

DRAFTING, PLEADINGS & APPEARANCES

PART I - DRAFTING AND CONVEYANCING

PART II - PLEADINGS AND APPEARANCES



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

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Headquarters

ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110 003
tel 011- 4534 1000 fax +91-11-2462 6727 email info@icsi.edu

STUDY MATERIAL

PROFESSIONAL PROGRAMME

**DRAFTING, PLEADINGS
&
APPEARANCES**

GROUP 1

PAPER 2



**THE INSTITUTE OF
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Timing of Headquarters :

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Public Dealing Timings :

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Phones :

011-45341000 / 0120-4522000

Website :

www.icsi.edu

E-mail :

info@icsi.edu / academics@icsi.edu

For any suggestions/clarifications students may write to *academics@icsi.edu*

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PROFESSIONAL PROGRAMME

DRAFTING, PLEADINGS & APPEARANCES

Drafting, in legal sense, means an act of preparing the Legal Documents like agreements, contracts, deeds, etc. A proper understanding of drafting cannot be realised unless the nexus between the Law, the facts and the language is fully understood and accepted. Drafting of deeds and documents for various purposes in a company usually forms part of multifacet duties of the Company Secretary. For this purpose, the course contents of this study material have been so designed as to provide practical orientation and develop necessary acumen in drafting legal documents. Only those deeds and documents have been included which are of direct relevance to the work of a Company Secretary. Further, the literature available on the subject has been found to be unwieldy and it has, therefore, been our endeavour to make the study material tailored made. Every effort has been made to provide a self-contained material and an integrated approach has been adopted throughout.

While writing the study material, relevant provisions of the various Acts and Rules made thereunder have been kept in mind. Except where found absolutely necessary, text of the provisions of Bare Act(s), Rule(s), Order(s), etc. have not been produced. This paper presupposes knowledge of substantive law; therefore, students are advised to have thorough knowledge of the same by referring to various Acts mentioned at appropriate places in this study material. This paper also warrants continuous updation in terms of substantive and procedural laws as well as latest judicial pronouncements. Moreover, drafting of petitions, deeds and documents is an art and even acquiring working knowledge in this demands application of skills of higher order. Students are, therefore, advised not only to master the principles and applications of drafting and pleadings, but also keep themselves abreast of latest developments by regularly resorting to reading of at least one of the leading English Newspapers and additional source materials concerning corporate world which are published from time to time.

This study material has been published to aid the students in preparing for the Drafting, Pleadings and Appearances paper of the CS Professional Programme. It is part of the educational kit and takes the students step by step through each phase of preparation emphasizing key concepts, principles, pointers and procedures. Company Secretaryship being a professional course, the examination standards are set very high, with focus on knowledge of concepts, their application, procedures and case laws, for which sole reliance on the contents of this study material may not be enough. This study material may, therefore, be regarded as the basic material and must be read alongwith the Bare Acts, Rules, Regulations, Case Law.

The legislative changes made upto May 31, 2025 have been incorporated in the study material. In addition to Study Material students are advised to refer to the updations at the Regulator's website, supplements relevant for the subject issued by ICSI and ICSI Journal Chartered Secretary and other publications. Specifically, **students are advised to read "Student Company Secretary" e-Journal which covers regulatory and other relevant developments relating to the subject**, which is available at academic portal <https://www.icsi.edu/student-n/academic-portal/>. In the event of any doubt, students may contact the Directorate of Academics at academics@icsi.edu.

The amendments to law made upto 31st May of the Calendar Year for December Examinations and upto 30th November of the previous Calendar Year for June Examinations shall be applicable.

Although due care has been taken in publishing this study material, the possibility of errors, omissions and/or discrepancies cannot be ruled out. This publication is released with an understanding that the Institute shall not be responsible for any errors, omissions and/or discrepancies or any action taken in that behalf.

Important Note:

The new criminal laws i.e. Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha Sanhita 2023 and Bharatiya Sakshya Adhinyam 2023 have repealed Indian Penal Code 1860, Criminal Procedure Code 1973 and Indian Evidence Act 1872 (old criminal laws) respectively.

Therefore, by virtue of Section 8 of General Clauses Act 1897, the references to the old criminal laws, unless a different intention appears, be construed as references to the provision of new criminal laws.

PROFESSIONAL PROGRAMME

Group 1

Paper 2

DRAFTING, PLEADINGS & APPEARANCES

SYLLABUS

OBJECTIVES:

To equip with practical aspects of drafting various types of agreements, documents, applications to the quasi-judicial bodies including Tribunals and to provide competency for pleading and appearances.

Level of Knowledge: Expert Knowledge

Detailed Contents

PART I : DRAFTING AND CONVEYANCING (70 MARKS)

- 1. Types of Documents:** Deeds • Agreements • Contracts • Difference between Deeds, Agreements and Contracts • Circulars • Public Notices • Standard Bids and Tenders • Letter of credit, bank guarantee, and performance guarantee • Bye Laws • Show Cause Notices • Standing Orders • Bond
- 2. General principles of Drafting:** Drafting • Conveyancing • Distinction between Drafting, Conveyancing and Contract • General Principles of Drafting all sorts of deeds and conveyancing • Basic Components of Deeds • Important Terms and Conditions in the Agreement • Broad Outlines of deed • Guidelines for use of particular words and phrases for drafting and conveyancing • Use of Appropriate words and expressions • Aids to Clarity and Accuracy • Endorsements • Stamping of the Deeds
- 3. Laws relating to Drafting and Conveyancing:** Communication, acceptance and revocation of proposals • Essentials of Contracts • Contingent Contracts • Recovery of specific immovable property • Specific Reliefs • Contracts not specifically enforceable • Declaratory Decrees • Sale • Mortgage • Lease • Licence • Gift • Actionable Claims • Compulsory and Optional registration of Documents • Time and Place of Registration • Effects of Registration and Non-registration of Documents • Adjudication and Payment of Stamp Duty • Law relating to Power of Attorney
- 4. Drafting of Agreements, Deeds and Documents:** Deeds of Power of Attorney i.e. General Power of Attorney and Special Power of Attorney • Lease Deed • License Deed • Mortgage Deed • Gift Deed • Sale Deed and Agreement to sell • Alternate Dispute Resolution(ADR) Agreements • Employment Contracts • Settlement Agreements • Drafting of Bye-Laws of Societies • Drafting of Standing Orders • Reply of Show Cause Notices • Notice under Section 138 of the Negotiable Instruments Act • Reply to Legal Notice under Section 138 of Negotiable Instruments Act
- 5. Drafting of Commercial Contracts:** Limited Liability Partnership Agreement • Joint Venture and Foreign Collaboration Agreements • Joint Development Rights Agreements • Service Agreements • Dealership Contracts • Distributorship Contracts • Franchise Agreements • Outsourcing Agreements • Non-disclosure Agreements • E-Contracts

6. **Documents under Companies Act, 2013:** Deed of Transfer of Undertakings • Mortgage Deed • Debenture Trust Deed • Share Purchase Agreements • Shareholders Agreements • Underwriting and Brokerage Agreements • Resolutions – Appointment of KMPs, Adoption of Financial Statements, Distribution of Dividend, Corporate Social Responsibility, Inter- corporate Loans, Borrowings and Investment by Company, Approval of Related Party Transactions
7. **Art of Opinion Writing:** Understanding facts of the case • Application of relevant Legal Provisions to the facts • Research on relevant case Laws • Discussion • Form of Opinion • Opinion writing • Case Study on Opinion writing
8. **Commercial Contract Management:** Negotiation of best commercial and operational terms with vendors • Create, analyze and execute contracts • Contract-related documents and correspondence • Maintenance of contract documents • Compliance with mandatory provisions • Tracking of contracts and extend, renew, and close • Build and maintain relationships with vendors, clients • Control over any charges for services out of the scope of the contract • Actions in case of Breach of Contracts

PART II : PLEADINGS AND APPEARANCES (30 MARKS)

9. **Judicial & Administrative framework:** Types of Courts • E-Courts • Types of Tribunals/Quasi-Judicial Bodies • Jurisdiction • Procedures • Reference, Review and Revisions • Applicability of Civil Code on tribunals • Types of Trials • Appellate forums
10. **Pleadings:** History of Pleadings • Meaning of Pleadings • Object of Pleadings • Fundamental Rules of Pleadings • Suits • Suits for temporary and permanent injunctions • Plaint Structure • Description of Parties • Written Statements • Interlocutory Applications • Petitions • Revision Petitions • Execution Petition and Memorandum of Appeal and Revision • Writ Petition • Special Leave Petitions • Affidavit • Drafting of Affidavit in Evidence • Arguments on Preliminary Submissions/Merits • Legal Pleadings and Written Submissions • Applications • Witness • Improper Admission • Rejection • Appeal • Review • Undertakings • Indemnity Bonds • Legal Notices • Response to Legal Notices
11. **Art of Advocacy and Appearances:** Professional Etiquettes • Court Craft • Preparatory Points • Duty towards Court, Client and Opponent • Important Principles of Advocacy • Advocacy Tips • Pre-requisites for entering appearances • Appearance Etiquettes
12. **Applications, Petitions and Appeals under Companies Act, 2013:** NCLT & NCLAT Rules • Appeal to NCLT against notice of refusal to transfer shares • Application to NCLT for direction for calling the AGM and other meetings • Application for Compromise and Arrangements including mergers and amalgamations • Application in case Oppression and Mismanagement • Application for Class Actions • Application for compounding • Adjudication and E-adjudication • Petition for Winding up • Appeals before NCLAT • Case Studies on Mergers & Amalgamations, Oppression and Mismanagement, Class Action, Compounding, winding up
13. **Adjudications and Appeals under SEBI Laws:** Adjudicating Authorities • Process including Show Cause notices, Reply, Personal Hearing • SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules • Penalties • Compounding • Consent Terms • Settlement Proceedings • Appeals to Securities Appellate Tribunal • Constitution and Jurisdiction of Securities Appellate Tribunal(SAT) • Procedure and Powers of SAT • Procedure as per Securities Appellate Tribunal (Procedure) Rules • Adjudication • Appeals • Case Studies on Settlement Proceedings, Insider Trading and Listing Obligation & Disclosure Requirements
14. **Appearance before other Regulatory and Quasi-judicial Authorities:** Appearing before Tribunals/ Quasi-judicial Bodies such as NCLT/SEBI/CCI/TRAI/Tax Authorities • Appearing before Appellate Tribunals and authorities such as RD/SFIO/ NCLAT/ RBI/ED/Stock Exchange/RERA/RERA Appellate Tribunal/IPR Authorities • Case Study on Corporate Insolvency Resolution Process • Case study on combinations under the Competition Act, 2002

