case the security hereby created shall become enforceable as hereinbefore provided by Clause 12 hereof the Company shall forthwith upon demand by the Trustee do all things necessary to enable the Trustee to realise the mortgaged premises.

15.  Protection to purchasers etc. No purchaser, mortgagor, mortgagee, debtor or other person dealing with the Trustee or any Receiver appointed by them or with their or his attorneys or agents shall be concerned to enquire whether the power exercised or purported to be exercised has become exercisable or whether any money remains due on the security of these presents or as to the necessity or expediency of the stipulations and conditions subject to which any sale shall have been made or otherwise as to the propriety or regularity of such sale, calling in, collection or conversion or to see to the applications of any moneys paid to the Trustee or to any such Receiver, attorneys or agents and in the absence of malafides on the part of such purchaser, mortgagor, mortgagee, debtor or other person such dealing shall be deemed so far as regards the safety and protection of such purchaser, mortgagor, mortgagee, debtor or person to be within the powers hereby conferred and to be valid and effectual accordingly and the remedy of the Company and its assigns in respect of any impropriety or irregularity whatsoever in the execution of such trusts shall be in damages only.

16.  Discharge of purchaser on payment. Upon any sale, calling in, collection or conversion or other dealings under any of the provisions herein contained the receipt of the Trustee for the purchase money of the premises sold and for any other moneys paid to them shall effectually discharge the purchaser or person paying the same there from and from being concerned to see to the application or being answerable for the loss or misapplication thereof.

17.  Application of sale proceeds. The Trustee shall hold the moneys to arise from any sale, calling in, collection or conversion under the Trust for conversion upon trust that they shall there out, in the first place, pay or retain the costs and expenses incurred in or about the execution of such trust or otherwise in relation to these presents and shall apply the residue of such moneys, first in or towards payment to the debenture holders pari passu in proportion to the debentures held by them respectively and without any preference or priority whatsoever of all arrears of interest remaining unpaid on the debentures held by them respectively, and secondly, shall pay the surplus (if any) of such moneys to the person entitled to the mortgaged premises.

18.  Shortage of sale proceeds to pay debentures. If the amount of the moneys at any time available under the last preceding clause hereof shall be less than ten per centum of the debentures the Trustee may at its discretion invest such moneys upon some one of the investments hereinafter authorised with power from time to time at the like discretion to vary such investments and such investments with the resulting income thereof may be accumulated until the accumulations together with any other funds for the lime being under the control of the Trustee and applicable for the purpose shall amount to a sum sufficient to pay ten per centum upon the debentures and then such accumulations and funds shall be applied in the manner aforesaid.

19.  Payment to debenture holders. The Trustee shall give not less than seven day notice in accordance with the provisions as to notice hereinafter contained, of the day, place and time for any payment to the debenture-holders under the two last preceding clauses hereof and after the day so fixed, holders of the debentures shall be entitled to interest on the balance only (if any) of the principal moneys due on such debentures after deducting the amount (if any) payable in respect thereof on the date so fixed. The receipt of each debenture holder for the principal moneys and interest payable by the Trustee to him in respect of such debentures shall be a good discharge to the Trustee.

20.  Debentures to be produced against payment. Upon any payment to the debenture-holders under Clauses 17 and 18 hereof on account of the principal moneys or interest hereby secured, the debenture or debentures must be produced to the Trustee who shall cause a memorandum of the amount and date of payment to be endorsed thereon but the Trustee may in any particular case dispense with the production and endorsement of a debenture upon such indemnity, (if any) being given as they shall deem sufficient.

21.  Debentures to be surrendered on discharge. Upon payment to the debenture holders in full discharge of all principal moneys and interest due upon their debentures, the debentures shall be surrendered and delivered up to the Company with receipts in full discharge endorsed thereon and signed by the respective holders.

22.  Trustee not bound by any notice of trust. The Trustees shall not be affected by any notice express or implied or the right, equity or claim of any person to moneys due under the debentures, other than the debenture-holder.

23.  Trustee to manage business. After the Trustee shall have made such entry or taken possession as aforesaid and until the whole of the mortgaged premises shall be sold, called in collected and converted into money under the power in that behalf herein contained the Trustee may, if it shall think fit so to do, but not otherwise, either itself carry on and manage the business of the Company or appoint a Receiver or Receivers to carry on and manage the same. The Trustee or the Receiver or Receivers so appointed may for the purpose of carrying on the said business do all or any of the following things namely,

a.     employ such experts, officers, agents, managers, clerks, accountants, servants, workmen and others and upon such terms and with such salaries wages or remuneration as they or he shall think proper.

b.    renew, rehabilitate and modernise such of the machinery, plant and articles as might be thought proper and particularly machinery or plant as shall be worn out or lost or otherwise become unserviceable and repair and keep in repair the buildings, factories, works, machinery plant and other property comprised in the mortgaged premises.

c.     provide all such machinery materials and things as they or he may consider necessary.

d.    insure all or any of the mortgaged premises of an insurable nature against loss or damage by fire or other risk in such sum or sums as they or he shall in their or his absolute discretion think fit.

e.     settle, arrange, compromise and submit to arbitration any accounts, claims, questions or disputes whatsoever which may arise in connection with the said business or the mortgaged premises or in any way relating to the security and execute releases or other discharges in relation thereto.

f.     bring, take, defend, compromise, submit to arbitration and discontinue any action, suits or proceedings whatsoever civil or criminal in relation to the business of the Company or any portion of the mortgaged premises.

g.    allow time for payment of any debts either with or without security.

h.     execute and do all such acts, deeds and things as they or he may think necessary or proper for or in relation to any of the purposes aforesaid.

i.      demise the mortgaged premises or any part or parts thereof for such terms at such rents and generally in such manner and upon such conditions and stipulations as they or he shall think fit.

j.      exchange any part or parts of the mortgaged premises for any other securities or property suitable for the purposes of the Company upon such terms as may seem expedient and either with or without payment or receipt of money for equality of exchange or otherwise.

k.     assent to the modification of any contracts or arrangements which may be subsisting in respect of the mortgaged premises and in particular the terms of any concession or licences for the time being held.

l.      generally do and cause to be done such acts and things respecting the business of the Company and the mortgaged premises as It or he could do or cause to be done if or he had the absolute ownership of the mortgaged premises and had carried on the said business for its or his own benefit without being answerable for any loss or damage which may happen thereby.

