

## **AGREEMENT**

- 1. Date:** \_\_\_\_\_
- 2. Place:** Kolkata
- 3. Parties**

- 3.1 **Shivpariwar Residency Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS3158G**)
- 3.2 **Roserise Properties Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCR2769E**)
- 3.3 **Siddha Real Estate Development Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at Siddha Park, 99A, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAJCS6830L**)
- 3.4 **Pradyumna Hirise Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCP8977Q**)
- 3.5 **Pradyumna Builders Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCP8966K**),
- 3.6 **Pradyumna Buildcon Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCP8969G**)
- 3.7 **Pradyumna Enclave Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCP8976R**)
- 3.8 **Pradyumna Complex Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCP8978B**)
- 3.9 **Pradyumna Nirman Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCP8971J**)
- 3.10 **Shivpariwar Complex Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS3157K**)
- 3.11 **Shivpariwar Hirise Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS3165K**)
- 3.12 **Pradyumna Residency Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCP8970K**)

- 3.13 **Shivbhakti Complex Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6856K**)
- 3.14 **Shivbhakti Housing Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6857J**)
- 3.15 **Shivbhakti Heights Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6845C**)
- 3.16 **Shivbhakti Enclave Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6853N**)
- 3.17 **Shivbhakti Nirman Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6844D**)
- 3.18 **Shivbhakti Infracon Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6847A**)
- 3.19 **Shivbhakti Projects Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6855L**)
- 3.20 **Roserise Builders Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCR2770M**)
- 3.21 **Roserise Developers Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCR2765J**)
- 3.22 **Roserise Complex Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCR2762R**)
- 3.23 **Roserise Housing Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCR2767L**)
- 3.24 **Roserise Heights Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCR2764K**)

3.25 **Roserise Enclave Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AAGCR2763O**)

3.26 **Shivbhakti Realestate Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at 2<sup>nd</sup> Floor, 109, Park Street, Kolkata-700016, Police Station Park Street (**PAN AASCS6860P**)

(collectively **Owners**, includes successors-in-interest)

**And**

3.27 \_\_\_\_\_, son of \_\_\_\_\_, residing at \_\_\_\_\_ (**PAN** \_\_\_\_\_)

**3.28** \_\_\_\_\_, son of \_\_\_\_\_, residing at \_\_\_\_\_ (**PAN** \_\_\_\_\_)

(collectively **Purchasers**, includes successors-in-interest).

Owners and Purchasers collectively **Parties** and individually **Party**.

**NOW THIS AGREEMENT WITNESSES, RECORDS, BINDS AND GOVERNS THE CONTRACTUAL RELATIONSHIP BETWEEN THE PARTIES AS FOLLOWS:**

#### **4. Subject Matter of Agreement**

4.1 **Said Flat And Appurtenances:** Terms and conditions for transfer of:

4.1.1 **Said Flat:** Residential Flat No. \_\_\_\_\_, on \_\_\_\_\_ floor, having super built-up area of approximately \_\_\_\_\_ (\_\_\_\_\_) square feet, described in **Part I** of the **2<sup>nd</sup> Schedule** below (**Said Flat**), in the proposed building named **Siddha Nirvana (Said Building)**, at Municipal Premises No.39 (formed by amalgamation of 39 and 39/1), Paddapukur Road, Kolkata-700020, Police Station Ballygunge, described in the **1<sup>st</sup> Schedule** below (**Said Premises**).

4.1.2 **Parking Space:** The right to park \_\_\_\_\_ (\_\_\_\_\_) medium sized car in the covered area on the ground floor of the Said Premises, described in **Part II** of the **2<sup>nd</sup> Schedule** below (**Parking Space**).

4.1.3 **Land Share:** Undivided, impartible, proportionate and variable share in the land comprised in the Said Premises as is attributable to the Said Flat (**Land Share**). The Land Share is/shall be derived by taking into consideration the proportion which the super built-up area of the Said Flat bears to the total super built-up area of the Said Building.

4.1.4 **Share In Common Portions:** Undivided, impartible, proportionate and variable share and/or interest in the common areas, amenities and facilities of the Said Building as is attributable to the Said Flat (**Share In Common Portions**), the said common areas, amenities and facilities being described in the **3<sup>rd</sup> Schedule** below (collectively **Common Portions**). The Share In Common Portions is/shall be derived by taking

into consideration the proportion which the super built-up area of the Said Flat bears to the total super built-up area of the Said Building.

The Said Flat, the Parking Space, the Land Share and the Share In Common Portions, collectively described in **Part III** of the **2<sup>nd</sup> Schedule** below (collectively **Said Flat And Appurtenances**).

## **5. Background**

- 5.1 **Absolute Ownership:** The Owners have represented to the Purchasers that the Owners are the joint owners of the Said Premises, free from all encumbrances and the Owners are in peaceful possession thereof.
- 5.2 **Sanctioned Plans:** With the intention of developing the Said Premises by constructing the Said Building and also constructing a separate ground + 2 storied building (**Other Building**) thereon (the Said Building and the Other Building collectively **Said Complex**) and selling the flats/office spaces and other covered and open spaces therein (collectively **Units**), the Owners have got a building plan sanctioned by the Kolkata Municipal Corporation (**KMC**) (**Sanctioned Plans**, which includes all sanctioned/permissible modifications made thereto, if any, from time to time).
- 5.3 **Lead Co-Owner:** For convenience of operation and handling of day to day management of construction of the Said Complex, the Owners (separately and individually to the extent of their respective share/interest in the Said Premises) entrusted the work of such construction and management to one among them, namely, Siddha Real Estate Development Private Limited (**Lead Co-Owner**), on the terms and conditions recorded in an agreement dated 8<sup>th</sup> August, 2014 (**Said Agreement**).
- 5.4 **Application and Allotment to Purchasers:** The Purchasers have applied to the Owners for purchase of the Said Apartment And Appurtenances and the Owners have allotted the same to the Purchasers conditional upon the Purchasers entering into this Agreement.
- 5.5 **Agreement to Record:** Pursuant to the aforesaid application made by the Purchasers and the allotment made by the Owners, this Agreement is being entered into between the Owners and the Purchasers to record the conclusive and comprehensive terms and conditions (superseding all previous documents and understandings) for sale of the Said Flat And Appurtenances by the Owners to the Purchasers.