ARRANGEMENT OF STUDY LESSONS

DRAFTING, PLEADINGS & APPEARANCES

GROUP 1 • PAPER 2

Part I : Drafting and Conveyancing

S. No. Lesson Title

1. Types of Documents
2. General principles of Drafting
3. Laws relating to Drafting and Conveyancing
4. Drafting of Agreements, Deeds and Documents
5. Drafting of Commercial Contracts
6. Documents under Companies Act, 2013
7. Art of Opinion Writing
8. Commercial Contract Management

Part II : Pleadings and Appearances

9. Judicial & Administrative framework
10. Pleadings
11. Art of Advocacy and Appearances
12. Applications, Petitions and Appeals under Companies Act, 2013
13. Adjudications and Appeals under SEBI Laws
14. Appearance before other Regulatory and Quasi-judicial Authorities

LESSON WISE SUMMARY

DRAFTING, PLEADINGS & APPEARANCES

PART I : DRAFTING AND CONVEYANCING (70 MARKS)

Lesson 1: Types of Documents

The Word 'Document' contain various definitions under different laws. It can be in physical form or in electronic mode which contains the information of a particular matter. Documents include Deeds, Contracts, Circulars, Public Notices, Tenders etc. A key factor in the success of the organisation is the proficient drafting of documents. A Professional should adhere to the rules of drafting of documents.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to:

- Understand various type of documents a professional is required to draft
- Differentiate between Deeds, Agreements and Contracts
- Understand Letter of Credit, Bank Guarantee, and Performance Guarantee
- Understand Show Cause Notice (SCN)
- Bonds, Circulars, Bye Laws, Standing Orders etc.

Lesson 2: General principles of Drafting

Drafting is essential since it enables professionals to arrange ideas and thoughts in an understandable and comprehensible way. When writing a report, a proposal, or simply an email, or when a professional intend to explain his thoughts to others, this is very helpful. The corporate executives must have drafting and conveyancing knowledge in order to complete departmental documentation. With all the information available, an executive may create a better document by determining the relevance and importance of each topic that will be presented. It is essential to have knowledge about common principles in order to present a matter more effectively and efficiently.

The objective of the lesson is to introduce the students regarding:

- Meaning of Drafting
- Meaning of Conveyancing
- Differentiation Drafting and Conveyancing
- Basic Components of Deeds
- Use of suitable Words and Languages.

Lesson 3: Laws relating to Drafting and Conveyancing

Professionals are required to prepare, read, analyse and understand a variety of papers. In order to understand the documents, it is obligatory for a professionals to understand the basic laws relating to drafting and conveyancing. This lesson covers the basic laws a professional should know in order to understand the transaction taking place in business. These laws are designed to make sure that contracts and documents

are formed correctly and the transactions complete the intention of maker. Additionally, the interests of all participants in the transaction, including lenders, purchasers and sellers are protected.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand:

- Communication, Acceptance and Revocation of Proposals
- Formation of Contracts
- Enforcement of Contracts
- Conveyancing of Properties
- Registration of Documents
- The requirement of Payment of Stamp duty
- Assignments of powers to attorney.

Lesson 4: Drafting of Agreements, Deeds and Documents

The expertise in drafting is a must for the professional. Through drafting a professional express one's thought process in writing. No other profession entail the ability of drafting more than Company Secretary Professionals. Every written word in a Company Secretary profession is precious, as it has the power to inform, instruct and persuade. Therefore, the documents including deeds and documents has to be carefully crafted so as to protect your client's interest and understandable to all who came across the document.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand and draft:

- Documents
- Power of Attorney
- Mortgage Deeds
- Sale Deed and Agreement to Sell
- Settlement Agreements
- Show Cause Notices and their replies.

Lesson 5: Drafting of Commercial Contracts

A well-written contract helps to safeguard the interests of all parties by detailing their responsibilities and obligations in detail. By doing this, future disagreements and misunderstandings may be avoided. The establishment of a legal foundation for the companies with the aid of a commercial contract may be advantageous in the case of any legal problems or disputes. A well-written contract may also guarantee that everyone is on the same page and understands the conditions of the agreement.

In conclusion, creating business contracts is essential for every company that wishes to build solid and long-lasting relationships with its partners, suppliers, and clients. A well-written contract may assist in safeguarding your company's interests, reducing risks, and making sure that everyone is on the same page.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand and draft:

- Limited Liability Partnership Agreements
- Dealership, Distributorship and Franchise Agreements

- Non-disclosure Agreements
- Formation of e-contracts.

Lesson 6: Documents under Companies Act, 2013

A professional has to draft many documents for a company during the active life of a company such as deeds for the purpose of conveyancing, Share Purchase and Transfer Agreements, Resolutions etc. These documents are sometimes required due to the requirements of the Law and sometime due to conduct of business. Both the aspects i.e. conduct of businesses by the companies and legal requirements are important for the survival and growth a company.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand and draft:

- Deed of Transfer of Undertakings
- Debenture Trust Deeds
- Shareholder Agreements
- Underwriting and Brokerage Agreements
- Drafting of various corporate resolutions such as Appointment of KMPs, Corporate Social Responsibility, Approval of Related Party Transactions etc.

Lesson 7: Art of Opinion Writing

A legal opinion is a written declaration made by a professional that is based on their expert knowledge of a certain legal principle. A person may wish to know the proper legal stance on a topic of interest or the chances that he or she would prevail in court if they file a lawsuit using the information they gave the expert. An authoritative legal opinion that adheres to the law is extremely valuable. When seen from a legal viewpoint, it can reveal where a party sits in a specific factual matrix and help avoid wasting time and money on pointless legal battles.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position:

- To understand the cases of the clients
- To undertake research on a point of Law
- To apply legal provisions applicable
- To write opinions for the clients.

Lesson 8: Commercial Contract Management

Commercial Contract Management involves overseeing the development, negotiation, execution, and continuous oversight of agreements between two or more parties to make sure that their conditions are upheld. It entails overseeing every stage of the contract lifecycle, from writing to reviewing to negotiating to approval to implementation and monitoring. Protecting the interests of both parties, reducing risks, and ensuring compliance with legal and regulatory requirements are the main objectives of commercial contract management.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand:

- Brief of Business/Commercial Contracts
- Maintenance of Contract Documents
- Undertake Tracking of Contracts and Extension, renewal and closure

- Control over any charges for services out of the scope of the Contract
- Advice on Action to be taken in case of Breach of Contract.

PART II : PLEADINGS AND APPEARANCES (30 MARKS)

Lesson 9: Judicial & Administrative Framework

Our Judicial system is in charge of upholding justice, upholding the rule of law, and defending the rights of the citizens. It is also responsible for interpreting and enforcing the law, while the Administrative branch is in charge of interpreting and enforcing the law.

The legal system, law enforcement organizations and many regulatory entities that regulate various facets of society are also included in this framework. In general, the judicial and administrative system is necessary for maintaining a health society, defending citizen's rights, and establishing rule of law.

The objective of the lesson is to *inter alia* educate the students regarding:

- Types of Courts and their Jurisdiction
- Types of Tribunals/Quasi-judicial Bodies
- Jurisdiction of Judicial and Quasi-judicial Bodies
- Appellate Forums
- Applicability of Civil Procedure Code on Tribunals.

Lesson 10: Pleadings

Pleading means either a plaint or a written statement. The object of a pleading which aims at ascertaining precisely the points for contention of the parties to a suit. The rules of pleading and other ancillary rules contained in the Code of Civil Procedure have one main object in view. It is to find out and narrow down the controversy between the parties. The function of pleadings is to give fair notice of the case which has to be met so that the opposing party may direct his evidence to the issue disclosed by them. Pleadings are the basis of any lawsuit, and must be very cautiously drafted.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand and draft:

- Pleadings
- Suits for temporary and permanent injunctions
- Execution Petition and Memorandum of Appeal and Revision
- Affidavit
- Petitions
- Legal Notices
- Legal Pleadings and Written Submissions.

Lesson 11: Art of Advocacy and Appearances

Company Secretaries represent their companies as authorised representatives before various Tribunals/Quasi-judicial bodies. In order to effectively provide outcomes to their clients while acting as an authorised representative before any Tribunal or Quasi-judicial body, they must understand the art of advocacy or court craft.

The objective of the lesson is to introduce the students regarding:

- Court Craft
- Important principles of Advocacy
- Appearance Etiquettes
- Pre-requisites for entering Appearance
- Guidelines for Professional Dress of Company Secretaries.

Lesson 12: Applications, Petitions and Appeals under Companies Act, 2013

The Ministry of Corporate Affairs has announced the formation of NCLT and NCLAT. The jurisdictions of Company Law Board, High Court and BIFR has been merged and given to a single forum i.e. NCLT. A Company Secretary in Practice can appear before NCLT and NCLAT for various purposes. Therefore, it is necessary for a Company Secretary to obtain thorough knowledge of NCLT and NCLAT Rules. Further, a Company Secretary should also be in a position to draft Applications, Petitions, and Appeals under Companies Act, 2013.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand:

- NCLT Rules
- NCLAT Rules
- Drafting of Application to NCLT for direction for calling the AGM and other meetings
- Drafting of Application in case Oppression and Mismanagement & Class Actions
- Drafting of Application for Compounding
- Drafting of Appeals to be filed before NCLAT.

