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BASIC UNDERSTANDING OF LEGAL DEEDS AND DOCUMENTS

Partnership Deed

Question 1

State the various components which are required to draft a partnership deed.

(November 2008)

Answer

A written agreement of partnership is called partnership deed. A partnership deed can be seen as comprising of the following components:

- Date of execution
- Names of partners
- Date of commencement
- Name, business and duration of partnership
- Place of business
- Capital and interest on capital
- Sharing of Profits/ Losses
- Accounts including bank account
- Borrowing powers
- Variation clause
- Arbitration

Partnership Retirement Deed

Question 2

A partnership firm was constituted by A, B and C partners. A, the partner of the firm, expressed his desire to retire from the partnership firm by mutual consent. Draft a "Partnership Retirement Deed ". ***(November 2009)***

Answer

PARTNERSHIP RETIREMENT DEED

1. This Retirement Deed of Partnership executed on the .... between: 1. Mr. X.., aged about 45 years, s/o Mr. Y residing at Kanpur, hereinafter called the First Party;
2. Mr. A aged about 40 years, s/o Mr. B residing at Kanpur hereinafter called the Second Party; and
3. Mr. R aged about 51 years s/o Mr. S, residing at Kanpur, hereinafter called the Third Party

WITNESSES AS FOLLOWS:

WHEREAS the aforesaid parties were carrying on business in partnership under an instrument of partnership the last of which is dated................ and whereas the First/Second/Third Party having expressed a desire to retire from the partnership by mutual consent, the terms of retirement are hereby agreed to as follows:

1. Mr. X will retire from the partnership effective from close of business on ....
2. The firm is free to continue the business with all its assets and liabilities and use the same firm name with the remaining partners.
3. The accounts of the retiring partner is settled in accordance with the books of accounts or in full and final settlement of his account the .... party has been given the following assets/Rs......................................
4. The Retiring partner Mr. X hereby authorizes the continuing partners to collect all debts of the firm or realize or sell any asset of the firm including any immovable property.
5. In consideration of monies received, the X party hereby releases all his rights, title and interest in the balance of assets of the firm including the goodwill.
6. The continuing partners A and R release X party of all debts and obligations including taxes due from the firm as on the date of this deed to third parties.
7. The parties hereby agree to execute such other document/s that may be necessary to give effect to this Partnership Retirement Agreement.

WITNESS

1. .... Signature of the First Party

2. .... Signature of the Second Party.

Partnership Dissolution Deed

Question 3

A partnership firm was constituted by A, B and C partners, carrying on the business of shoe manufacturing. Lateron, Nickson Shoe Manufacturing Co. Limited proposed to purchase the business of the firm to the Partners of the firm. The partners unanimously consented to it and agreed to dissolve the firm. Draft a Partnership Dissolution Deed in this respect. ***(June 2009)***

Answer

Partnership Dissolution Deed

This deed of dissolution executed on this day of 20th March 2009 between:

1. A S/o X, aged 35 years residing at Surya Nagar, Kanpur
2. B S/o Y, aged 40 years residing at Mani Nagar, Kanpur.
3. C S/o Z, aged 45 years residing at Asha Nagar , Kanpur.

AND WHEREAS the aforesaid partners by mutual consent agreed to constitute the firm by selling all the assets and liabilities of the firm to a new company incorporated under the name and style of Nickson Shoe manufacturing Co. Limited registered under the Indian companies Act, 1956. The terms and conditions are hereby agreed to in writing as follows.

The firm of the aforesaid partners stands dissolved as from 20th march 2009 from which date the assets and liabilities of the business of the firm as per annexure will vest with the Nickson shoe Manufacturing Co. Limited.

The aforesaid Partners have agreed to sale all the liabilities and assets of the firm to Nickson Shoe Manufacturing Co. Limited under a separate agreement.

The Partners release each other from all obligations arising from this deed dated 28, march, 2009. Further, all statutory liabilities like income tax shall be proportionately borne by the Partners as agreed in the partnership deed, and paid for even after the dissolution of the firm and the partners agree to notify the discontinuance of business to the Income Tax Authorities under section 176 and all other concerned authorities.

Signatures

1. -- Signature of A S/o X
2. ---Signature of B S/o Y
3. ---Signature of C S/o Z

Question 4

A, B and C are partners of a firm. A retires from the firm by mutual consent due to sickness. Remaining partners (B and C) decide to admit D as a new partner in their firm. Draft a deed for reconstitution of partnership. ***(November 2010)***

Answer

Deed for Reconstitution of Partnership

This Deed of Reconstitution of Partnership executed on this ----- day of -----, 2010 Between B, S/o-------,Aged------------- residing at ---------(hereinafter called the first party), C, S/o----, Aged------------- residing at-----------, (hereinafter called the second party), and D, S/o-----, Aged------------- residing at---------, (hereinafter called the third party).