## **6. Conditions Precedent**

- 6.1 **Acceptance of Conditions Precedent:** The Parties have accepted and agreed that the following are and shall be the conditions precedent to this Agreement:
- 6.1.1 **Development of Said Premises:** The Owners intend to progressively and if so desired by the Owners, separately, develop the entirety of the Said Premises/the Said Complex/the Said Building/the Other Building and the Purchasers hereby accept the same and shall not, under any circumstances, raise any objection or hindrance thereto.
- 6.1.2 **Financial and Other Capacity of Purchasers:** The undertaking of the Purchasers to the Owners that the Purchasers have the financial and other resources to meet and comply with all financial and other obligations under this Agreement, punctually.

- 6.1.3 **Satisfaction of Purchasers:** The undertaking of the Purchasers to the Owners that the Purchasers are acquainted with, fully aware of and are thoroughly satisfied about the title of the Owners to the Said Premises, rights of the Lead Co-Owner under the Said Agreement, the Sanctioned Plans, all the background papers, the right of the Owners to enter into this Agreement, the scheme of development described in this Agreement and also described in the Said Agreement and the extent of the rights being granted in favour of the Purchasers and the negative covenants mentioned in this Agreement and the Purchasers hereby accept the same and shall not raise any objection with regard thereto.
- 6.1.4 **Measurement:** The super built up area of the Said Flat is approximately 2035 (two thousand and thirty five) square feet. On completion of construction of the Said Flat, Messieurs Agrawal & Agrawal (**Architect**) shall certify the built up area of the Said Flat and the same shall not be challenged by any of the Parties. The Purchasers hereby accept the above and shall not raise any objection with regard thereto.
- 6.1.5 **Rights Confined to Said Flat And Appurtenances:** The undertaking of the Purchasers to the Owners that the right, title and interest of the Purchasers are confined only to the Said Flat And Appurtenances and the Owners are entitled to deal with and dispose off all other portions of the Said Premises, the Said Building and the Other Building to third parties at the sole discretion of the Owners, to which the Purchasers, under no circumstances, shall be entitled to raise any objection.
- 6.1.6 **Covenants:** The mutual agreement and acceptance by and between the Parties that (1) the covenants of the Purchasers (**Purchasers' Covenants**) and the covenants of the Owners (**Owners' Covenants**) as mentioned in Clause 10 and its various sub-clauses below shall perpetually run with the land (2) the Purchasers' Covenants and the Owners' Covenants (collectively **Covenants**) shall bind them and their successors-in-title or interest and (3) this Agreement is based on the undertaking that the Purchasers' Covenants and the Owners' Covenants shall be strictly performed by the Purchasers and the Owners, respectively.
- 6.1.7 **Common Portions Subject to Change:** The mutual agreement and acceptance by and between the Parties that although the Common Portions are described in the **3<sup>rd</sup> Schedule** below, the said description is only indicative and is not intended to bind the Owners in any manner. The Owners shall, in the absolute discretion of the Owners, be entitled to modify or improvise upon the Common Portions and the Purchasers shall not have any claim, financial or otherwise, against the Owners for such modification or improvisation.
- 6.1.8 **Extension/Addition of Project:** The undertaking of the Purchasers to the Owners that notwithstanding anything contained in this Agreement, the Purchasers have no objection and shall under no circumstances have any objection to the Owners (1) integrating/adding (notionally or actually) the Other Building to the Said Premises and for this purpose, demolishing boundary walls and affixing gates wherever necessary and connecting existing roads to future roads (2) extending, modifying and realigning the extent, area, layout and location of the Said Building/the Other Building/the Said Premises including the Common Portions (3) modifying the Sanctioned Plans, as may be necessary in this regard and (4) granting all forms of unfettered and perpetual proportionate right of ownership and use over the Common Portions to the transferees of the Other Building (**Other Building Owners**) and/or to any other person/entity.

It is clearly understood by the Purchasers that the Purchasers shall not have any right to erect any wall/boundary wall on the Said Premises.

- 6.1.9 **Use of Brand Name:** The undertaking of the Purchasers to the Owners that notwithstanding anything contained in this Agreement, the Purchasers understand and accept that the name Siddha is a registered trade mark/service mark and hence the Purchasers shall not use the name Siddha in any form or manner, in any medium, for any purpose or reason whatsoever and if Purchasers do so, the Purchasers shall be liable to pay damages and shall further be liable for prosecution for use/misuse of brand name Siddha.

The Purchasers further undertake that in consideration of the Owners agreeing to sell the Said Flat And Appurtenances to the Purchasers, the Purchasers have accepted the above conditions and have granted and shall be deemed to have granted to the Owners, the Other Building Owners and all successors-in-interest/title unfettered and perpetual easements over, under and above all Common Portions comprised in the Said Building, with right to connect the same to the Other Building.

## 7. Commencement and Validity

- 7.1 **Date of Commencement:** This Agreement has commenced and shall be deemed to have commenced on and with effect from the date mentioned at the beginning of this Agreement.
- 7.2 **Validity:** This Agreement shall remain in force till such time the Said Flat And Appurtenances is completed and possession thereof is delivered to the Purchasers, unless terminated in the manner mentioned in this Agreement.