Lesson 13: Adjudications and Appeals under SEBI Laws

The main objective of establishment of SEBI was to protect the interests of investors in securities and to promote the development of and to regulate the securities market. The severe penalties for non-compliance were outlined in the SEBI Act, 1992. A Company Secretary in Practice can appear before authorities such as SEBI and SAT. A Company Secretary can also represent the company in various matters such as Compounding, Adjudication etc.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand

- Penalties under SEBI Laws
- Enquiry Proceedings
- Settlement Proceedings/ Consent Orders Under SEBI Laws
- Compounding of Offences
- Adjudication by the Authorities
- Appeals before Securities Appellate Tribunal.

Lesson 14: Appearance before other Regulatory and Quasi-judicial Authorities

Similar to courts, quasi-judicial organisations and tribunals have the authority to hear and decide matters in their respective fields. They are referred to be quasi-judicial since they lack the complete authority of the court.

A Company Secretary may represent a company as an authorised representative before several quasi-judicial organisations such as Securities Appellate Tribunal, National Company Law Tribunal, Competition Commission of India, Telecom Regulatory Authority of India, National Company Law Appellate Tribunal, etc.

It is expected that, at the end of this lesson, students will, *inter alia* be in a position to understand:

- Procedure for Appearance
- Appearance under SEBI Act, 1992
- Appearance under the Income-tax Act, 1961
- Appearance before the IPR Authorities, etc.
- Appeals before various authorities.

LIST OF RECOMMENDED BOOKS & OTHER REFERENCES

DRAFTING, PLEADINGS & APPEARANCES

GROUP 1 • PAPER 2

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3. Hargopal : The Indian Draftsman; Guide to Legal Drafting (1995); 10th Ed. Rev. by Nitin Khanna & A.C. Moitra, the University Book Agency, Allahabad. Vol. I & II.
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PART I

**DRAFTING AND
CONVEYANCING**





Types of Documents

Lesson

1

KEY CONCEPTS

- Deeds ■ Agreements ■ Contracts ■ Tenders ■ Letter of Credit ■ Performance Guarantee ■ Bye Laws
- Standing Orders

Learning Objectives

To understand:

- Various type of documents
- Deeds, Agreements and Contracts
- Advantages and essential ingredients of circulars
- Issuance of Public Notices
- Standard Bids and Tenders
- Instruments such as Letter of Credit, Bank Guarantee and Performance
- Preparation of Bye Laws
- Issuance of Show Cause Notices
- Standing Orders
- Bonds

Lesson Outline

- Deeds
- Agreements
- Contracts
- Difference between deeds, agreements and contracts
- Circulars
- Public notices
- Standard bids and Tenders
- Letter of Credit, Bank Guarantee, and Performance Guarantee
- Bye laws
- Show Cause Notice (SCN)
- Standing Orders
- Bonds
- Lesson Round-Up
- Glossary
- Test Yourself
- List of Further Readings
- Other References (including websites/video links)

REGULATORY FRAMEWORK

- General Clauses Act, 1897
- Companies Act, 2013
- Information Technology Act, 2000
- Indian Contract Act, 1872

INTRODUCTION

As per the general definition given in Collins Dictionary, A document is one or more official pieces of paper with writing on them. The term 'document' is so imperative and broad that many legislations have defined it differently befitting the intent of legislature behind the enactment of that statute.

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.

According to section 2(36) of the Companies Act, 2013 "document" includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form.

As per section 2(22AA) of Income-tax Act, 1961, "document" includes an electronic record as defined in section 2(1)(t) of the Information Technology Act, 2000 (IT Act). 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.

With reference to the Businesses documents it *inter alia* includes Deeds, Contracts, Circulars, Public Notices, Tenders etc.

Mostly, the definition given for the word document are inclusive in nature and volatile. They creates and conveys evidence for an event or transaction for easy functioning a business. It reduces misunderstanding and vagueness during operations of businesses.

DEEDS

In legal sense, a deed is a solemn document. Deed is the term normally used to describe all the instruments by which two or more persons agree to effect any right or liability. To take for example Gift Deed, Sale Deed, Deed of Partition, Partnership Deed, Deed of Family Settlement, Lease Deed, Mortgage Deed and so on. Even a power of Attorney has been held in old English cases to be a deed. A bond is also included in the wide campass of the term deed.

For such an instrument covering so wide field it is difficult to coin a suitable definition. A deed may be defined as a formal writing of a non-testamentary character which purports or operates to create, declare, confirm, assign, limit or extinguish some right, title, or interest. Many authorities have tried to define the deed. Some definitions are very restricted in meaning while some are too extensive definitions. The most suitable and comprehensive definition has been given by Norton on 'Deeds', is as follows:

A deed is a writing –

- (a) on paper, vallum or parchment,
- (b) sealed, and
- (c) delivered, whereby an interest, right or property passes, or an obligation binding on some persons is created or which is in affirmance of some act whereby an interest, right or property has been passed.

In Halsbury's Laws of England, a deed has been defined as "an instrument written on parchment or paper expressing the intention or consent of some person or corporation named therein to make (otherwise than by way of testamentary disposition, confirm or concur in some assurance of some interest in property or of some legal or equitable right, title or claim, or to undertake or enter into some obligation, duty or agreement enforceable at law or in equity or to do, or concur in some other act affecting the legal relations or position of a party to the instrument or of some other person or corporation, sealed with the seal of the party, so expressing such intention or consent and delivered as that party's act and deed to the person or corporation intended to be affected thereby."

A deed is a present grant rather than a mere promise to be performed in the future. Deeds are in writing, signed, sealed and delivered.

Deeds are instruments, but all instruments are not deeds.

AGREEMENTS

An agreement which is enforceable at law is called a contract. Generally, when a contract is reduced to writing, the document itself is called an agreement. Accordingly, there cannot be an agreement unless there are two or more parties that agree to perform certain acts or refrain from doing something. In other words, an agreement between the parties is an instrument whereby the parties freely agree to perform certain acts or refrain from doing something, unilaterally or bilaterally. The purpose of the instrument is to bind the parties to the terms and conditions agreed upon.

A company has to execute numerous commercial agreements and other contracts during the course of its business. But how many company executives possess the simple, easily cultivable, yet rare acumen of concluding their contracts precisely, comprehensively and unambiguously? It is very much desirable and useful to keep in view certain important points in regard to the drafting of contracts, particularly commercial and international trade contracts.

While preparing agreements it is necessary and important that the intention of the parties should be set forth explicitly so as not to leave any room for doubt or future controversy. The language should be simple and the words used should be definite and precise; the use of loose expressions such as "proper", "reasonable", should, as far as possible, be avoided.

CASE LAWS

The provisions of the Indian Contract Act, 1872 about the essential incident and legality of agreements (Sections 2 to 30) should be studied and nothing should be introduced or left out, which would make the agreement void. But, if the material terms of an agreement are clear and specific, omission of certain details, which can be worked out by consent of the parties or in its absence be settled by court will not invalidate the agreement (*Ramchandra v. Chinnubhai*, AIR 1945 Mad. 10).

Note: The agreement should, therefore, be drafted as deeds between the parties thereto. The old practice of drafting them as Deeds Poll should be discouraged.

Types of Agreements

A business has to enter into various types of agreements with different parties and have to execute various types of documents in favour of its clients, banks, financial institutions, employees and other constituents. Few type of Agreement and their purposes are as under:

- 1. Sale/Purchase Agreements:** Sale and Purchase agreements are entered into by the parties for the purpose

of transfer to property. These agreements ensure that the property legally transferred and conveyed to the other party without dispute.

2. **Commercial Agency Agreements:** Sometimes businesses are conducted by traders not directly with their counterparts but through the agency of independent agents appointed for the purpose. Such agents would locate customers for the principal's goods and in certain conditions, would have an implied authority to deal with the goods of the principal, allow credit terms to customers and receive payment from the customers on behalf of the principal. Commercial Agency Contracts are entered into by organisations for running businesses though this mode of business operation.
3. **Collaboration Agreements:** When two parties join hands for exchange of technical know-how, technical designs and drawings; training of technical personnel of one of the parties in the manufacturing and/or research and development divisions of the other party; continuous provision of technical, administrative and/or managerial services, they are said to be collaborating in a desired venture. Commercial Agency Contracts are used in such scenarios.
4. **Arbitration Agreements:** The 'arbitration agreement' means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of defined relationship whether contractual or not. It may be in the form of an arbitration clause in a contract or in the form of a separate agreement.
5. **Hypothecation Agreement:** Hypothecation agreement is a document by which legal property in goods passes to the person who lends money on them, but the possession does not pass.
6. **Outsourcing Agreements:** Outsourcing is the contracting out of a company's non-core, non-revenue producing activities to specialists. It differs from contracting in that outsourcing is a strategic management tool that involves the restructuring of an organization around what it does best - its core competencies.
7. **Agreement for Assignment:** An assignment is a form of transfer of property and it is commonly used to refer the transfer of an actionable claim or a debt or any beneficial interest in movable property. An important aspect of intellectual property laws deals with assignment agreements. A transfer of an actionable claim is usually called an assignment thereof. For eg. Assignment of Patents, Assignment of Trade Marks, Assignment of Copyrights, Assignment of Business and Goodwill etc.
8. **Shareholders' Agreements:** Shareholders' agreements (SHA) are quite common in business. In India, shareholder's agreement have gained popularity and currency only lately with bloom in newer forms of businesses. There are numerous situations where such agreements are entered into – family companies, JV companies, venture capital investments, private equity investments, strategic alliances, and so on. Shareholders' agreement is a contractual arrangement between the shareholders of a company describing how the company should be operated and the defining inter-se shareholders' rights and obligations.
9. **Employment Agreements:** They are entered into between parties for the purpose securing the availability of manpower for an organisation.