24.  Trustee's power to borrow. The Trustee may with the consent in writing of the holder or holders of at least three-fourths in value of the debentures for the time being outstanding or by a Special Resolution passed at a meeting of the holders of the debentures for the time being outstanding held in accordance with the provisions of the Fourth Schedule hereunder, for the purposes of this clause or any of them borrow or raise money on the security of the mortgaged premises or any part thereof either in priority to or pari passu with the debentures and at such rate of interest and on such terms as the Trustee may think fit.

25.  Trustee's power to release possession. If and when the Trustees shall have made an entry into or taken possession of the mortgaged premises under the powers conferred upon them by these presents the Trustee, with the authority of a Special Resolution of the debenture-holders passed at a meeting held in accordance with the provisions contained in the Fourth Schedule hereunder written or with the consent in writing of the holders of at least three fourths in nominal amount of the debentures for the time being outstanding, may at any time afterwards give up possession of the mortgaged premises or any of them or any part thereof to the Company either unconditionally or upon such terms and conditions as may be specified in such resolution or consent.

26.  Trustee's power to make expenses for business. The Trustee shall, out of the moneys received by them in carrying on the said business and out of the rents, profits and income of the mortgaged premises, pay and discharge the costs, charges and expenses incurred in carrying on the business including the remuneration of the Receiver (if any) and in the management of the mortgaged premises or in the performance or exercise or the attempted performance or exercise of their powers and duties under the trusts of these presents and all other outgoings which the Trustee shall think fit to pay and shall pay and apply the residue of the said receipts, rents, profits and moneys in the manner hereinbefore directed with respect to the moneys to arise from any sale, calling in, collection and conversion under the trust for conversion.

27.  Trustee's power to appoint Receiver. At any time after the security hereby constituted shall have become enforceable the Trustee whether or not they shall then have entered into or taken possession may by writing appoint any one or more of the officers of the Company as a Receiver or Receivers or appoint any other person or persons in his or their stead and the following provisions shall have effect:

1.     Such appointment may be made either before or after the Trustee shall have entered into or taken possession of the mortgaged premises or any part thereof.

2.     Such Receiver or Receivers may be invested by the Trustee with such of the powers and discretions exercisable by the Trustee hereunder as the Trustee may think expedient.

3.     Unless otherwise directed by the Trustee such Receiver or Receivers may exercise all the powers and authorities vested in the Trustee by Clauses 23 and 24 hereof.

4.     Such Receiver or Receivers shall in the exercise of his or their powers, authorities and discretions conform to the regulations and directions from time to time made and given by the Trustee.

5.     The Trustee may from time to time fix the remuneration of such Receiver or Receivers and direct payment thereof out of the mortgaged premises.

6.     The Trustee may from time to time and at any time require any such Receiver or Receivers to give security for the due performance of his or their duties as such Receiver or Receivers and may fix the nature and amount of the security to be so given but the Trustee shall not be bound in any case to require any such security.

7.     Save so far as otherwise directed by the Trustee all moneys from time to time received by such Receiver or Receivers shall be paid over to the Trustee to be held by them on the trusts declared by Clause 17 hereof and concerning the moneys to arise under Clause 10 hereof.

8.     The Trustee may pay over to such Receiver or Receivers any moneys constituting part of the mortgaged premises to the intent that the same may be applied for the purposes hereof by such Receiver or Receivers and the Trustee may from time to time determine what funds the Receiver or Receivers shall be at liberty to keep in hand with a view to the performance of his or their duties as such Receiver or Receivers.

9.     The Trustee shall be in no way responsible for any misconduct or negligence on the part of any such Receiver or Receivers and shall be in no way liable for or in respect of any debts or other liabilities incurred by any such Receiver or Receivers whether the Company shall or shall not be in liquidation.

10.  Every Receiver appointed under the provisions hereof shall be deemed to be an agent of the Company and the Company shall be solely responsible for such Receiver's acts and defaults and for his remuneration.

11.  Subject as aforesaid the provisions of the Transfer of Property Act 1882 and the powers thereby conferred so far as applicable shall apply to such Receiver or Receivers.

28.  Trustee's or Receivers' liability to account. The Trustee shall not, nor shall any such Receiver aforesaid by reason of the Trustee or such Receiver entering into or taking possession of the mortgaged premises or any part thereof respectively be liable to account for anything except actual receipts or be liable for any loss upon realisation or (so far as by law allowed) for any default or omission for which a mortgagee in possession might be liable.

29.  Trustee not bound to replace the property etc. Until the happening of some or one of the events on which this security becomes enforceable the Trustee (subject to the exercise of the powers of the Trustee under the provisions of Clause 30 hereof) shall not be in any manner bound or concerned to interfere with the management or affairs of the Company or its business or the custody, care, preservation or repair of the mortgaged premises or any part thereof.

30.  Powers of the Trustee at Company's request. At any time before the security hereby constituted becomes enforceable the Trustee may upon the request and at the expense of the Company but only if and so far as in its opinion the interest of the debenture-holders shall not be prejudiced thereby do or concur in doing all or any of the things following, that is to say:--

1.     Sell, call in, collect and convert any part or parts of the specifically mortgaged premises in such manner and generally on such terms and conditions as the Trustee may deem expedient and give any option to purchase.

