

# Real Estate (Regulation and Development) Act, 2016



## Background of the Law

- This act popularly known as RERA, RERDA and The Real Estate Act etc.
- Central government have framed the act and the NODAL agency of Central government is MOHUPA or MOUD or MOHUA
- The current presiding minister is Sh. Hardeep Singh Puri
- MHUPA stand for Ministry of Housing and Urban Poverty alleviation
- Entries 6 and 7 in List – III (Concurrent List) of the VIIth Schedule of the Constitution of India dealing with contracts and the Transfer of Property.
- Entry 18 of List – II (State List) of the VIIth Schedule of the Constitution of India gives the states rights to legislate on Land.
- There are Total nos. of Sections in the Act – 92
- Total nos. of Chapters - 10

## Date Sheet of RERA implementation

S.No.	Particulars	Effective date
1.	Real Estate bill passed in Rajya Sabaha	10.03.2016
2.	Real Estate bill passed in Lok Sabha	15.03.2016
3.	Real Estate bill assented by president of India	25.03.2016
4.	Publication date in official Gazette of India	26.03.2016
5.	Notification of some sections	01.05.2016
6.	Last date for making of rules by appropriate government	31.10.2016
7.	Last date for establishment of Real Estate Regulatory Authority	30.04.2017
8.	Notification of remaining sections	01.05.2017
9.	Last date for registration of Real Estate Projects	31.07.2017

## Real Estate Act – Salient Features

- **Act extends to residential and commercial** real estate
  
- **Registration of Real Estate Projects with Regulatory Authority** - Above 500 Square Meters or above 8 Apartments
  
- **Registration of Real Estate Agents** who intend to sell any plot, apartment or building - which is required to be registered with the Regulatory Authority
  
- **Promoter to make disclosure of all relevant project information** for public view such as -
  - details of promoters, layout plan, plan of development works, land status, status of the statutory approvals, number of parking, time period for project completion etc.
  
  - proforma of agreements to be entered into with the buyers
  
  - names and addresses of agents, contractors, architect, engineer etc.

## Real Estate Act – Salient Features

- **Promoter also comply with the following -**
  - adherence to approved plans and project specifications
  - obligations regarding authenticity of the advertisement or prospectus
  - rectify structural defects
  - refund money in cases of default
  - compulsory deposit of 70% of the amount realized from allottees in a separate account to cover the cost of construction and land cost
- Act provides for **establishment of Regulatory Authority** in each State/UT, or one Authority for two or more States/UT, by the Appropriate Government for implementation of Act.

# Definitions of The Real Estate (Regulation and Development) Act 2016



## ➤ Object of the Act:-

- An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.

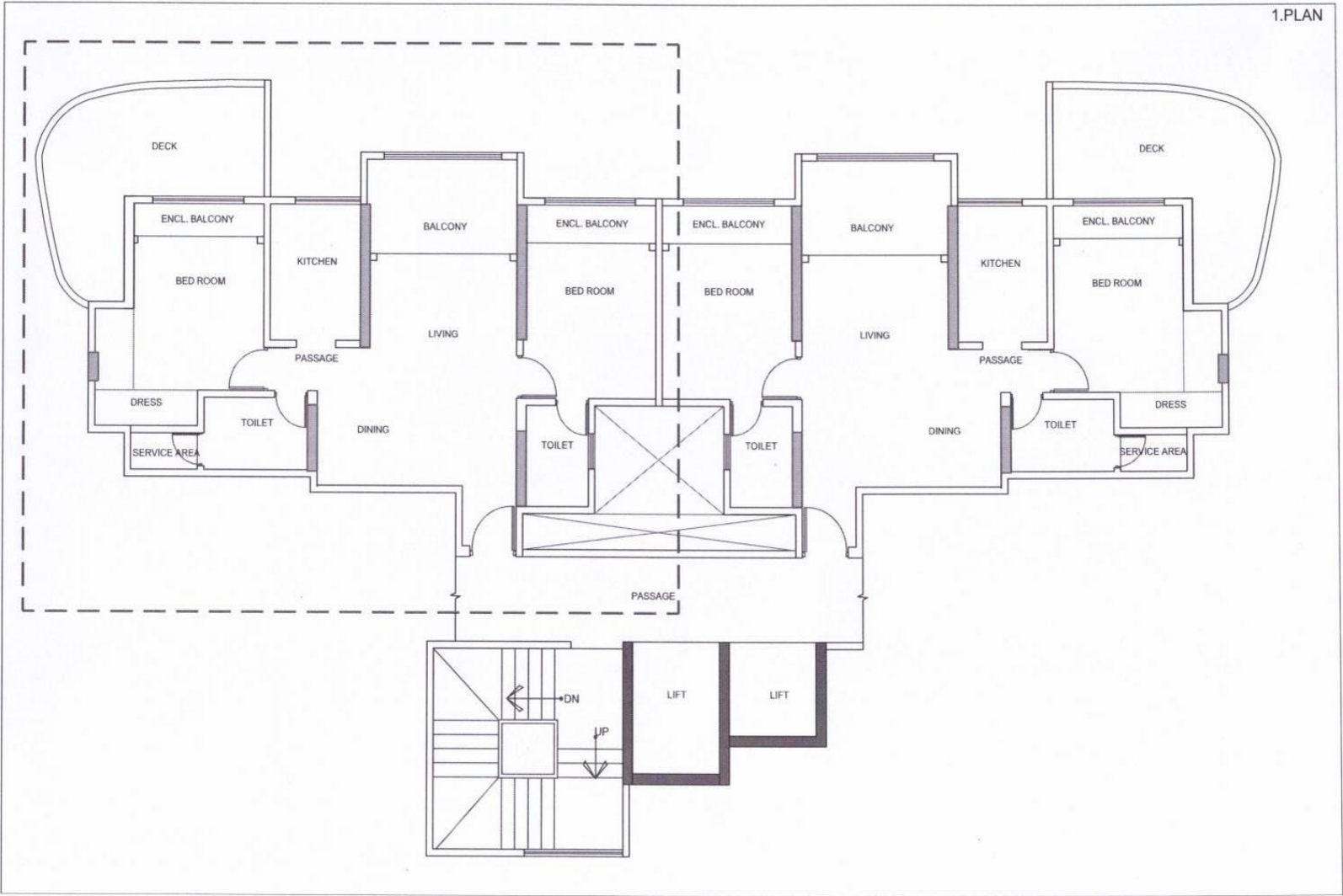
## Important definitions:- Section (2)

### (k) "Carpet Area"

means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

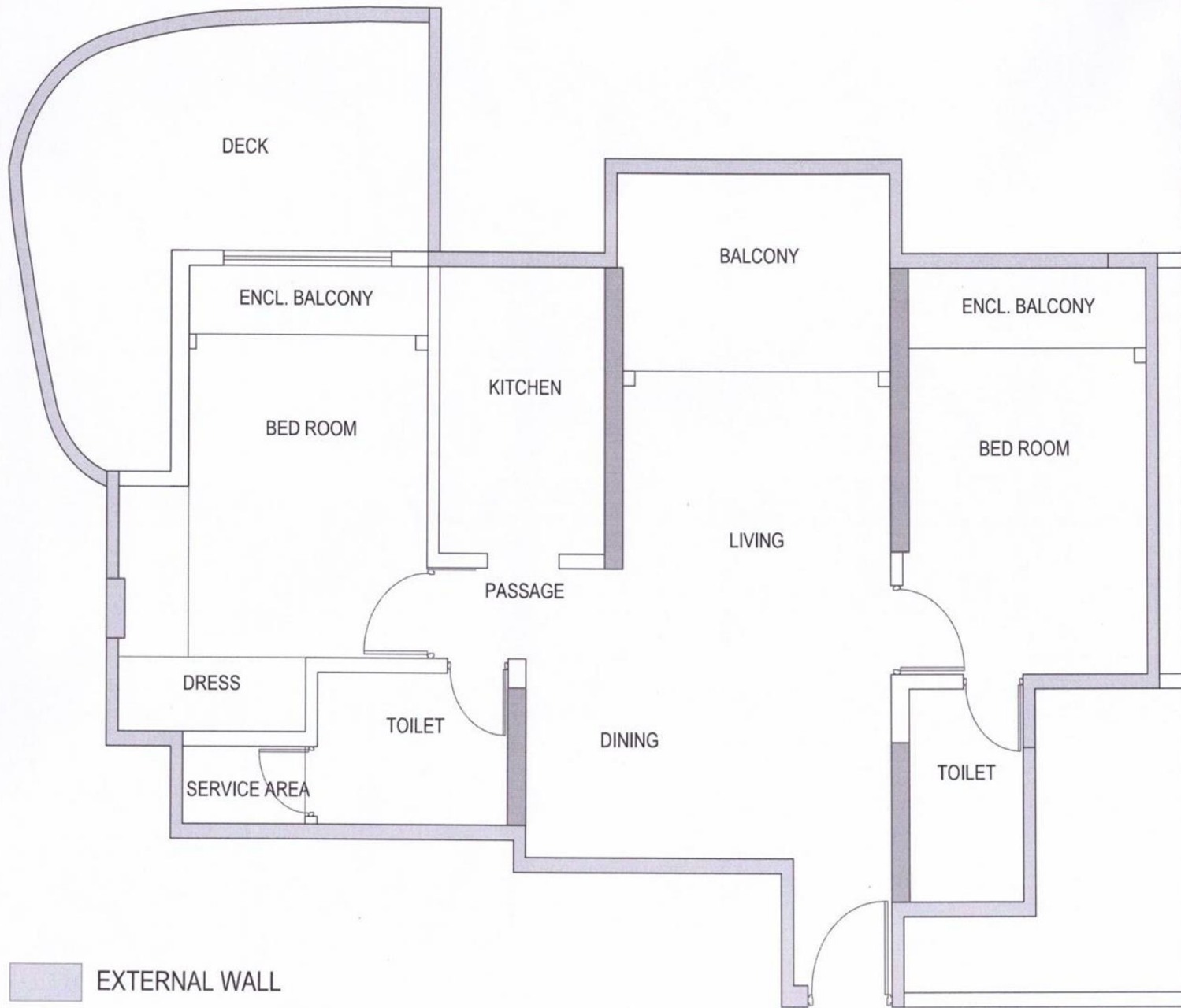
Explanation. — For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be,

