

Drafting and Conveyancing for Immovable Properties, Points to be considered in drafting of agreements, Sale Deeds, Development Agreement, etc.

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Various types of legal documents

- Receipts/ Acknowledgement
- Exchange of Letters
- Term Sheets
- Memorandum of Understanding (MOU)
- Agreements
- Deeds/ Instruments
- Affidavits
- General/ Special Powers of Attorney
- Documents relating to “ Escrow ”



Definitions



✓ DOCUMENT

The plain dictionary meaning of the word "Document" is-

- ☐ "A paper containing information or proof or evidence"
- ☐ "An instrument on which matter is recorded which may be proof or evidence".

✓ **"Document" as defined under the Indian Evidence Act 1872 -**

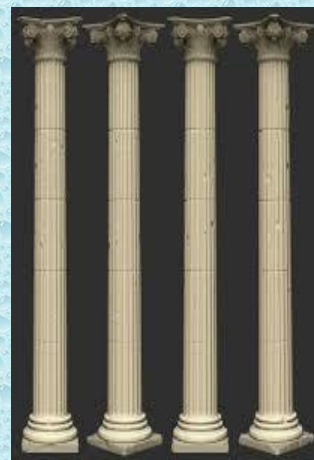
- ☐ Any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of these means, intended to be used or which may be used for the purpose of recording that matter.

✓ **Document as defined under the General Clauses Act 1897-**

"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".

Four (4) Pillars of Drafting

1. Factual Accuracy
2. Legal Perfection
3. Precise Expression
4. Formal Statutory Compliance



General Guidelines for drafting

1. Prior preparation
2. Heading and Title
3. Place and Date
4. Description of parties
5. Preamble
6. Formal declaration of the document
7. Main Operative Clause
8. Covenants of the Transferor/ Vendor
9. Covenants of the Transferee/ Purchaser
10. Verification



Preamble

- ✓ Chronological narration of relevant prior events, transactions, documents tracing the title in the hands of the transferor.
- ✓ Intentions and interactions between parties
- ✓ Reference to properties mentioned in schedules.
- ✓ Reference to Confirming Parties, Consenting Witnesses, if any.



Schedule Property

- All that part and parcel of land measuring to the extent of ____ Sq.ft, situated at Sy.No ___, in ____ Village, ____ Taluk, ____ District, measuring

- East to West ____ feet (on the northern side)
- East to West ____ feet (on the southern side)
- North to South ____ feet (on the eastern side)
- North to South ____ feet (on the Western side)

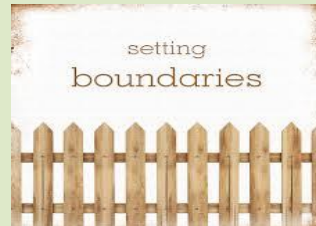
Marked as ABCD in the annexed plan, colored in RED and bounded

On the east by :

On the west by :

On the north by :

On the south by :



AGREEMENT TO SELL

• GENERAL CLAUSES-

1. Description of parties
2. Flow of title
3. Offer and acceptance
4. Operative Portion of the document
5. Terms and conditions agreed upon
6. Time lines
7. Clauses relating to delay and default
8. Covenants of the Owner (Covenants of Owner-mainly relating to title)



9. Obligation of the Owner (mainly relating to the various acts to be performed by the Owner before sale)

10. Original documents of title

11. Possession

12. Arbitration

13. Specific Performance

14. Courts of competent jurisdiction



AGREEMENT TO SELL

- **Special Clauses**

In case of agricultural lands, the following covenants have to be added in addition to the general covenants made by the Owner-

- i. Clause relating to tenancy claims in Form 7 and 7A of the Karnataka Land Reforms Act, 1961 to be inserted
- ii. Clause relating to Sections 79A and B of the Karnataka Land Reforms Act 1961 to be inserted
- iii. Clause relating to proceedings under the Karnataka (PTCL) Act 1978 to be inserted.
- iv. Clause relating to ceiling limits under the Karnataka Land Reforms Act, 1961 to be inserted.
- v. Where lands are to be purchased after conversion u/s 95 of the Karnataka Land Revenue Act 1964, relevant clause to be inserted.
- vi. When the lands are to be purchased after securing exemption u/s 109 of the Karnataka Land Reforms Act 1961, relevant clause to be inserted.

SALE DEED

- Title- description of document
- Description of the parties
- Preamble
- Flow of title
- Offer and acceptance
- Mention of any past agreement or MOU's between the parties with terms and conditions agreed upon
- Body of the document



Body of the document

- Clause relating to sale, transfer, payment of price and acknowledgment
- Delivery of possession
- Delivery of original title deeds
- Covenants of the Owner
- Indemnity Clause
- Schedule of property



DEVELOPMENT AGREEMENT

1. Title of the document
2. Preamble including flow of title
3. Representations by the Owner and Developer
4. Offer and acceptance
5. Body of the document
6. Permission to Develop
7. Plans /Licenses/NOC
8. Sharing of Area- Including T.D.R area
9. VAT and Service Tax
10. F.A.R
11. Interest Free Refundable Security Deposit



12. Time For Commencement And Completion
13. Delay and Default clause
14. Loans/Financial borrowing
15. Permission To Enter
16. Sale/ Transfer of Owner/Developer's Area with conditions
17. Representations, Warranties And Covenants of the Owner
18. Representations, Warranties And Covenants of the Developer
19. General Power of Attorney
20. Construction related matters
21. Original Title Deeds



- 22. Occupancy/ Completion Certificate
- 23. Municipal taxes, tax assessment
- 24. Indemnity
- 25. Acquisition
- 26. Termination
- 27. Association To Be Formed
- 28. Payment Towards Property Taxes /Power/Water Deposits, Etc
- 29. Maintenance Fee & Deposits
- 30. Name of the Project
- 31. Forbearance
- 32. Advertisement



- 33. Restrictions on both the Parties
- 34. Contract Conditions Shall Be Common To All
- 35. Defect Liability Period
- 36. Registration of the agreement, cost of Stamp Duty, Registration Fee, etc.
- 37. Notices
- 38. Breach and consequences of Agreement
- 39. Right of Specific Performance
- 40. Dispute Resolution- Arbitration
- 41. Courts of Competent Jurisdiction
- 42. Other Terms



43. Miscellaneous

44. Schedule Property

45. Verification

46. Annexure- Relating to specifications of construction



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