

# **ROLE OF CA UNDER RERA, PRECAUTIONS DURING REGISTRATION, COMPLIANCES AND ANNUAL REPORT**

**PRESENTED BY-**

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# Who is your Potential Client?

**Promoter defined under section- 2 (zk) of Real Estate (Regulation and Development) Act, 2016**

**Definition primarily covers owners of the project**

(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;

# Promoter defined under section- 2 (zk) of Real Estate (Regulation and Development) Act, 2016

## ***Continued-:***

(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

(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 persons, 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;

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# Promoter defined under section- 2 (zk) of Real Estate (Regulation and Development) Act, 2016

*Co-promoter means and included any person(s) or organization(s) who, under any agreement or arrangement with the promoter of real estate project is allotted or entitled to share of total revenue generated from sale of apartment or share of the total area developed in the real estate project. The liabilities of such co promoter shall be as per agreement or arrangements with the promoter, however, for withdrawal from designated bank account, they shall be at par with promoter of the real estate project.*

# CERTIFICATES ISSUED BY CA

## **FORM 3** – CERTIFICATE FOR WITHDRAWAL OF MONEY FROM BANK ACCOUNT

*Explanation 1 to regulation 4 (a) of Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017*

The chartered accountant certifying the progress of the registered real estate project for the purpose of withdrawal of amounts from the separate account should be a different entity than the chartered accountant who is the statutory auditor of the promoter's enterprise.

CHARTERED ACCOUNTANT's CERTIFICATE( On Letter Head)

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

Cost: of Real Est:ate Project: MahaRERA Regist:ration Number \_\_\_\_\_

Sr. No.	Particulars	Amount:	
		(Rs.)	Estimated. Incurred
1 .	i. Land Cost::		
	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 ot:her incentive under DCR from Local Authority or State Government or any Statutory Authority		
	c. Acquisition cost ofTDR (if any)		
	d. Amounts payable to State Government or competent authority or any other statutory authority of:he State or Central Government, towards stamp dut:y, transfer charges, registration fees et:c; 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		

Sr.  
No.

Particulars

Amount  
(Rs.)

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

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

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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 stun 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

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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.  
No.**

**Particulars**

**Amount  
(Rs.)**

**Designated Bank Account under this certificate**

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%AI or 100%AI  
  
IF 4 is greater than 1, then 70 %AI of the balance receivables of



## 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.n1ts.)	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)



# CIRCULAR NO.7/2017-CLARIFICATION ON CA CERTIFICATE

The expression 'incurred' would mean amount of product or service received, creating a debt in favour of a seller or supplier and shall also include the amount of product or service received against the payment.

To determine the fair market value of the Acquisition Cost of Land or Development Rights or Lease Rights in the Real Estate Project, the Acquisition Cost shall be the "Indexed Cost of Acquisition". Indexed Cost of Acquisition shall mean an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the Land or Development Rights or Lease Rights in the Real Estate Project is registered or the year in which the first Commencement Certificate is issued in respect of such Land, whichever is earlier, bears to the Cost Inflation Index for the first year-

in which such Land or Development Rights or Lease Rights in the Real Estate Project was owned or held by the Developer. Where the Land or Development Rights or Lease Rights became property of the Developer or became available to the Developer before 1<sup>st</sup> day of April, 2001, the cost of Acquisition shall mean the ASR value of such Land or Development rights or Lease Rights as on 1<sup>st</sup> day of April, 2001. Where the Real Estate Project in which such Land or Development Rights or Lease Rights in the Real Estate Project is owned or held by the Developer shall be taken as 1<sup>st</sup> April, 2001. "Cost Inflation Index", in relation to a year, means such Index as the Central Government may, by notification in the Official Gazette, specify, in this behalf under Section 48 of the Income Tax Act.

The Acquisition Cost shall also include the amount or interest incurred on the borrowing done specifically for purchase of Land, or Acquiring Development Rights or Lease Rights.

