

MODEL REGULATIONS

THE REAL ESATE (REGULATION AND DEVELOPMENT) ACT, 2016

NOTIFICATION

G.S.R. [-].- In exercise of the powers conferred by section 85 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016), the [NAME OF AUTHORITY], hereby makes the following Regulations, namely: —

CHAPTER I

PRELIMINARY

1. Short title and Commencement.- (1) These Regulations may be called the [Name of Authority] Real Estate (Regulation and Development) Regulations, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- (1) In these Regulations, unless the context otherwise requires,-

(a) “Act” means the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(b) “Rules” means the [Name of State] Real Estate (Regulation and Development) (General) Rules, 2016 and the [Name of State] Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2016;

(c) “section” means a section of the Act.

(2) Words and expressions used but not defined in these Regulations, but defined in the Act or the Rules, as the case may be, shall have the meanings respectively assigned to them in the Act or the Rules, as the case may be.

CHAPTER II

DISPLAY OF SANCTIONED PLANS, LAYOUT PLANS AND SPECIFICATIONS

3. Additional places at which sanctioned plans, layout plans and specifications shall be displayed.- (1) A promoter shall display the sanctioned plans, layout plans, along with specifications, approved by the competent authority, in addition to as set out in clause (a) of sub-section (3) of section 11, by display at the following places, namely:-

(a) all marketing offices of the promoter;

(b) all other offices of the promoter from which booking or sale of any plot, apartment or building, as the case may be, is being carried out.

(2) The dimensions of such sanctioned plans, layout plans, along with specifications, approved by the competent authority, to be displayed in terms of sub-regulation (1) shall be at least 3 ft. X 2 ft.

CHAPTER III

MEETINGS OF THE AUTHORITY

4. **Number of meetings for transaction of business of the Authority.-** The Authority may hold as many meetings and at such places as may be required for the purpose of discharging its functions under the Act.
5. **Types of meetings that may be held by the Authority.-** The Authority may conduct the following types of meetings, namely:-
 - (a) ordinary meetings relating to business and proceedings to be conducted by the Authority, as per provisions of the Act or the Rules made thereunder; and
 - (b) special meetings relating to matters, which in the opinion of the Chairperson, require urgent consideration.
6. **Time, place and agenda for meetings of the Authority.-** (1) The meetings of the Authority shall ordinarily be held at its head office situated at [specify head office address]:

Provided that the Authority may also hold meetings at its other offices or at any other place in India, whenever, in the opinion of the Authority, it is expedient to do so.

(2) The Chairperson shall decide in advance, the date, time and place and the agenda for each meeting of the Authority.

(3) The notice of every meeting of the Authority shall be signed by the Chairperson or any other officer authorised by the Chairperson, intimating the time, date and place of such intended meeting.

(4) The notice shall be given to every Member, and any other person as may be required to attend the meeting, at least [seven] days before the date of the meeting through e-mail, facsimile or any other electronic medium, to facilitate speedy communication along with the agenda as provided in Regulation 7:

Provided that no proceedings of the Authority shall be challenged merely by reason of non-receipt of notice of the meeting by any Member.

(5) In addition to sub-regulation (4) above, the notice for the meeting may also be uploaded on the website of the Authority, for access to the Members, through a Login Id and password.

(6) The notice for meetings related to any complaint by or against the promoter or the allottee or the real estate agent, as the case may be, shall be intimated to the complainant and the respondent, as the case may be, through e-mail, facsimile or any other electronic medium and shall also be uploaded on the website of the Authority, through a cause list with particulars of date, time, place, item number and such other details so as to facilitate easy and speedy communication.

7. **Agenda.-** (1) The officer authorized by the Chairperson shall be responsible for preparation of the agenda for each meeting of the Authority and circulation thereof to

all the Members of the Authority at least [seven] days before the date of each meeting along with the notice specifying the time and place of such meeting as per sub-regulation 4 and sub-regulation 5 of Regulation 6:

Provided that such officer authorized by the Chairperson shall prepare the agenda of meeting in consultation with the Chairperson:

Provided further that such officer authorized by the Chairperson may, in consultation with the Chairperson, amend or delete or add new items in the agenda of business subsequent to its issue:

Provided also that no proceedings of the Authority shall be challenged merely by reason of non-receipt of agenda of the meeting by any Member as set out in this sub-regulation.

(2) Any business not included in the agenda shall not be transacted at a meeting of the Authority except with the permission of the Chairperson or other Member presiding over the meeting, as the case may be.

(3) With the permission of the Chairperson or other Member presiding over the meeting, as the case may be, urgent questions may be added to the agenda at any time before the conclusion of the meeting, or any item on the agenda may be deleted or carried over to a subsequent meeting.

