CONTENTS

DIVISION ONE

GUIDE TO BUYERS/ ALLOTTEES

1

		BOOKING OF A PLOT/FLAT/SHOP	PAGE
		BOOKING OF A FEOT/FEAT/SHOP	THOL
1.1	Who is	"Allottee"	7
	1.1-1	Apartment	7
	1.1-2	Building	8
	1.1-3	Immovable property	8
	1.1-4	Real Estate Project	8
1.2	Book o	nly in registered projects	8
1.3	Pre-boo	oking preparation	9
1.4	Do not	book through unregistered real estate agents	9
1.5	Book o	nly after due diligence	9
	1.5-1	Carpet area	10
	1.5-2	Right to obtain Information at the time of booking and issue of allotment letter [Section 11(3); Section 19(1); Section 19(2)]	10
	1.5-3	Information required to be stated in AFS (as per model AFS of Maharashtra)	11
1.6	Pay bo	oking amount by non-cash mode	15

	CONTENTS	I-8
		PAGE
1.7	Do not pay more than 10% of cost upfront as booking amount and/or allotment money	15
1.8	Deduct TDS from booking amount if cost of flat/plot/shop exceeds Rs. 50 lakhs	17
	2	
	ALLOTMENT LETTER	
2.1	What is allotment letter	18
2.2	Information to which allottee entitled at the time of issue of allotment letter	18
2.3	Payment of allotment money	18
2.4	Legal validity of allotment letter	19
	3	
	AGREEMENT FOR SALE/BUILDER- BUYER AGREEMENT	
3.1	Do not pay more than 10% of cost upfront without entering into AFS/BBA	20
3.2	AFS should be in prescribed format	21
3.3	Compare draft AFS with model AFS before signing	22
3.4	Before signing AFS, re-consider if you want to cancel the booking	22
3.5	Make payment of instalment if any to be paid at the time of BBA/AFS	23
3.6	Get AFS notarized/registered as required under state laws	23
3.7	Obtain BBA/AFS (original), receipts (original) for payments, permission to mortgage and tripartite agreement	23
	4	
	PROGRESS PAYMENTS IN	
	ACCORDANCE WITH AFS	
4.1	Buyer (Allottee) is liable to pay 'total price' mentioned in AFS	24
4.2	Do not pay any "escalation claims"	26

I-9	
	CONTENTS

		PAGE
Pay in AFS	crease in taxes/development charges as per model	26
	or/obtain refund for final changes in carpet area	26
Tuy To	ry obtain retailed for finial changes in earpet area	20
	<u>5</u>	
	POSSESSION & CONVEYANCE DEED	
Occup	pancy certificate	28
	oter's Responsibility to obtain and provide completion cate and occupancy certificate	28
	of Possession	28
Execu to allo	tion of conveyance deed and handing over of possession ttee	29
5.4-1	What if promoter fails to convey title?	31
5.4-2	Rights of promoter after conveyance of title	31
5.4-3	Allottee to bear legal costs, stamp duty and registration charges	31
	nts to be paid by buyer on or before delivery of sion [Maharashtra Model AFS]	32
	6	
	RIGHTS AND OBLIGATIONS OF ALLOTTEES (BUYERS)	
Rights	of allottees (buyers)	33
Respo	nsibilities/obligations of buyers	34
clearly	consideration/Total Price payable by buyer to be mentioned in AFS and excludes post-possession pay-to be made by buyer and stamp duty and registration	34
6.3-1	Total price to be escalation-free same and except increases in development charges, cost or charges by competent authorities	36
6.3-2	Additional payment/refund for changes in carpet area	36
	ent schedule to be as per Model AFS in case of rashtra & Gujarat	37
6.4-1	Post-possession payment and stamp duty not included in 'total price' or 'total consideration'	38

	CONTENTS	I-10
		PAGE
6.5	Right to remedy of approaching RERA against wrongful cancellation of allotment by the promoter	39
6.6	Right to claim compensation from promoter for breaches of agreement for sale [Section 14(3); Section 18; Section 19(4)]	39
6.7	Right to withdraw from project and claim compensation and interest [Section 12; Section 18(1); Section 19(4)]	41
6.8	Right to claim compensation for loss caused by defective title [Section 18(2)]	42
6.9	Right to transfer of title insurance and other insurances at the time of entering into agreement for sale [Section 16(1) to (3)]	42
6.10	Right to statutory remedy of filing complaint with RERA/ Adjudicating Officer	42
6.11	Right to execution of registered conveyance deed [Section 17(1)]	43
6.12	Right to possession [Section 17(1); Section 18(1); Section 19(3); section 19(10)]	44
6.13	Right to necessary documents and plans after handing of physical possession [Section 17(2); Section 19(5)]	48
6.14	Right to lease certificate [Section 11(4)(<i>c</i>)]	48
6.15	Right to documents of insurance [Section 16]	49
6.16	Right against alterations to project without consent [Section 14(2)]	49
6.17	Right against transfer of assignment of project to third party without consent [Section 15]	51
6.18	Right to complete the project where promoter's registration lapses or is revoked [Section 8]	51
6.19	Allottee's rights in case of builder's default	52
6.20	Responsibility to make necessary payments	53
6.21	Responsibility to pay interest for delay in payment	53
6.22	Obligations to make payment or to pay interest can be reduced by mutual agreement	55
6.23	Responsibilities to participate in formation of association/ society	55
6.24	Responsibilities to take possession within two months of issue of occupancy certificate	55
6.25	Responsibilities to participate in registration of conveyance deed	56
6.26	Post-Possession obligations of allottee (buyer)	56
6.27	Penalty for failure to comply with orders of Authority by allottee	58