which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

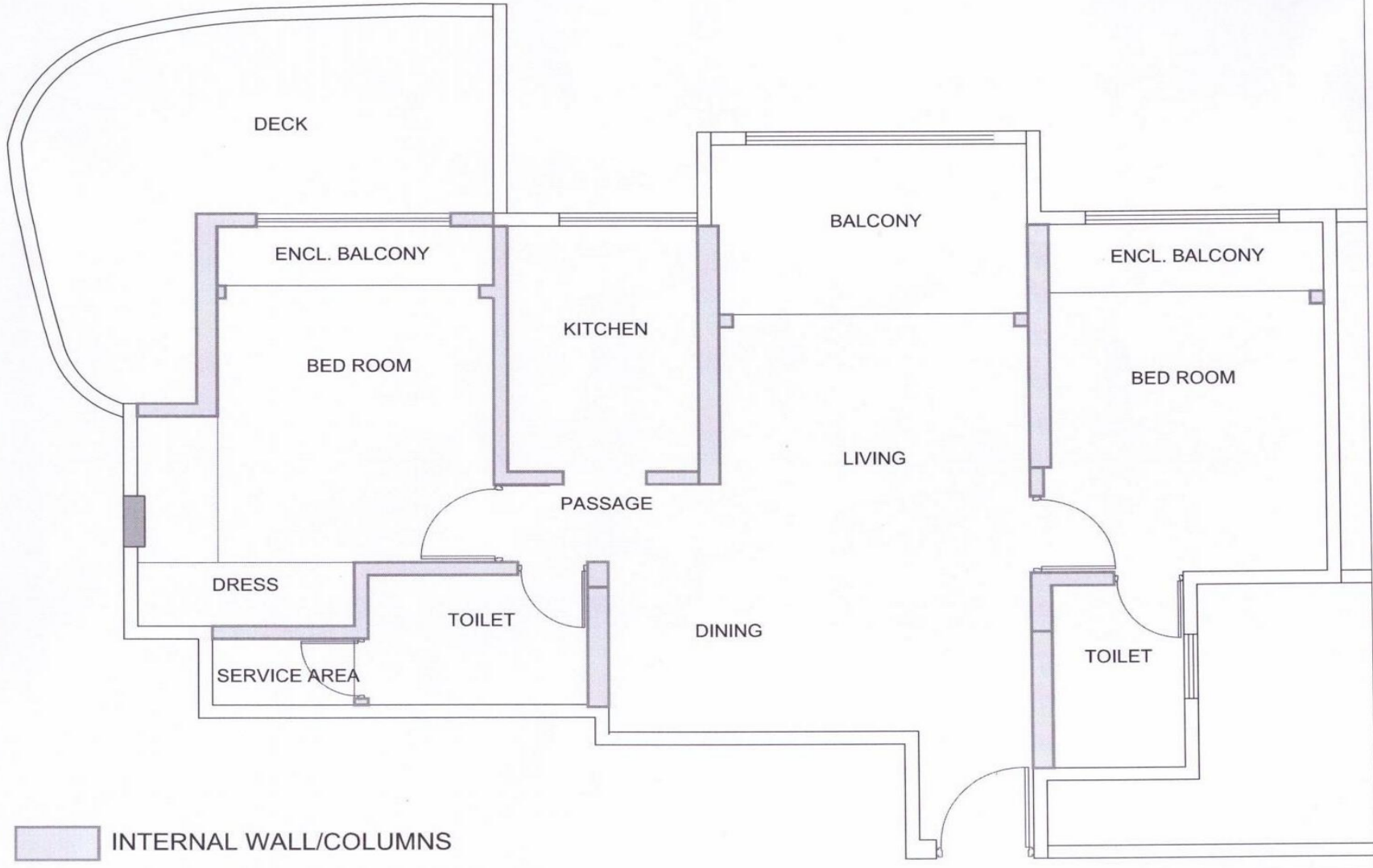




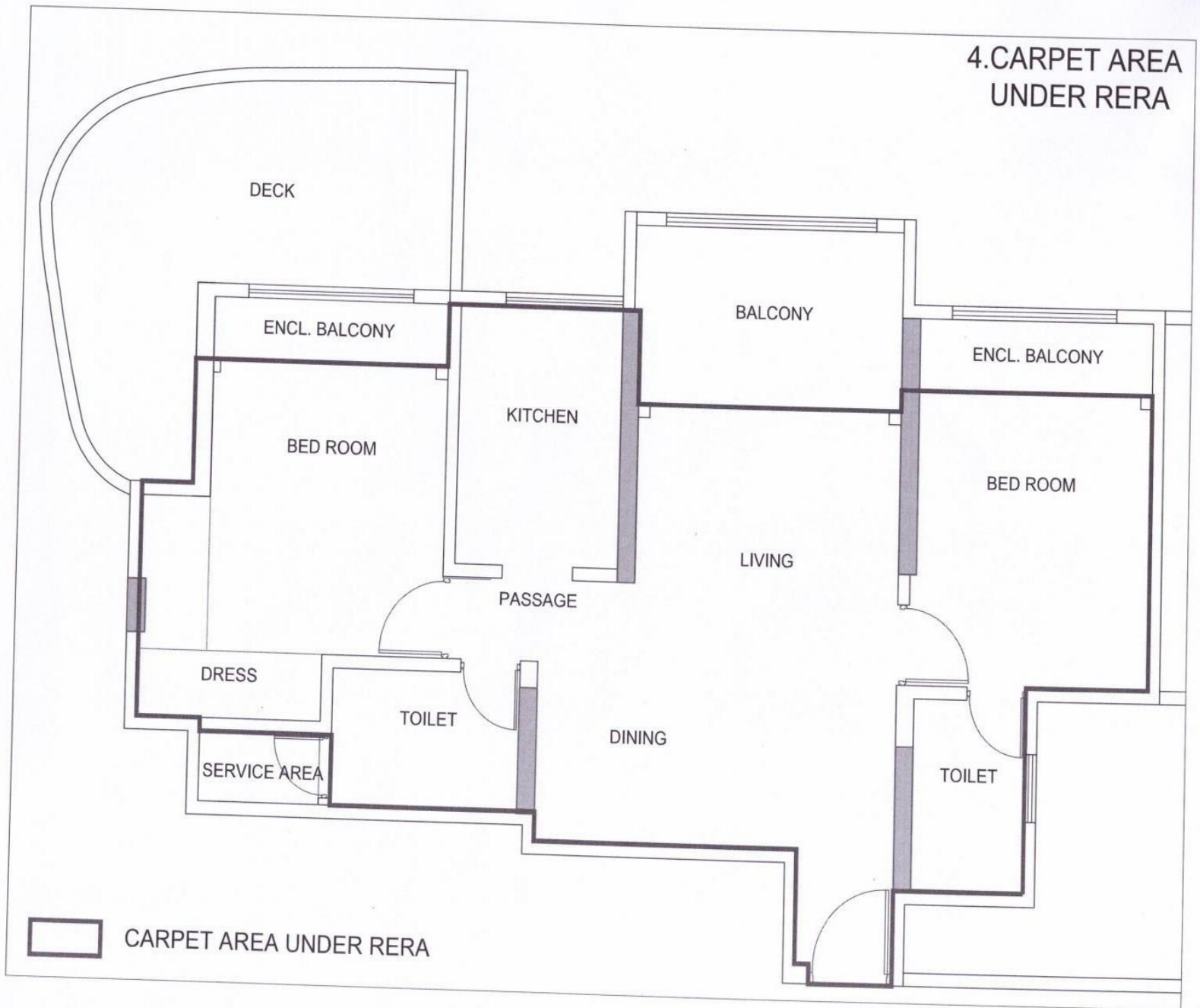
## 2.EXTERNAL WALL



### 3.INTERNAL WALL

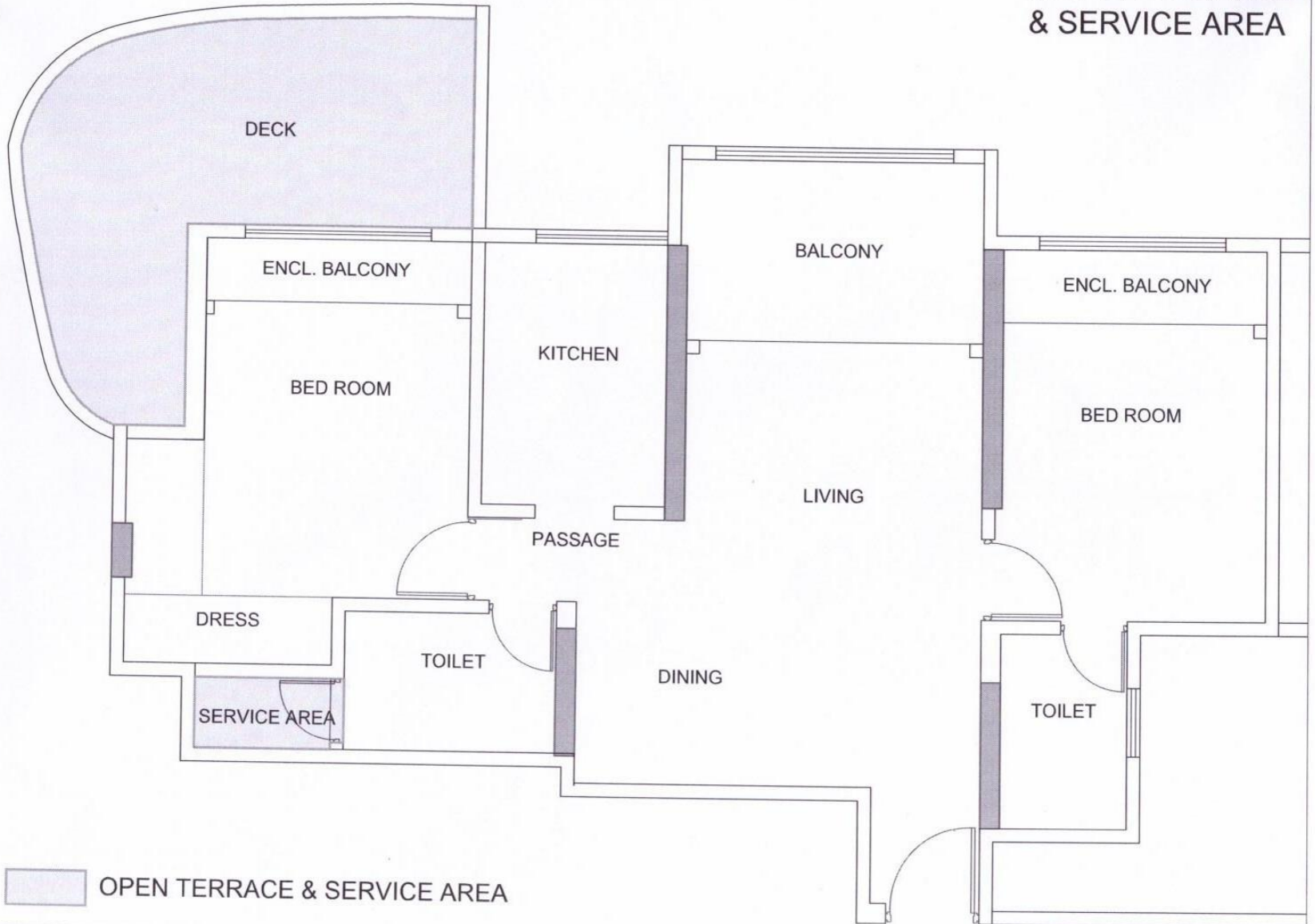


4. CARPET AREA UNDER RERA



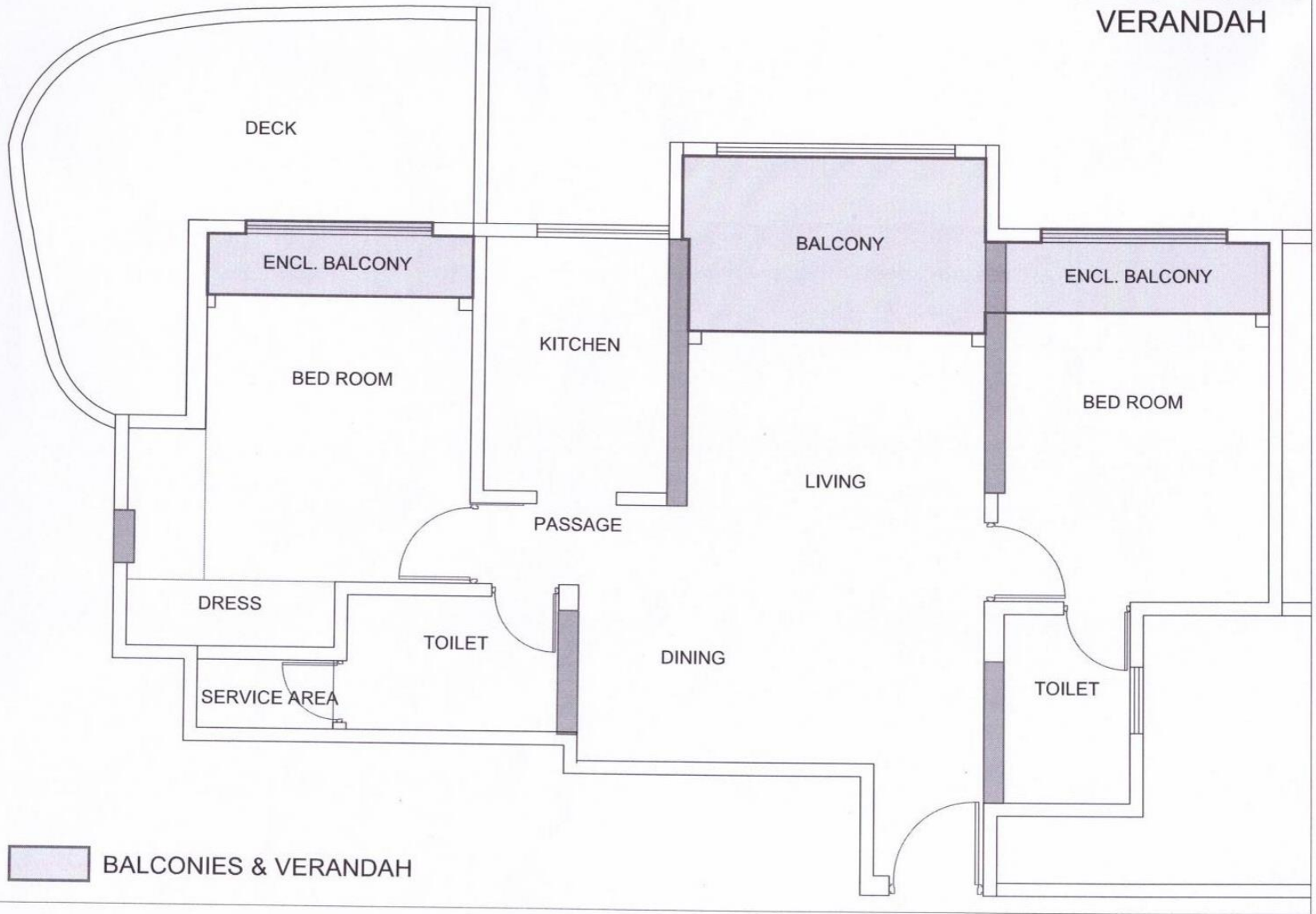
 CARPET AREA UNDER RERA

5. OPEN TERRACE & SERVICE AREA



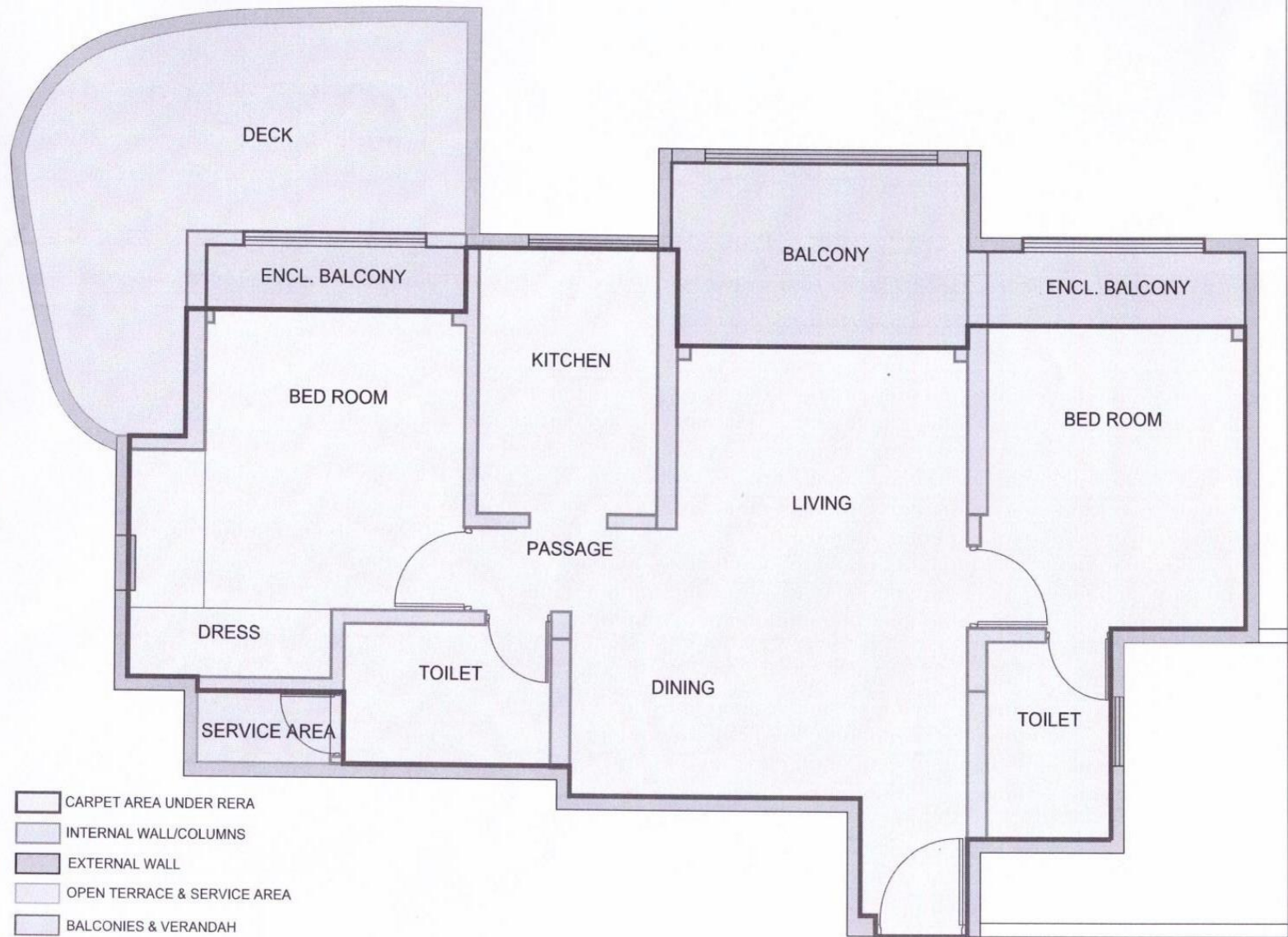
OPEN TERRACE & SERVICE AREA

## 6. BALCONIES & VERANDAH



 BALCONIES & VERANDAH

# 7.ALL LAYERS



(n)"common areas" mean—

- (i)the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase, the entire land for that phase;
- (ii)the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;
- (iii)the common basements, terraces, parks, play areas, open parking areas and common storage spaces;
- (iv)the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;
- (v)installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;
- (vi)the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;
- (vii)all community and commercial facilities as provided in the real estate project;
- (viii)all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;

**(q) "completion certificate"**

means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;

**(zf) "occupancy certificate"**

means the occupancy certificate, or such other certificate by whatever name called, issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;



## **(za) "Interest"**

means the rates of interest payable by the promoter or the allottee, as the case may be.

*Explanation.*—For the purpose of this clause—

- i. the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;
  
- ii. the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

(zk) "promoter" means,—

(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

(iii) any development authority or any other public body in respect of allottees of—

(a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or

(b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or

(zk) "promoter" means,— (Contd.)

(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or

(vi) such other person who constructs any building or apartment for sale to the general public.

*Explanation.*—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different person, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;

## Registration of real estate project with Real Estate Regulatory Authority

3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

## Registration of real estate project with Real Estate Regulatory Authority (Contd.)

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation.—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