## 8. Total Price, Payment and Extras

- 8.1 **Total Price:** The consideration for sale of the Said Flat, the Land Share and the Share In Common Portions is Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) **And** for the right to park in the Parking Space is Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_), aggregating to Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) (**collectively Total Price**), to be paid in full to the Owners, through Shivpariwar Residency Private Limited, being the Owner No. 3.1 in this Agreement, which the Parties confirm and accept. The Total Price has been fixed by mutual consent and hence it shall not be open to question by any Party **provided however** the Total Price shall vary proportionately in the manner mentioned in Clause 6.1.4 above and does not include the Extras (defined in Clause 8.4 below) and **provided further** that the Purchasers shall also be liable to pay the Service Tax as be applicable from time to time. In regard to the aforesaid it is clarified that the Owner Nos. 3.2 to 3.26 have expressly authorized the Owner No. 3.1 to receive (on behalf of itself and the Owner Nos. 3.2 to 3.26), the entirety of the consideration being paid under this Agreement and further the Owner Nos. 3.2 to 3.26 undertake not to raise any claim against the Purchasers on account of such consideration being exclusively received by the Owner No. 3.1.
- 8.2 **Payment of Total Price:** The Total Price shall be paid by the Purchasers in the manner mentioned in the chart below, time being the essence of contract. The Purchasers agree and covenant not to claim any right or possession over and in respect of the Said Flat And Appurtenances till such time the Purchasers have paid the entirety of the Total Price and the Extras and all other amounts agreed to be paid or deposited under this Agreement.

| Sl. | Payment Schedule                       | Amount   |
|-----|--|--|
| 1.  | On Booking                             | Rs. 11,00,000/- (Rupees eleven lac)            |
| 2.  | Within 7 days of booking               | 15% of total consideration less booking amount |
| 3.  | On Commencement of Piling              | 10% of total consideration                     |
| 4.  | On Ground Floor Slab Casting           | 10% of total consideration                     |
| 5.  | On 2 <sup>nd</sup> Floor Slab Casting  | 10% of total consideration                     |
| 6.  | On 4 <sup>th</sup> Floor Slab Casting  | 10% of total consideration                     |
| 7.  | On 6 <sup>th</sup> Floor Slab Casting  | 10% of total consideration                     |
| 8.  | On 8 <sup>th</sup> Floor Slab Casting  | 10% of total consideration                     |
| 9.  | On 10 <sup>th</sup> Floor Slab Casting | 10% of total consideration                     |
| 10. | On Brickwork of Said Unit              | 10% of total consideration                     |
| 11. | On Possession                          | 5% of total consideration                      |

- 8.3 **Notice for Payment:** On happening of each event mentioned in Sl. Nos. 3 to 11 of the chart above, the Owners shall give written notice (by email, if the Purchasers supply the Purchasers' email IDs) to the Purchasers (**Payment Notice**), quantifying the amount payable by the Purchasers. Within 15 (fifteen) days of the date of the Payment Notice, the Purchasers shall (unconditionally, without demur and without raising any dispute about service/receipt of the Payment Notice), pay the amount quantified in the Payment Notice, failing which the Purchasers shall be deemed to be in default and the consequences mentioned in Clause 11.1 shall follow. The Purchasers covenant that the Purchasers shall regularly and punctually make payment of the installments of the Total Price in the manner mentioned in the chart above and this Agreement is and shall be deemed to be sufficient notice to the Purchasers about the obligation to make payment. Timely payment of the Total Price and the Extras shall be the essence of the contract. If payments are made by negotiable instruments, the same shall be made payable at Kolkata and favouring **Shivpariwar Residency Private Limited** or such name as may be notified.
- 8.4 **Extras:** In addition to the Total Price, the Purchasers shall also pay to the Owner No. 3.1 (on behalf of itself and the Owner Nos. 3.2 to 3.26), as and when demanded by the Owner No.3.1 the following amounts (collectively **Extras**), proportionately or wholly (as the case may be) towards:
- 8.4.1 **Increase Due to Circumstances Of Force Majeure:** any increase and/or escalation in the cost of construction due to Circumstances Of Force Majeure (defined in Clause 15.1 below), proportionately.
- 8.4.2 **Special Amenities/Facilities:** providing any special amenities/facilities in the Common Portions (save and except those described in the **3<sup>rd</sup> Schedule** below) and improved specifications of construction of the Said Flat/the Said Building over and above the specifications described in the **4<sup>th</sup> Schedule** below (**Specifications**), proportionately.
- 8.4.3 **Common Expenses/Maintenance Charges:** common expenses/maintenance charges described in the **5<sup>th</sup> Schedule** below (**Common Expenses/Maintenance Charges**) @ Rs. 21/- (Rupees twenty one) plus service tax per square feet of the super built-up area of the Said Flat per month or as may be levied, payable from the Completion Date (defined in Clause 9.5 below), proportionately. It is clarified that for a period of 12 (twelve) months from the Completion Date, the Lead Co-Owner shall maintain or cause to be maintained the Said Complex through the Facility Manager



(defined in Clause 9.9 below). On the expiry of the said period of 12 (twelve) months, the supervision of maintenance shall be handed over by the Lead Co-Owner to a body of Unit owners of the Said Complex, which may be a syndicate, committee, body corporate, company or association under the West Bengal Apartment Ownership Act, 1972 (**Association**), if the Association becomes operational before expiry of the said period of 12 (twelve) months.