Cost under Rehabilitation scheme or construction cost of rehabilitation building shall include cost incurred (or construction of construction area, which is to be handed over to

- i) Slum dwellers under slum rehabilitation scheme,
- ii) tenants under redevelopment of tenanted properties,
- iii) apartment owners of the building which is under redevelopment and who are to be provided with the alternative accommodation,
- iv) Government or concessionaire in Public Private Partnership project
- v) Appropriate Authority under various Scheme & under Development Regulations.

All amounts payable to &lum dwellers, tenants, apartment owners or appropriate authority or government or concessionaire which are not refundable and are incurred as cost and expenses of such rehabilitation scheme shall be allowed as part of Land Cost under clause 1(i)(ii) or 1(i)(iii) of the Form 3 under General Regulation 3 of MahaRERA. For example, maintenance deposits, corpus amount, concession premium or fees, shifting charges to name a few.

The amount of interest incurred on the borrowing specifically for construction of rehabilitation component in rehabilitation scheme shall be included in the interest payable to financial institution etc. under the head of Land Cost. (under Clause 1(i)(a) of Form 3 of General Regulation 3 or MahaRERA).

The increase in construction cost due to execution of extra/additional items as certified by the Engineer in Annexure A, of the Form 2 of the General Regulation 3 of MahaRERA, shall be allowed to be included in the On-site expenditure for development of entire site etc. under clause 1(ii)(a)(iii) of the Form 3 of the General Regulation 3 or MahaRERA.

While uploading the details of Project cost on the website at the time of registration, in the 'Project Cost' Tab, List of 'Bills', wherein 'Principal sum and interest payable' is sought, the Principal Sum of the Loan shall not be entered and only interest amount shall be uploaded. However, in the certificate to be issued by Chartered Accountant as per Form 3 of the General Regulation or MahaRERA, the principal sum of Loan shall be reflected in the brackets and shall not be added in the Sub-total of Development Cost

The expression 'Amount withdrawn till the date of the certificate as per the Books of Accounts and Bank Statement' appearing at clause 7 or Form 3 of General Regulation

3 of MahaRERA means the amounts withdrawn from the Separate Bank Account as per the Books of Accounts and Bank Statement of that Separate Bank Account.

The Promoter to deposit the Pass Through Charges (amount collected for and on behalf of Legal Entity or Apex Body or any statutory authority or local body) should be deposited preferably in a designated bank account opened just for the purpose of depositing such Pass Through Charges or in any other bank account of the promoter and should not be deposited in the separate bank account. However, Promoter shall be required to give account of the monies collected as Pass Through Charges to the Legal Entity or Apex Body.

The indirect taxes collected by the Promoter from the AUouees in the nature of GST /Service Tax /VAT etc can also be deposited in a bank account, other than the Spomtc Bank Account and shall be dealt with as per the provisions of the statute governing such indirect taxes.

It may be noted that 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 412(1)(1) of RERA, shall be a no lien account and withdrawal from such separate account shall always be in accordance with the provisions of RERA, Rules, Regulations and circulars issued by MahaRERA from time to time. The excess monies lying in the Separate Bank Account can be put in fixed deposits with the bank opening the Separate Bank Account and which has to be a non Fixed Deposit and no loan can be obtained against or on such fixed Deposit nor any charge can be created on such Fixed Deposit.

The Chartered Accountant shall verify and certify that 70% of the amount collected from Allottees (other than Pass Through Charges and Indirect Taxes) are deposited in the separate account. In case of ongoing project, where estimated cost to complete the project is higher than estimated value of sales revenue, the chartered accountant shall verify and certify that 100% of the amount collected from the Allottees (other than Pass Through Charges and Indirect Taxes) under the date of registration of the project are deposited in the separate account.

In case of fixed deposit being made from the monies lying in the separate account, then the chartered accountant shall verify that there is no lien or charge on such fixed deposit. The chartered accountant shall obtain the non-encumbrance certificate in respect to such fixed deposit, from the bank once every three months.

The Authority commends that the amount withdrawn from the separate account should preferably be utilized for the purpose of completion of the Real Estate Project. However, there is no end use restriction on the amount which is withdrawn from the separate account in accordance with the provisions of the Act, Rules, Regulations and circulars.