## **Definition of on-going projects as per various state rules:**

### **As per The Uttar Pradesh Real Estate (Regulation and Development) Rules, 2016:**

#### **Definition of ongoing projects as per Rules 2(h):**

Ongoing project means a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfil any of the following criteria on the date of notification of these rules:

- i. Where services have been handed over to the Local Authority for maintenance.
- ii. Where common areas and facilities have been handed over to the Association of the Residents Welfare Association for maintenance.
- iii. Where all development work have been completed and sale/lease deed of Sixty percent of the apartments/houses/plots have been executed.
- iv. Where all development work have been completed and application has been filed with the competent authority for issue of completion certificate.

## **As per The Rajasthan Real Estate (Regulation and Development) Rules, 2017:**

### **Definition of ongoing projects as per explanation to Rule 4(5):**

For the purpose of this rule “ongoing project” mean a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill any of the following criteria on the date of commencement of relevant provisions of the Act:-

- i. Where common area and facilities have been handed over to the association of allottees or the competent authority, as the case may be, for maintenance;
- ii. Where sale/lease deed or possession letter or minimum sixty percent of the apartments/houses/plots in the phase/project have been executed;
- iii. Where all development works have been completed and completion certificate has been obtained from chartered engineer in practice as per prevalent Township policy.
- iv. Where completion certificate has been obtained from the competent authority or where all development works have been completed and application has been filed with the competent authority;

## FUNCTIONS AND DUTIES OF PROMOTER

11 (1) The promoter shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including—

- details of the registration granted by the Authority;
- quarterly up-to-date the list of number and types of apartments or plots, as the case may be, booked;
- quarterly up-to-date the list of number of garages booked;
- quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate;
- quarterly up-to-date status of the project; and
- such other information and documents as may be specified by the regulations made by the Authority.

(2) The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto.



## FUNCTIONS AND DUTIES OF PROMOTER (Contd.)

(3) The promoter at the time of the booking and issue of allotment letter shall be responsible to make available to the allottee, the following information, namely:—