2.     Let out or lease any part or parts of the mortgaged premises in such manner and on such terms as to the Trustee may deem expedient and either for a rent, fixed, fluctuating or contingent and with or without premium and with or without powers to purchase the reversion and allow the whole or any part of any premium to be secured by a mortgage of the lessee's interest in the lease.

3.     Exchange any part or parts of the mortgaged premises for any other property suitable for the purposes of the Company and upon such terms as the Trustee may deem expedient and either with or without payment or receipt of money for equality of exchange or otherwise.

4.     Acquire a new or renew a lease of any part of the mortgaged premises which may at any time be held on lease for such term and at such rents and subject to such covenants, conditions and terms as the Trustee may deem expedient and for that purpose surrender the then existing lease of such premises.

5.     Permit the Company or any nominee of the Company or of the Trustee to exercise any powers or rights incidental to the ownership of any of the mortgaged premises and permit the Company or its agents to receive any purchase or other moneys forming part of the mortgaged premises on an undertaking to deal with the same in a specified manner.

6.     Set out, appropriate, grant or dedicate, without consideration any land forming part of the mortgaged premises for the purpose of roads, ways, canals, watercourses gardens, places of religious worship, schools, places of amusement, places of recreation and other purposes public or private whether of the Company or otherwise which the Trustees may deem expedient.

7.     Assent to the modification of the Licenses of any leases, contracts covenants or arrangements relating to the specifically mortgaged premises or any part thereof.

8.     Settle, adjust, refer to arbitration, compromise and arrange all accounts, reckonings controversies questions claims and demands whatsoever, which may be open, unsettled or pending with any person or persons in relation to the mortgaged premises.

9.     Release, surrender or abandon, on such terms as may seem to the Trustee expedient, any of the mortgaged premises which in the opinion of the Trustee may have become unprofitable or a source of loss or damage to the Company.

10.  Release in favour of the Company or its nominees any of the mortgaged premises provided that, in the judgment of the Trustee the security hereby constituted will not be thereby materially diminished in value or prejudicially affected or provided that, the Company shall vest in or charge in favour of the Trustee as part of the mortgaged premises any property or rights suitable for the purposes of the Company and of at least equal value to the property released notwithstanding that such substituted property may at any time be part of the general assets.

11.  Apply moneys forming part of the mortgaged premises in the purchase or acquisition of any property of any tenure including fixed machinery and plant thereon or any rights of way or other easements or rights which may seem suitable for any of the purposes of the Company including any reversion whether in fee simple or otherwise expectant on the determination of any term forming part of the mortgaged premises and acquire any such property which may have been purchased by the Company out of the general assets by payment to the Company of the price paid for the same or any lesser amount and where so arranged with the Company leave unpaid part of the purchase money on the footing that it is to be payable out of moneys subsequently becoming available for the purpose under this clause.

12.  Apply moneys forming part of the mortgaged premises in the erection or construction of new or on the improvement of any existing works buildings fixed machinery and plant or other works and erections suitable for the purposes of the Company upon or in any land forming part of the specifically mortgaged premises.

13.  Apply moneys forming part of the mortgaged premises in developing, improving, protecting or preserving the mortgaged premises or any part thereof or in preventing or endeavoring to prevent loss or apprehended loss thereof or detriment thereto.

14.  Apply moneys forming part of the mortgaged premises in repaying to the Company (by way of recoupment to the general assets) any sums which the Company may from time to time have expended out of the general assets upon any purpose specified in the two last preceding sub-clauses of this clause.

15.  Enter into, make, execute, sign and do all such contracts, agreements, receipts, payments, assignments, transfers, conveyances, assurances, acts and things and bring, prosecute, enforce, defend and abandon all such actions, suits and proceedings in relation to the mortgaged premises as the Trustees may deem expedient.

16.  Ratify, sanction and confirm anything done or suffered by the Company in relation to the mortgaged premises.

17.  Do all or any of these things from time to time and at such time or times and on such terms and conditions and in such mariner as the Trustees may approve.

18.  Generally and without being limited to the specific powers above given, act in relation to the mortgaged premises in such manner and on such terms as the Trustee may in the interests of the debenture-holders think expedient.

All capital moneys arising from any dealings under this clause and all property and assets acquired pursuant to the provisions of this clause shall become and be part of the mortgaged premises and shall be paid to or vested in or specifically charged in favour of the Trustee in such manner as the Trustee shall require.

31.  Trustee's power to invest moneys. The Trustee shall, pending any application thereof under the provisions of the last preceding clause hereof, invest the capital moneys arising from any sale or other dealing under the said clause upon some or one of the investments authorised by the next succeeding clause hereof or place the same upon deposit with a Scheduled bank or banks as in the next succeeding clause hereof provided with power from time to time at their discretion to vary such investments and to resort to and realise and apply the proceeds of realisation of any such investment for any of the purposes for which such moneys are under the last preceding clause hereof authorised to be applied or expended and subject as aforesaid the Trustee shall stand possessed of the said investments upon trust until the primary trust for conversion shall arise to pay the income thereof and any net moneys in the nature of income arising therefrom to the Company or its assigns and after the primary trust for conversion shall have arisen shall hold the said investments and the income thereof respectively and the net moneys in the nature of income upon and for the trusts and purposes hereinbefore expressed concerning the moneys to arise from any sale calling in collection and conversion under the primary trust for conversion PROVIDED ALWAYS that, in default of such trust for conversion arising and alter payment and satisfaction of all moneys intended to be secured by these presents the said investments and the income thereof shall be and remain in trust for the Company or its assigns.