- 8.4.4 **KMC Tax:** a lump sum amount of Rs. 50,000/- (Rupees fifty thousand) is payable on the Date Of Possession (defined in Clause 9.6.2 below) towards estimated KMC tax liability in respect of the Said Flat till such time mutation of the Said Flat and Appurtenances is done in the name of Purchasers.
- 8.4.5 **Main Electricity Meter:** obtaining HT/LT electricity supply from the supply agency, @ Rs. 40/- (Rupees forty) per square feet of the super built-up area of the Said Flat. If the amount is more than Rs. 40/- (Rupees forty) per square feet, co-owner of each Unit shall pay a proportionate share of the differential amount, at actual. This does not include cost and charges for CESC connection to the Said Flat, which has also to be borne by the Purchasers.
- 8.4.6 **Betterment Fees:** betterment or other levies that may be charged/imposed by any government authorities or statutory bodies on the Said Premises or the Said Flat And Appurtenances or its transfer in terms hereof, proportionately.
- 8.4.7 **Taxes:** Service Tax, Works Contract Tax, Value Added Tax or any other tax and imposition levied by the State Government, Central Government or any other authority or body on the Owners, from time to time, proportionately, if levied as a whole on the Said Building and wholly, if levied specifically on the Said Flat And Appurtenances.
- 8.4.8 **Electricity Meter for Said Flat:** security deposit and all other billed charges of the supply agency for providing electricity meter to the Said Flat, at actual.
- 8.4.9 **Electricity Meter for Common Portions:** security deposit and all other billed charges of the supply agency for providing electricity meter to the Common Portions, proportionately.
- 8.4.10 **Legal Fees, Stamp Duty and Registration Costs:** fees of Messieurs Saha & Ray, Advocates (**Legal Advisors**), who have drawn this Agreement and shall draw all further documents. The fee is Rs. 1,50,000/- (Rupees one lac and fifty thousand). 50% (fifty percent) of the fee shall be paid simultaneously herewith and the balance 50% (fifty percent) shall be paid on the Date Of Possession (defined in Clause 9.6.2 below) or date of conveyance, whichever is earlier. Stamp duty, registration fees, fixed miscellaneous expenses of Rs. 5,000/- (Rupees five thousand) for registration and all other fees and charges, if any, shall be borne by the Purchasers and paid 15 (fifteen) days prior to the date of registration. The fee and costs shall be paid to the Lead Co-Owner, who shall do all accounting with the Legal Advisors.
- 8.4.11 **Generator:** stand-by power provision to the Said Flat from diesel generators @ Rs. 25,000/- (Rupees twenty five thousand) per KVA. It is clarified that (1) at the appropriate time, the Owners shall give notice of demand assessment for stand-by power to the Purchasers (2) within 15 (fifteen) days from the date of the said notice of demand assessment, the Purchasers shall intimate to the Owners the stand-by power provision required by the Purchasers [in multiples of 1 (one) KVA] and (3) subject to

feasibility, the Owners shall allot the required stand-by power provision to the Purchasers, upon the Purchasers making payment for the same.

8.4.12 **Increase in Total Price:** any increase in the Total Price due to increase in measurement of the Said Flat, at the rate at which the Total Price has been computed, wholly.

8.4.12 **Internal Layout Change:** any internal change made in the layout of the Said Flat before the obtaining of the Completion Certificate from the KMC, which shall attract actual charges as may be levied by the KMC.

## 9. Construction, Completion of Sale and Facility Manager

9.1 **Construction by Lead Co-Owner:** The Lead Co-Owner shall construct, complete and finish the Said Flat And Appurtenances in accordance with the Sanctioned Plans or as may be recommended by the Architect, as per the Specifications described in the **4<sup>th</sup> Schedule** below. The decision of the Architect in all regards including quality and workmanship shall be final and binding on the Parties.

9.2 **Quality, Workmanship and Acceptance of Variations etc.:** The decision of the Architect regarding quality, workmanship and variations shall be final and binding on the Parties. The Purchasers hereby consent to the variations, modifications or alterations as may be recommended by the Architect and hereby further agrees not to raise any objection to the Lead Co-Owner and/or the Architect making such variations, modifications or alterations.

9.3 **No Hindrance:** The Purchasers shall not do any act, deed or thing whereby the construction/developmental work of the Said Flat And Appurtenances and/or the Said Building and/or the Other Building and/or the Said Premises is in any way hindered or impeded. The Purchasers hereby accept the above and shall not raise any objection with regard thereto.

9.4 **Basic Duty of Purchasers:** The Purchasers shall make all payments and perform all obligations as stipulated in this Agreement and the Purchasers shall not, in any way, commit breach of the terms and conditions herein contained.

9.5 **Completion Date:** The Lead Co-Owner shall construct, finish and make the Said Flat habitable and the Parking Space usable [(1) in bare condition and (2) as per the Specifications, the decision of the Architect in this regard being final and binding], within 36 (thirty six) months from the date of commencement of construction (**Completion Date**) **provided however** the Completion Date may be extended by a period of 6 (six) months (**Extended Period**) at the option of the Lead Co-Owner. The Owners/the Lead Co-Owner shall neither incur any liability nor be held liable for claim of any amount by the Purchasers, if the Lead Co-Owner is unable to deliver possession of the Said Flat within the Completion Date and/or the Extended Period due to Circumstances Of Force Majeure (defined in Clause 15.1 below) or for or on account of (1) delay on the part of the Purchasers in making any payment and (2) any other reasonable cause whereby the Lead Co-Owner is prevented from completing the Said Flat And Appurtenances or any portion thereof. In no event shall the Purchasers be entitled to claim any amount from the Owners on account of consequential losses and damages or otherwise if the Said Flat And Appurtenances is not completed within the Completion Date and/or the Extended Period.

- 9.6 **Possession of Said Flat and Parking Space:** Upon construction, finishing and making the Said Flat habitable and the Parking Space, if any, usable, the Owners shall hand over possession of the same to the Purchasers. With regard to possession, it is clarified as follows:
- 9.6.1 **All Payments Before Possession:** Before the delivery of possession, the Purchasers shall pay to the Owner No. 3.1 (on behalf of itself and the Owner Nos. 3.2 to 3.26) all amounts due and payable towards the Total Price and the Extras and the Purchasers shall not claim possession of the Said Flat And Appurtenances till the Total Price and the Extras are paid in full.
- 9.6.2 **Possession Notice and Date Of Possession:** On the Completion Date (which may include the Extended Period), the Owners shall serve a notice on the Purchasers (**Possession Notice**) calling upon the Purchasers to take possession. Within 15 (fifteen) days from the date of the Possession Notice, the Purchasers shall be bound to take over physical possession of the Said Flat, after fulfilling all obligations under this Agreement, including payment of all amounts due to the Owners under this Agreement, failing which it shall be deemed that the Purchasers have taken possession on the 16<sup>th</sup> day of the date of the Possession Notice (date of actual or deemed possession, **Date Of Possession**). In case the deeming provision comes into force, the Purchasers confirm that the Purchasers shall not claim to be in physical possession of the Said Flat but nevertheless shall become liable to pay all outgoings relating to the Said Flat And Appurtenances (such as Common Expenses/Maintenance Charges and KMC Tax) and physical possession of the Said Flat And Appurtenances shall be received by the Purchasers only upon clearing all dues and performing all obligations under this Agreement.
- 9.6.3 **Meaning of Completion:** It shall not be obligatory for the Lead Co-Owner to complete the Common Portions in all respects before handing over the Said Flat to the Owners and/or the Owners giving the Possession Notice to the Purchasers and the Said Flat shall be deemed to have been completed in all respect if the same is made fit for habitation [(1) in bare condition and (2) as per the Specifications, the decision of the Architect in this regard being final and binding].
- 9.6.4 **Complete Satisfaction on Possession:** On the Date Of Possession, the Purchasers shall be deemed to be completely satisfied with all aspects of the Said Flat And Appurtenances, including the measurement of the Said Flat.
- 9.6.5 **Commencement of Outgoings:** From the Completion Date, all outgoings in respect of the Said Flat And Appurtenances, including KMC tax, surcharge, land revenue, levies, cess etc. (collectively **Rates & Taxes**) and Common Expenses/Maintenance Charges shall become payable by the Purchasers.
- 9.7 **Lead Co-Owner's Obligations:** Subject to the Purchasers making payment of the Total Price, Extras and other charges in the manner stipulated in this Agreement, the Lead Co-Owner hereby agrees:
- 9.7.1 **Construction of Said Flat:** to construct, finish and make the Said Flat habitable and the Parking Space, if any, usable.
- 9.7.2 **Construction According to Specifications:** subject to the other provisions of this Agreement, to construct and finish the Said Flat and the Parking Space, if any, in