(a) sanctioned plans, layout plans, along with specifications, approved by the competent authority, by display at the site or such other place as may be specified by the regulations made by the Authority;

(b) the stage wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity.

(4) The promoter shall—

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

## FUNCTIONS AND DUTIES OF PROMOTER (Contd.)

- To obtain Completion Certificate or Occupancy Certificate from the concerned local authority.
  
- Enable the formation of association of allottees
  
- Execution of Registered Conveyance Deed in favor of allottee
  
- Pay all outgoings before transfer the physical possession of the real estate project
  
- A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.

## Return of amount and compensation

18 (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—

- in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or
  - due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,
- 
- he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:
- 
- Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

## Important activities to be done by Promoter Company

- Promoter to get registered with the full fledged Real Estate Regulatory Authority or else with the interim regulator.
- To make internal system, controls, SOP's RERA compliant. (i.e. Redesigning business)
- Amendment, change, modification in the sales and marketing documents viz., Agreement to sell, allotment letter, payment plan, flat or apartment specifications by whatever name called.
- To open "RERA designated account" with the concerned Banker
- Modification in the existing lender / credit facility provider loan documents, escrow agreements etc.
- To deposit all customer's collection directly to the "RERA designated account"
- Area of the unit:- The promoter has to bifurcate Carpet Area, Balcony Area and Total Area

## Important activities to be done by Promoter Company (Contd.)

- Make sure any amount realised from any customer in any form the same shall be deposit to the “RERA Escrow account”.
- May arrange for addendum / supplement / fresh agreement with the existing customers to accommodate with the new changes as per act and the rules and regulations made thereunder.
- To arrange for Carpet Area, Balcony Area and Total Area of the flat / apartment / building / floor etc.
- To make sure that project completion date shall be accurate and promoter / builder / developer must adhered to the same.
- The project must be complete by that date otherwise there may be huge repercussion.
- For every withdrawal from “RERA Escrow account” have to submit Project Architect, Engineer and CA. Certificate in the prescribed format.