I-11		CONTENTS
(20	D 1t	

			PAGE
6.28		for failure to comply with orders of Appellate al by allottee	59
		<u>7</u>	
		REMEDIES FOR GRIEVANCES	
7.1	Filing o	of complaint with RERA/Adjudicating Officer	60
7.2	Compla 12, 14,	aints regarding compensation/interest claims u/ss 18, 19	61
7.3	Factors	s to be considered while adjudging compensation or claims	62
7.4		ure for filing and adjudication of complaints relating pensation and interest	63
	7.4-1	Points to be kept in mind while filing complaint to Adjudicating Officer regarding compensation and interest	65
7.5	Compla	aint for wrongful cancellation of allotment by	65
7.6	Proced adjudic	ure for Filing of complaints with the RERA and eation	67
	7.6-1	Points to be kept in mind while filing complaint to RERA	69
7.7	Rectific	cation of orders	70
7.8	Appeal	to Real Estate Appellate Tribunal	70
	7.8-1	Points to be kept in mind while filing appeal to Real Estate Appellate Tribunal	71
7.9	Revisio Tribuna	n of orders of RERA/Adjudicating Officer by the	73
7.10	Appeal	to High Court	73
7.11	Bar of j	jurisdiction of Civil Courts	73

DIVISION TWO

GUIDE TO PROMOTERS

PROMOTER

8.1 Definition of "Promoter"

		CONTENTS	I-12
			PAGE
		9	
		REAL ESTATE PROJECT	
9.1	Real est	rate project	85
9.2	Immova	able property	85
9.3	Building		85
9.4	Apartm	ent	86
9.5	Develop	oment	86
9.6	Develop	oment works	86
9.7	Externa	l development works	86
9.8	Internal	development works	87
		10	
		-	
		DO'S AND DONT'S FOR PROMOTERS	
10.1		sement, booking, sale of real estate projects not without first registering the project	88
	10.1-1	Exemption from registration	88
	10.1-2	What about real estate projects in areas which are not planning areas?	89
	10.1-3	Whether real estate projects which are ongoing at the commencement of the Act require registration	89
	10.1-4	Whether real estate projects which are ongoing at the commencement of the Act require registration	91
10.2	Activitie	es for registering projects	93
10.3	Activitie RERA	es prior to making application for registration to	94
10.4	Applicat	tion for registration to RERA	95
10.5	Creation	n of webpage on RERA's website	96
10.6	Advertis	sement	96
10.7	Separat	e bank account to deposit amount realised from s	97
10.8	Obligati project	ons of promoter regarding insurance of real estate	97
10.9	Booking	g and Allotment	97
10.10	Agreem	ent for sale	98

			PAGE
10.11		of collections from allottees in separate bank account lit of utilisation	98
10.12	Adherenthe pro	nce to sanctioned plans and project specifications by moter	99
10.13		ions of promoter in case of transfer of a real estate to a third party	100
10.14	Comple	tion certificate/occupancy certificate	100
10.15	Lease c	ertificate	100
10.16	Essentia by socie	al services to be provided till take over of maintenance ety	101
10.17	Format	ion of association of allottees	101
10.18	Paymen	nt of all outgoings till possession	101
10.19	Executi	on of registered conveyance deed and handing over	101
10.20	Hand o	ver necessary documents and plans to allottees	102
10.21	Cancella	ation of allotment	102
10.22	Refund	of amount and compensation	102
10.23	Comper	nsation to allottee for loss caused by defective title	103
10.24	Comper obligation	nsation to allottees for failure to discharge other ons	103
		<u>11</u>	
		PROCEDURE FOR REGISTRATION OF REAL ESTATE PROJECTS	
11.1	Procedu	ure for registration of real estate projects	104
11.2	Docume registra	ents required to be enclosed with application for tion	104
	11.2-1	Land Cost	113
	11.2-2	Cost of construction	114
	11.2-3	Disclosures in respect of ongoing real estate projects required in application for registration	115
11.3	Applica	tion for registration to be made in Form 'A' in triplicate	116
11.4	Online v	web-based registration	118
11.5	Withdra project	awal of application for registration of a real estate	118
11.6		f registration	119