Whereas the parties B and C were working in partnership along with another partner A, a business under the name and style of A B C constituted under an instrument of partnership the last of which is dated ------------ ; and whereas the said partner A retired from the old partnership by mutual consent due to sickness allowing the other partners to continue the partnership business in the same name with all its assets and liabilities, and whereas the parties B and C invited D to join them in the partnership to carry on the said business for which he has assented, the terms and conditions of the reconstituted partnership are hereby agreed to as follows:

1 The business under the name and style of A B C carried on by the erstwhile partnership will continue with all its assets and liabilities as the business of this reconstituted partnership.

2. The name on which the partnership business shall continue to be A B C and such other name as the parties may from time to time determine. Other clauses as in the partnership deed.

Power of Attorney

Question 5

Draft a 'Power of Attorney' by subscribers of Memorandum of Association of the Company authorising a Chartered Accountant to appear before the Registrar of Companies to do the needful for the purpose of incorporation of the company. ***(May 2007)***

Answer

Before Registrar of Companies: We the subscribers of the Memorandum and Article of Association of the Proposed Company, hereby authorize to present the memorandum of Article of Association and other connected documents for the registration of the said company before the registrar of companies, Karnataka, Bangalore and to make such corrections/Alterations/deletions/Additions as may be required to be done by the Registrar in the documents and also to receive the certificate of incorporation.

General Power of Attorney: Know we all men by their present we do hereby appoint and constitute………son of………………(hereinafter called "chartered Accountant" who has subscribed his signature hereunder in token of identification) presently residing……to my lawful Chartered Accountant in our name and on our behalf do it any one or all the following acts, deeds, things namely

1. to give all particulars necessary for incorporation of company.
2. to give affidavit to the Registrar of Company for the purpose of incorporation.
3. to do needful acts necessary for incorporation of the company
4. he is authorized to include promissory notes letter of declaration and indemnity for the purpose of incorporation.
5. to receive documents on behalf of the members of the company.
6. to sign forms, documents and papers required for the purpose of incorporation of the company.

   Dated ……….at this the ………….. day of ……………….

   (address)

   Specimen signature of the Chartered Accountant above named

   Notary Public

Question 6

Draft a 'Power of Attorney' by an assesse authorising a Chartered Accountant to appear before Income-tax officer in respect of the pending taxation matter. ***(May 2008)***

Answer

Power of Attorney to appear before Income Tax Authorities :

I/we…………….,residing at…………….hereby authorize…………,to represent me/my firm/my family in connection with……………..for the year…………..His statement and explanation will be binding on me/us.

Place:

Date: Signature

I,………………hereby declare that I am duly qualified to represent the above-mentioned person.

Place:

Date:

Address of Power of attorney holder Signature of Power of attorney holder

Lease Deed

Question 7

Explain lease deed.

Answer

A lease is defined under Section 105 of the transfer of enjoyment of immovable property by the lesser to the lessee in consideration of a premium that means a price paid or promised on rent that may be periodical payment of money, share of crops or rendering of services. In order to constitute the valid lease, there must be a transfer of right to enjoyment of immovable property though delivery of possession of the property. However, this is not a condition preceded for operation of a lease. The term of lease including the period of lease, amount of rent etc. are contained in a leased agreement or deed duly executed and signed by both the lesser and lessee.

Question 8

The Board of Directors of RSP Limited agrees with X to hire his (X's) flat at NOIDA on lease for ten years @ Rs. 20,000 per month for marketing office of the company. You are a senior executive of the Board and the board asks you to prepare the lease deed for the agreement. Draft a lease deed. ***(May 2010)***

Answer

Lease Deed : This Lease is made on this the day of 01 March 2010, between, X s/o Y, aged about 45 years, residing at Noida (hereinafter called the LESSOR); which expression shall, whenever the context so requires or admits mean and include his heirs, executors, Administrators and permitted assignees of the one part;

And RSP Limited, Noida and herein after called the LESSEE Whereas, the lessor is the absolute owner of the property Noida (more fully described in the schedule hereunder and hereinafter referred to as 'Schedule Property') and Whereas, the Lesssee is desirous of taking on lease the Schedule property for a period of 10 years and , whereas, the Lessor is agreeable for the same.

Now therefore this deed witnessed that in pursuance of aforesaid agreement and in consideration of the rent hereinafter contained, the Lessor hereby demises by way of lease who Lessee the Schedule Property for a period of from today, on the following terms and conditions:

1. That the lessee has undertaken to pay the lessor a monthly rent of Rs. 20,000/- (Rupees twenty thousand only) for the Scheduled Property on or before the 10 day of the following calendar month, and 10 months rent of Rs. 2.00 lac only deposit by the lessee on the date of execution of this lease; the receipt where of the lessor hereby acknowledges and agrees to repay the same without interest at the time of vacating the Scheduled Property, after deducting for damages, if any.