## Important activities to be done by Promoter Company (Contd.)

- To manage and planning of working capital as the major amount (i.e. 70%) will go to the “RERA Escrow account” which is a substantial amount and due to this project activities may suffer.
- Every Sales, Marketing, Branding document must contain RERA registration no. including newspaper advertisement.
- The RERA registration number may be use as marketing tool.
- Builder has to obtain insurance for any structural defect up to 5 (Five) years.
- Developer has to create a back-to-back warranty with suppliers in case a challenge comes up starting from the point of contracting to execution and finally handing over, documentation has to be clearly spelled out.
- Rate of Interest:- Interest rate shall be the State Bank of Indian highest marginal cost of funds based Lending rate plus Two per cent. (As per NCT of Delhi Rules)

## RERA Escrow Mechanism

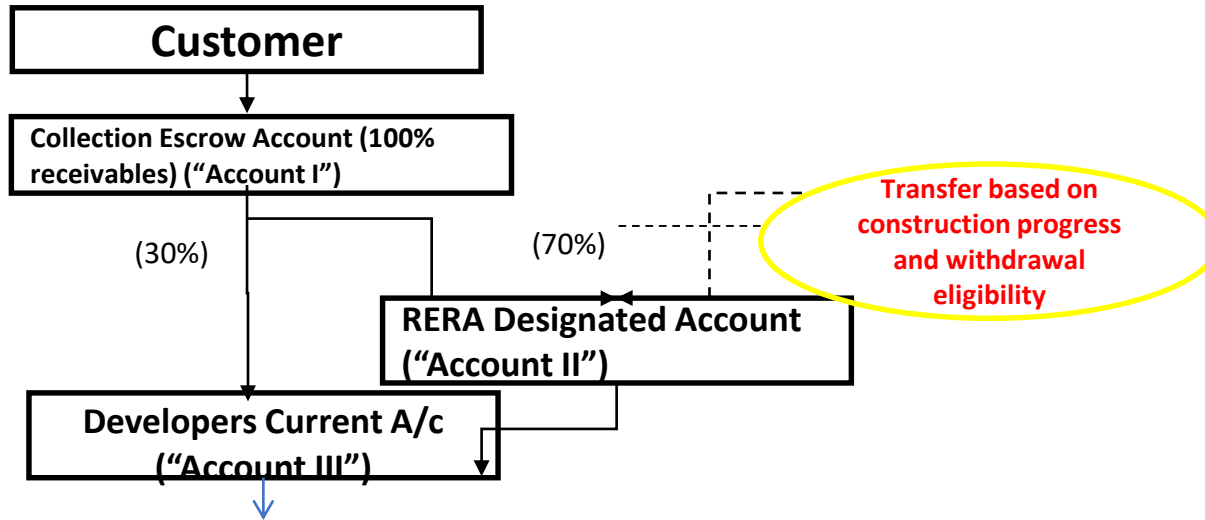
(D) that seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

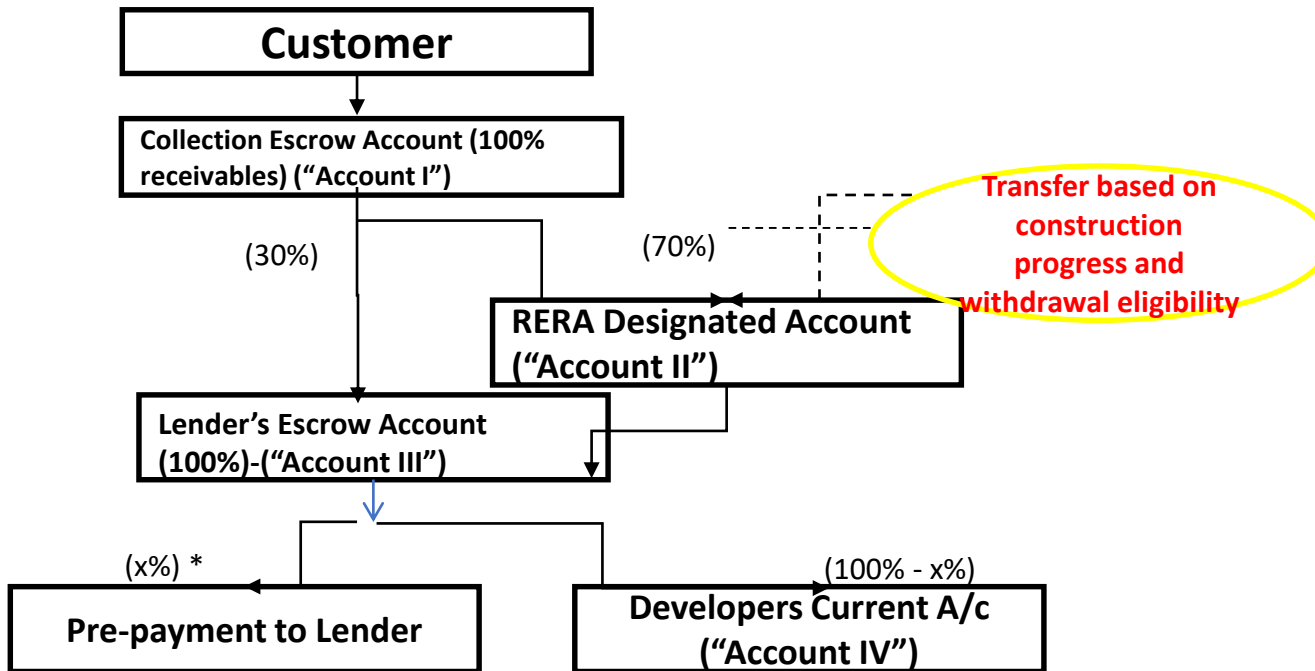
Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for that project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

# Flow Chart of model RERA Banking Escrow Mechanism





# Flow Chart of model RERA and Lender Banking mechanism



# **The National Capital Territory of Delhi Real Estate (Regulation and Development) (General) Rules, 2016**

**Chapter 1 – Preliminary** (Short title and commencement, Definitions)

**Chapter 2 – Real Estate Project** (Information and documents to be furnished by the promoter for registration of project, Additional disclosure by promoters of on-going projects, Grant or rejection of registration of the project, Extension of registration of project, Revocation of registration of the project)

**Chapter 3 - Real Estate Agent** (Application for registration, grant & renewal of registration, revocation of registration, maintenance of books of accounts, other functions)

**Chapter 4 – Details to be published on the website of the Authority**

**Chapter 5 – Interest payable by promoter / allottee & timelines for refund**

**Chapter 6 – Real Estate Regulatory Authority**

**Chapter 7 – Real Estate Appellate Tribunal**

# The National Capital Territory of Delhi Real Estate (Regulation and Development) (General) Rules, 2016 (Contd.)

**Chapter 8 – Offences and penalties** (terms and conditions and the fine payable for compounding of offence)

**Chapter 9 – Filing of complaint with authority and adjudicating officer**

**Chapter 10 – Budget and Annual Report**

# The National Capital Territory of Delhi Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2016

- **Chapter 1 – Preliminary** (Short title and commencement, Definitions)
- **Chapter 2 – Agreement for Sale**
- Agreement to be in the form as per Annexure
- Any application letter, allotment letter, or any other document etc. not to affect Agreement for Sale
- **Annexure - Agreement for Sale provides for the following details:**
  - Duties and responsibilities of the promoter and the allottee
  - Details of cost of apartment / plot
  - Details of cost of garage / covered parking
  - Mode of payment
  - Matters relating to compliance of laws relating to remittances
  - Matters regarding adjustment/ appropriate of payments made by allottee
  - Time being of essence
  - Construction of the project as per plans etc.
  - Schedule of possession of apartment / plot

# The National Capital Territory of Delhi Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2016

Representations and warranties of the promoter

Events of defaults and consequences by promoter / allottee

Conveyance of apartment

Maintenance of building / apartment / project

Defect liability

Right to enter the apartment for repairs

Usage of the basement and service areas

General Compliance with respect to apartment

Compliance of laws, notifications etc. by parties

Additional Construction

Promoter not to mortgage or create a charge

Provisions applicable on allottee / subsequent allottee

Issue of notice - Dispute Resolution

Promoter to provide description of apartment/plot and garage/covered parking; Provide the floor plan and the payment plan; Provide specifications, amenities, facilities forming part of apartment / plot; and Provide specification forming part of project

## Important points for issuance of CA. Certificate

- (a) CA. Certificate to be required on each withdrawal of amount from “RERA Designated Account” / “RERA Escrow Account”
- (b) The certificate must be in Form – 3 (Vide Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017)
- (c) Before issuance of CA. certificate we must make sure for the following mentioned parameters.
- (d) We should know all the running Bank accounts of our client.
- (e) We have to obtain Bank account statement for all Bank accounts for the period covered under the certificate so that it will make sure there may not be any diversion of funds.
- (f) CA. Institute must come forward for the Guidance Note on CA. certificate to be issued in RERA compliances.

