



UNIT 1: DRAFTING

Types of Documents

INTRODUCTION

- General Clauses Act, 1897 has given an inclusive definition of document. According to section 3(18), “document” shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means which is intended to be used, or which may be used, for the purpose of recording that matter.
- IT Act provides that “electronic record” means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche.

Types of Agreements

1. Sale/Purchase Agreements:
2. Commercial Agency Agreements:
3. Collaboration Agreements
4. Arbitration Agreements:
5. Hypothecation Agreement
6. Outsourcing Agreements:
7. Agreement for Assignment:
8. Shareholders' Agreement
9. Employment Agreements

DIFFERENCE BETWEEN DEEDS, AGREEMENTS AND CONTRACTS

	<i>Deeds</i>	<i>Agreements</i>	<i>Contracts</i>
<i>Meaning</i>	<i>Deed is the term normally used to describe all the instruments by which two or more persons agree to effect any right or liability</i>	<i>Every promise and every set of promises, forming the consideration for each other, is an agreement</i>	<i>An agreement enforceable by law is a contract</i>
<i>Mode</i>	<i>Preferable in writing</i>	<i>It may be oral or in writing</i>	<i>Preferable in writing</i>
<i>Purpose</i>	<i>Effecting a Right or Liability</i>	<i>Agreement on certain Act or Omission</i>	<i>Enforceability of agreements according to Law</i>
<i>Creation of records</i>	<i>Yes</i>	<i>Not necessary</i>	<i>Yes</i>
	<i>Deed may be agreements and contracts</i>	<i>Agreements are not necessarily Deeds or Contracts</i>	<i>It succeeds Agreement</i>
<i>Example</i>	<i>Sale Deed, Lease Deed etc</i>	<i>Non-Disclosure Agreements, Joint Venture Agreements</i>	<i>Agreements reduced into writing and enforceable under any law</i>

CIRCULARS

The purpose of circulars is to disseminate the information to large number of individuals.

Important Points for drafting a circular:

1. **Issuing Authority:** mention the name of the issuing authority on the circular for communicating the position and authority of the addressor.
2. **Details of Addressee:** The addressees are required to comply with the information specified a circular.
3. **Subject:** The mention of subject in a circular ensures that the circular receives the required attention
4. **Reference to Preceding information:** information already provided before the present circulars.
5. **Main Information:** The information should be complete and in understandable language
6. **Signature**

PUBLIC NOTICES

- These are announcements made on a happening of a certain event of public interest. These may be issued by a Government Agency or by an individual including organisations

STANDARD BIDS AND TENDERS

- It refers to an invitation to offer (bid) for a purpose. The process of inviting bids for tenders have been initiated frequently by the organisations for large projects. It encourages the availability of goods or services on competitive prices.

Important considerations

- Name and address of the organisation
- Subject of the document
- Important dates and necessary information: The information such as Tender Publication Date, Last date and time for sending Pre-Bid Queries in writing, Cost of Tender, Earnest Money Deposit, Pre-Bid Meeting date, time & venue etc
- Disclaimer Clause
- Job Description
- Division of tender documents in parts: The tender document be preferably prepared asking for Bid submissions in two parts i.e. Technical Bid and Financial Bids.
- Fees and Deposits: The cost of the tender document may be required from the prospective bidder
- Conditions for forfeitures of EMD: i. If the bidder withdraws its bid; ii. the selected bidder delays or does not accept the Purchase / Work Order; iii. the selected bidder fails to supply goods / services as per the terms of the Tender or fails to execute Purchase / Work Order.
- Pre Bid Meeting
- Eligibility Criteria: Essential Requirements are to be mentioned in the tender document.

