

## MEANING OF KEY TERMS USED IN THIS CHAPTER

1. **Partnership** Partnership is a relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.
2. **Partners** Partners are the persons who have agreed to carry on a partnership business and share its profits and losses.
3. **Firm** Partners carrying on the business are collectively known as **firm**. The name under which the business is carried on is called **firm name**.
4. **The Partnership Act, 1932** It is an Act that governs the partnership firms. In case, Partnership Deed is silent on an issue, provisions of the Indian Partnership Act, 1932 are applied.
5. **Partnership Deed** Partnership Deed is a written agreement among the partners detailing the terms and conditions of the partnership.
6. **Capital** Capital is the amount contributed by the partners in the firm. Capital may be fixed or fluctuating.
7. **Fixed Capitals** Fixed Capitals mean that capitals of the partners remain fixed and change with the introduction or withdrawal of capital. When capitals are fixed two accounts for each partner are maintained, *i.e.*, Capital Account and Current Account.
8. **Fluctuating Capitals** Fluctuating Capitals mean that capitals of the partners do not remain fixed but change with each entry. When capitals are fluctuating, only one account, *i.e.*, Capital Account is maintained for each partner.
9. **Drawings** Drawings mean withdrawal by the partner from the firm in cash or kind for his or her personal use.
10. **Profit-sharing Ratio** Profit-sharing Ratio is the ratio in which the partners have agreed to share profits and losses of the firm.
11. **Past Adjustments** Past Adjustments refer to those adjustments which are related to past period that occurred due to errors or omissions in the books of the firm or giving effect to a new agreement with retrospective effect.
12. **Guarantee of Profit** Guarantee of Profit means minimum guaranteed profit given to a partner or partners of the firm. It may be given by a partner or partners or by the firm.

## CHAPTER SUMMARY

### Meaning of Partnership as per Section 4 of the Indian Partnership Act, 1932

*"Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all."*

**Nature:** A partnership firm has no separate legal entity apart from the partners constituting it.

**'Partners', 'Firm' and 'Firm Name':** The persons who have entered into partnership with one another are individually called **partners** and collectively a **firm**. The name under which the business of the firm is carried on is called the **firm name**.

### Essential Elements (Main Features) of Partnership

1. There must be two or more persons.
2. There must be an agreement to carry business.
3. There must be lawful business.
4. There must be sharing of profits of business.
5. There must be a mutual agency, *i.e.*, the business must be either carried on by all or any of them acting for all.

### Partnership Deed

A written document detailing the terms and conditions of the agreement between/among partners is termed as the **Partnership Deed**. The Partnership Deed usually includes the following:

- (i) Name and address of the firm.
- (ii) Names and addresses of all partners.
- (iii) Date of commencement of partnership.
- (iv) Capital to be contributed by each partner.
- (v) Whether interest is to be allowed on capitals.
- (vi) Whether any partner is to be allowed salary.
- (vii) Profit-sharing Ratio among partners.
- (viii) The rights and duties of each partner.
- (ix) Method of valuation of goodwill in case of admission or retirement or death of a partner.
- (x) Mode of settlement of accounts in case of retirement/death of a partner or dissolution of the firm.

### Benefits or Advantages of having a Partnership Deed

- (i) It facilitates functioning of the business.
- (ii) It is helpful in the settlement of disputes arising among partners.
- (iii) It helps in avoiding misunderstandings among the partners.

### Provisions Applicable in the Absence of Partnership Agreement/Partnership Deed

- (i) Interest is not allowed on Partners' Capitals or charged on drawings.
  - (ii) Partner is not entitled to salary or remuneration for the work done for the firm.
  - (iii) Interest @ 6% p.a. is allowed on the loans by any partner.
  - (iv) Profits or losses are divided equally among the partners.
- **Interest on Partner's Loan to the Firm:** If a partner gives a loan to the firm, he is entitled to an interest on such loan at an agreed rate of interest. If there is no agreement as to the rate of interest on loan, the partner is entitled to interest on loan @ 6% p.a. Such interest is a **charge against the profit**. It should be debited to **Profit & Loss Account**.
  - **Rent Paid to Partner:** Rent paid to a partner is a charge against profit. It is *debited* to Profit & Loss Account and *credited* to Rent Payable Account.
  - **Manager's Commission** and **Partners' Commission** are calculated on corrected Net Profit of Profit & Loss Account, if the question is silent. It should be kept in mind that manager's commission is a charge against the profit whereas, partners' commission is an appropriation of profit.