## **Important points as mentioned in Circular No. – 7/2017 dated 04.07.2017 issued by MahaRERA**

- The withdrawal from the separate account is in proportion to the percentage of completion of the project
- Chartered Accountant in practice must certify that the amount collected for particular project have been utilized for the project.
- The withdrawal has been in compliance with the proportion to the percentage of completion of the project.
- Certificate from the project Architect in Form 1 certifying the percentage of completion of construction work of each of the tasks / activity of the building / wing of the project; and
- Certificate from the Engineer in Form 2 for the actual cost incurred on the construction work of each of the building / wing of the project; and
- Certificate from a practicing Chartered Accountant other than the Statutory Auditor of the promoter in Form 3
- Certificate from CA will be on the following mentioned parameters
- Cost incurred on construction and Land cost along with the proportion of the cost incurred on construction and land cost to the total estimated cost of the project
- On receipt of completion certificate the entire balance amount lying in the separate Bank Account can be withdrawn by the promoter

## Important points as mentioned in Circular No. – 7/2017 dated 04.07.2017 issued by MahaRERA (Contd.)

- The expression incurred would mean amount of product of service received, creating a debt in favour of a seller or supplier and shall also include amount of product or service received against the payment.
- The Acquisition cost shall also include amount of Interest incurred on the borrowing done specifically for purchase of Land or Acquiring Development Rights or Lease Rights.
- The principal sum of Loan shall be reflected in the brackets and shall not be added in the Sub-total of Development Cost.
- Pass through Charges / Indirect Taxes may be deposited in other Bank Account and shall be governed by respective rules and regulations.
- Income-Tax paid by the promoter of a Real Estate Project shall not be allowed to be claimed as cost of the Real Estate Project.
- The separate account opened in accordance with the provisions of section 4(2)(l)(d) of RERA, shall be a no lien account.



## Important points as mentioned in Circular No. – 7/2017 dated 04.07.2017 issued by MahaRERA (Contd.)

- For the 1st CA. Certificate the “amount withdrawn till date of this certificate as per Books of Accounts and Bank Statement” shall be either “100% of the amount received towards consideration of the sale of apartment of the Real Estate project till date of registration” or “amount of project cost incurred as reflected at clause number 3 of the certificate of Chartered Accountant issued (Form No. – 3) at the time of registration”, whichever is lower.
- The Chartered Accountant shall issue his report on annual accounts under 3<sup>rd</sup> Proviso to Section 4(2)(I)(D) of Act.
- Sales & Marketing cost will not form part of the project cost or in cost incurred in CA. Certificate.

**FORM 1** [see Regulation 3]

**ARCHITECT'S CERTIFICATE**

**(To be submitted at the time of Registration of Ongoing Project and for withdrawal of Money from Designated Account)**

Date :

To

The \_\_\_\_\_ (Name & Address of Promoter),

**Subject : Certificate of Percentage of Completion of Construction Work of \_\_\_\_\_ No. of Building(s)/ \_\_\_\_\_ Wing(s) of the \_\_\_\_\_ Phase of the Project [MahaRERA Registration Number] situated on the Plot bearing C.N. No/CTS No./Survey no./ Final Plot no \_\_\_\_\_ demarcated by its boundaries ( latitude and longitude of the end points) \_\_\_\_\_ to the North \_\_\_\_\_ to the South \_\_\_\_\_ to the East \_\_\_\_\_ to the West of Division \_\_\_\_\_ village \_\_\_\_\_ taluka \_\_\_\_\_ District \_\_\_\_\_ PIN \_\_\_\_\_ admeasuring \_\_\_\_\_ sq.mts. area being developed by [Promoter's Name]**

Sir,

I/ We \_\_\_\_\_ have undertaken assignment as Architect /Licensed Surveyor of certifying Percentage of Completion of Construction Work of the

\_\_\_\_\_ Building(s)/\_\_\_\_\_ Wing(s) of the \_\_\_ Phase of the Project, situated on the plot bearing C.N. No/CTS No./Survey no./ Final Plot no \_\_\_\_\_ of Division \_\_\_\_\_ village \_\_\_\_\_ taluka \_\_\_\_\_ District \_\_\_\_\_  
PIN \_\_\_\_\_ admeasuring \_\_\_\_\_ sq.mts. area being developed by [Promoter's Name]

1. Following technical professionals are appointed by Owner / Promoter :-

- (i) M/s/Shri/Smt \_\_\_\_\_ as L.S. / Architect ;
- (ii) M/s /Shri / Smt \_\_\_\_\_ as Structural Consultant
- (iii) M/s /Shri / Smt \_\_\_\_\_ as MEP Consultant
- (iv) M/s /Shri / Smt \_\_\_\_\_ as Site Supervisor

Based on Site Inspection, with respect to each of the Building/Wing of the aforesaid Real Estate Project , I certify that as on the date of this certificate, the Percentage of Work done for each of the building/Wing of the Real Estate Project as registered vide number \_\_\_\_\_ under MahaRERA is as per table A herein below. The percentage of the work executed with respect to each of the activity of the entire phase is detailed in Table B.

**Table A**

Building /Wing Number\_\_\_\_(to be prepared separately for each Building /Wing of the Project)

Sr. No	Tasks /Activity	Percentage of work done
1	Excavation	
2	_____ number of Basement(s) and Plinth	
3	_____ number of Podiums	
4	Stilt Floor	
5	_____ number of Slabs of Super Structure	
6	Internal walls, Internal Plaster, Floorings within Flats/Premises, Doors and Windows to each of the Flat/Premises	

- 7 Sanitary Fittings within the Flat/Premises,  
Electrical Fittings within the Flat/Premises
- 8 Staircases, Lifts Wells and Lobbies at each  
Floor level connecting Staircases and Lifts,  
Overhead and Underground Water Tanks
- 9 The external plumbing and external plaster,  
elevation, completion of terraces with waterproofing of  
the Building/Wing,
- 10 Installation of lifts, water pumps, Fire Fighting Fittings  
and Equipment as per CFO NOC, Electrical fittings to  
Common Areas, electro, mechanical equipment,  
Compliance to conditions of environment /CRZ NOC,  
Finishing to entrance lobby/s, plinth protection,  
paving of areas appurtenant to Building/Wing,  
Compound Wall and all other requirements as may be  
required to Obtain Occupation /Completion Certificate

## TABLE-B

### Internal & External Development Works in Respect of the entire Registered Phase

S.No	Common areas and Facilities, Amenities	Proposed (Yes/No)	Percentage of Work done	Details
1.	Internal Roads & Footpaths			
2.	Water Supply			
3.	Sewerage (chamber, lines, Septic Tank , STP)			
4.	Storm Water Drains			
5.	Landscaping & Tree Planting			
6.	Street Lighting			
7.	Community Buildings			
8.	Treatment and disposal of sewage and sullage water			

9. Solid Waste management & Disposal
10. Water conservation, Rain water harvesting
11. Energy management
12. Fire protection and fire safety requirements
13. Electrical meter room, sub-station, receiving station

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14. Others ( Option to Add more)

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Yours Faithfully

Signature & Name (IN BLOCK LETTERS) of L.S/ Architect

(License NO.....)

**FORM-2 [see Regulation 3]**

**ENGINEER'S CERTIFICATE**

**(To be submitted at the time of Registration of Ongoing Project and for withdrawal of Money from Designated Account- Project wise)**

Date:

To

The \_\_\_\_\_ (Name & Address of Promoter),

**Subject: Certificate of Cost Incurred for Development of [Project Name] for Construction of \_\_\_\_\_ building(s)/\_\_\_\_\_Wing(s) of the \_\_\_\_\_ Phase ( MahaRERA Registration Number)situated on the Plot bearing C.N. No/CTS No./Survey no./ Final Plot no**

\_\_\_\_\_ demarcated by its boundaries ( latitude and longitude of the end points)

\_\_\_\_\_to the North\_\_\_\_\_to the South \_\_\_\_\_to the East \_\_\_\_\_to the West

of Division \_\_\_\_\_ village \_\_\_\_\_ taluka \_\_\_\_\_ District \_\_\_\_\_PIN  
\_\_\_\_\_admeasuring \_\_\_\_\_sq.mts. area being developed by

**[Promoter] Ref: MahaRERA Registration Number \_\_\_\_\_**

Sir,

I/ We \_\_\_\_\_ have undertaken assignment of certifying Estimated Cost for the Subject Real Estate Project proposed to be registered under MahaRERA, being \_\_\_\_\_Building(s)/ )/\_\_\_\_\_ Wing(s) of the \_\_\_\_\_ Phase situated on the plot bearing C.N. No/CTS



No./Survey no./ Final Plot no \_\_\_\_\_ of Division \_\_\_\_\_ village \_\_\_\_\_ taluka  
\_\_\_\_\_ District \_\_\_\_\_ PIN \_\_\_\_\_ admeasuring \_\_\_\_\_sq.mts. area  
being developed by [Owner/Promoter]