accordance with the Sanctioned Plans and Specifications, reasonable variations excepted.

- 9.7.3 **Arrangement for Utilities for Construction Work:** to make own arrangement for water and electricity required for construction. It is clarified that when the Lead Co-Owner extends the Said Premises by integrating/adding the Other Building as mentioned in Clause 6.1.8 above, the Purchasers shall not have/raise any objection to the Lead Co-Owner using the water and electricity connection from the Said Premises for construction/developmental work of the Other Building.
- 9.8 **Completion of Sale:** The sale of the Said Flat And Appurtenances shall be completed by execution and registration of conveyance in favour of the Purchasers provided the Purchasers tender in time all amounts required for the same as mentioned above. The Legal Advisors shall draft the standard conveyance and only such standard conveyance shall be used. The Purchasers shall be bound to take conveyance of the Said Flat And Appurtenances on or before the Date Of Possession, failing which exclusive physical possession of the Said Flat And Appurtenances shall not be delivered to the Purchasers (although the Purchasers shall become liable for Maintenance Charge and Rates & Taxes from the Date Of Possession Notice) and in addition, all statutory taxes and penalties shall also be borne and paid by the Purchasers.
- 9.9 **Facility Manager:** The Lead Co-Owner may hand over management and upkeep of all Common Portions of the Said Building/Other Building to a professional facility management organization (**Facility Manager**). In this regard, it is clarified that (1) the Facility Manager shall operate, manage and render specified day to day services with regard to the Common Portions (2) the Facility Manager shall levy and collect the Common Expenses/Maintenance Charges (3) the Purchasers shall be bound to pay the Common Expenses/Maintenance Charges and Rates & Taxes to the Facility Manager (4) the Facility Manager, being a professional commercial organization, will not be required to render any accounts to the Purchasers and it shall be deemed that the Facility Manager is rendering the specified services to the Purchasers for commercial considerations (5) the ownership of the Common Portions (subject to the terms of this Agreement) shall vest in all the Unit owners of the Said Building and the Other Building, through the Association and the Facility Manager shall merely be the service provider for rendition of specified services with regard to the Common Portions and (6) the Facility Manager may be replaced by the consent of 80% (eighty percent) or more of the Unit owners of the Said Building and the Other Building

## 10. Covenants

- 10.1 **Purchasers' Covenants:** The Purchasers covenant with the Owners and the Lead Co Owner [which expression includes the Association and the Apex Body (if any) in all Sub-Clauses of Clause 10, wherever applicable] and admits and accepts that:
- 10.1.1 **Purchasers Aware of and Satisfied with Common Portions and Specifications:** The Purchasers, upon full satisfaction and with complete knowledge of the Common Portions, Specifications and all other ancillary matters, are entering into this Agreement. The Purchasers have examined and are acquainted with the Said Building/Said Complex/Said Premises and have agreed that the Purchasers shall neither have nor shall claim any right over any portion of the Said Building/Said Premises **save and except** the Said Flat And Appurtenances.
- 10.1.2 **Purchasers to Mutate and Pay Rates & Taxes:** The Purchasers shall (1) pay the Rates & Taxes (proportionately for the Said Building and wholly for the Said Flat And

Appurtenances, from the Completion Date and until the Said Flat And Appurtenances is separately mutated and assessed in favour of the Purchasers), on the basis of the bills to be raised by the Lead Co-Owner/Facility Manager/Association (upon formation), such bills being conclusive proof of the liability of the Purchasers in respect thereof and (2) cooperate in having mutation completed at the earliest. The Purchasers further admit and accept that the Purchasers shall not claim any deduction or abatement in the bills of the Lead Co-Owner or the Association (upon formation).

