



A Guide to Writing Name Clauses in Contracts

Introduction

Name clauses are also referred to as “Title” clauses. Name clauses are crucial as they identify the parties involved and establish their role under the contract. The purpose of this guide is to provide lawyers with information on drafting name clauses for contracts in a manner that is customary in India. This guide also contains examples of name clauses that may be used depending on the type of entity entering the contract.

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I. General Principles of Name Clauses

- A. Name clauses define the parties involved in a contract. Most contracts involve two or more parties. Documents categorised as “Deed Polls”, such as Powers of Attorney and Wills, are exceptions to this and often involve a single executing party. That said, Powers of Attorney are customarily signed by the attorney, expressing their acceptance of the powers granted.
- B. There may also be name clauses with two or more persons defined as a single party as well as name clauses with multiple individual parties. The consideration in determining whether two or more persons should be defined as a single party is if they have a common or general interest under the contract and those with a separate interest be defined independently. A common occurrence of this is when two or persons have a common interest in a property, they are defined as a single party.
- C. For the sake of brevity, parties to a contract are often referred to with a single term befitting their role under the contract or an acronym capable of identifying the party. For example, the disclosing party in a Non-Disclosure Agreement is for brevity referred to as the “Discloser”. Similarly, the counterparty to the contract is for brevity referred to as the “Recipient”.
- D. Name clauses must accurately describe the entities to avoid ambiguity and ensure enforceability. Typically, they include the entity's name, legal status, registration details, and address.
- E. In contracts where interests are heritable or assignable, it is common practice to specify whether the contract is binding on persons or entities claiming under or through the parties involved. For instance, in contracts with heritable rights and transferable, it is customary to include heirs, legal representatives, administrators, and assigns. For corporate entities where the rights are transferable, successors are included in the name clause. Examples of contracts where rights may be heritable and transferable are agreements for



the sale of property, business partnership agreements, investment agreements, royalty agreements, intellectual property license agreements, etc.

- F. In contracts where the interest created may not be heritable or assignable, the clause should not include language which suggests otherwise. Contracts for personal services or in property transactions where the transferring party has transferred their entire interest, including assignees of the principal party is incorrect. Other examples of such contracts are agreements employment agreements, consulting agreements, endorsement agreements, etc. where the interest in the contract is created only in favour of the party to the contract. This may also be the case in contracts wherein the language specifically excludes the ability to assign the interest in contract to a third party.

II. Name Clauses for Different Entity Types

A. Individual

[name of the Individual], an adult, Indian inhabitant, residing at [address], assessed to income tax in India under Permanent Account Number [insert PAN], hereinafter referred to as the “[role]”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include their legal heirs, executors, administrators, and assigns.

When there are two or more individuals with a common or general interest, the name clause may be as follows:

- (1) **[name of the Individual]**, an adult, Indian inhabitant, residing at [address], assessed to income tax in India under Permanent Account Number [insert PAN], and (2) **[name of the Individual]**, an adult, Indian inhabitant, residing at [address], assessed to income tax in India under Permanent Account Number [insert PAN], hereinafter collectively referred to as the “[role in plural]”, which expression will, unless repugnant to the context or meaning



thereof, be deemed to mean and include their respective legal heirs, executors, administrators, and assigns.

B. Minor & Person with Disability

[name of the minor or person with disability], through their natural / legal / testamentary guardian, **[name of the guardian]**, Indian inhabitant, residing at **[address]**, assessed to income tax in India under Permanent Account Number **[the PAN of the minor or person with disability]**, hereinafter referred to as the “**[role]**”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include their legal heirs, executors, administrators, and assigns.

C. Sole Proprietorship

[name of the Individual], sole proprietor of, “**[name of the proprietorship under which the proprietor is trading, e.g. ABC Enterprises]**”, assessed to income tax in India under Permanent Account Number **[insert PAN]**, having their address at **[address]**, hereinafter referred to as the “**[role]**”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include the sole proprietor's legal heirs, executors, administrators, and assigns.