2. The lease shall commence from the 1st April 2010 and shall be in force for a period of 10 years.
3. The lessee shall use the Scheduled Property only for official purpose and shall not assign or sublease or use the Scheduled Premises for any unlawful purposes or alter the Scheduled Property without the consent of the lessor in writing.
4. During the lease period, the lessee shall pay the electricity and water charges to the respective departments promptly and obviate disconnection at any time.
5. The lessee shall permit the lessor or his agents, to enter the Scheduled Property at all reasonable times for the purpose of periodical inspection.

Schedule:

1500 Squares of house bearing No. 56 at Noida measuring East to West 50 eter North to South 30 eter and bounded on: East by: Road, West by: Road, North by: Plot No. 55, South by: Plot No. 57.

In witness whereof the parties hereto have their respective hands and seals to this Agreement on the day, month, year first written above.

Witness

1. LESSOR
2. LESSEE

Affidavit

Question 9

Explain Affidavit and its model format.

Answer

Affidavit

An affidavit is a written statement used mainly to support certain applications and in some circumstances as evidence in court proceedings. A person who makes the affidavit is called the Deponent and must swear or affirm that the contents are true before a person who has the authority to administer oaths in respects of the particular kind of affidavit. The model form of affidavit is given below:

I... son of .... aged ....
years, residing at ....,
hereby declare an oath as follows:
“...
....
....
....
....”.......................................

....”Sworn on this ....the day of
…………………..

Date:…………………..   Signature

Place:………………….

Indemnity Bond

Question 10

What is an Indemnity Bond? Supply a format for Indemnity Bond.

Answer

Indemnity Bond

A contract of indemnity as defined under Section 124 of the Indian Contract Act, 1872 is a contract by which one party promises to save the other from laws cost to him by the contract of the promissory himself or by the contract of any other person. A person who gives the indemnity is called indemnifier and a person for whom protection is given is called the indemnity holder. The model form of indemnity bond is given below:

Name of the Assessee:

P.A.N. No. Assessment Year:

I. .... son/ wife/ daughter of .... Resident of .... do hereby agree to indemnify the Government of India for any loss that may occur on giving credit for the Certified Photostat copies of the TDS Certificates/ ..../.............................../ .... for a sum of Rs........ being ... % of my share in the total TDS of Rs. .... of .... I further declare that the credit for consolidated TDS Certificate was not claimed in the hands of the Association of

Persons,..............................

Date: Signature:

Place:

Question 11

Mr. A has not received a dividend warrant of Rs. 1,500 for 150 shares of XYZ Ltd. Draft an indemnity bond, to be given to the company for seeing release of Dividend. ***(May 2007)***

Answer

Indemnity Bond

Mr. A S/o ………………….. resident ………………… do hereby agree to indemnify the XYZ Ltd. for any loss that may occur for seeking release of dividend for 150 shares of Rs. 1500.

I further declare that personally I have not received the dividend warrant in question.

Mr. A

Date: Signature

Place:

Question 12

SVA Limited dispatched Bonus Share Certificate to Mr.R.R did not receive the Bonus Share Certificate as it was lost in the transit. R applied to the company to issue the Bonus share certificate in duplicate. SVA Limited asked Mr. R to submit an Indemnity Bond so that Bonus Share Certificate in duplicate may be issued to him. Draft an Indemnity Bond to be given by R to the company for seeking release of Bonus Share Certificate in duplicate. ***(June 2009)***

Answer

Indemnity Bond

Mr. R S/o X resident of Mumbai do hereby agree to indemnify the SVA Limited for any loss that may occur for seeking release of Bonus Share Certificate in duplicate of 50 equity shares of Rs.10 each fully paid. I further declare that personally I have not received the Bonus Share Certificate issued by the company for which the company is claiming that it has already been despatched.

Date………

Place: Mumbai Signature

(Mr. R)

Gift Deed

Question 13

Write a short note on: Gift deed

Answer

Gift deed: The law relating to gifts is provided for in the Transfer of Property Act, 1882 and Indian Succession Act, 1925. Gift is defined as the transfer of certain movable or immovable property made voluntarily and without consideration by one person called the donor to another called the donee and accepted by or on behalf of the donee. A gift to be valid must be accepted by the donee during the life time of the donor. Registration of a gift often immovable property is must and that of movable property is optional.