CONTRACTS

An agreement gives birth to a contract. As per Section 2(e) of the Indian Contract Act, 1872 "every promise and every set of promises, forming the consideration for each other, is an agreement. It is apparent from the definition that an agreement is based on a promise. According to Section 2(b) of the Indian Contract Act, 1872, "when the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise. An agreement, therefore, comes into existence when one party makes a proposal or offer to the other party and that other party signifies his assent thereto.

Therefore, every contract is an agreement but not *vice versa*. Agreements in which the idea of bargain is absent and there is no intention to create legal relations are not contracts.

Example

The following are agreements but not contracts:

1. Agreements relating to social matters such as to go together to the cinema, or for a walk.
2. Domestic arrangements between husband and wife

DIFFERENCE BETWEEN DEEDS, AGREEMENTS AND CONTRACTS

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

CIRCULARS

According to Cambridge dictionary, a circular is a letter or notice sent to a large number of people. The purpose of circulars is to disseminate the information to large number of individuals. Generally, circulars are in written form so as to create a permanent record of the information and the same may be accessed to by the individuals in present as well as in future. A circular may be issued and circulated in various modes but in present era, the prevalent mode in which circulars are issued are in electronic form such as by placing them at the website, sending them by emails etc. However, conventional method are still in operation such as circulating the written, typed or printed copies of circulars to individuals.

Circulars are issued by varied range of individuals and authorities. For example, A company may issue a circular to its employees for dissemination of a policy approved by the Board of Directors to be complied by the employees. Directors may issue a circular to the shareholders. Central Government may issue a circular for giving clarification on any point of Law or providing any other necessary information to public at large.

Important Points for drafting a circular

Following points are to be considered while drafting a circular:

1. **Issuing Authority:** It is important to mention the name of the issuing authority on the circular for communicating the position and authority of the addressor. It reduces the chance of confusion in addresses and increase the chances of observance.

2. **Details of Addressee:** It is essential to mention the details of addressees by name, designation etc. in circulars. The addressees are required to comply with the information specified a circular. Therefore, mentioning the details of addressees make the circulars effective.
3. **Subject:** The mention of subject in a circular ensures that the circular receives the required attention. This will make circular more effective and chances of avoidance gets reduced.
4. **Reference to Preceding information:** It is mandatory to mention the reference to the information already provided before the present circulars. It ensures the completeness of information and the addressee may understand the complete matter contained therein.
5. **Main Information:** The main purpose of the circular is to disseminate the information to selected group of individuals. The information should be complete and in understandable language leaving no chance of ambiguity.
6. **Source of Authority:** It is always preferable to mention the source of authority under which the signatory has issued the circular. This gives emphasis on observance of the circular and increases the chances of amenableness.
7. **Signature:** The signature on the circular makes it more reliable.

Advantages of Circular

The advantages of issuing circular are:

1. **Ease of dissemination of information:** Circulars play significant part in the development and easy working of the businesses of organisations. Through circulars the information is circulated with ease.
2. **Economical:** Circulars are economical way of dissemination of information effectively. Through circulars, large number of individuals may be reached.
3. **Expeditious:** Through circulars, important information can be disseminated to a large number of people expeditiously. Hence, it saves time and efforts of the authority.
4. **Less Efforts:** Issuing circular for dissemination of information requires less efforts and can produce upright results.
5. **Develop Consciousness:** Systematic and regular use of circulars for dissemination of information develop consciousness in the addressees and improves effectiveness.

Specimen Circular

General Circular No. _____

File No. Policy – _____

Government of India

_____ (Name of the Ministry)

_____ (Address)

Dated: _____

To,

The DGCoA,
All Regional Director,
All Regional of Companies,
All Stakeholders.

Subject: Clarification of holding of Annual General Meeting (AGM) Through Video Conference (VC) Or Audio Visual Means (OAVM)-reg.

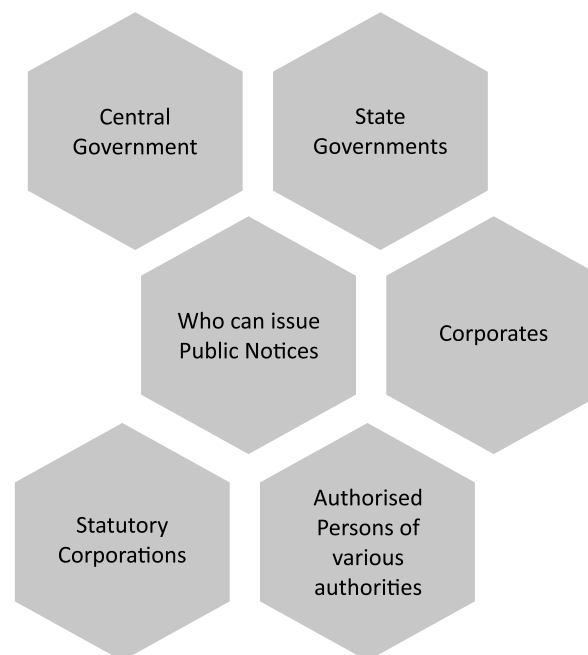
Sir/Madam,

1. In continuation to this Ministry's General Circular NO. 20/2020 dated 05.05.2020 and General Circular No. 02/2022 dated 05.05.2022 and after due examination, it has been decided to allow the companies whose AGMs are due in the year 2023, to conduct their AGMs on or before 30th September, 2023 in accordance with the requirements laid down in para 3 and para 4 of the General Circular No. 20/2020 dated 05.05.2020.
2. It is clarified that this General Circular shall not be construed as conferring any extension of time for holding of AGMs by the companies under the Companies Act, 2013 (the Act) and the companies which have not adhered to the relevant timelines shall be liable to legal action under the appropriate provisions of the Act.
3. This issues with the approval of the Competent Authority.

Yours faithfully,

PUBLIC NOTICES

Public notices are issued to convey information to large number of receivers that may called public. 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. These are effective mode by which Public are informed about an important event. These may be issued for varied reasons such as providing information relating to , change in a law, Struck off the name of companies by Registrar of Companies, Status of Complaints by an authority, Call for Information regarding submission of information pertaining to 'Unclaimed Non-convertible Securities', Public Notices by companies etc. They are published though websites, newspapers or any other prevalent way. Public notices has gained admiration in present era due to public has become vigilant and technology is developed. They help the public being aware of recent developments and relevant information and as a result it improves transparency.



How to draft a Public Notice?

Drafting of Public notice

- 1. Name of the Issuer:** A public notice should start from the name of organisation in order to be distinct, highlighted and attract attention.
- 2. Details of the Issuer:** A public notice should also contain all the details of the organisation which a reader may require after reading. This will be helpful for the readers who wish to take necessary action or seek further details.
- 3. Title Heading:** The heading of Public notice should be expressed in clear words so as to understand the purpose of issuing the public notice. This enables to attract the attention of the readers who are interested in the matter.
- 4. Comprehensive Details:** The information is to be written in comprehensive manner. It is the duty of the draftsmen that it provides all the relevant details considering the available resources such as space for advertisement and cost involved.
- 5. Statutory/Regulatory Requirement:** If a Public Notice is published in compliance of a statutory requirement, it is necessary to give the reference of the particular statutory/Regulatory provision along with the name of statute.
- 6. Date and Place:** It is imperative to mention the date and place for issue of Public Notice.
- 7. Designation of the issuer:** The designation of the issuer should be mentioned in the public officer. The mention of the name of the authority can also be published.

Public Notice of extract of standalone unaudited financial results for the quarter and nine months

XYZ Limited (Name of Company)							
CIN: _____							
Regd. Office: _____							
Cont. No. _____ Email id. _____ Fax. No. _____							
Website _____							
EXTRACT OF STANDALONE UNAUDITED FINANCIAL RESULTS FOR THE QUARTER AND NINE MONTHS ENDED 31ST DECEMBER, (YEAR)							
S. No.	Particulars	Quarter ENDED			NINE MONTH ENDED		YEAR ENDED
		31/12/21	30/09/21	31/12/20	31/12/21	21/12/20	31/03/21

The above is an extract of the detailed format of quarterly and nine months ended unaudited financial results filed with the stock exchange under Regulation 33 of the SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015. The full format of the Quarterly Financial Results are available on the stock exchange websites (www.....com and www.....com) and also hosted on the Company's website at www.....

Date	
Place	
	_____ (Name) For and On Behalf of Board of Directors XYZ Limited

Note: Updated formats notified or approved by the concerned authority should be used wherever applicable.

Specimen Public Notice

_____ (Name of the Exchange)
_____ (Address of the Exchange)

NOTICE

Notice is hereby given that the following Trading Member of the _____ Stock Exchange has been expelled from the membership of the Exchange under Rules 1 and 2 of Chapter IV of Bye Laws and declared defaulter.

Sr. No.	Member Name	SEBI Registration No.	Date of declaration of Defaulter	Date of Expulsion

The Constituents of the above-mentioned member are hereby advised to lodge claims, if any, in the prescribed claim form, against the above-mentioned within 3 months from the date of this notice.

All claims submitted by investors will be considered for Processing if found due and payable in accordance with Rules, Byelaws, Regulations, guidelines etc. of the Exchange, SEBI circulars and Regulations and the maximum compensation limit per investor is ₹ 25 lakhs out of the Investor Protection Fund.

The claim can be lodged online on the Exchange portal _____ where the relevant documents can be uploaded. A sample claim form and FAQ is made available on the Exchange website _____ for the convenience of the claimants. The claimants who have already submitted Form A need not file a separate Claim against the said member.

Alternatively, the claim form, duly filled and signed, along with the relevant documents may also be sent in Physical form to the Defaulters' Section of the Exchange at _____ (Address). For this Purpose, the format of the Claim form may be downloaded from _____ or obtained from the corporate office or the regional / branch offices of the Exchange. However, the Exchange urges all claimants to make use of the online claim lodgment facility as mentioned above for better tracking of your claims.