- 10.1.3 **Purchasers to Pay Maintenance Charge:** The Purchasers shall pay the Maintenance Charge on the basis of the bills to be raised by the Lead Co-Owner/the Facility Manager/the Association (upon formation), such bills being conclusive proof of the liability of the Purchasers in respect thereof. The Purchasers further admit and accept that (1) the Purchasers shall not claim any deduction or abatement in the bills relating to Maintenance Charge and (2) the Maintenance Charge shall be subject to variation from time to time, at the sole discretion of the Lead Co-Owner/the Facility Manager/the Association (upon formation).
- 10.1.4 **Purchasers to Pay Interest for Delay and/or Default:** The Purchasers shall, without raising any objection in any manner whatsoever and without claiming any deduction or abatement whatsoever, pay all bills raised by the Lead Co-Owner/the Facility Manager/the Association (upon formation) as mentioned in Clauses 10.1.2 and 10.1.3 above, within 7 (seven) days of presentation thereof, failing which the Purchasers shall pay compound interest @ 2% (two percent) per month or part thereof (compoundable monthly), from the date of default till the date of payment, to the Lead Co-Owner /the Facility Manager/the Association (upon formation), as the case may be. The Purchasers also admit and accept that in the event such bills remain outstanding for more than 2 (two) months, all common services shall be discontinued to the Purchasers and the Purchasers shall be disallowed from using the Common Portions.
- 10.1.5 **Owners' Charge/Lien:** The Owners shall have first charge and/or lien over the Said Flat And Appurtenances for all amounts due and payable by the Purchasers under this Agreement **provided however** if the Said Flat And Appurtenances is purchased with assistance of a financial institution, then such charge/lien of the Owners shall stand extinguished on the financial institution clearing all dues of the Owners.
- 10.1.6 **No Obstruction by Purchasers to Further Construction:** The Owners shall be entitled to construct further floors on and above the top roof of the Said Building and/or be entitled to construct the Other Building and/or make other constructions elsewhere on the Said Premises and the Purchasers shall not obstruct or object to the same notwithstanding any inconveniences that may be suffered by the Purchasers due to and arising out of the said construction/developmental activity. The Purchasers also admit and accept that the Owners' and/or employees and/or agents and/or contractors of the Owners shall be entitled to use and utilize the Common Portions for movement of building materials and for other purposes and the Purchasers shall not raise any objection in any manner whatsoever with regard thereto.
- 10.1.7 **No Rights of or Obstruction by Purchasers:** The Owners shall have absolute right to sell, transfer and/or otherwise deal with and dispose off all open areas in the Said Premises or any part thereof which do not form part of the Common Portions within the meaning of this Agreement.
- 10.1.8 **Variable Nature of Land Share and Share In Common Portions:** The Purchasers fully comprehend and accept that (1) the Land Share and the Share In

Common Portions is a notional proportion that the Said Flat bears to the currently proposed area of the Said Building (2) if the area of the Said Building is recomputed by the Owners or if the Owners integrate/add (notionally or actually) the Other Building to the Said Premises (which the Owners shall have full right to do and which right is hereby unconditionally accepted by the Purchasers), then and in such event, the Land Share and the Share In Common Portions shall vary accordingly and proportionately and the Purchasers shall not question any variation (including diminution) therein (3) the Purchasers shall not demand any refund of the Total Price paid by the Purchasers on the ground of or by reason of any variation of the Land Share and/or the Share In Common Portions and (4) the Land Share and the Share In Common Portions are not divisible and partible and the Purchasers shall accept (without demur) the proportionate share with regard to various matters, as be determined by the Owners, in their absolute discretion.

10.1.9 **Purchasers to Participate in Formation of Association:** The Purchasers admit and accept that the Purchasers and other co-owners of Units in the Said Building and the Other Building shall participate in formation of the Association and the Purchasers shall become a member thereof. The Purchasers shall bear and pay the proportionate expenses of running the Association and shall acquire and hold membership with voting rights and in this regard the Purchasers shall sign, execute and deliver necessary applications and all other papers, declarations and documents as may be required. Notwithstanding formation of the Association, the Facility Manager shall look after the maintenance of the Common Portions of the Said Building, the Other Building and the Said Premises. The co-owners of Units will be entitled to cast a vote irrespective of his/her/its size of their respective Unit.

10.1.10 **Obligations of the Purchasers:** The Purchasers shall:

- (a) **Co-operate in Management and Maintenance:** co-operate in the management and maintenance of the Said Building, the Other Building, the Said Premises and the Common Portions by the Lead Co-Owner /the Facility Manager/the Association (upon formation), as applicable.
- (b) **Observing Rules:** observe the rules framed from time to time by the Lead Co-Owner /the Facility Manager/the Association (upon formation) for the beneficial common enjoyment of the Said Building, the Said Premises, the Common Portions.
- (c) **Paying Electricity Charges:** pay for electricity and other utilities consumed in or relating to the Said Flat And Appurtenances and the Common Portions.
- (d) **Meter and Cabling:** be obliged to draw the electric lines/wires, television cables, broadband data cables and telephone cables to the Said Flat only through the ducts and pipes provided therefore, ensuring that no inconvenience is caused to the Owners or to the other Unit owners. The Purchasers shall under no circumstances be entitled to affix, draw or string wires, cables or pipes from, to or through any part or portion of the Said Building, the Said Premises and outside walls of the Said Building save in the manner indicated by the Lead Co-Owner/the Facility Manager/the Association (upon formation). The main electric meter shall be installed only at the common meter space in the Said Premises. The Lead Co-Owner shall endeavor to provide DTH connection with cabling but set top boxes shall have to be purchased by the Purchasers.