Question 14

J desires to gift out her flat in Mumbai in City Cooperative Society registered under the Maharashtra Cooperative Societies Act, 1960, to her brother A. Stating the legal requirements *to be complied with, draft a Gift Deed. Take your own data regarding date, flat no., floor area etc.* ***(November 2007)***

Answer

Drafting of Gift Deed:

This Deed of gift is made of………….......on this……………………..day of……………..2007. Between………………. an Indian……………..inhabitant residing at flat No., Cooperative Housing Society Ltd………(city), hereinafter called 'The Doner' of the one part and , also an Indian inhabitant of (City)…………Residing at ………..... at………(city) herein after called there 'Donee of the other part. Whereas the Donee …………is the……….. of donor…………and whereas the Doner is the member of …………. society which is duly registered under Maharashtra Cooperative Societies Act, 1960. The donor has 5 fully paid shares of the said society. The donor has acquired a flat No. …….... on the …………floor and measuring:…………sqr. mtr. In the building situated at…….. (city)

Whereas the Donor has full right title and in last in their said shares/flat more particularly described in this schedule.

And whereas the donor desired to gift his right, title and interest in the said share/flat in the said building of the said society described in the schedule hereunder written to the Donee hereto.

The Donor out of natural love and affection for the donee hereby transfer by way of gift his right title and interest in the said shares and the flat absolutely forever.

The Donee accept the gift and agrees to hold that right title and interest of the Donor in said shares/flat of the societies.

In the interest whose of the parties hereto have here under set and subscribed their respective hands on the day and the year.

Signed and Delivered

In the presence of……………

1. ....…..

2. ....…...

Signed and Delivered:

By the named Donee.

In the presence of...........

1 ....…...

2. ……………………….

Question 15

X desires to gift his flat to Y. Draft a gift deed. ***(November 2010)***

Answer

This Deed of Gift is made at----- (city) on this ------ day of ----- 2010 between X and Y an Indian inhabitant residing at flat No. ------ Floor, -------- Coop. Housing Society Ltd. ----(city) hereinafter called "THE DONOR" of the ONE PART and ------ also an Indian inhabitant of------ (city), residing at flat no. ------- floor --------- Coop. Housing Society Ltd. -------(city), hereinafter called" THE DONEE" of the OTHER PART.

WHEREAS the Donee Y is the ------- (Relative) of Donor X .

AND WHEREAS the Donor is the member of ------- society which is duly registered under the Maharashtra Coop. Societies Act 1960, (hereinafter referred to as “the said society”). The donor has five fully paid up shares of the said society. The donor has acquired a flat No. ------ on the ----- floor and measuring ------ sq. meters. In the building known as "----” (hereinafter referred to as the "said building") situate at ------ (City), (hereinafter referred to as "the said flat") more particularly described in the Schedule hereunder written "said society").

WHEREAS the Donor has full right title and interest in the said shares/flat more particularly described in the Schedule hereunder written.

AND WHEREAS the Donor desires to gift his right, title and interest in the said shares/flat in the said building of the said society more particularly described in the Schedule hereunder written to the Donee hereto.

NOW THIS DEED OF GIFT WITNESSETH AS FOLLOWS:

The donor out of natural love and affection for the Donee, hereby transfers by way of gift his right, title and interest in the said shares and the said flat more particularly described in the Schedule hereunder written to the Donee absolutely for ever.

The Donee accepts the gift and agrees to hold the right, title and interest of the donor in the said shares/flat in the said building of the said society more particularly described in the Schedule hereunder written of the said flat from the Donor.

Schedule of property above referred to:

IN WITNESS WHEREOF the parties hereto have hereunder set and subscribed their respective hands on the day and the year first herein above written.

SIGNED AND DELIVERED

By the within named "Donor"

In the presence of ---------

1) ------------

2) --------------

SIGNED AND DELIVERED

By the within named "Donee"
In the presence of
1) -----------
2) -----------

Annual Report of a Company

Question 15

State the contents that are required for drafting an Annual Report of a Company.

(May 2010)

Answer

The following are the main contents are required for drafting an annual report of a company.

1. Leadership team : including top Management.
2. Directors report
3. Financial Statements - Balance Sheet and Profit and Loss Account including Auditors report
4. Corporate social responsibility
5. Graphs

EXERCISE

1. *What is a deed?*

   Answer Deed: The Legal Glossary defined 'deed' instrument in writing (or other legible representation or words on parchment or paper) purporting to effect some legal disposition. Simply stated deeds are instruments though all instruments may not be deeds. However, in India no distinction seems to be made between instruments and deeds.

2. *Explain partnership deed.*

   Answer: A partnership firm may be constituted either by oral agreement or a written agreement. A written agreement of partnership or partnership deed is preferred as it minimizes the challenges of disputes and ambiguities in future. The model form of partnership is given below:

   In form, deed can be seen as comprising of the following components:

   1. Date
   2. Names of Partners
   3. Preamble
   4. Recitals
   5. Attestation
   6. Custody
   7. Special Rules

   The Deed must be executed on a stamp paper of prescribed value. The copy of the deed must be sent to the Registrar of Partnership Firms along with the prescribed form duly completed for issue of acknowledgement of firm. All subsequent changes must be notified to the Registrar.