1. Following technical professionals are appointed by Owner / Promoter :-
  - (i) M/s/Shri/Smt \_\_\_\_\_ as L.S. / Architect ;
  - (ii) M/s /Shri / Smt \_\_\_\_\_ as Structural Consultant
  - (iii) M/s /Shri / Smt \_\_\_\_\_ as MEP Consultant
  - (iv) M/s /Shri / Smt \_\_\_\_\_ as Quantity Surveyor \*
2. We have estimated the cost of the completion to obtain Occupation Certificate/ Completion Certificate, of the Civil, MEP and Allied works, of the Building(s) of the project. Our estimated cost calculations are based on the Drawings/plans made available to us for the project under reference by the Developer and Consultants and the Schedule of items and quantity for the entire work as calculated by \_\_\_\_\_ quantity Surveyor\* appointed by Developer/Engineer, and the assumption of the cost of material, labour and other inputs made by developer, and the site inspection carried out by us.
3. We estimate Total Estimated Cost of completion of the building(s) of the aforesaid project under reference as Rs\_ \_\_\_\_\_( Total of Table A and B). The estimated Total Cost of project is with reference to the Civil, MEP and allied works required to be completed for the purpose of obtaining occupation certificate / completion certificate for the building(s) from the \_\_\_\_\_ being the Planning Authority under whose jurisdiction the aforesaid project is being implemented.
4. The Estimated Cost Incurred till date is calculated at Rs. \_\_\_\_\_(Total of Table A and B)\_. The amount of Estimated Cost Incurred is calculated on the base of amount of Total Estimated Cost.
5. The Balance cost of Completion of the Civil, MEP and Allied works of the Building(s) of the subject project to obtain Occupation Certificate / Completion Certificate from \_\_\_\_\_ (planning Authority) is estimated at Rs \_\_\_\_\_( Total of Table A and B).
6. I certify that the Cost of the Civil, MEP and allied work for the aforesaid Project as completed on the date of this certificate is as given in Table A and B below :

**TABLE A**

Building /Wing bearing Number\_\_\_\_ or called \_\_\_\_\_

**(to be prepared separately for each Building /Wing of the Real Estate Project)**

<b>Sr. No</b>	<b>Particulars</b>	<b>Amounts</b>
<b>1</b>	Total Estimated cost of the building/wing as on _____ date of Registration is	Rs. _____ /-
<b>2</b>	Cost incurred as on _____ (based on the Estimated cost )	Rs. _____ /-
<b>3</b>	Work done in Percentage (as Percentage of the estimated cost )	_____ %
<b>4</b>	Balance Cost to be Incurred (Based on Estimated Cost)	Rs. _____/-
<b>5</b>	Cost Incurred on Additional /Extra Items as on _____not included in the Estimated Cost (Annexure A)	Rs. _____ /-

**TABLE B****(to be prepared for the entire registered phase of the Real Estate Project)**

<b>Sr. No</b>	<b>Particulars</b>	<b>Amounts</b>
1	Total Estimated cost of the Internal and External Development Works including amenities and Facilities in the layout as on _____ date of Registration is	Rs. _____ /-
2	Cost incurred as on _____ (based on the Estimated cost )	Rs. _____ /-
3	Work done in Percentage (as Percentage of the estimated cost )	_____ %
4	Balance Cost to be Incurred (Based on Estimated Cost)	Rs. _____ /-
5	Cost Incurred on Additional /Extra Items as on _____ not included in the Estimated Cost (Annexure A)	Rs. _____ /-

Yours Faithfully

Signature of Engineer

(Licence No.....)

**\* Note**

1. The scope of work is to complete entire Real Estate Project as per drawings approved from time to time so as to obtain Occupation Certificate /Completion Certificate.
2. (\*) Quantity survey can be done by office of Engineer or can be done by an independent Quantity Surveyor, whose certificate of quantity calculated can be relied upon by the Engineer. In case of independent quantity surveyor being appointed by Developer, the name has to be mentioned at the place marked (\*) and in case quantity are being calculated by office of Engineer, the name of the person in the office of Engineer, who is responsible for the quantity calculated should be mentioned at the place marked (\*).
3. The estimated cost includes all labour, material, equipment and machinery required to carry out entire work.
4. As this is an estimated cost, any deviation in quantity required for development of the Real estate Project will result in amendment of the cost incurred/to be incurred.
5. All components of work with specifications are indicative and not exhaustive.

**Annexure A**

List of Extra / Additional Items executed with Cost  
(which were not part of the original Estimate of Total Cost)

**FORM-3 [see Regulation 3]**

**CHARTERED ACCOUNTANT'S CERTIFICATE( On Letter Head)**

**(FOR REGISTRATION OF A PROJECT AND SUBSEQUENT WITHDRAWAL OF MONEY)**

**Cost of Real Estate Project MahaRERA Registration Number\_\_\_\_\_**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount (Rs.) Estimated. Incurred</b>
<b>1.</b>	<b>i. Land Cost :</b>	
	a. Acquisition Cost of Land or Development Rights, lease Premium, lease rent, interest cost incurred or payable on Land Cost and legal cost	
	b. Amount of Premium payable to obtain development rights, FSI, additional FSI, fungible area, and any other incentive under DCR from Local Authority or State Government or any Statutory Authority	
	c. Acquisition cost of TDR (if any)	
	d. Amounts payable to State Government or competent authority or any other statutory authority of the State or Central Government, towards stamp duty, transfer charges, registration fees etc; and	
	f. Land Premium payable as per annual statement of rates (ASR) for redevelopment of land owned by public authorities.	
	g. Under Rehabilitation scheme:	
	(i) Estimated construction cost of rehab building including site development and infrastructure for the same as certified by	

Engineer

- (ii) Actual Cost of construction of rehab building incurred as per the books of accounts as verified by the CA

**Note :( for total cost of construction incurred, Minimum of (i) or (ii) is to be considered)**

- (iii) Cost towards clearance of land of all or any encumbrances including cost of removal of legal/illegal occupants, cost for providing temporary transit accommodation or rent in lieu of Transit Accommodation, overhead cost,
- (iv) Cost of ASR linked premium, fees, charges and security deposits or maintenance deposit, or any amount whatsoever payable to any authorities towards and in project of rehabilitation.

### **Sub-Total of LAND COST**

## **ii. Development Cost/ Cost of Construction :**

- a. (i) Estimated Cost of Construction as certified by Engineer
- (ii) Actual Cost of construction incurred as per the books of accounts as verified by the CA

**Note :( for adding to total cost of construction incurred, Minimum of (i) or (ii) is to be considered)**

(iii) On-site expenditure for development of entire project excluding cost of construction as per (i) or (ii) above, i.e. salaries, consultants fees, site overheads, development works, cost of services (including water, electricity, sewerage, drainage, layout roads etc.), cost of machineries and equipment including its hire and maintenance costs, consumables etc.

All costs directly incurred to complete the construction of the entire phase of the project registered.

- b. Payment of Taxes, cess, fees, charges,

**Sr.  
No.**

**Particulars**

**Amount  
(Rs.)**

- premiums, interest etc to any statutory Authority.
- c. Principal sum and interest payable to financial institutions, scheduled banks, non-banking financial institution (NBFC) or money lenders on construction funding or money borrowed for construction ;

**Sub-Total of Development Cost**

---

---

2. **Total Estimated Cost of the Real Estate Project**  
**[1(i) + 1(ii)] of Estimated Column**
3. **Total Cost Incurred of the Real Estate Project**  
**[1(i) + 1(ii)] of Incurred Column**
4. **% completion of Construction Work** %  
**(as per Project Architect's Certificate)**
5. **Proportion of the Cost incurred on Land Cost and \_\_\_\_\_%**  
**Construction Cost to the Total Estimated Cost. ( 3/2 %)**
6. **Amount Which can be withdrawn from the Designated Account**  
**Total Estimated Cost \* Proportion of cost incurred**  
**( Sr. number 2 \* Sr. number 5)**
6. **Less: Amount withdrawn till date of this certificate as per the Books of Accounts and Bank Statement**
7. **Net Amount which can be withdrawn from the**



Sr.	Particulars	Amount
No.	Designated Bank Account under this certificate	(Rs.)

This certificate is being issued for RERA compliance for the Company [Promoter's Name] and is based on the records and documents produced before me and explanations provided to me by the management of the Company.

Yours Faithfully

Signature of Chartered Accountant  
(Membership Number.....)