32.  Authorised investments. Any moneys which under the trusts or powers herein contained ought to be invested by the Trustee may be invested in the name or names or under the legal control of the Trustee in any of the securities of the Government of India or of any State Government in India or any other debentures, funds, shares or securities for the time being authorised by law in India for the investment of trust moneys with power to vary and transpose such investments and insofar as the same shall not be invested shall be placed on deposit in the names of the Trustee in such Scheduled bank or banks as the Trustee may think fit.

33.  Company's duties to carry on business etc. The Company shall and will at all times during the continuance of this security:-

a.     Carry on and conduct as required by law from time to time in force the business of the Company in a proper and efficient manner.

b.    Keep proper books of account and therein make true upto date and proper entries of all dealings and transactions of and in relation to its business and keep the said books of accounts and all other works and registers and all other documents relating to the affairs of the Company at its Registered Office or other place or places where the said books of accounts and documents of a similar nature ought in the ordinary course to be kept and allow the Trustee or any person nominated by the Trustee in writing at all reasonable times to have full access to all books of accounts and documents of the Company.

c.     Give to the Trustees or to such person as aforesaid such information as the trustee shall require as to all matters relating to the business property and affairs of the Company and the mortgaged premises and after acquired property of the Company and furnish to the Trustee six copies of every report, balance sheet, profit and loss account, circular or notice issued to the shareholders of the Company and to each of the debenture holders one copy of the report, balance sheet and profit and loss account and every other document required by law to be annexed or attached to the balance sheet at the time of its issue to the shareholders and the Trustee shall be entitled if it thinks fit from time to time to nominate an accountant, lawyer or agent to examine the books of accounts documents and property of the Company or any part thereof and to investigate the affairs thereof and the Company shall allow any such accountant, lawyer or agent to make such examination and investigation and shall furnish him with all such information as he may require and shall forthwith pay all the costs, charges and expenses of and incidental to such examination and investigation.

d.    Keep all buildings, works, machinery, plant, equipment, and other property for the time being forming part of the mortgaged premises in a good state of repair and in good working order and condition and shall not without the previous consent in writing of the Trustee pull down or remove any such building works, machinery, plant, equipment and other property except in the ordinary course of repair and renewal or otherwise in the course of and for the bona fide purposes of the Company and the carrying on of its business and will in such case forthwith repair renew or replace the property pulled down or removed by the property of a similar nature and of atleast equal value and when necessary renew and replace all moveables engines, plant, machinery, tools implements, apparatus, utensils and other effects of a like nature now used or hereafter to be used for the purpose of or in connection with the business of the Company forthwith when and as the same shall be worn out or destroyed.

e.     Permit the Trustee and such persons as it shall from time to time in writing for that purpose appoint to enter into and upon the mortgaged premises to view and inspect the state and condition thereof and to pay the travelling, hotel and other expenses of any agent whom the Trustee may depute for the purpose of such viewing and inspection.

f.     Insure and keep insured such of the mortgaged premises as are of an insurable nature against loss or damage by fire and such other risks as are normally insured against (and in the time of war in which India shall be engaged and after the outbreak of the same but only if feasible against explosion or damage by aircraft or other hostile means) in the joint names of the Company and the Trustee on the properties hereby charged in such office or offices as the Trustee shall reasonably approve, deliver the polices of such insurance to the Trustee if required and duly pay the premiums and other sums of money payable in respect of such insurance and produce to the Trustee the receipt for every such payment within 7 days of the same becoming due and all moneys to be received by virtue of any such policy shall if received in respect of any part of the specifically mortgaged premises be paid to and applied by the Trustee upon the Company's request in making good any loss or damage which may so arise to the same premises or any of them or for any other purpose for which moneys forming part of the mortgaged premises may be applied under the provisions of Clause 30 hereof which may seem to the Trustee expedient in the interest of the Company and the debenture-holders, and if received in respect of the general assets shall be applied in making good the loss or damages sustained or in such other manner as the Company shall think fit.

g.    If default shall be made in keeping the aforesaid premises in a good state of repair and in good working order and condition and so insured as aforesaid or in delivering any such receipt as aforesaid the Trustees, without any obligation or liability to do so, may repair the same premises or such of them as shall in their opinion require repairs and may insure and keep insured such of them as they may deem fit. And the Company will on demand repay to the Trustees every sum of money expended for the above purposes or for any of them by the Trustees with interest at the rate of per cent per annum from the time of the same respectively having been expended and until such payment the same shall be a charge upon the mortgaged premises in priority to the debentures.

h.     Duly and punctually pay all rents, royalties, rates, taxes, assessments, stamp duties charges and other proper or usual outgoings imposed on or payable in respect of the mortgaged premises or any part thereof and observe perform and comply with all covenants and obligations which ought to be observed by the Company in respect of the mortgaged premises or any part thereof and also punctually pay and discharge all debts and obligations to or in respect of workmen, clerks and others employed by the Company and all other debts and liabilities that may have priority over the security hereby created and as and when required by the Trustee produce the receipts of such payments.

i.      Duly register this Trust Deed in all respects so as to comply with the provisions of the Companies Act, 1956, and the Indian Registration Act, 1908, or any statutory amendment thereof or any Act ordinance or regulation of or relating to any part of India within which any portion of the mortgaged premises is or may be situated and generally do all other acts, if any, necessary for the purpose of ensuring the legal validity of this Trust Deed.

j.      If the Company shall issue any part of its unissued capital or shall increase its capital, apply the capital so raised in the first place in the extension of its works, buildings, plant and machinery for the improvement or extension of the business of the Company and subject thereto either in the redemption of the debentures under the powers conferred by Clause 1 of the form of debenture set out in the Third Schedule hereunder written or in the purchase of further property which will become subject to the debenture holders security or in improvements of property already so subject whereby the value of such property will be increased or in the execution of works or otherwise for the purposes of the Company having regard to the objects or any of the objects for which it is formed as set out in its Memorandum of Association.