8. Procedure for meetings of the Authority.- (1) Procedure for ordinary meetings:-

- (a) the meeting hours of an ordinary meeting shall normally be within the office hours of the Authority unless the Chairperson decides to extend the same in a particular matter;
- (b) the Chairperson and Members and such employees, officers or persons, as permitted by the Chairperson, shall attend an ordinary meeting;
- (c) the Chairperson may, for reasons to be recorded in writing, adjourn the meeting;
- (d) any Member unable to be present in a meeting for any reason, may, if feasible, choose to participate in the said meeting, through video conferencing and this shall be considered as attendance by the Member for the purpose of casting vote during such meeting;
- (e) the Authority shall hold, as far as practicable, an ordinary meeting once every month to review compliance of its orders and the officer authorized by the Chairperson shall report all matters of non-compliance for information or for further orders of the Authority, as the case may be;
- (f) the proceedings of each ordinary meeting of the Authority shall be recorded under the superintendence and guidance of the officer authorized by the Chairperson.

(2) Procedure for special meetings:-

- (a) the Chairperson may, by giving at-least twenty-four hours' notice, convene a special meeting at any time to consider any item, which in his opinion requires urgent consideration;
 - (b) the Chairperson and Members and such employees, officers or persons, as permitted by the Chairperson shall attend a special meeting;
 - (c) subject to the provisions of the Act and these Regulations, the officer authorized by the Chairperson shall notify the date, time and place and the agenda for each meeting of the Authority to the Members and other concerned officers and employees, as far as practicable, in advance as per Regulation 6 and Regulation 7;
 - (d) the officer authorized by the Chairperson, for all special meetings, shall arrange to prepare and record the minutes of every meeting of the Authority.
 - (e) any Member unable to be present in a meeting for any reason, may if feasible, choose to participate in the said meeting, through video conferencing and this shall be considered as attendance by the Member for the purpose of casting vote during the meeting;
 - (f) the proceedings of each special meeting of the Authority shall be recorded under the superintendence and guidance of the officer authorized by the Chairperson.
- (3) without prejudice to sub-regulations (1) and (2), the Authority shall have at least one meeting every month for the promotion of the real estate sector.

9. Chairperson for the meetings of the Authority.- (1) The Chairperson shall preside over the meetings of the Authority, however, in his absence, the senior most Member, in terms of date of appointment to the Authority, shall preside over the meetings of the Authority.

(2) The Chairperson for the meeting of the Authority may, if he considers it necessary, also invite any expert, qualified in the matters to be discussed at any meeting, to attend any meeting of the Authority, with a view to facilitate meaningful discussions and such expert may participate in the proceedings of the meeting but shall have no right to vote.

10. Quorum.- (1) The quorum for any meeting, whether ordinary or special, of the Authority shall be [two-third of the total number Members of the Authority] and no business shall be transacted at any meeting of the Authority unless the quorum is present throughout the meeting.

(2) If the quorum is not present at any meeting of the Authority, the Chairperson or in his absence, the senior most Member presiding over the meeting, shall adjourn the meeting to such other date, time and place as may be specified by him not being later than [seven] days:

Provided that if at such adjourned meeting quorum is not present, then, notwithstanding anything contained in sub-regulation (1), the Members present at the said adjourned meeting, shall constitute a quorum for such meeting to take up discussion and to dispose of the items of business set out in the agenda only.

11. Decision of meetings of the Authority.- (1) The Chairperson or the other Members presiding over the meeting shall endeavour at all times to arrive at decisions or recommendations through a consensus among Members and voting shall be resorted to if attempts to arrive at a consensus fail.

(2) Votes on every item of business to be transacted at a meeting of the Authority shall be taken and decisions taken by majority of Members present at the meeting, which shall be deemed to be decisions of the Authority:

Provided that in case of any equality of votes, the Chairperson or Member presiding over the meeting shall, in addition to his own vote as a Member, have a second or casting vote.

12. Member not to participate in meetings in certain cases.- (1) Any Member who has a direct or indirect pecuniary or other interest in any matter, including those relating to immediate family, coming up for consideration in meeting of the Authority, he shall not take any part in any deliberation or decision of the Authority, with respect to that matter.

(2) Every Member shall make an 'Undertaking', as per Form 'A', at the time of joining as a Member, that he will abide by the principles laid out in sub-regulation (1).

(3) Any Member who is found in violation to the principles laid out in sub-regulation (1) shall be liable to necessary action as per the provisions of the Act and the Rules made thereunder.

Explanation:- For the purpose of this Regulation 'immediate family' shall include wife or husband, son or daughter (whether biological or adopted), parents, brothers or sisters or any person related to any of them by blood or marriage, whether they are dependent on the such Member or not.

13. Minutes of the meetings of the Authority .- (1) The draft minutes of each meeting of the Authority shall be prepared within a period of [two days] of conclusion of each meeting and submitted to the Chairperson or to the Member who presided over the meeting, for his approval.

(2) The draft minutes of each meeting of the Authority, approved by the Chairperson or the other Member who presided over that meeting, as the case may be, shall be forwarded to each Member not later than a period of [one day] after such approval for adoption at the next meeting.