In case of any queries you may contact us on _____ or on toll free number _____.

For _____ (Name of Stock Exchange)

Chief Manager

Defaulter's Section

Place: _____

Date: _____

STANDARD BIDS AND TENDERS

As per the Cambridge dictionary, tender is a written or formal offer to supply goods or do a job for an agreed price. 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. Tendering processes encourage the availability of goods or services on competitive prices. The tendering process becomes open for all the eligible bidders thereby ensuring the competitive prices. It also stimulates the availability of the resource required in a timely manner. The process of tendering is formal and legally binds the person entering into the contract after awarding of tender. The process of inviting tender empowers the Tender issuing authority to finalise the terms and conditions of the tender independently. However, the conditions of the tender should comply with the statutory, regulatory requirements, should not be unreasonable and arbitrary.

CASE LAWS

In the case of *Tata Cellular v. Union of India*, it was observed that the terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts. Further, as laid down in *Tata Cellular and New Horizons cases*, the tender conditions cannot ordinarily be subjected to judicial scrutiny, but if the tender conditions are so arbitrary and no procedure was prescribed for evaluating the standards or the tender conditions do not satisfy Wednesbury principle of unreasonableness (See *Associated Provincial Picture Houses Limited v. Wednesbury Corporation, (1948) 1 KB 223 = (1947) 2 All ER 680*, followed and explained in *Om Kumar v. Union of India, (2001) 2 SCC 386*, besides many other cases), they shall be deemed to be irrational and as a necessary corollary arbitrary to be cursed with invalidation under Article 14 of the Constitution.

Important considerations for preparing a document for Tendering Process

1. **Name and address of the organisation:** The name and address of the organisation be mentioned on the initial page of the document.
2. **Subject of the document:** The subject of the tender documents to be mentioned in clear and comprehensive manner in order to attract the attention of the Bidder.
3. **Index of the tender document:** The index of the documents can make the document convenient for the prospective bidder.
4. **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, Last Date & address of Submission of Bids, Date, time & Venue of opening of Technical Bids and Financial Bids, contact details etc. should be provided in the tender document.
5. **Disclaimer Clause:** A disclaimer clause with respect to reservations or observation on the tender documents should be placed in the tender document.
6. **Job Description:** The job description in details should be mentioned in the tender document in order to acquaint prospective bidders with the requirements attached with the Job and evaluate and prepare their bids accordingly.
7. **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.
8. **Fees and Deposits:** The tender document should mention the fees and deposits commensurating the

nature and quantum of work. The cost of the tender document may be required from the prospective bidder. Further, the provisions relating to Earned Money Deposit (EMD) and Security Deposit are also to be placed in the tender document.

9. **Conditions for forfeitures of EMD:** The clause providing for the circumstances in which EMD may be forfeited to be mentioned in the tender document. The general conditions in which EMD be forfeited are as under:
 - 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.
10. **Pre Bid Meeting:** Pre Bid Meetings be conducted in order to provide any clarification sought on the tender.
11. **Scope of Work:** The scope of work in details be mentioned in the tender documents.
12. **Mention of Technical and administrative requirements:** The technical and administrative requirement be mentioned comprehensively in order to prevent the halt in the Job at the later stage. The document should be clear and specific with respect to technical and administrative requirements for performing the Job.
13. **Eligibility Criteria:** Essential Requirements are to be mentioned in the tender document.
14. **Necessary forms and documents:** Formats such as of Technical Bids, Financial bids, past experience of the bidder, Tender Acceptance Letter, Standard Terms and Condition of Agreement may be mentioned in the tender document. Further, a list of document required to be attached in the tender document may also be provided in the document.

LETTER OF CREDIT, BANK GUARANTEE, AND PERFORMANCE GUARANTEE

Letter of Credit

Letter of Credit ('LC'), also known as a documentary credit is a payment mechanism used specially in international trade. In an LC, buyer's bank undertakes to make payment to seller on production of documents stipulated in the document of LC. LC play an important role in the trade of a country, especially in its international trade. In most of the cases, the exporters (sellers) are personally not acquainted with the importers (buyers) in foreign countries. In such cases the exporters bear great risk, if they draw bills on importers, after having dispatched the goods as per their orders, because if the latter default in accepting the bills or making the payment, the exporter will suffer heavy losses. To avoid such risks, the exporters ask the importers to arrange a letter of credit from their banker in favour of themselves, on the basis of which goods may be exported to the foreign importers.

Parties to Letter of Credit (LC)

There are following four main parties to LC transaction:

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.

In addition to above four parties, following parties may also be involved in LC transaction.

- A. Confirming Bank:** The bank which in addition to LC issuing bank, undertakes the responsibility of payment under LC. This is required since the LC issuing bank may not be known to the exporter and he therefore needs reputed bank from his country to add confirmation to the LC.
- B. Negotiating Bank:** The Bank that negotiates the documents under LC.
- C. 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.
- D. Reimbursing Bank:** Bank with whom the LC issuing bank maintains foreign currency account (NOSTRO account). LC issuing bank authorizes the reimbursing bank to honor the LC reimbursement claim of negotiating bank.

Documents under LC

To receive payment, an exporter must present the documents required by LC. Typical types of documents in such contract include –

- **Financial documents:** Bill of Exchange, co –accepted draft. It is the basic document drawn by the beneficiary (exporter / seller) and has to be drawn as per the terms of the LC.
- **Commercial documents:** Invoice, packing list. It is addressed to the buyer (importer), signed by the seller (exporter) and contains details of sales like quantity, rate, specification and total amount.
- **Shipping documents:** Bill of lading, airway bill, lorry/truck receipt, railway receipt etc. It is a document of title to the goods, proof that the exporter has dispatched the goods.
- **Official documents:** License, certificate of origin, inspection certificate, health certificate. These are the documents as specified in the LC document.
- **Insurance documents:** Insurance policy or certificate but not a cover note. The dispatched goods must be insured for the amount and the kind of risks as specified in LC document. The policy / certificate should be signed by the insurance company.

Types of Letter of Credits

- 1. Documentary LC and Clean LC:** When the LC contains a clause that the payment is conditional on submission of document of title to goods such as bill of lading (evidence of dispatch of good), it is called Documentary LC. If no such clause is in the LC, it is called a clean LC.
- 2. Fixed Credit and Revolving Credit:** Fixed credit is where LC specifies the amount up to which one or more bills can be drawn by the beneficiary within the specified time. The LC remains effective till the specified amount is exhausted within specified time.

In Revolving Credit, the LC opening bank does not specify the total amount up to which bills may be drawn, but mentions total amount up to which the bills may remain outstanding at a time. Thus after reaching that amount, as soon as the importer pays the bill, to that extent the limit gets reinstated. It is thus automatic and does not need renewal within the specified period of time.

- 3. Revocable and Irrevocable LC:** In case of revocable LC, the opening bank reserves the right to cancel or modify the credit at any moment without prior notice to beneficiary.

Irrevocable credit constitutes a definite undertaking of the issuing bank. Such a LC once established and

advised cannot be cancelled or amended except with the consent of interested parties – beneficiary and negotiating bank.

- 4. Confirmed and Unconfirmed LCs:** When the opening bank requests the advising bank in the exporter's country to add its confirmation to an irrevocable LC and the advising bank does so, the LC is "irrevocable and confirmed". The advising bank is then called as 'confirming bank' and its liability then becomes similar to the issuing bank. The confirmation cannot be cancelled or amended unless agreed by all the parties. A confirmed irrevocable LC provides absolute security to the beneficiary.

If the advising bank does not add its confirmation, the LC remains as unconfirmed. In such case there will be no such obligation on the advising bank.

- 5. 'With' and 'Without Recourse' Credit:** In case of "with Recourse" bills, the banker as a holder of the bill, can recover the amount of the bill from the drawer, in case the drawee of the bill fails to pay it. In order to avoid such liability, the seller / exporter / drawer asks the importer / buyer to arrange credit "Without Recourse" to the drawer. In such a credit the issuing bank will have no recourse to the drawer (exporter) if the drawee (importer) fails to honour the bill. The liability of such a bill ends as soon as the bill is negotiated.
- 6. Transferable LCs:** Ordinarily the beneficiary is authorized to draw bills of exchange under LC. But if the beneficiary is an intermediary in the transaction and the goods are actually to be supplied by someone else, the beneficiary may request the opener to arrange a transferable credit.
- 7. Back to Back LC:** When a beneficiary receives a non-transferable LC, he may request a bank to open a new LC in favour of some other person (may be local supplier), on the security of LC issued in his favour. Such LC is called Back to Back LC. The terms of such LC are identical except that the amount (price) may be lower and the validity earlier.
- 8. LC with Red Clause / Green Clause:** LC with a clause printed in red ink, contains authority from the issuing bank to the advising / negotiating bank to grant advances (packing credit) to the beneficiary up to a specified amount at the responsibility of former. It is a short term advance recovered from the amount, payable by the negotiating bank to the beneficiary when it negotiates the documents under LC submitted by the beneficiary.

Green Clause is an extension of red clause LC allowing advances for storage of goods in warehouse in addition to packing credit.

- 9. Instalment Credit:** LC is issued for full value of goods but part-shipments of specific quantities of goods within nominated period are required. Credit is not available for missed shipment and shipments thereafter unless permitted in LC document.

Advantages of LCs to the Exporter (seller) and the Importer (buyer)

- Facilitates trade transactions between two parties who are not known to each other and located in two different countries.
- Beneficiary is assured of payment as long as it complies with the terms and conditions of LC.
- The credit risk is borne by the issuing bank and not the applicant (buyer).
- LC accelerates payment of receivables and helps beneficiary (seller) in minimizing collection time.
- The beneficiary's foreign exchange risk is eliminated with LC issued in the currency of seller's country.
- On the basis of LC the exporter may obtain advance from the bank for procuring and processing or manufacturing goods to be exported.