LETTER OF CREDIT, BANK GUARANTEE, AND PERFORMANCE GUARANTEE

1. Applicant Bank: Applicant or he is also called as Opener of LC. The bank opens LC on behalf of the applicant customer who is buyer / importer of goods.
2. Issuing Bank: Issuing bank is a bank which opens LC and undertakes to make payment to the beneficiary (seller/ exporter) on submission of document as per the terms of LC.
3. Beneficiary: Beneficiary is the seller / exporter of goods in whose favour LC is opened.
4. Advising Bank: Advising Bank is the bank through whom LC is advised to the beneficiary. Normally it is located in seller's location / country.
5. Confirming Bank: The bank which in addition to LC issuing bank, undertakes the responsibility of payment under LC.
6. Negotiating Bank: The Bank that negotiates the documents under LC.
7. Paying Bank: Paying Bank or Nominated Bank is the bank nominated or authorized by the LC issuing bank to make payment under LC. In practice, the paying bank presents the documents received by it either to issuing bank or Reimbursing Bank for payment and transfers the proceeds to the beneficiary's account.
8. Reimbursing Bank: Bank with whom the LC issuing bank maintains foreign currency account (NOSTRO account).

LETTER OF CREDIT TYPES

COMMERCIAL LC	A standard LC, also called as documentary credit
EXPORT /IMPORT LC	LC depending on who uses it. If used by exporter, he will name it to be exporter L/c and vice-versa.
TRANSFERABLE LC	As the name says, it is transferrable to the next supplier in chain & that allows the beneficiary to provide its own documents. The beneficiary is only an intermediary for actual supplier
UN-TRANSFERABLE LC	The beneficiary is the recipient & cannot further use LC to pay anyone. In short, he is not allowed to transfer it to third parties
REVOCABLE LC	Can be altered at any time by the issuing bank/ buyer without informing the seller. Not used frequently, no shield to seller.
IRREVOCABLE LC	Without consent of seller, no alterations can be made by anyone.
STANDBY LC	It ensures the payment to seller if anything wrong happens
CONFIRMED LC	When the advising bank also guarantees the payment to the beneficiary, it is called Confirmed LC
UNCONFIRMED LC	This is assured only by issuing bank & not in need of second bank
REVOLVING LC	These can be used for many payments instead of issuing for each of them
BACK TO BACK LC	Two LCs are issued- one by the bank of buyer to the intermediary & second by the bank of an intermediary to the seller.
RED CLAUSE LC	Partial payment before the goods are shipped like an advance against a written confirmation from the seller & the receipt
GREEN CLAUSE LC	Same like Red Clause LC, but the only difference is proof of warehousing is also given to the

SHOW CAUSE NOTICE (SCN):

A show cause notice is a document delivered to other party to represent the matter. It summaries the alleged matter and grants the other party an occasion to explain themselves

Essentials:

- 1 SCN should contain the name of the issuer.
- 2 It should be issued in writing.
- 3 It should be written in clear language in order to avoid ambiguity.
- 4 It should mention the correct and brief facts.
- 5 If there is a violation of Law, it should be specifically mentioned.
- 6 Charges should be levelled specifically and they should be vague or in contradiction with the information contained in SCN.
- 7 Proposed action should also be mentioned in the SCN. For eg. Penalty, Legal action, Suspension etc.
- 8 The time limits that have been provided to the receiver should be mentioned in the notice.
- 9 Adequate time limit should be given for the reply, unless otherwise specifically provided by any law.

STANDING ORDERS

The Industrial Employment (Standing Orders) Act (said Act) requires employers in industrial establishments to clearly define the conditions of employment by issuing standing orders duly certified. It applies to every establishment wherein 100 or more workmen are employed or were employed on any day during the preceding twelve months.

Matters to be provided in standing order :

1. Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.
2. Manner of intimating to workmen periods and hours of work, holidays, paydays and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search
7. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.

Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.

BONDS

- **A bail bond is an undertaking by an accused to appear for trial or to pay a sum of money stated therein on non-compliance.**

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Agar shuru karne ki himmat thi toh...

Khatam karne se kyu Ghabre rahe ho?

STUDY HARD