k.     Without the consent of the Trustee, which consent the Trustee shall have an unfettered discretion to grant or to withhold unless and until the Company shall have first paid the half-yearly interest then due and payable on the debentures, not to make any gratuitous payment under any provision of the Company's Memorandum of Association or under the Company's Articles o[ Association nor without the previous consent in writing of the Trustee to apply any part of its assets for forming any funds specified in Article... of the Company's Articles of Association nor accept any surrender of shares from or by any shareholder under the said Articles of Association.

l.      Not to pay out of its net earnings or profits or any of the Reserves any dividend to any shareholder or any interest or principal or any part of interest or principal which may be secured or payable to any subsequent encumbrances or any interest on any sums which may have been paid to the Company by any shareholder under the Articles of Association of the Company unless and until the Company shall have first paid the interest then due and payable on the debentures or has made provision satisfactory to the Trustee for making such payment.

m.   Make such alterations in the Memorandum and Articles of Association of t he Company from time to time as may be required to give due effect to the provisions of these presents.

n.     Forthwith give notice in writing to the Trustee of commencement of any proceedings directly affecting the mortgaged premises.

o.    Not to sell or dispose of the mortgaged premises or any part thereof or create thereon any mortgage, lien or charge by way of hypothecation, pledge or otherwise howsoever or other encumbrances of any kind whatsoever to the intent and purpose that the mortgaged premises and all parts thereof shall remain and continue to remain free from any further encumbrances whatsoever during the continuance of these presents.

p.    Undertake that the net depreciated book value of the fixed assets of the Company shall at all times be at least double the amount of the debentures and the amount of the term borrowings secured on a pari passu basis and that should the net value of the fixed assets go down because of depreciation or any other reason, it would deposit with the Trustee an amount equal to half the difference between the actual net value of the fixed assets on the one hand and twice the aggregate of the amount of the debentures now being issued and outstanding and the outstanding amount of term borrowing secured on a pari passu basis provided that, the Trustee shall release the deposit on production of evidence by the Company of having created additional fixed assets equal to the amount of the difference.

34.  The company shall

                      i.        furnish whenever required information to debenture trustee including copies of reports, balance-sheets, profit and loss accounts

                     ii.        permit debenture trustee to enter and inspect the state and condition of charged assets

                    iii.        inform the debenture trustee before declaring or distributing dividend

                    iv.        comply with all guidelines, directions issued by the Board of SEBI with respect to the debenture issue

                     v.        create debenture redemption reserve as per SEBI (Disclosure and Investor Protection) Guidelines 2000 and the provisions of the Companies Act and submit an Auditor's certificate to the trustee

                    vi.        convert the debentures into equity in accordance with the terms of the issue if applicable

                   vii.        inform debenture trustee about any change in the nature and conduct of business by the company before such change

                  viii.        keep the debenture trustee informed of all orders, directions notices of Court/Tribunal affecting or likely to affect the charged assets

                    ix.        inform the debenture trustee of any major change in composition of its Board of Directors which may amount to change in control as defined by SEBI (Substantial Acquisition of Shares and Takeovers) Regulations. 1997

                     x.        inform the debenture trustee of any change in business

                    xi.        send to the debenture trustee an updated list of names and addresses of debenture holders, a statement of interest unpaid on debentures and grievances received from debenture holders.

35.  Company's duties qua debenture-holders. The Company hereby further covenants with the Trustee as follows:-

a.     The Company shall at all times keep at the Company's Registered Office an accurate Register of the holders of its debentures and enter therein the following particulars, namely:-

                                          i.                the name, address, and occupation, if any of each holder,

                                         ii.                the debentures held by each holder distinguishing each debenture by its number, and the amount paid or agreed to be considered as paid on those debentures,

                                        iii.                the date on which each person was entered in the Register as a debenture holder,

                                        iv.                the date on which any person ceased to be a debenture holder and

                                         v.                the subsequent transfers thereof.

The Trustee and the debenture holders or any of them shall be at liberty at all reasonable times to inspect the said Register and to take copies of or extracts from the same or any part thereof.

b.    The Company will issue to each Debenture holder free of charge a Debenture or Debentures, under the Seal of the Company, in respect of his holding showing on the face thereof the denomination number and amount of the Debenture or Debentures and referring to this Deed.

c.     If any Debenture be worn out or defaced or where the pages on the reverse for recording transfers have been fully utilised then upon production thereof the Company may cancel the same and may issue a duplicate Debenture in lieu thereof free of cost and if any Debenture be lost or destroyed, then upon proof thereof to the satisfaction of the Company or in default of proof, on such indemnity as the Company may deem requisite, being given and on payment to the Company of any such expenses incurred by the Company in connection with the proof of such loss or in investigation of the title to the Debentures by or in connection with such indemnity a new Debenture in lieu thereof may be given to the person entitled to such lost or destroyed Debentures. An entry as to the issue of the duplicate Debenture and indemnity (if any) shall be made in the Register. There shall be paid to the Company in respect of any duplicate Debenture issued under this condition such sum as the Company shall determine not exceeding the sum of Rupee One and all stamp duty (if any) payable on the fresh Debenture.

d.    Upon the request in writing of the registered holder for the time being of any Debentures and upon the surrender of such Debentures for consolidation, the Company will issue in substitution there for one Debenture for the principal moneys secured by the surrendered Debentures or each for a portion of such moneys and upon the like request and upon the surrender of any Debenture for sub-division will issue in substitution there for several Debentures each for a fraction of the principal moneys secured by the surrendered Debenture every such fraction to be for one thousand rupees or a multiple thereof and the surrendered Debenture or Debentures shall be cancelled by the Company.