- Buyer is enabled to import goods.
- LC assures importer that bills drawn under LC will be honoured only when they are strictly in accordance with the conditions stipulated in LC document and the documents are duly submitted.

¹Specimen format of Letter of Credit and form of demand

Dated: _____

To: _____ (Name of Beneficiary)

_____ (Address)

Irrevocable Revolving Standby Letter of Credit no. _____

At the request of _____ (Name & Address of Applicant) ("Applicant"), we, _____, (Name and address of issuing Bank) ("Issuing Bank") issue this irrevocable, revolving, standby Letter of Credit ("Letter of Credit") in favour of _____ (Name and Address of Beneficiary) (the "Beneficiary") for _____ (the "Face Value") (and such additional value as provided herein) covering amounts owed to the Beneficiary under the Agreement or for which the Beneficiary otherwise has the rights under this Letter of Credit to draw down amounts, all on the following terms and conditions:

1. Definition in this Letter of Credit:

"Advising Bank" means the bank whose details are provided by Beneficiary at the time of opening of this Letter of Credit, or any other bank as notified by Beneficiary from time to time, in each case, for the purpose of advising this Letter of Credit to Beneficiary.

"Agreement" means the agreement titled _____ dated _____, executed between the Beneficiary (including its successors and permitted assigns), and the Applicant (including its successors and permitted assigns).

"Banking Day" means a day on which commercial banks are open for general commercial business in the city of Delhi, India.

"Demand" means a demand for a payment under this Letter of Credit in the form of the Schedule to this Letter of Credit duly supported by the documents prescribed under Clause 5.2 of this Letter of Credit.

"Expiry Date" means the date calculated in accordance with Clause 3.a (iii) of this Letter of Credit.

"Trading Currency" means INR.

"INR" means Indian Rupees.

2. Terms and Conditions:

- The Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that this Letter of Credit shall cover a Face Value.
- This Letter of Credit (L/C) shall also cover requests against partial payment and/or multiple drawings.
- Subject to the terms of this Letter of Credit, the Beneficiary may request partial and/or multiple drawings under this Letter of Credit by submitting a Demand to the Issuing Bank at its counters in Delhi in relation to each such drawing.
- Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably

1. <https://www.igxindia.com/wp-content/uploads/2020/09/Letter-of-Credit-Format-20200922.pdf>

undertakes to the Beneficiary that, on the day of receipt by it of a Demand, it will honour the claim without demur and pay to the Beneficiary the amount requested in that Demand.

- (e) The Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, following any payment pursuant to a Demand, it shall automatically and immediately thereafter reinstate the value of this Letter of Credit by the amount paid in order to restore this Letter of Credit to the Face Value. The Issuing Bank shall notify the Beneficiary immediately after any reinstatement of this Letter of Credit to the Face Value.
- (f) This Standby Irrevocable Revolving Letter of Credit (L/C) is available for negotiation directly with the issuing Bank/Branch or through Beneficiary's Banker without recourse to the Applicant.
- (g) The issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that if the payment pursuant to any demand is not made at sight, interest @ _____(Name of Issuing Bank) Base Rate+6.25% p.a. would be payable from the date of such demand till the date of actual payment.
- (h) This Letter of Credit shall not be discharged by any change in the Issuing Bank's constitution, constitution of Beneficiary or that of the Applicant or change in applicable Indian laws.
- (i) Opening, renewal, reinstatement, amendment, negotiation, and any other charges, if any, related to this Letter of Credit levied by the Issuing Bank shall be paid by the Applicant. Failure of the Applicant to make such payments shall not affect the Issuing Bank's obligations under this Letter of Credit and the Beneficiary shall be paid the money due to it under this Letter of Credit without any deduction.
- (j) The Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, if at least _____ (decided period) days prior to expiry of this Letter of Credit, Applicant fails to replace or renew such Letter of Credit with another letter of credit then, Beneficiary shall be entitled to draw down the full value of this Letter of Credit as security for payment of amounts payable by the Applicant.
- (k) The Issuing Bank shall allow Beneficiary to assign this Letter of Credit for the benefit of Beneficiary's lenders or Beneficiary's successors and permitted assigns.
- (l) The Issuing Bank undertakes not to amend any of the terms and conditions of this letter of credit (L/C) without prior consent of Beneficiary during the validity of this Letter of Credit (L/C).
- (m) The issuing Bank certifies that the officer signing this L/C is authorised for this purpose and shall remain binding upon the issuing bank.
- (n) The Issuing Bank shall forward and submit this Letter of Credit to the Advising Bank for advising of this Letter of Credit to Beneficiary.
- (o) All bank charges including negotiation, handling, amendment, renewal, interest charges and any other charges shall be borne by the opener of Letter of Credit (L/C) i.e. by the Applicant.
- (p) Payment against this Letter of Credit (L/C) shall be made to the beneficiary immediately on presentation of a copy of any of the documents such as Invoices/Provisional invoices/Debit notes/ Statement of claim / Demand Letter/ Claim letter etc. at any time within the validity period of the Letter of Credit (L/C).

3. Term, Extension and Expiry:

(a) Terms:

- (i) This Letter of Credit is issued on the date above with an initial term of _____ (mention the term) calendar months.

- (ii) The Issuing Bank shall renew this Letter of Credit no later than _____ days before the expiry of this Letter of Credit for a further period of _____ calendar months or in the event of no further extension of the Agreement, for a further period of _____ days from the End Date.
- (iii) This Letter of Credit shall terminate on the date notified by the Beneficiary in writing to the Issuing Bank, giving not less than _____ Banking Days' notice of such termination.

(b) Expiry:

- (i) Without prejudice to Clause 3.b (ii) of this Letter of Credit, the Issuing Bank will be released from its obligations under this Letter of Credit at the close of business on the Expiry Date as per Clause 3.a (iii) of this Letter of Credit.
- (ii) On expiry of this Letter of Credit the obligations of the Issuing Bank under this Letter of Credit will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under this Letter of Credit that remains unpaid. If a Demand has been received by the Issuing Bank not later than the Expiry Date, the Issuing Bank's obligation to pay hereunder shall be deemed accrued notwithstanding that the due date for payment may fall after the Expiry Date.
- (iii) When the Issuing Bank is no longer under any further obligations under this Letter of Credit, the Beneficiary shall return the original of this Letter of Credit to the Issuing Bank.

4. Payments:

- (a) All payments denominated in US\$ under this Letter of Credit shall be paid in INR by converting the amount due at the Exchange Rate or in US\$ on request of the Beneficiary.
- (b) All payments under this Letter of Credit shall be made for full value in immediately available funds (without any set-off, withholding or deduction) and shall be made on the day of receipt of a Demand to the account of the Beneficiary as set out in the Demand through RTGS or Telegraphic Transfer.

5. Delivery of Demand and Supporting Documents:

(a) Delivery:

- (i) Each Demand must be in writing, and may be given in person, by post, fax or by electronic communication and must be received by the Issuing Bank at its address as follows:

_____ (Insert Details)

- (ii) For the purposes of this Letter of Credit, electronic communication with electronic signature shall be treated as a communication that has been validly given in writing.

(b) Supporting Documents:

Each Demand shall be duly supported by a copy of invoice and / or debit notes under the Agreement against which the payment is claimed.

6. Governing Law

This Letter of Credit shall be governed by and construed in accordance with the laws of India.

7. Jurisdiction

The courts and tribunals at _____(Name of State) shall have exclusive jurisdiction over the subject matter of this Letter of Credit.

Yours faithfully [Issuing Bank] By:

(Note: The terms, conditions, details and coverage of Letter of Credit should be prepared with diligence considering all the requirements and may differ on case to case basis.)

FORM OF DEMAND

Date: _____

To: _____ [Bank]

Subject: Irrevocable, Revolving, Standby Letter of Credit No. _____ issued in favour of _____
("Letter of Credit")

Sir/Madam

We refer to the above-mentioned Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

1. We certify that the sum of Rs. _____ is due under the Agreement as of _____ (Date) against invoice no _____ dated _____ and/or debit note no _____ dated _____. We therefore demand payment of the sum of Rs _____ plus interest as provided in the Letter of Credit.

Alternatives:

The face value of this Letter of credit (L/C) shall be equal to _____ (Rupees _____)

The aggregate liability under this Letter of Credit (L/C) is restricted to Rs. _____

(Rupees _____).

2. All documents prescribed under Clause 5.2 of the Letter of Credit are enclosed herewith.
3. Payment should be made to the following account:

Name:

Account Number:

Bank:

4. The date of this Demand is not later than the Expiry Date.

Yours faithfully (Authorised Signatory)

For _____ [BENEFICIARY].

Bank Guarantee

It is a non-fund-based facility required by the borrowers. Banks are often required to issue guarantees on behalf of their customers. A bank guarantee ensures that the liabilities of the debtor will be met in the event he fails to fulfil his contractual obligations. It is an agreement between three parties – the bank, the beneficiary and the applicant who seeks the guarantee from the bank. This agreement acts as an undertaking assuring the beneficiary that the bank would pay the specified amount, in the case of applicant's default in delivering the "financial" or "performance" obligation as mentioned in the guarantee.

Types of Bank Guarantees

- 1. Financial Guarantee:** Under this, bank guarantees that the applicant will meet the financial obligation and in case he fails, the bank as a guarantor is bound to pay (e.g. guarantees towards revenue dues, taxes, duties and for disputed liabilities for litigations pending at courts; credit enhancement; repayment of financial securities etc.).
- 2. Performance Guarantee:** Under this, guarantee issued is for honouring a particular task and completion of the same in the prescribed / agreed upon manner as stated in the guarantee document. (e.g. bid bonds, retention money guarantee etc.)

Specimen format of Bank Guarantee

Bank Guarantee No. & date _____

Amount of Guarantee Rs. _____

To

(Name & Address of the Authority
to which Bank Guarantee is to addressed)

Dear Sir,

THIS DEED OF GUARANTEE made this ____ day of March, 2023 between _____ (hereinafter called "the Bank") of the one part, and _____ (Purchasing entity) of the other part.