Cancellation amount(s), if any, to be paid by the Promoter to the Allottees on cancellation of booking/allotment of the Apartment, should be treated as cost incurred for the project and the same can be withdrawn from the Separate Bank Account, to the extent of 70% of the amounts to be paid to the Allottees on cancellation of the booking/allotment, since only 70% of the amounts realized from the Allottees would have

been deposited in the separate Bank Account. However, the Compensation / interest paid by the Promoter to the Allottees should be treated as cost incurred for the project and hence the entire sum required to be paid by way of compensation / interest to the Allottee can be withdrawn from the Separate Bank Account.

Clause 4 of Form 3 of the General Regulations of MahaRERA refers to percentage completion of Construction Work as per Project Architect's Certificate. This clause shall be required to be filled only in the final certificate when 100% of the construction work has been completed. In all the prior certificates, this field is not mandatory to be filled and certified by Chartered Accountant as this information has been detailed in Form 1 prescribed by Architect.

With respect to an Ongoing Project, at the time of registration of the Real Estate Project, the Estimated Land Cost and Development Cost / Cost of Construction to be certified as per Form 3 of the General Regulations of MahaRERA shall be for the cost of the real estate project since its inception and not the balance Estimated Land Cost and Development Cost / Cost of Construction to complete the project. That is, the total Incurred Cost of the Real Estate Project shall be the aggregate of the Incurred Land Cost and Development Cost / Cost of Construction of the project, since its inception till the date of the issuance of the certificate and the estimated Land Cost and Development Cost / Cost of Construction shall be for the entire project from the inception till completion. Also in respect of an Ongoing Project, in the first certificate to be issued by a Chartered Accountant at the time of registration and for the first withdrawal post registration, at clause 7 of the Form 3, 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 or 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 lesser.

The third proviso to Section 4(2)(1)(d) of RERA read with Regulation 4(a) of the Regulations requires the promoter to get his accounts audited within six months after the end of every financial year by the statutory auditor of the Promoter's enterprise, and produce report on statement of accounts on project fund utilization and withdrawal by Promoter in Form-5 in accordance with General Regulation 4 of Maharashtra RERA. Since the report is to be prepared under third proviso to Section 4(2)(1)(d) of RERA, the said certificate is only in respect of the amount to be deposited and withdrawn from the Separate Bank Account. Thus Chartered Accountant is required to certify that Promoter has utilized 70% of the amount collected for the project only and not for the entire amount collected for the project. However, it may be 100% of the balance received from the allotment of an Ongoing Project, where the proviso to Rule 5(1) is applicable. The Chartered Accountant shall further certify that the withdrawal from the Separate Bank Account of the said project has been in accordance with the proportion to the percentage of completion of the project.

In case of Development of Real Estate Project being implemented by Promoter and co-promoters, the agreement between the promoter and each of the co-promoters shall clearly lay down the entity which is principally or primarily responsible for completion of the real estate project. In case of shared responsibility between the promoter and co-

promoter for achieving completion Of the project, the agreement shall clearly lay down the responsibility assumed by promoter and each of the co-promoter. The copy of such agreement Or arrangement is required to be uploaded at the time of registration Of the Real Estate Project.



# CERTIFICATES ISSUED BY CA

## **FORM 5 – CERTIFICATE TO BE ISSUED BY STATUTORY AUDITOR AT THE END OF THE YEAR**

***Explanation 2 to regulation 4 (a) of Maharashtra Real Estate Regulatory Authority  
(General) Regulations, 2017***

If the Form 5 issued by the statutory auditor reveals that any certificate issued by the project architect, engineer or the chartered accountant has false or incorrect information and the amounts collected for a particular project have not been utilized for the project and the withdrawal has not been in compliance with the proportion to the percentage of completion of the project, the Authority, in addition to taking penal actions as contemplated in the Act and the Rules, shall also take up the matter with the concerned regulatory body of the said professionals of the architect, engineer or chartered accountant, for necessary penal action against them, including dis-memberment.



FORM 5[see Regulation 4]

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) MahaRERA Regn.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)

(Signature and Stamp/Seal of the Signatory CA)

Name of the Signatory:

Place:

Full Address:

Date:

Membership No.:

Contact No. :

Email:

# CONTACT US



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