(3) The minutes of each meeting of the Authority shall contain a fair and correct summary of the proceedings and the names of Members who did not participate in the discussion of or vote on any item of business transacted at the meeting.

(4) The Chairperson or other Member who presided over the meeting may decide the inclusion or non-inclusion of any matter in the minutes, if in his opinion such matter is not relevant or material to the proceedings or defamatory of any person.

(5) At every meeting of the Authority, the draft minutes of the previous meeting of the Authority approved by the Chairperson or the other Member who presided over that previous meeting, shall be placed before the meeting for confirmation and adoption

with or without amendments or modifications, which shall be signed by the Chairperson or the other Member who is presiding over the meeting, as confirmation of correctness of the record of the proceedings of the previous meeting and be kept on record.

(6) The minutes of each meeting of the Authority, after confirmation at the next meeting as referred to in sub-regulation (5), shall be placed before the subsequent meeting of the Authority.

(7) The confirmed minutes of meetings shall be given a continuous serial number for a particular financial year and communicate the decisions taken on each item of the agenda to all concerned for compliance of the orders and shall report action taken in the next meeting;

14. Decisions by circulation.- (1) Any item of business or issue on which required decision of the Authority, may, if the Chairperson so directs, be referred to Members by circulation of papers as a resolution or uploaded on the website of the Authority, for access to the Members, through a Login Id and password, with intimation through e-mail, facsimile or any other electronic medium, to facilitate speedy communication.

(2) No resolution shall be deemed to have been passed by the Members, unless a draft of such resolution is circulated, together with necessary papers, if any, to all the Members at their address in India and approved by majority of the Members as are present in India.

(3) Any resolution circulated under sub-regulation (1) and approved by the majority of such of Members entitled to vote shall have effect and binding as if such resolution were decided by the majority of the Members at a meeting.

(4) Where any business is referred to Members under sub-regulation (1), a period of not less than [two] days shall be allowed for the receipt of replies from Members from the date on which the draft resolution is circulated.

(5) Based upon the votes and comments received, on the draft resolution circulated, the Chairperson may-

(a) declare the decision adopted; or

(b) declare the decision not adopted; or

(c) in case of neutrality of votes, postpone the draft resolution for the next meeting of the Authority.

(6) Any resolution passed through circulation, shall be placed at the next meeting of the Authority for its ratification.

15. Constitution of Committees.- The Authority may from time to time appoint such committees or sub-committees consisting of such Members and other employees or officers, as it deems fit, to advise the Authority on such matters as may be prescribed or specified and subject to such directions as the Authority may give.

- 16. Confidentiality.-** (1) The Members of the Authority and other participants at a meeting shall not divulge to third party any confidential information that they have received, for which confidential treatment has been requested and agreed by the Chairperson.
- (2) Every Member of the Authority and other participants at a meeting shall be required, even after their duties have ceased, not to disclose information of the nature that may be covered by the obligation of professional secrecy.
- (3) Every Member of the Authority and other participants at a meeting, shall sign an initial declaration at his first meeting of the Authority, for maintaining the confidentiality of the business transacted at meetings of the Authority, in Form 'B'.
- 17. Reimbursement of expenses.-** Every expert invited to attend any meeting of the Authority other than the Members, officers or employees of the Authority, shall be entitled to a payment of [-] rupees for each meeting of the Authority attended by him.

CHAPTER IV

MISCELLANEOUS

- 18. Language of transaction of business.-** The business of the Authority shall be transacted in [Hindi/English] or such other language, or languages, as the Authority may decide from time to time.
- 19. Interpretation of Regulations.-** If any doubt arises as to the interpretation of these Regulations, the decision of the Authority shall be final and binding on all concerned.

FORM 'A'

[See Regulation 12(2)]

UNDERTAKING

[Name of Authority] Real Estate Regulatory Authority

Name: _____

Position: _____

I _____ (Name), Member, [Name of State] Real Estate Regulatory Authority solemnly affirm and declare that I shall not take part in any deliberation or decision of the Authority, with respect to any matter wherein I have any direct or indirect pecuniary or other interest in any matter, including those relating to immediate family, coming up for consideration in meetings of the Authority, as provided in Regulation 12.

Date:

Place:

Signature: _____

FORM 'B'

[See Regulation 16(3)]

DECLARATION CONCERNING CONFIDENTIALITY

[Name of Authority] Real Estate Regulatory Authority

Name: _____

Position:

Member of the Authority

Position:

Officer/employee of the Authority

Position:

other expert (external) on _____

I hereby declare that I am aware of my obligation to respect confidentiality. I know that I am obliged not to divulge information acquired as a result of my activities in the Authority, if the information is subject to a request for confidentiality and I hereby undertake not to divulge any such confidential information. I shall also respect the confidential nature of the opinions expressed by other Members of the bodies indicated above or other experts during discussions in meetings or provided in written form.

Declaration

I declare that the information provided above is true and complete.

Date:

Place:

Signature: _____