36.  Company's obligations when Govt. Financial Institution is a debenture holder. The Company hereby further covenants with the Trustee that -

So long as any Government Financial Institution shall be the holders of the Debentures the Company shall not without the prior permission of such of them as are then holding the Debentures, obtained in writing:

a.     raise any secured loans or borrowings or create any encumbrances except to the extent provided herein.

b.    issue any equity or preference capital or change its capital structure.

c.     prepay the whole or any part of the debentures.

d.    give any guarantee except normal trade guarantees in the ordinary course of business.

e.     undertake any new line of manufacturing activity or any general trading activity other than the sale of products arising out of its own manufacturing operations.

f.     purchase or sell any capital goods on hire-purchase or deferred payment basis.

g.    declare and/or pay any dividend on its share capital if it fails to meet its obligations to pay interest and/or installment or installments and/or other moneys payable under these presents in respect of the debentures as and when they fall due so long as it is in such default.

h.     effect any scheme for amalgamation merger or reconstruction during the period the debentures or any part thereof remain outstanding.

i.      appoint/reappoint or alter the terms and conditions of appointment (whether existing or future) of its Managing Director/s or General Manager/s or of any selling agents whether sole selling agents or otherwise, or distributors for the sale and distribution of any of its products.

j.      change its practice with regard to remuneration of non-whole-time Directors, whether by means of ordinary remuneration or otherwise save the sitting fees of such Directors.

k.     radically change its accounting system.

l.      utilise any portion of the debentures for purpose other than those for which the same are issued.

m.   create any charge or lien or other interest on or in any security created or to be created under these presents in favour of the machinery suppliers or bankers or others on account of deferred payments and/or any guarantees arranged therefor save as provided in sub-clause (c) above.

n.     undertake any new project or expansion/diversification of the project.

o.    invest its funds by way of deposits other than investing in the shares of Companies by way of rights issue and also other than in co-operative societies or limited companies for staff welfare or for business premises.

p.    invest its funds by way of deposits other than in the normal course of business or for staff welfare. (1) subscribe to share capital in any concern other than investing in the shares of Companies by way of rights issue and also other than in cooperative societies or limited companies for staff welfare or for business.

37.  Covenants for title etc. The Company hereby further covenants with the Trustee that (a) notwithstanding anything by the Company done, omitted or knowingly suffered, the Company now has full power to grant convey or otherwise transfer the immoveable and moveable property hereby expressed to be granted, conveyed and transferred unto the Trustees and to charge in favour of the Trustee by way of floating charge the property and assets mentioned in Clause 8 hereof (b) and that it shall be lawful for the Trustee, upon entering into or taking possession of all or any of the mortgaged premises pursuant to the provisions of these presents or otherwise, to hold and enjoy the same and to receive the rents and profits thereof without any interruption or disturbance by the Company or any other person and (c) that freed and discharged from or otherwise by the Company sufficiently indemnified against all encumbrances actions, suits, proceedings and demands, costs, charges and expenses whatsoever (d) And Further that, the Company will from time to time and at all times at the cost of the Company execute and do all such assurances, acts and things as the Trustees may reasonably require for effectuating and completing the security intended to be hereby created And (e) at any time and from time to lime; after the security hereby has become enforceable the Company shall from time to time and at all times execute and do all such conveyances, transfers, assignments, assurances, acts and things as the Trustees may reasonably require for facilitating the realisation of the mortgaged premises and for exercising all the powers authorities and discretions.

**SEBI'S Model Underwriting Agreement**

To,

The Board of Directors..................Ltd

.................................................

.................................................

Dear sir,

Re: Forthcoming public issue of shares/debentures of Rs..... each for cash as part/premium aggregating to Rs...... (Public issue)

1.     We hereby record that we (hereinafter referred to as the underwriter) have agreed to underwrite/procure subscription to shares/debentures of Rs...... each for cash at par/premium aggregating to Rs..... (Rupees.... only) (hereinafter referred to as the underwriting obligation) for the captioned public issue by.... Ltd. (hereinafter referred to as "the Company" on the following terms and conditions.

2.     Opening of the subscription list: The subscription list for the public issue shall open not later than three months from the date of this agreement or such extended period(s) as the underwriter may agree to in writing. The subscription list shall, unless the issue is fully subscribed, be kept open by the company for a maximum period of 10 calendar days failing which the underwriter shall not be bound to discharge the underwriting obligations under this agreement.

3.     To make available final copy of the prospectus: The company shall before delivering to the Registrar of Companies (hereinafter referred to as "ROC") make available to the underwriter a copy of the prospectus, which shall be as modified in the light of the observations made by SEBI while issuing the acknowledgment card. The underwriter shall before executing this agreement satisfy himself with the terms of the issue and other information and disclosures contained therein.

4.     Delivery of prospectus to the Registrar of Companies: The prospectus in respect of the public issue shall be delivered by the company to the ROC for registration in accordance with the provisions of the Companies Act, 1956 not later that 30 days from the date of this Agreement or such extended period(s) as the under writer may approve in writing, the time being the essence of this Agreement.

5.     Material disclosures after filing of prospectus: The company agrees that, if after filing of the prospectus with the ROC any additional disclosures are required to be made in the interest of the investors in regard to any matter relevant to the issue, the company shall with such requirements as may be stipulated by SEBI or the lead manager and compliance of such requirements shall be binding on the underwriter; provided that such disclosures shall not give a right to the underwriter to avoid underwriting obligations unless such subsequent disclosures are certified by SEBI as being material in nature and essential for the contract of underwriting; the question whether or not such subsequent disclosures are material in nature, the decision of SEBI shall be final and binding on both the parties.