D. Partnership Firm

(1) **[name of partner 1]**, (2) **[name of partner 2]**,¹ carrying on business in partnership, under the name of “**[M/s. name of partnership firm]**”, registered under the India Partnership Act, 1932, allotted registration number **[registration number]**, and having their principal place of business at **[address]**, hereinafter collectively referred to as the “**[party role / abbreviated name]**”, which

¹ **Practice Note** – It is necessary to state the name of all the partners of a partnership firm, even if only one or two partner/s is/are acting on behalf of the firm under an express or implied authority. This is because the firm is not a legal person distinct from its partners.



expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include the partner or partners for the time being of the firm, the survivor or survivors of them and the legal heirs, executors, and administrators of the last surviving partner or their assigns.

E. Limited Liability Partnership

[name of the LLP], a limited liability partnership, registered² under the Limited Liability Partnership Act, 2008, allotted registration number [*registration number*] and having its registered office at [*address*], hereinafter referred to as the “**[party role / abbreviated name]**”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns.

F. Indian Company

[name of the Company], a company, incorporated under the Companies Act, [1913 / 1956 / 2013], issued [(CIN: *alphanumeric code*)]³ and [[LEI: *alphanumeric code*]],⁴ having its registered office at [*registered office address*], hereinafter referred to as the “**[party role / abbreviated name]**”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns.

G. Foreign Company

² **Practice Note** – The words incorporated and registered may be used interchangeably.

³ **Practice Note** – The CIN or Corporate Identity Number is an alphanumeric code assigned to all companies incorporated in India. It is issued by the Registrar of Companies under the Ministry of Corporate Affairs (MCA) and serves as a crucial identifier for various legal and regulatory purposes. Companies may have additional registrations issued under industry specific laws such as insurance, banking, etc. You may include these registration numbers in addition to the CIN.

⁴ **Practice Note** – The LEI or Legal Entity Identifier is a 20-character alphanumeric code based on the ISO 17442 standard, developed and globally implemented to uniquely identify legally distinct entities that engage in financial transactions. For more information on LEI, you may refer to the notes at the end of this guide.



[name of the Company], a company, incorporated in [country of incorporation] under [incorporation law], issued [[LEI: alphanumeric code]], having its registered office at [foreign office address], and its place of business in India at [Indian address], hereinafter referred to as the “**[party role / abbreviated name]**”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns.

H. Private Trust

(1) **[name of trustee 1]**, adult, Indian inhabitant, having their addresses at [address], (2) **[name of trustee 2]**, adult, Indian inhabitant, having their address at [address], and (3) **[name of trustee 3]**, adult, Indian inhabitant, having their address at [address], the Trustees of “**[name of the trust]**”, assessed to income tax in India under Permanent Account Number [insert PAN]⁵, hereinafter collectively referred to as the “**[party role / abbreviated name]**”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include the trustees for the time being of the trust, the survivors or survivor of them, and the legal representative of the last surviving trustee.⁶

I. Hindu Undivided Family

If entered by all members of a Hindu Undivided Family:

(1) **[name 1]**, adult, for self and as karta or manager, (2) **[name 2]**, adult, (3) **[name 3]**, adult, and (4) **[name of minor]**, minor, through their natural / legal /

⁵ **Practice Note** – Unlike corporate entities or firms, private trusts are not issued a unique registration number or checked for name similarity by the regulator. Therefore, the Permanent Account Number may be mentioned to specifically identify the trust.

