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GOVERNMENT OF KARNATAKA

NO. LAW 273 L AC 2012(p)

Karnataka Government Secretariat,

Vidhana Soudha,

Bangalore, dated: 10: 01.2014.

CIRCULAR

Sub: Incorporation of 'Arbitration Clause' in the Government
contract/tenders etc-reg.

"Arbitration Centre-Karnataka (Domestic and international)" is an initiative of the High Court of Karnataka which is 'non-profit' venture totally dedicated to facilitate all arbitration proceedings – Domestic and International. This is a project established to promote alternative dispute resolution under the provisions of the Arbitration and Conciliation Act, 1996 and in furtherance of the object of Section 89 of the Code of Civil Procedure. The Centre has a panel of Arbitrators which consists of eminent former judges of Supreme Court of India, various State High Courts, international jurists, retired Judicial Officers and Advocates having expertise in various fields of law. The Arbitration proceedings at the Centre will ensure conclusion of proceedings within 90 days from the date of drawing up of the terms of Reference and communication of the time Schedule to the parties. It is cost effective as speedy resolution of disputes is ensured. Arbitration fee and administration charges are fixed as per the Schedule determined on the basis of valuation of claim and counter claim with a ceiling on the Arbitration fee and fixed administration expenses. The Government is exempted from payment of administration & miscellaneous expenses of Arbitration Centre.

2) State Government is entering into various agreements with private enterprise for speedy execution of various developmental projects. PPP Model is the order of the day. All agreements of Government are required to be executed in the name of the Governor of Karnataka. It is generally noticed that in major projects, global tenders are floated and many companies of foreign origin come forward for the execution/implementation of the projects.

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3) Generally Memorandum of Understandings (MOU) entered into between Government on one side and executing parties on the other side contained Arbitration Clause providing engagement of private arbitrators. The terms and conditions of private arbitrators generally not beneficial from Government points of view and the professional claim is based on project cost and arbitration expenses will be enormously high. The arbitration centre established in Bangalore is a Governmental institution comprising of experts in various fields such as Medicine, Engineering information Technology, Intellectual Properties Town planning and experts drawn from diverse fields of activities to assist in the arbitral proceedings besides having experts in various fields of law. Utilising the expertise available in the Arbitration Centre is most cost effective as the fee payable is as per the Schedule, determined on the basis of valuation of claim and counter claim with a ceiling on the Arbitration fee and fixed administrative expenses.

It is therefore, desirable that in all governmental contracts a suitable arbitration clause may be incorporated in the agreements/documents. The following format is suggested for consideration:

"Any dispute or difference or claim arising out of, or in connection with, or relating to the present contract or the breach, termination or invalidity thereof, shall be referred and settled under the Arbitration Centre - Karnataka (Domestic & International) Rules 2012, by one or more arbitrators appointed in accordance with its rules"

Further, if exemption [✓] is required, such exemptions shall be sanctioned with the approval of the Hon'ble Minister for Law, Justice and Human Rights and Hon'ble Chief Minister.

K.B.

(K.B. Changappa)

Principal Secretary to Govt.

Law, Justice and Human Rights Department

To:

- 1) Accountant General, (A&E), Bangalore.
- 2) All Additional Chief Secretaries, Vidhanasoudha, Bangalore.

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- 3) Accountant General, (A&E), Bangalore.
- 4) All Additional Chief Secretaries, Vidhanasoudha, Bangalore.
- 5) All Principal Secretaries/Secretaries, Vidhanasoudha, M.S. Building, Bangalore.
- 6) Personal Secretary to Chief Secretary, Vidhanasoudha, Bangalore.
- 7) Principal Secretary to Hon'ble Chief Minister, Vidhanasoudha, Bangalore.
- 8) Personal Secretary to Chief Secretary (Cabinet), Vidhanasoudha, Bangalore.
- 9) Private Secretary to Hon'ble Law, Justice and Human Rights Minister.
- 10) Under Secretaries/Deputy Secretaries to Government (Opinion) (Litigation), Law Department, Vidhanasoudha, Bangalore.
- 11) All Head of the Departments (Through proper channel to Administrative Departments).
- 12) Gaurd Files.

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