\_\_\_\_\_  
Name

## **(ADDITIONAL INFORMATION FOR ONGOING PROJECTS)**

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1. Estimated Balance Cost to Complete the Real Estate Project  
(Difference of Total Estimated Project cost less Cost incurred ) (calculated as per the Form IV )
2. Balance amount of receivables from sold apartments as per Annexure A to this certificate  
(as certified by Chartered Accountant as verified from the records and books of Accounts)
3. (i) Balance Unsold area  
(to be certified by Management and to be verified by CA from the records and books of accounts)  
(ii) Estimated amount of sales proceeds in respect of unsold apartments (calculated as per ASR multiplied to unsold area as on the date of certificate, to be calculated and certified by CA) as per Annexure A to this certificate
4. Estimated receivables of ongoing project. Sum of 2 + 3(ii)
5. Amount to be deposited in Designated Account – 70% or 100%

IF 4 is greater than 1, then 70 % of the balance receivables of

ongoing project will be deposited in designated Account

IF 4 is lesser than 1, then 100% of the of the balance receivables of ongoing project will be deposited in designated Account

%

\_\_\_\_\_

This certificate is being issued for RERA compliance for the Company [Promoter's Name] and is based on the records and documents produced before me and explanations provided to me by the management of the Company.

Yours Faithfully

Signature of Chartered Accountant

(Membership Number.....)

\_\_\_\_\_

Name

## Annexure A

Statement for calculation of Receivables from the Sales of the Ongoing Real Estate Project

### Sold Inventory

Sr. No.	Flat No.	Carpet Area (in sq.mts.)	Unit Consideration as per Agreement /Letter of Allotment	Received Amount	Balance Receivable

**(Unsold Inventory Valuation)**

**Ready Recknor Rate as on the date of Certificate**

**of the Residential /commercial premises Rs \_\_\_\_\_ per sm.**

Sr. No.	Flat No.	Carpet Area (in sq.mts.)	Unit Consideration as per Read Reckoner Rate(ASR)

**ON THE LETTER HEAD OF CHARTERED ACCOUNTANT (WHO IS STATUTORY AUDITOR OF THE PROMOTER'S COMPANY/FIRM)**

**ANNUAL REPORT ON STATEMENT OF ACCOUNTS**

To [NAME & ADDRESS OF PROMOTER]

**SUBJECT:** Report on Statement of Accounts on project fund utilization and withdrawal by [Promoter] for the period from \_\_\_\_ to \_\_\_\_ with respect to MahaRERA Regn. Number -----

1. This certificate is issued in accordance with the provisions of the Real Estate (Regulation and Development) Act, 2016 read along with the Maharashtra Real Estate (Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017.
2. I/We have obtained all necessary information and explanation from the Company, during the course of our audit, which in my/our opinion are necessary for the purpose of this certificate.
3. I/We hereby confirm that I/We have examined the prescribed registers, books and documents, and the relevant records of [Promoter] for the period ended \_\_\_\_\_ and hereby certify that:
  - i. M/S.\_\_\_\_ (Promoter) have completed \_\_\_\_\_% of the project titled \_\_ (Name) MahaRERAREgn.No.\_\_\_\_ located at \_\_\_\_\_
  - ii. Amount collected during the year for this project is Rs. \_\_\_\_\_ and amounts collected till date is Rs. \_\_\_\_\_
  - iii. Amount withdrawn during the year for this project is Rs. \_\_\_\_\_ and amount withdrawn till date is Rs. \_\_\_\_\_
4. I/We certify that the [*Name of Promoter*] has utilized the amounts collected for \_\_\_ project only for that project and the withdrawal from the designated bank account(s) of the said project has been in accordance with the proportion to the percentage of completion of the project.

(If not, please specify the amount withdrawn in excess of eligible amount or any other exceptions) <sup>62</sup>

(Signature and Stamp/Seal of the Signatory CA)

Name of the Signatory:

Place:

Full Address:

Date:

Membership No.:

Contact No. :

E mail:

		Ist Certificate	Ongoing Certificate
S.No.	Particulars	Amount	Amount
2	Total Estimated Cost of the Real Estate Project [1(i) + 1(ii)] of Estimated Column	1,000,000	1,000,000
3	Total Cost Incurred of the Real Estate Project [1(i) + 1(ii)] of Incurred Column	600,000	800,000
4	% completion of Construction Work (as per Project Architect's Certificate)	N.A.	N.A.
5	Proportion of the Cost incurred on Land Cost and Construction Cost to the Total Estimated Cost. ( 3/2 %)	60%	80%
6	Amount Which can be withdrawn from the Designated Account Total Estimated Cost * Proportion of cost incurred ( Sr. number 2 * Sr. number 5)	600,000	800,000
7	Less: Amount withdrawn till date of this certificate as per the Books of Accounts and Bank Statement	600,000	700,000
8	Net Amount which can be withdrawn from the Designated Bank Account under this certificate (6-7)	-	100,000
A	100% of the amount received towards consideration of the sale of apartments of the Real Estate project till date of registration	700,000	-
B	Amount of project cost incurred (Above mentioned point no. - 3)	600,000	-
C	Whichever is lower	600,000	



**(Additional Information for ongoing projects)**

<b>1</b>	<b>Estimated Balance Cost to Complete the Real Estate Project (Difference of Total Estimated Project cost less Cost Incurred)</b>	<b>400,000</b>
<b>2</b>	<b>Balance amount of receivables from sold apartments As per Annexure A to this certificate (As certified by Chartered Accountant as verified from the records and books of Accounts)</b>	<b>1,000,000</b>
<b>3</b>	<b>(i) Balance Unsold area (To be certified by Management and to be verified by CA from the records and books of Account)</b>	<b>10,000 Sq. Ft.</b>
	<b>(ii) Estimated amount of sale proceeds in respect of unsold apartments (Calculated as per ASR multiplied to unsold area as on the date of certificate, to be calculated and certified by CA) as per Annexure A to this certificate</b>	<b>2,000,000</b>
<b>4</b>	<b>Estimated receivables of ongoing project. Sum of 2+3(ii)</b>	<b>3,000,000</b>
<b>5</b>	<b>Amount to be deposited in Designated Account - 70% or 100%</b>	
	<b>If 4 is greater than 1 than 70% of the balance receivables of ongoing project will be deposited in designated account</b>	<b>70%</b>
	<b>If 4 is lesser than 1, than 100% of the balance receivables of ongoing project will be deposited in designated account</b>	

## Important points and grey areas of RERA

- ❑ The Real Estate Regulator should be form by Central Government but there may be hue and cry on this as the Land is state subject.
- ❑ There is clear dilution of RERA rules by state governments as this is the Builders – Babus – Ministers nexus.
- ❑ There is Question mark on the Infrastructure placed by the State Governments as the last date for registration for RERA was 31.07.2017 but still states were not ready with their own set of Rules & Regulations along with “Real Estate Regulatory Authority” officials and Website.
- ❑ On the very first day there was 15,000 complaints lodged / filed with the UP RERA Authority Website so one can imagine what type of infrastructure should be required to handle all these stuff.
- ❑ In our point of view these state centric RERA Authorities are another medium of malpractices and corruption and work will be done with the liaisoning.
- ❑ The Builders are deliberately manipulating the Project end date by increased it from the original sanctioned dated (Legal Authority – 4(2)(l)(C).

## **Various practical situations related to the applicability of RERA**

- ❖ A Real Estate project registered under RERA and received completion certificate
- ❖ If “A” project registered with Authority on dated 28.07.2017 and will received completion certificate on dated 31.12.2017 than all the amounts lying in RERA designated account may be withdrawn from Bank account and there will not be any RERA Escrow arrangements further.
- ❖ Real Estate Project not available for sale to buyer than registration with Authority not required.
- ❖ If “A” project started on dated 28.07.2017 with the intention not to sell the same to the buyers or no marketing and publicity involved than registration not required.
- ❖ In the above situation if the promoter decided to sell the same project on dated 31.12.2017 than registration with the respective state Real Estate Regulatory Authority required.

# Model Date Sheet of Project related activities

S.No.	Particulars	Dates
1.	Original date of commencement of project	01.04.2011
2.	Original completion date of the project	30.06.2017
3.	Applied for Completion Certificate with the concerned local authority	01.01.2017
4.	Last date for registration with the concerned state Real Estate Regulatory Authority	31.07.2017
5.	Revised date for completion of project to be provided to State RERA Authority	31.12.2017
6.	Receipt of Completion / Occupancy Certificate	30.09.2017
7.	Completion of RERA Designated Escrow Account mechanism	30.09.2017
8.	Handover of units to the allottees and common area to the association of allottees along with registry	30.11.2017
9.	Validity of registration with the Authority	31.12.2017
10.	Last date U/S 14(3)	30.11.2022
11.	Last date to Ist Proviso U/S 17(1)	31.12.2017
12.	Last date to Ist Proviso U/S 17(2)	30.10.2017
13.	Last date U/s 19(10)	30.11.2017

## Some Important Section of the RERA

14 (3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

19 (10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be.

## Some Important Section of the RERA (Contd.)

17. (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to hand-over the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws:

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the completion certificate.

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**Thank You**