⁶ **Practice Note** – The draftsman must state the name of all trustees, as trust-property is always held in the name of its trustees and the trust is not a distinct legal entity. Under Section 75 and 76 of the Indian Trusts Act, 1882, on the appointment of a new trustee, the trust-property vests in the new trustee, either solely or jointly with the surviving or continuing trustees, as the case may be. On the death of a trustee, subject to a contrary declaration in the instrument of trust, the trust survives, and the trust-property passes to the remaining trustees.



testamentary guardian [***name of the guardian***], adult, all Indian inhabitants, having their address at [***address***], being the present members of their joint and undivided Hindu family, hereinafter collectively referred to as the “[***party role / abbreviated name e.g. ABC HUF***]”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include the member or members for the time being of their joint and undivided Hindu family, and their respective legal heirs, executors, administrators, and assigns.⁷

If entered by the Karta, on behalf of the members of the Hindu Undivided Family:

(1) [***name 1***], adult, Indian inhabitant, for self and as karta or manager of their joint and undivided Hindu family, having their address at [***address***], hereinafter collectively referred to as the “[***party role / abbreviated name***]”, which expression will, unless repugnant to the context or meaning thereof, be deemed to mean and include the member or members for the time being of their joint and undivided Hindu family, and their respective legal heirs, executors, administrators, and assigns.⁸

III. Notes

A. Permanent Account Number (PAN)

Legal Requirement: The PAN is a unique identifier issued by the Income Tax Department to individuals and entities. It plays a crucial role in the financial and tax-related documentation. While including the PAN in the title clause of documents isn't a legal requirement, it identifies the individual or entity entering

⁷ **Practice Note** – The draftsperson must state the name of all members of the HUF, including minors and those who may be members, even though not coparceners as the HUF is not a distinct entity from that of its members. The individual shares of members of an HUF is not crystallised till the partition of an HUF and like the number of members, may expand and contract based on the birth and death of members.

⁸ **Practice Note** – The general law is that a karta or manager of a joint and undivided Hindu family has the power to enter a contract on behalf of and binding upon the other members of the family if it is for legal necessity or for the benefit of the family, as interpreted under Hindu Law. However, irrespective of the legal requirement, it is prudent to include the names of all members of the Hindu family to avoid future disputes.



the document specifically. It is also prudent to mention the PAN in the title clause of certain documents as the requirement to mention the PAN of an individual in the document stems from various provisions of the Indian Income Tax Act, 1961, and the Income Tax Rules, 1962.

Section 139A (5) of the Income Tax Act mandates that every person must quote their PAN in all documents pertaining to transactions notified by the Central Board of Direct Taxes (CBDT). Rule 114C of the Income Tax Rules specifies the types of transactions where quoting of the PAN is mandatory. These transactions include the sale or purchase of immovable property, opening of a bank account, applying for a credit card, and many others.

Practical Implications: In practice, mentioning the PAN in the title clause of documents related to high-value transactions, such as property agreements, loan documents, and large financial investments, is essential for several reasons:

- i. **Compliance:** Ensures adherence to legal requirements under the Income Tax Act and Rules.
- ii. **Identification:** Helps in the accurate identification of parties involved in the transaction.
- iii. **Verification:** Facilitates easy verification by authorities to prevent fraud and tax evasion.
- iv. **Record-Keeping:** Aids in maintaining comprehensive records for future reference and audit purposes.

Examples of Documents Requiring PAN:

- i. **Sale Deed for Immovable Property:** As per Rule 114B, quoting PAN is mandatory for transactions involving the sale or purchase of immovable property exceeding ₹10 lakhs.



- ii. **Banking Transactions:** PAN must be mentioned for opening a bank account, making a fixed deposit exceeding ₹50,000, and applying for a credit card.
- iii. **Loan Agreements:** Financial institutions require PAN for sanctioning loans to ensure the creditworthiness and tax compliance of the borrower.

B. Aadhaar

Aadhaar, issued by the Unique Identification Authority of India (UIDAI), is a 12-digit unique identification number assigned to residents of India. While Aadhaar serves as a robust identification tool, its inclusion in various legal documents is subject to specific legal frameworks and guidelines to ensure privacy and security.

Legal Necessity of Mentioning Aadhaar / UIDAI Number: The requirement to mention the Aadhaar / UIDAI number in the title clause of a document is governed by the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, and the rules and regulations issued by the UIDAI.