### Methods of Maintaining Capital Accounts of Partners

Partners' Capital Accounts may be maintained according to the Fixed Capital Accounts Method or the Fluctuating Capital Accounts Method.

**Fixed Capital Accounts Method:** Under this method, capitals of partners *remain unchanged* except under special circumstances. In the case of fixed capital, *two* accounts are maintained for each partner, viz., (i) Fixed Capital Account, and (ii) Current Account. All adjustments regarding drawings, interest on drawings, salary, interest on capital, commission and share of profits or losses are made in *Current Account*. Fixed Capital Account cannot have a debit balance, i.e., negative balance.

**Fluctuating Capital Accounts Method:** Under this method, a single Capital Account for each partner is maintained. All transactions relating to it or withdrawals are credited and debited to this account. Be it introduction of capital, interest on capital or drawings, salary, commission and share of profit and loss.

If question is silent, partner's capital should be assumed to be **fluctuating**.

- **Remuneration (Salary or Commission) to a Partner:** Remuneration (Salary or Commission) to a partner is allowed if the partnership deed or agreement provides for it.

A: Commission as percentage of the Net Profit or Distributable Profit before charging such commission:

$$\text{Net Profit before Commission} \times \frac{\text{Rate of Commission}}{100}$$

B: Commission as percentage of the Net Profit or Distributable Profit after charging such commission:

$$\text{Net Profit before Commission} \times \frac{\text{Rate of Commission}}{100 + \text{Rate of Commission}}$$

Remuneration (Salary or commission) to a partner *being an appropriation of profit* is transferred to the debit of the Profit & Loss Appropriation Account and not to the debit of the Profit & Loss Account.

- **Drawings:** Unless drawings is stated to be out of capital, it is considered to be drawings against profit.
- **Interest on Drawings:** If the Partnership Deed so provides, interest on drawings is charged from the partners. The interest so charged is credited to the Profit & Loss Appropriation Account and debited to the Partners' Capital or Current Accounts.
- If dates of drawings are not given, interest on total drawings is calculated for average period, i.e., **6 Months**.
- Interest @ 10% without the word 'per annum' means interest is to be calculated without any reference of time.
- **Interest on Capital:** Interest on capital is calculated on time basis, taking into consideration any additional capital introduced or any existing capital withdrawn.
- Interest is allowed only if it is agreed by the partners.
- Interest is an appropriation of profit, and is provided through Profit & Loss Appropriation Account instead of Profit & Loss Account (except when it is a charge against profit).

### Past Adjustments

Past adjustments are made to rectify errors and omissions committed in the past by passing adjustment entry for each adjustment or a single adjustment entry through the Capital/Current Accounts of partners for the net amount of the errors and omissions, as is required by the question.

### Guarantee of Minimum Profit to a Partner

Sometimes, a partner may be guaranteed a minimum amount of his share in profits. Such a guarantee may be provided by one or some or all of the partners in an existing profit-sharing ratio or in some other agreed ratio. If in any year, the actual share of profit is less than the guaranteed amount, the deficiency is borne by the guaranteeing partners in their agreed ratio.

## **SPECIMEN OF PARTNERSHIP DEED**

THIS DEED OF PARTNERSHIP IS MADE on this **1st day of April, 2021** by and between

**Ms. Deepali D/o Mr. Hitesh Dutta R/o 403 Green Heavens, Kolkata CGHS LTD., Plot No. 35, Sector-4, Chittranjan Park, Kolkata, West Bengal** hereinafter referred to as the First Party (which expression shall deem and include her heirs, executors, administrators, representatives, assigns and agents),

**And**

**Ms. Manju D/o Mr. Debanuj Choudhury R/o 1, L-75A, Airport Road, Maya Enclave, Kolkata, West Bengal** hereinafter referred to as Second Party (which expression shall deem and include her heirs, executors, administrators, representatives, assigns and agents).

**WHEREAS** the above named parties have decided to start the partnership business of **ready-made clothes**.

**WHEREAS**, they have decided to carry on the business under the name and style of **C4T**.

**AND WHEREAS** they have agreed to the terms and conditions among themselves to carry on the business.

**AND WHEREAS** the parties to this Deed have decided to reduce the terms and conditions agreed to among them into writing.

### **NOW THIS INDENTURE IS WITNESSETH AS FOLLOWS**

#### **Name of the Firm**

1. That the name and style of the firm under which the business shall be carried shall be **C4T**.
2. That the partners shall be at liberty to change the name of the firm as agreed between them as and when they desire.