- (e) **Residential Use:** use the Said Flat for residential purpose only. Under no circumstances shall the Purchasers use or allow the Said Flat to be used for commercial, industrial or other non-residential purposes. The Purchasers shall also not use or allow the Said Flat to be used as a religious establishment, hotel, guesthouse, serviced apartment, mess, chummary, hostel, boarding house, restaurant, nursing home, club, school or other public gathering place.
- (f) **Maintenance of Said Flat:** repair, clean and maintain water, light, power, sewage, telephone, air conditioners, sanitary installations, doors, windows, glass panes etc. inside the Said Flat at the cost of the Purchasers.
- (g) **Use of Common Toilets:** ensure that the domestic help/service providers visiting the Said Flat use only the common toilets and while so using, keep the common toilets clean and dry.
- (h) **Use of Spittoons/Dustbins:** use the spittoons/dustbins located at various places.
- (i) **No Alteration:** not alter, modify or in any manner change the (1) elevation and exterior colour scheme of the Said Flat and the Said Building and (2) design and/or the colour scheme of the windows, grills and the main door of the Said Flat. In the event the Purchasers make any alterations/changes, the Purchasers shall compensate the Owners and the Owners shall reimburse the same to the Lead Co Owner /the Association (upon formation), as the case may be, as estimated by the Lead Co-Owner /the Association (upon formation) for restoring it to its original state.
- (j) **No Structural Alteration And Prohibited Installations:** not alter, modify or in any manner change the structure or any civil construction in the Said Flat And Appurtenances or the Common Portions or the Said Building. The Purchasers shall not install any dish-antenna on the balcony and/or windows of the Said Building/Other Building and/or on any external part of the Said Building/ Other Buildingand/or the roof thereof. The Purchasers shall not install grills on the railings of the balcony and/or outside the windows, in any form or manner. Grills may only be installed by the Purchasers on the inner side of the doors and windows of the Said Flat. The Purchasers shall further install such type of air-conditioners (window or split) and at such places, as be specified and prescribed by the Lead Co-Owner, it being clearly understood by the Purchasers that no out-door units of split air-conditioners will be installed on the external walls of the Said Building and no window air-conditioners will be installed by cutting open any wall. If split air-conditioners are specified and prescribed to be installed, the Purchasers shall install the out-door unit of the same either inside the Purchasers' own balcony or on common ledge provided for the same, in which case the out-door unit will be installed only on such ledge and at no other place. The Purchasers shall also not install any collapsible gate on the main door/entrance of the Said Flat. The Purchasers accept that the aforesaid covenants regarding grills, air-conditioners, collapsible gates etc. are for maintaining uniformity and aesthetic beauty of the Said Premises, which is beneficial to all.
- (k) **No Sub-Division:** not sub-divide the Said Flat And Appurtenances and the Common Portions, under any circumstances.

- (l) **No Changing Name:** not change/alter/modify the names of the Said Building/ Other Building from that mentioned in this Agreement.
- (m) **No Nuisance and Disturbance:** not use the Said Flat or the Common Portions or the Parking Space or permit the same to be used in such manner or commit any act, which may in any manner cause nuisance or annoyance to other occupants of the Said Building/Other Building and/or the neighboring properties and not make or permit to be made any disturbance or do or permit anything to be done that will interfere with the rights, comforts or convenience of others.
- (n) **No Storage:** not store or cause to be stored and not place or cause to be placed any goods, articles or things in the Common Portions.
- (o) **No Obstruction to Lead Co-Owner /Facility Manager /Association:** not obstruct the Lead Co-Owner/Facility Manager/Association (upon formation) in their acts relating to the Common Portions and not obstruct the Owners in constructing on other portions of the Said Building and/or the Said Premises and/or the Other Building and selling or granting rights to any person and/or the Other Building Owners on any part of the Said Building/Said Premises.
- (p) **No Obstruction of Common Portions:** not obstruct the pathways and passages of the Common Portions or use the same for any purpose other than for ingress to and egress from the Said Flat and the Parking Space.
- (q) **No Violating Rules:** not violate any of the rules and/or regulations laid down by the Lead Co-Owner /the Facility Manager/Association (upon formation) for the use of the Common Portions.
- (r) **No Throwing Refuse:** not throw or accumulate or cause to be thrown or accumulated any dust, rubbish or other refuse in the Common Portions **save** at the places indicated therefor.
- (s) **No Injurious Activities:** not carry on or cause to be carried on any obnoxious or injurious activity in or through the Said Flat, the Parking Space, the Said Building, the Common Portions, the Other Building, the Said Premises, including but not limited to acts of vandalism, putting up posters and graffiti etc.
- (t) **No Storing Hazardous Articles:** not keep or store any offensive, combustible, obnoxious, hazardous or dangerous articles in the Said Flat, the Parking Space, the Said Building, the Other Building, the Common Portions and the Said Premises.
- (u) **No Signage:** not put up or affix any sign board, name plate or other things or other similar articles in the Common Portions or outside walls of the Said Flat/Said Building/Said Premises **save** at the place or places provided therefor **provided that** this shall not prevent the Purchasers from displaying a standardized name plate outside the main door of the Said Flat.



- (v) **No Floor Damage:** not keep any heavy articles or things that are likely to damage the floors or install and operate any machine or equipment **save** usual home appliances.
- (w) **No Installing Generator:** not install or keep or run any generator in the Said Flat and the Parking Space.
- (x) **No Misuse of Water:** not misuse or permit to be misused the water supply to the Said Flat.
- (y) **No Damage to Common Portions:** not damage the Common Portions in any manner and if such damage is caused by the Purchasers or the family members, invitees, servants, agents or employees of the Purchasers, the Purchasers shall compensate for the same.
- (z) **No Hanging Clothes:** not hang or cause to be hung clothes from the balconies of the Said Flat.
- (aa) **No Smoking in Public Place:** not smoke in public places of the Said Building/Other Building/Said Premises and the Purchasers and his/her/its guests shall not throw empty cigarette cartons, cigarette butts and matchboxes in open spaces but shall dispose them off in dustbins after ensuring that the fire is fully smothered/extinguished.
- (ab) **No Plucking Flowers:** not pluck flowers or stems from the gardens.
- (ac) **No Littering:** not throw or allow to be thrown litter in the Said Building/Other Building/Said Premises.
- (ad) **No Trespassing:** not trespass or allow to be trespassed over lawns and green plants within the Said Building/Other Building/Said Premises.
- (ae) **No Overloading Lifts:** not overload the passenger lifts and move goods only through the staircase of the Said Building/Other Building.
- (af) **No Use of Lifts in Case of Fire:** not use the lifts in case of fire.
- (ag) **No Covering of Common Portions etc.:** not cover the Common Portions, fire exits and balconies/terraces (if any) of the Said Flat.

10.1.11 **Notification Regarding Letting:** If the Purchasers let out or sell the Said Flat And Appurtenances, the Purchasers shall immediately notify the Owners/Facility Manager/the Association (upon formation)/the Apex Body (upon formation) of the tenant's address and telephone number.

10.1.12 **No Objection to Construction:** Notwithstanding anything contained in this Agreement, the Purchasers have accepted the scheme of the Owners to construct the Said Building/Other Building in phases and to construct on other portions of the Said Premises and hence the Purchasers have no objection to the continuance of construction in the Said Building/ Other Building/ other portions of the Said Premises, even after the Date Of Possession. The Purchasers shall not raise any objection to any inconvenience that may be suffered by the Purchasers due to and arising out of the said construction activity.