6.     Making available copies of prospectus and application form, etc. The company shall make available to the underwriter a minimum of...... (No. of application forms forming part of abridged prospectus) and....... (number of copies of the prospectus) for every lakh of ruppes of underwriting accepted by the underwriter. If the underwriter desires to have more application forms and prospectus than specified he must state his requirements which would then be considered as condition for acceptance of this underwriting Agreement. Thereafter, it is responsibility of the company to deliver to the underwriter the accepted quantity of application forms and prospectus as soon as the prospectus is filed with the ROC but in any case not later than 21 days prior to the date of opening of the public issue, proof of which, should be retained by the company.

7.     Warranty as to statutory and other approvals. The company warrants that all consents, sanctions, clearances, approvals, permissions, licences, etc., in connection with the public issue as detailed in the prospectus or required for completing the prospectus have been obtained or will be obtained and the same shall remain effective and in force until the allotment of all the shares/debentures are completed.

8.     Sub-underwriting arrangements: The underwriter shall be entitled to arrange for sub-underwriting of its underwriting obligation on his own account with any person or persons on terms to be agreed upon between them. Notwithstanding such arrangement, the underwriter shall be primarily responsible for sub-underwriting and any failure or default on the part of the sub-underwriters to discharge their respective sub-underwriting obligations, shall not exempt or discharge the underwriter of his underwriting obligation under this agreement.

9.     Treatment of applications made with underwriters/sub-underwriters stamp for the purpose of allotment. The application bearing the stamp of the underwriter or as the case may be the sub-underwriter whether made on their own behalf or otherwise shall be treated in the same manner as the applications received directly from the members of the public and, in the event of the issue being oversubscribed, such applications shall be treated on par with those received from the public and under no circumstances, the applications bearing the stamp of the underwriter or the sub-underwriter shall be given any preference or priority in the matter of allotment of shares/debentures.

10.  Computation of underwriter's obligation:

1.     If the issue is undersubscribed, the underwriting obligation, shall be determined in the manner set out hereunder; provided that under no circumstances, the underwriter's obligation to subscribe/procure subscription to shares/ debentures shall exceed the amount mentioned in clause 1 above.

2.     The following applications for shares/debentures shall be treated pro tanto in or towards satisfaction of the underwriter's obligations under this Agreement, namely -

a.     applications which have been accepted excluding those withdrawn before allotment; and

b.    applications received from the underwriter or any of his sub-underwriters including those applications which bear the stamp of the underwriter or any of the sub-underwriters,

3.     After making adjustments as provided in sub-clause (2) above the underwriting obligation of the underwriter and other underwriters shall be, subject to following further adjustments.

a.     The application received from the public independently i.e. those applications not covered under sub-clause (2) above shall be apportioned amongst all the underwriters. Where underwriting obligations have not. been fully satisfied after adjustments under sub-clause (2) above in proportion to their respective underwriting obligations and to that extent their respective underwriting obligation shall stand reduced.

b.    If, after the adjustments made under sub-clauses (2) and (3)(a) above, it is found that the shares/debentures available for adjustment are in excess of the shares/debentures required to be subscribed in fulfillment of the underwriting obligations of one or more individual underwriters, then such excess amount required to meet the underwriting obligations of any underwriter shall be further apportioned amongst such other underwriters, whose underwriting obligations have not been fully discharged, in proportion to their respective underwriting obligations.

11.  Procedure for effecting/discharge of underwriting obligations: The underwriting obligations as determined under clause 10 shall be discharged in the manner mentioned below:

a.     the company shall within 30 days after the date of closure of subscription list communicate in writing to the underwriter, the total number of shares/debentures remaining unsubscribed, the number of shares/debentures required to be taken up by the underwriter or subscription to be procured therefor by the underwriter.

b.    (b)the company shall make available to the underwriter, the manner of computation of underwriting obligation and also furnish a certificate in support of such computation from the company's auditors.

c.     the underwriter on being satisfied about the extent of devolvement of the underwriting obligation, shall immediately and in any case not later than 30 days after receipt of the communication under sub-clause (a) above, make or procure the applications to subscribe to the shares/debentures and submit the same together with the application moneys to the company.

d.    in the event of failure of the underwriter to make the application to subscribe to the shares as required under clause (c) above, the company shall be free to make arrangements(s) with one or more persons to subscribe to such shares without prejudice to the rights of the company to take such measures and proceedings as may be available to it against the underwriter including the right to claim damages for any loss suffered by the company by reason of failure on the part of the underwriter to subscribe to the shares as aforesaid.

Note - The Company is free to quantify the damages being a multiple of the value of the shares/debentures not subscribed by the underwriter.

12.  Right to receive underwriting commission/brokerage. Subject to the underwriter fulfilling his underrating obligations, he shall be entitled to receive commission in respect of the underwriting obligation undertaken by him and brokerage in respect of the shares/debentures procured by him at the rates set out in clause 13 hereunder. The underwriting commission shall be payable only if his underwriting commitment is fully subscribed.

13.  Underwriting commission: (1) In consideration of the underwriter agreeing to underwrite the shares/debentures as mentioned in clause 1 above, the company shall pay to the underwriter a commission at the following rates;

Note:

1.     The rates as mutually negotiated between the company and the underwriter may be inserted. Needless to say that the rates so agreed upon shall be subject to the provisions of section 76 of the Companies Act, 1956.

2.     (2) The underwriting commission shall be payable by the company within 15 days from the date of finalisation of allotment and proof of such payment within the specified time should be available with the company. The obligation to pay underwriting commission shall arise only upon the underwriter fulfilling his underwriting obligation and duly subscribing to the shares/debentures, if any devolved on him.