#### **Partners of the Firm**

3. That the partners of the firm **C4T** shall be  
Ms. Deepali D/o Mr. Hitesh Dutta R/o 403 Green Heavens, Kolkata CGHS LTD., Plot No. 35, Sector-4, Chittranjan Park, Kolkata, West Bengal, and  
Ms. Manju D/o Mr. Debanuj Choudhury R/o 1, L-75A, Airport Road, Maya Enclave, Kolkata, West Bengal.

#### **Date of Commencement of Business**

4. That the business of the Partnership pursuant to this Deed of Partnership shall be deemed to have commenced with effect from **1st April, 2021**.

#### **Business of the Firm**

5. That the firm shall carry on the business of manufacturing and selling of fashion clothes for teens.
6. That they may, by their mutual consent, start and carry on any other business or businesses.

#### **Place of Business**

7. That the principal place of partnership business shall be situated at 7, Park Street, Kolkata, West Bengal or at such other place or places, as shall be agreed to by the partners from time to time.

#### **Capital Contribution**

8. That partners shall contribute capital of ₹ 5,00,000 each.
9. That the partners may agree to increase the capital of the firm by bringing in additional contribution on the terms and conditions as may be mutually decided among the partners.

### **Interest on Capital**

10. That the partners shall not be entitled to interest on capital.

### **Remuneration to Partners**

11. That the partners shall attend business of the partnership diligently and carry on the same for the greatest advantage of the firm.
12. That partners shall not be paid remuneration for the work carried out by them for the firm.

### **Profit-Sharing Ratio**

13. That the Profits or Losses, as the case may be, of the partnership business shall be shared by the partners equally.

### **Accounts**

14. That the accounts of the partnership shall be maintained following the accrual concept according to the financial year, *i.e.*, from 1st April to 31st March each year.
15. That first financial year of the firm shall end on 31st March, 2022.

### **Introduction of a New Partner**

16. That a new partner may be introduced with the consent of all the partners on such terms and conditions as the partners agree upon with the Person to be introduced as a partner, in the firm.

### **Retirement or Death of a Partner**

17. That any partner may retire from the partnership, after a period of three years by giving a notice to the other Partner(s) of not less than three months in writing and at the expiry of such notice period he shall be deemed to have retired.
18. That on the death of any partner, during the continuance of the partnership, the firm shall not be dissolved; the surviving nominee of that partner shall have the option to claim the share of the deceased partner or to join in the partnership business.

### **Dissolution of Firm**

19. That the firm shall be dissolved with the consent of all the partners or in accordance with the Provisions of Indian Partnership Act, 1932.

### **Banking Account**

20. That banking accounts may be opened with one or more scheduled banks and shall be operated by any of the partners.

### **General**

21. That the firm shall maintain its accounts and other books at the place of business and shall not be removed from the place of business without the consent of all the partners.
22. Subject to the contract between the partners, the property of the firm includes all property and rights and interest in the originally brought into the stock of the firm, or acquired, by purchase or otherwise, by or for the firm, or for the purpose and in the course of business of the firm, and includes also the goodwill of the business.
23. Each partner shall—
  - (i) Be just and faithful to other partners in the transactions relating to partnership business;
  - (ii) Pay the private debts and indemnify the other partners and assets of the firm against the same and all other proceedings, costs, claims or demands in respect thereof;
  - (iii) Give full information and truthful explanations of all matters relating to the affairs of the partnership to all the partners at all times.

24. No partner shall without the consent of the other partners—
- (i) Engage in any other business that is similar to the business carried on by the firm, directly or indirectly;
  - (ii) Enter into partnership on behalf of the firm.
25. That the terms of the Partnership Deed may be altered by the written consent of the Parties to this DEED.
26. That in the case of any dispute arising out of this DEED between the Parties of this DEED, it shall be decided by Arbitration as provided for under the Indian Arbitration Act, 1996.
27. That the other matters for which no provision is made in this DEED, shall be decided upon by the majority of the partners for the time being of the partnership.
28. The terms and conditions not specifically given in this DEED will be termed as per the provisions of the Indian Partnership Act, 1932.

IN WITNESS WHEREOF the Parties hereto have set and subscribed their respective hands to these presents the day, month and year first written above.

**WITNESSES**

1. \_\_\_\_\_

2. \_\_\_\_\_

**SIGNATURES OF PARTNERS**

**Deepali**

**(Party of the First Part)**

**Manju**

**(Party of the Second Part)**