WHEREAS in consideration of the _____ (Hereinafter referred to as the 'Purchaser' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to _____ (Name of Vendor) with its Registered/Head Office at _____ (Hereinafter referred to as the 'Contractor' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a Contract by issue of Purchase Order No _____ dated _____ and the same having been acknowledged by the contractor, for _____ (Contract sum in figures and words for _____) and the Contractor having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to ____ percent of the said basic value of the aforesaid work under the Purchase Order.

AND WHEREAS in consideration of the aforesaid and at the request of _____ (Purchaser) We, _____ (Bank's Name) (hereinafter referred as "the Bank") having its registered office at _____ (full address with pin code) do hereby unconditionally undertake to pay the amount payable under this guarantee without any demur, merely on a demand from the _____ (Purchaser) on demand on breach of the contract. Any such demand in writing made on the Bank by _____ (purchaser) shall be conclusive as regards the amount due and payable by the Bank under the guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____ secured by this guarantee.

We, the Bank further agree that the guarantee herein contained shall remain in full force and in effect during till the work order gets completely executed. Unless demand for claim under this guarantee is made on us in writing on or before _____ (mention the decided date), we shall be discharged from all liabilities under this guarantee thereafter.

We, the Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the _____(Purchser) in writing.

We, the Bank also agree that this guarantee will not be discharged due to change in the constitution of the Bank or _____ (name of the purchasing entity).

Notwithstanding anything contained herein:

- (i) Our liability under this Bank Guarantee shall not exceed Rs. _____(Rupees _____ only).
- (ii) This Bank Guarantee shall be valid up to _____ (mention decided date) and shall, at the request of the _____ (name of purchasing entity) be extended from time to time and kept valid during the completion of work order.
- (iii) We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written claim or demand on or before _____ (mention the decided date).

In witness whereof the Bank, through its authorised officer has set its hand and stamp on this ____ day of March, 2023 at _____.

Signature :

Name:

Designation with Bank Stamp:

Official Address:

Witness

1. Signature :

Name:

Witness

2. Signature:

Name :

(Note: The terms, conditions, details and coverage of Bank Guarantee should be prepared with diligently considering all the requirements and may differ on case to case basis.)

BYE LAWS

According to Collins' Dictionary, A bye law is a law which is made by a local authority and which applies only in their area. So, certain organisations frame their Bye Laws for effective functioning. Bye-Laws are legal tools used to regulate a particular subject or area so as to achieve orderly development of that subject. The nature of the Bye-Laws i.e. Mandatory or directory depends upon the subject matter for which they were made and the language used by the draftsmen in drafting the legislature empowering the making of Bye Laws. The authority to frame the bye laws are generally provided by the legislative enactment that is mandatory for that organisation to comply.

The legal recognition of Bye Laws are as under:

According to Article 13(3)(a) of the Constitution of India, "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

According to section 3(29) of General Clauses Act, 1897, “Indian law” shall mean any Act, Ordinance, Regulation, rule, order, bye-law or other instrument which before the commencement of the Constitution, had the force of law in any Province of India or part thereof, or thereafter has the force of law in any Part A State or Part C State or Part thereof, but does not include any Act of Parliament of the United Kingdom or any Order in Council, rule or other instrument made under such Act;

So, a Bye Law is also a Law recognized by the Constitution of India and also under various statutes.

When a Bye Law should be made

Section 22 of General Clauses Act, 1897 provides that where, by any Central Act or Regulation which is not to come into force immediately, on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

Examples of Bye Laws

- New Delhi Municipal Council Solid Waste Management Bye-Laws, 2017
- Bye Laws of National Stock Exchange of India Limited
- Bye Laws of Bombay Stock Exchange
- Bye-laws of a Multi State Cooperative Society
- Bye- laws of ICSI Institute of Insolvency Professionals
- ICSI registered Valuers Organisation Bye Laws
- Bye Laws made by various bodies for Arbitration Proceedings

Specimen of Bye Laws of Society

BYE – LAWS OF

I. GENERAL

- (1) The name is _____ (hereinafter refer to as Society).
- (2) The Society is registered under Delhi Cooperative Societies Act, 2003 office situated at _____.
- (3) These bye-laws may not be amended, except in accordance with the approval of competent authority.

II. DEFINITIONS

4. (1) In these bye-laws, unless the context otherwise requires –
 - (a) “authorisation for assignment” means an authorisation to undertake an assignment
 - (b) “certificate of membership” means the certificate of membership of the Agency granted under bye-law;’

- (c) “Electronic mode” means through video conferencing or other audio visual means and such other means as may be recognised under the Information Technology Act, 2000 including amendment thereof;
 - (d) “Governing Board” means the Board of the Society;
 - (e) “relative” shall have the same meaning as assigned to it in Income-tax Act, 1961.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these bye-laws shall have the meanings assigned to them in Delhi Cooperative Societies Act, 2003.

III. OBJECTIVES

- 5. (1) To produce and provide safe and Healthy food.
- (2) To develop the ecosystem that help to identify the adulterated Food.
- (3) The Society shall carry on the functions as may be decided by the Board for the purpose of point no. 1 and 2.
- (4) The Society shall not carry on any function other than those specified, or which is inconsistent with the discharge of its functions.

IV. DUTIES OF THE SOCIETY

- 6. (1) The society shall maintain high ethical and professional standards in the regulation of its members.
- (2) The society shall:
 - (a) ensure compliance with the statutory enactments;
 - (b) employ fair, reasonable, just, and non-discriminatory practices for the enrolment and regulation’ of its members;
 - (c) be accountable to the Board in relation to all bye-laws and directions issued to its members.

V. COMMITTEES OF THE SOCIETY

- 7. (1) The Board may form an Advisory Committee of members of the society to advise it on any matters pertaining to achievement of its objective.
- (2) The Board shall form a Finance Committee consists of at least 10 members of the Society.
- (3) The Board shall form a Disciplinary Committee consists of at least 10 members of the Society.
- (4) The Committees may meet at such places and times as the Board may provide.

VII. Eligibility for Enrolment

- 8. An individual may be enrolled as a member on payment of Enrollment Fees of Rs. 10,000/-.

VIII. Membership Fee.

- 9. The society may require the members to pay a fixed sum of money as its annual membership fee.

X. DISCIPLINARY PROCEEDINGS

- 10. The Disciplinary committee may initiate disciplinary proceedings by issuing a show-cause notice against members
 - (a) based on a reference made by the Board;
 - (b) following the directions given by the Board or any court of law; or

(c) *suo moto*, based on any information received by it.

XI. Surrender of Membership

11. (1) A member who wishes to surrender his membership of the society may do so by submitting an application for surrender of his membership.
- (2) Upon acceptance of such surrender of his membership, and completion of thirty days from the date of such acceptance, the name of the member shall be struck from the registers of the society, and the same shall be intimated to the Board.

XII. Expulsion from Membership

12. (1) A member shall be expelled by the society -
 - (a) on an expiry of thirty days from the order of the Disciplinary Committee, unless set aside or stayed by the competent court;
 - (b) upon non-payment of membership fee despite at least two notices served in writing;
 - (c) upon the cancellation of his membership by the Board;
 - (d) upon the order of any court of law.

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. SCN may be issued for varied reasons by various authorities such as by Courts, Government, Quasi-judicial Authorities, Employers, other authorities etc. The issuance of SCN is preferred by authorities due to the observance of the principle of Natural Justice. It is based on the principle *audi alteram partem* (hear the other side) i.e. no one should be condemned unheard. It requires that both sides should be heard before passing the order. This rule implies that a person against whom an order to his prejudice is passed should be given information as to the charges against him and should be given opportunity to submit his explanation thereto. SCN provides an opportunity to the receiver to counter a potentially harming claim. SCN may be in any form depending upon the requirement for calling of the information and explanations.

Essentials of Show Cause

A show cause notice should *inter alia* address the following 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.

9. References and Annexures should be provided, wherever required.
10. The mode of representation warranted should be mentioned in SCN i.e. In person, Meeting (Online or face to face).
11. The address of the authority should be mentioned in SCN.
12. SCN should be dated.

Specimen Show Cause Notice

GOVERNMENT OF INDIA
MINISTRY OF _____

Tel: _____

Address: _____

Fax: _____

Email: _____

No. _____

Dated: _____

To :

M/s _____,

Address _____

Subject: Violation of provisions of _____

Sir,

During the inspection of your registered office of your company on 21.02.2023 by the undersigned, violation of provisions of Rule _____ of _____ (Rules), was observed. The details of violations are as under:

1. _____
2. _____
3. _____

In this connection, it is brought to your notice that, the above violation of said rule constitutes an offence punishable under _____ (Rules).

You are, therefore, show cause within a period of 30 (thirty) days from the date of issue of this notice.

Please note that no further notice will be given to you in this regard.

Yours truly,

_____ (Name)

_____ (Designation)

STANDING ORDERS

'Standing Orders' defines the conditions of recruitment, discharge, disciplinary action, holidays, leave, etc., go a long way towards minimising friction between the management and workers in industrial undertakings. 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 industrial

establishment wherein 100 or more workmen are employed or were employed on any day during the preceding twelve months.

Model standing orders issued under the Act deal with classification of workmen, holidays, shifts, payment of wages, leaves, termination etc. The text of the Standing Orders as finally certified under the said act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

The objects of standing orders is that the employer, once having made the conditions of employment known to his employed workmen cannot change them to their detriment or to the prejudice of their rights and interests. The express or written conditions of employment, it is open for the prospective worker to accept them and join the industrial establishment.