14.  Obligations of the company

1.     The company shall immediately after the closure of the subscription list, take expeditious steps for processing the applications and complete the allotment within the time limit prescribed under the Companies Act, 1956 and also comply with other listing requirements.

2.     If the company fails to receive 90% of the issue amount including the amount received from the underwriters towards devolvement, within 60 days from the date of closure of subscription list, the company shall refund the amount paid by the underwriter in fulfilment of his underwriting obligations. The obligation to refund the moneys shall be without prejudice to the disputes if any in regard to the underwriting obligation to the underwriter.

15.  Time is the essence of the agreement: All obligations of the company and the underwriter, are subject to the condition that time wherever stipulated, shall be of the essence of the agreement. Consequently any failure on the part of the company or the underwriter to adhere to the time limits shall unless otherwise agreed to between the company and the underwriter, discharge the underwriter or company of his/their obligations under the underwriting agreement.

16.  Right of termination under special circumstances. Notwithstanding anything contained herein, the underwriter shall have the option to be exercised by him at any time prior to the opening of the issue as notified in the prospectus of terminating this agreement under any or all of the following circumstances -

                      i.                if any representations/statements made by the company to the underwriter and/or in the application forms, negotiations, correspondence, the prospectus or in this letter are or are found to be incorrect;

                     ii.                a complete breakdown or dislocation of business in the major financial markets, affecting the cities of Calcutta, Bombay, Madras or New Delhi;

                    iii.                declaration of war or occurrence of insurrection, civil commotion or any other serious or sustained financial, political or industrial emergency or disturbance affecting the major financial markets of Calcutta, Bombay, Madras or New Delhi.

17.  Notice of termination to the company: Notwithstanding anything contained in clause 16 above, in the event of the company failing to perform all or any of the covenants within time limits specified wherever applicable under this letter of underwriting, the underwriter shall inform the company with adequate documentary evidence of the breach/non-performance by Registered post/Speed post and acknowledgment obtained therefore, whereupon the underwriter shall be released from all or any of the obligations required to be performed by him.

18.  Net worth of the underwriter. The underwriter, hereby declares that he satisfies the net worth/capital adequacy requirements specified under the SEBI (Underwrites) Rules and Regulations, 1993 or the bye-laws of the stock exchange of which the underwriter is a member and that he is competent to undertake the underwriting obligations mentioned in clause 1 hereinabove.

19.  Registration with the SEBI: The underwriter hereby declares that SEBI has granted to him a certificate of registration to act as an underwriter in accordance with the SEBI (Underwriters) Rules and Regulations, 1993 or, he has applied for registration to SEBI within the time stipulated under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 and is entitled to carry on the business as an underwriter under the SEBI Act.

20.  Reference to arbitration - Any dispute arising out of this agreement between the underwriter and the company shall be referred to the Arbitration Committee constituted by the Regional Stock Exchange in which the shares/debentures are to be listed and the decision of the Arbitration Committee shall be final and binding on both the parties.

Yours faithfully.

for..........

(Signature of the underwriter)

We, the company.................. Ltd. the above named do hereby accept your offer for undewriting on the above mentioned terms and conditions.

Authorised Signatory...............

For............... Ltd.

Designation..............

Authorised by a resolution passed at the meeting of the Board of Directors held on the....... day of.............. 19.....

**Separation Agreement between Husband and Wife**

THIS AGREEMENT made at.......... on this .......... day of ...............2000, between A, son of B, resident of ........... (hereinafter called "the husband") of the ONE PART and Smt. X his wife (hereinafter called "the wife") of the OTHER PART.

WHEREAS the husband and wife are living separately due to differences and disputes having arisen between them; and

AND WHEREAS they want to live separate, apart from each other and intend to live separate at all times hereafter unless there is any reconciliation.

**Now this Agreement Witnesseth That:**

1.     The parties shall live separately and apart from each other and no party shall have any right, authority over the other or shall institute any legal proceeding for restitution of conjugal rights or otherwise.

2.     The husband shall during the life time of the wife pay to her a sum of Rs............ p.m. for her maintenance and the maintenance of the children. However, if the wife does not lead a chaste life, the husband shall be entitled to stop the payment of maintenance allowance after giving her notice.

3.     The wife shall be entitled to the custody and guardianship of the children of the marriage, namely C and D now aged ........ years and .......... years, respectively. The wife shall maintain and educate the said children until they shall respectively attain the age of majority. The husband shall not be liable for any claim or demands of the children and the wife shall keep the husband indemnified from and against all claims and demands in respect of such children.

4.     The wife shall pay for and discharge all liabilities or debts incurred by her after the date of these presents, whether for maintenance, support or otherwise and the husband shall not be liable for the same. The wife indemnify and keep indemnified the husband against all claims, actions and demands on that account and if the husband has to pay any sum on account of the liabilities of debts incurred by the wife, he is entitled to deduct the same from the amount payable to the wife under this agreement.

5.     The wife may remove all her wearing apparel, jewelry and other personal effects, etc. belonging to her from the husband's place and retain the said goods as her separate properly.

6.     The husband may have the access to the children at every Sunday between 7.00 A.M. to 9.00 P.M. He may have the sole society of the children in the said timings on the said day.

7.     Notwithstanding anything contained in this agreement, it is expressly agreed that if at any time hereafter, the parties live together as husband and wife with mutual consent, then in that case, the said sum payable to the wife-under this agreement shall no longer be payable and the agreements hereinabove contained shall become void.

8.     This agreement shall be revoked by the death of either the husband or wife.

9.     This agreement shall be executed in duplicate. The original shall be retained by the husband and duplicate by the wife.

In Witness Where of, the parties have set their respective hands to these presents and a duplicate hereof on the day and year first hereinabove written.

Signed and delivered by the within named husband A.

Signed and delivered by the within named wife Smt. X

WITNESSES;

1.

2.