	CONTENTS	I-14
		PAGE
11.7	Extension of registration	122
11.8	Revocation of registration	125
11.9	Obligation of Authority consequent upon lapse of or on revo- cation of registration [Section 8]	127
	<u>12</u>	
	DISCLOSURE ON PROMOTER'S WEBPAGE ON WEBSITE OF AUTHORITY	
12.1	Creation of Promoter's webpage on website of Authority	128
	<u>13</u>	
	PUBLICATION/ADVERTISEMENT/ PROSPECTUS	
13.1	Issue of Publication of advertisement/Prospectus by the Promoter [Sec. 11(2)]	136
13.2	Promoter responsible for veracity of the advertisement or prospectus [Sec. 12]	136
	14	
	DEPOSIT OF 70% OF AMOUNTS REALISED FROM ALLOTTEES IN SEPARATE BANK ACCOUNT	
14.1	Deposit of 70% of amounts realised from allottees in separate bank account and getting utilisation audited and certified	137
	14.1-1 Withdrawal from the separate account	138
	14.1-2 Land Cost	140
	14.1-3 Cost of construction	141
	14.1-4 Audit of utilisation of withdrawals	142
14.2	Deposit of 70% in respect of ongoing projects	142
14.3	No need for prior permission from any authority to withdraw	
	from the separate account	143
14.4	'Separate account', not 'escrow account'	143

_	-	_	
	1	_	CONTENTS
I-	1	o	CONTENTS

	15	PAGE			
	<u>15</u> OBLIGATIONS AND RESPONSIBILITIES OF PROMOTERS				
15.1	Obligations & Responsibilities of promoters as per the Act	145			
15.2	Adherence to sanctioned plans and project specifications by the promoter	146			
15.3	Title Insurance	147			
15.4	Responsibilities of promoter till the execution of conveyance deed in favour of allottees	148			
15.5	Promoter's responsibilities till the handing over of possession	149			
15.6	Promoter's responsibilities for formation of association of allottees	149			
15.7	Responsibility to maintain essential services till taking over by association of allottees	150			
15.8	Responsibility to obtain and provide completion certificate and occupancy certificate	150			
15.9	Responsibility to obtain and provide the lease certificate	151			
15.10	Obligations of promoter in case of transfer of a real estate project to a third party	151			
15.11	Execution of conveyance deed and handing over of possession to allottee	152			
15.12	Handing over documents and plans	154			
15.13	Promoter's warranties & obligations as per model AFS	155			
15.14	Prominently display the sanctioned plans, layout plans at the project land site	156			
	<u>16</u>				
PUNISHMENT AND PENALTY ON PROMOTERS FOR NON-COMPLIANCES					
16.1	Effective date of penal provisions	158			
16.2	Monetary penalties based on estimated cost of the real estate project	158			
16.3	Punishment for advertising, marketing, booking, selling etc. a real estate project without first registering it	158			
16.4	Punishment for non-registration	159			

		CONTENTS	I-16		
			PAGE		
16.5		for contravention of other provisions of the Act prules/regulations made under the Act	159		
16.6	Penalty promote	for failure to comply with orders of Authority by	159		
16.7	Penalty for failure to comply with orders of Appellate Tribunal by promoter				
16.8	Compou	unding of offences by court	160		
16.9	Offence	s by companies	161		
		17			
		-			
	'	FILING/DEFENDING OF COMPLAINTS AND APPEALS BY PROMOTERS			
17.1		appeals by promoters to Real Estate Appellate l against orders passed by RERA	162		
	17.1-1	Points to be kept in mind while filing appeal to Real Estate Appellate Tribunal	164		
17.2	Revision of orders of RERA/Adjudicating Officer by the Tribunal				
17.3	Appeal to High Court against order of Real Estate Appellate Tribunal				
17.4	Filing claim to Adjudicating Officer against allottee for compensation and interest				
	17.4-1	Points to be kept in mind while filing complaint to Adjudicating Officer regarding compensation and interest	166		
17.5	Filing compliant Adjudicating Officer against allottee (other than for compensation and interest) or against registered real estate agent				
	17.5-1	Points to be kept in mind while filing complaint to RERA	173		
17.6	Rectifica	ation of orders	173		
17.7	Defendi	ng compensation/interest claims filed by allottees	174		

I-17 CONTENTS

			PAGE					
		DIVISION THREE						
		REAL ESTATE AGENT						
		19						
<u>18</u>								
	REAL ESTATE AGENT							
18.1	Real Es	tate Agent	177					
18.2		gistered real estate agents can facilitate sale/						
	purchas	se	177					
	18.2-1	Obligations of registered real estate agents [Rule 14]	178					
		19						
		_						
REGISTRATION OF REAL ESTATE AGENT & RENEWAL OF REGISTRATION								
19.1	Procedu	are for Registration of real estate agents	179					
	19.1-1	Grant or Rejection of registration	182					
	19.1-2	Renewal of registration	184					
	19.1-3	Revocation of registration	185					
19.2	Functio	ns of real estate agents	186					
19.3			107					
		s 9 and 10	187					
19.4	Penalty for failure to comply with orders of Authority by real estate agent		187					
19.5		for failure to comply with orders of Appellate						
	Tribunal by real estate agent							
19.6	Offence	Offences by companies						
19.7	Compou	Compounding of offences by court						
19.8	Offence	es by Companies	190					