Important aspects for issuing Standing Orders

1. The employer of the establishment submits to the Certifying Officer five copies of the draft Standing Orders proposed by him for adoption in that establishment.
2. Such draft Standing Orders shall be in conformity with the Model Standing Orders if any, and, shall contain every matter set out in the Schedule which may be applicable to the industrial establishment.
3. The draft Standing Orders shall be accompanied by a statement containing prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.
4. It is the function of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of the Standing Orders.
5. On receipt of the draft Standing Order from the employer, the Certifying Officer shall forward a copy thereof to the trade union of the workmen or where there is no trade union, then to the workmen in such manner as may be prescribed, together with a notice requiring objections, if any, which the workmen may desire to make in the draft Standing Orders. These objections are required to be submitted to him within 15 days from the receipt of the notice. On receipt of such objections he shall provide an opportunity of being heard to the workmen or the employer and will make amendments, if any, required to be made therein and this will render the draft Standing Orders certifiable under the Act and he will certify the same. A copy of the certified Standing Orders will be sent by him to both the employer and the employees association within seven days of the certification.
6. Certifying Officer files a copy of all the Standing Orders as certified by him in a register maintained for the purpose in the prescribed form. He shall furnish a copy of the same to any person applying therefor on payment of the prescribed fee.
7. Standing Orders comes into operation on the expiry of 30 days from the date on which the authenticated copies are sent to employer and workers representatives or where an appeal has been preferred, they will become effective on the expiry of 7 days from the date on which copies of the order of the appellate authority are sent to employer and workers representatives.
8. The text of the Standing Orders as finally certified under the said Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

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, pay-days 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. Closing and re-opening of sections of the industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be prescribed under the Industrial Employment (Standing Orders) Act, 1946.

Model Standing Order

Model Standing Orders on additional items applicable to all industries

(1) SERVICE RECORD

Matters relating to service card, token tickets, certification of service, change of residential address of workers and record of age.

- (i) *Service Card.*- Every industrial establishment shall maintain a service card in respect of each workman in the form appended to these orders, wherein particulars of that workman shall be recorded with the knowledge of that workman and duly attested by an officer authorised in this behalf together with date.
- (ii) *Certification of service.*-
 - (a) Every workman shall be entitled to a service certificate, pacifying the nature of work (designation) and the period of employment (indicating the days, months, years), at the time of discharge, termination, retirement or resignation from service;
 - (b) The existing entries in para 16 of Schedule I and para 20 of Schedule I-A shall be omitted.
- (iii) *Residential address of workman.*- A workman shall notify the employer immediately on engagement the details of his residential address and thereafter promptly communicate to his employer any change of his residential address. In case the workman has not communicated to his employer the change in his residential address, his last known address shall be treated by the employer as his residential address for sending any communication.
- (iv) *Record of age.*-
 - (a) Every workman shall indicate his exact date of birth to the employer or the officer authorised by him in this behalf, at the time of entering service of the establishment. The employer or the officer authorised by him in this behalf may before the date of birth of a workman is entered in his, service card, require him to supply :-
 - (i) his matriculation or school leaving certificate granted by the Board of Secondary Education or similar educational authority ; or

- (ii) a certified copy of his date of birth as recorded in the registers of a municipality, local authority or Panchayat or Registrar of Births;
 - (iii) in the absence of either of the aforesaid two categories of certificate, the employer or the officer authorised by him in this behalf may require the workman to supply, a certificate from a Government Medical Officer not below the rank of an Assistant Surgeon indicating the probable age of the workman provided the cost of obtaining such certificate is borne by the employer;
 - (iv) where it is not practicable to obtain a certificate from a Government Medical Officer, an affidavit sworn, either by the workman or his parents, or by a near relative, who is in a position to know about the workman's actual or approximate date of birth, before a first Class Magistrate or Oath Commissioner, as evidence in support of the date of birth given by him.
- (b) The date of birth of a workman, once entered in the service card of the establishment shall be the sole evidence of his age in relation to all matters pertaining to his service including fixation of the date of his retirement from the service of the establishment. All formalities regarding recording of the date of birth shall be finalised within three months of the appointment of a workman.
- (c) Cases where date of birth of any workman had already been decided on the date these rules come into force shall not be reopened under these provisions.

Note. - Where exact date of birth is not available and the year of birth is only established then the 1st July of the said year shall be taken as the date of birth.

(2) CONFIRMATION

The employer shall in accordance with the terms and conditions stipulated in the letter of appointment, confirm the eligible workman and issue a letter of confirmation to him. Whenever a workman is confirmed, an entry with regard to the confirmation shall also be made in his service card within a period of thirty days from the date of such confirmation.

(3) AGE OF RETIREMENT

The age of retirement or superannuation of a workman shall be as may be agreed upon between the employer and the workman under an agreement or as specified in a settlement or award which is binding on both the workman and the employer. Where there is no such agreed age, retirement or superannuation shall be on completion of [58]24 years of age by the workman.

(4) TRANSFER

A workman may be transferred according to exigencies of work from one shop or department to another or from one station to another or from one establishment to another under the same employer:

Provided that the wages, grade, continuity of service and other conditions of service of the workman are not adversely affected by such transfer:

Provided further that a workman is transferred from one job to another, which he is capable of doing, and provided also that where the transfer involves moving from one State to another such transfer shall take place, either with the consent of the workman or where there is a specific provision to that effect in the letter of appointment, and provided also that (i) reasonable notice is given to such workman, and (ii) reasonable joining time is allowed in case of transfers from one station to another. The workman concerned shall be paid traveling allowance including the transport charges, and fifty per cent thereof to meet incidental charges.

(5) MEDICAL AID IN CASE OF ACCIDENTS

Where a workman meets with an accident in the course of or arising out of his employment, the employer shall, at the employer's expense, make satisfactory arrangements for immediate and necessary medical aid to the injured workman and shall arrange for his further treatment, if considered necessary by the doctor attending on him. Wherever the workman is entitled for treatment and benefits under the Employee's State Insurance Act, 1948 or the Workman's Compensation Act, 1923, the employer shall arrange for the treatment and compensation accordingly.

(6) MEDICAL EXAMINATION

Wherever the recruitment rules specify medical examination of a workman on, his first appointment, the employer, shall, at the employer's expense make arrangements for the medical examination by a registered medical practitioner.

(7) SECRECY

No workman shall take any papers, books, drawings, photographs, instruments, apparatus, documents or any other property of an industrial establishment out of the work premises except with the written permission of his immediate superior, nor shall he in any way pass or cause to be passed or disclose or cause to be disclosed any information or matter concerning the manufacturing process, trade secrets and confidential documents of the establishment to any unauthorised person, company or corporation without the written permission of the employer.

(8) EXCLUSIVE SERVICE

A workman shall not at any time work against the interest of the industrial establishment in which he is employed and shall not take any employment in addition to his job in the establishment, which may adversely affect the interest of his employer

BONDS

Bond means a formal document by which a person undertakes to perform a certain act. The bonds are of different types such as Surety Bond, bonds as financial instruments, judicial bonds, Guarantee bonds, saving bonds etc. The purpose of issuance of bonds also differs according to the requirements. For example: Surety Bonds are undertaken for the purpose of providing security if a certain act agreed has not been done. Financial Instruments bonds are evidence of a debt due on the organisation. 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. A bond is also included in the wide compass of the term deed. The purpose of undertaking a bond is secure the act or omission for which the bond is issued as a security.

Specimen Bond and Bail-bond**BOND AND BAIL BOND FOR ATTENDANCE BEFORE COURT**

I, _____ (name), of _____ (place), having been arrested or detained without warrant by the Officer in charge of police station (or having been brought before the Court of _____), charged with the offence of _____, and required to give security for my attendance before such Officer of Court on condition that I shall attend such Officer or Court on every day on which any investigation or trial is held with regard to such charge, and in case of my making default herein, I bind myself to forfeit to Government the sum of rupees.

Dated, this day ____ of _____, 2023 .

(Signature)

LESSON ROUND-UP

- A document is one or more official pieces of paper with writing on them. The term 'document' is so imperative and broad that many legislations have defined it differently befitting the intent of legislature behind the enactment of that statute.
- In legal sense, a deed is a solemn document. Deed is the term normally used to describe all the instruments by which two or more persons agree to effect any right or liability.
- A business has to enter into various types of agreements with different parties and have to execute various types of documents in favour of its clients, banks, financial institutions, employees and other constituents.
- An agreement gives birth to a contract. As per Section 2(e) of the Indian Contract Act, 1872 "every promise and every set of promises, forming the consideration for each other, is an agreement. It is apparent from the definition that an agreement is based on a promise.
- Circulars are issued by varied range of individuals and authorities. For example, A company may issue a circular to its employees for dissemination of a policy approved by the Board of Directors to be complied by the employees.
- Public notices are issued to convey information to large number of receivers that may called public. These are announcements made on a happening of a certain event of public interest.
- Letter of Credit ('LC'), also known as a documentary credit is a payment mechanism used specially in international trade. In an LC, buyer's bank undertakes to make payment to seller on production of documents stipulated in the document of LC.
- It is a non-fund-based facility required by the borrowers. Banks are often required to issue guarantees on behalf of their customers. A bank guarantee ensures that the liabilities of the debtor will be met in the event he fails to fulfil his contractual obligations.
- According to Collins' Dictionary, A bye law is a law which is made by a local authority and which applies only in their area. So, certain organisations frame their Bye Laws for effective functioning.
- 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.
- 'Standing Orders' defines the conditions of recruitment, discharge, disciplinary action, holidays, leave, etc., go a long way towards minimising friction between the management and workers in industrial undertakings.
- Bond means a formal document by which a person undertakes to perform a certain act. The bonds are of different types such as Surety Bond, bonds as financial instruments, judicial bonds, Guarantee bonds, saving bonds etc.

GLOSSARY

Deed: Deed is the term normally used to describe all the instruments by which two or more persons agree to effect any right or liability.

Circulars: A circular is a letter or notice sent to a large number of people. The purpose of circulars is to disseminate the information to large number of individuals.

Tender: A written or formal offer to supply goods or do a job for an agreed price.