Relevant Provisions:

- i. Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016:

Section 7: This section states that Aadhaar is necessary for receiving subsidies, benefits, or services funded by the Consolidated Fund of India. It mandates individuals to furnish their Aadhaar number for authentication or provide proof of application for Aadhaar enrolment.

Section 8: Specifies the conditions for authentication of Aadhaar numbers, ensuring that only authorised entities can request and use Aadhaar numbers for authentication purposes.



ii. Aadhaar (Authentication) Regulations, 2016:

Regulation 4: Mandates that requesting entities must ensure that Aadhaar numbers are collected, used, and stored securely and only for authorised purposes.

Practical Implications: While mentioning the Aadhaar / UIDAI number in title clauses of documents is not universally mandated, it is required in specific contexts to ensure compliance with legal requirements for subsidies, benefits, and certain financial transactions. However, the use of Aadhaar should be carefully considered to avoid unnecessary exposure and misuse.

Examples of Documents Where Aadhaar is Necessary:

- i. Government Subsidy Applications: Aadhaar is mandatory for receiving subsidies and benefits such as the Public Distribution System (PDS), LPG subsidies, and various social welfare schemes.
- ii. Financial Services: For certain financial transactions, such as opening a bank account under the Pradhan Mantri Jan Dhan Yojana (PMJDY) or obtaining a SIM card, Aadhaar may be required for Know Your Customer (KYC) compliance.
- iii. Income Tax Returns: Linking Aadhaar with PAN is mandatory for filing income tax returns as per Section 139AA of the Income Tax Act, 1961.

Privacy and Security Considerations: The Supreme Court of India, in its landmark judgment in the case of Justice K.S. Puttaswamy (Retd.) v. Union of India (2018), emphasised the need to protect individual privacy concerning Aadhaar. Key takeaways include:

- ii. Consent: Individuals must provide informed consent for using their Aadhaar number.



- iii. **Minimal Data:** Only the necessary information should be collected, ensuring minimal data exposure.
- iv. **Security Measures:** Adequate security measures must be in place to protect Aadhaar data from unauthorised access and misuse.

C. Legal Entity Identifier

The Legal Entity Identifier (LEI) is a 20-character alphanumeric code based on the ISO 17442 standard, developed to uniquely identify legally distinct entities that engage in financial transactions. Its primary purpose is to improve transparency in the global financial system, thereby enhancing the ability to manage and mitigate financial risks.

Indian Law and Practices⁹

In India, the Reserve Bank of India (RBI) has been instrumental in implementing LEI requirements. As part of its efforts to promote financial market integrity and stability, the RBI has mandated the use of LEI in several areas, including:

- 1. **Over-the-Counter (OTC) Derivatives Market:** As per RBI guidelines, all participants in the OTC derivatives market must obtain an LEI and report it for all transactions. This mandate helps in better monitoring and managing counterparty risks.
- 2. **Non-Derivative Markets:** The RBI has extended the LEI requirement to large corporate borrowers. Entities with an aggregate fund-based and non-fund-

⁹ **References** – The information is compiled from the Reserve Bank of India's, FAQ's, notifications and circulars on LEI requirements and the ISO 17442 standard on LEI. For more information and updates, you may visit the website of the Reserve Bank of India.



based exposure of ₹50 crore and above from banks and financial institutions must obtain an LEI.

3. **Large Value Transactions:** The RBI has further mandated LEIs for participants involved in transactions of ₹50 crore and above in centralized payment systems like Real Time Gross Settlement (RTGS) and National Electronic Funds Transfer (NEFT).
4. **Insurance and Capital Markets:** The Insurance Regulatory and Development Authority of India (IRDAI) and the Securities and Exchange Board of India (SEBI) are also considering the implementation of LEI for enhancing transparency in insurance and capital markets.

The implementation of LEI in India aligns with global practices and enhances the country's ability to monitor systemic risks and ensure compliance with international financial standards.

For more detailed information, refer to the official notifications from the Reserve Bank of India and other regulatory bodies.

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