- 10.1.14 **Roof Rights:** A demarcated portion of the top roof of the Said Building shall remain common to all Owners of the Said Building (**Common Roof**) and all common installations such as water tank and lift machine room shall be situated in the Common Roof. The balance of the top roof of the Said Building shall belong to the Owners with unfettered right of exclusive transfer and the Purchasers specifically agree not to do any act, which prevents or hinders such right of transfer. Notwithstanding the demarcation of the top roof of the Said Building as aforesaid, the Owners shall always have the right of further construction on the entirety of the top roof and the Purchasers specifically agree not to do any act which prevents or hinders such construction. After such construction, the roof above such construction shall again have a Common Roof for common use of all Unit owners of the Said Building.
- 10.2 **Owners' Covenants:** The Owners covenants with the Purchasers and admits and accepts that:
- 10.2.1 **Completion of Transfer:** The transfer of the Said Flat And Appurtenances shall be completed by the Owners by executing a Deed of Conveyance in favour of the Purchasers, provided the Purchasers pay all amounts required for the same.
- 10.2.3 **No Creation of Encumbrance:** The Owners shall not create any charge, mortgage, lien and/or shall not sell, transfer, convey and/or enter into any agreement with any person other than the Purchasers in respect of the Said Flat And Appurtenances, subject to the Purchasers fulfilling all terms, conditions and obligations of this Agreement.
- 10.2.4 **Documents:** The Lead Co-Owner shall provide to the Purchasers copies of all available documents.

## **11. Termination and its Effect**

- 11.1 **Breach of Purchasers' Covenants:** In the event the Purchasers (1) fail to make payment of the Total Price, Extras and other charges, or (2) fail to perform the obligations on the part of the Purchasers to be performed in terms of this Agreement or (3) neglects to perform any of the Purchasers' Covenants, this Agreement shall, at the option of the Owners, stand cancelled and/or rescinded, upon which the Owners, as the case may be, shall refund to the Purchasers all payments received till that date, without any interest, after deducting 20% (twenty percent) of the Total Price. In the event the Owners condone the delay of any payment due under this Agreement, the Purchasers shall be liable to pay interest @ 18 % (eighteen percent) per annum for the period of delay (computed from the date the payment became due till the date of payment) on all amounts due and outstanding. However, such right to condone is exclusively vested in the Owners and the Purchasers shall not be entitled to claim the same as a matter of right.
- 11.2 **Breach of Owners' Covenants:** Without prejudice to the provisions of Clause 9.5 above, in the event the Owners fail and/or neglect to perform any of the Owners' Covenants, this Agreement shall, at the option of the Purchasers, stand cancelled and/or rescinded, upon which the Owners shall refund to the Purchasers all payments received till that date. In the event the Lead Co-Vendor delays in handing over possession to the Owners and as a result the Owners delays in handing over possession of the Said Flat to the Purchasers beyond the Completion Date and the Extended Period or the period required beyond the Extended Period due to circumstances

mentioned in Clause 9.5 above, the Lead Co-Vendor shall pay to the Purchasers interest at the then prevailing savings bank rate of interest of State Bank of India.

- 11.3 **Effect:** Upon termination of this Agreement due to any of the circumstances mentioned in Clauses 12.1 and 12.2 above, the Purchasers shall not be entitled to claim any right, title and interest (either equitable or otherwise) over and in respect of the Said Flat And Appurtenances and/or the Said Building and/or the Said Premises or part or portion thereof and the Purchasers shall further not be entitled to claim any charge on the Said Flat And Appurtenances and/or any part or portion thereof, in any manner whatsoever. The effect of such termination shall be binding and conclusive on the Parties.

## **12. Taxes**

- 12.1 **Obligation Regarding Taxes:** In the event of the Owners being made liable for payment of any tax [excepting Income Tax and Service Tax (if any levied in regard to the Co-operation Cum Construction Agreement)], fee, duty, levy or any other liability under any statute or law for the time being in force or enforced in future (such as Service Tax, Works Contract Tax, Value Added Tax or any other tax, fee and imposition levied by the State Government, Central Government or any other authority or body) or if the Owners are advised by their consultant that the Owners are liable or shall be made liable for payment of any such tax, fee, duty, levy or other liability on account of the Owners having agreed to perform the obligations under this Agreement or having entered into this Agreement, then and in that event, the Purchasers shall be liable to pay all such tax, fee, duty, levy or other liability and hereby indemnify and agree to keep the Owners indemnified against all actions, suits, proceedings, costs, charges and expenses in respect thereof. The taxes, fees, duties, levies or other liabilities so imposed or estimated by the Owners' consultant shall be paid by the Purchasers at or before the Date Of Possession.

## **13. Defects**

- 13.1 **Decision of Architect Final:** If any work in the Said Flat And Appurtenances is claimed to be defective by the Purchasers, the matter shall be referred to the Architect and the decision of the Architect shall be final and binding on the Parties. If directed by the Architect, the Lead Co-Owner shall at the cost of the Owners remove the defects. This will however not entitle the Purchasers to refuse to take possession of the Said Flat and if the Purchasers do so, the provisions regarding deemed possession as contained in Clause 9.6.2 above shall apply and all consequences mentioned therein shall follow.

## **14. Association, Apex Body and Rules**

- 14.1 **Rules of Use:** The Said Flat And Appurtenances shall be owned by the Purchasers subject to such rules and regulations as may be made applicable by the Association from time to time.
- 14.2 **Restrictions:** The Purchasers agree that the Purchasers shall use the Said Flat And Appurtenances subject to all restrictions as may be imposed by the Association.

## **15. Force Majeure**

- 15.1 **Circumstances Of Force Majeure:** The Owners shall not be held responsible for any consequences or liabilities under this Agreement if the Lead Co-Owner is prevented in meeting the obligations under this Agreement by reason of contingencies caused by neither of the Parties and unforeseen occurrences such as (1) acts of God (2) acts of nature (3) acts of war (4) fire (5) insurrection (6) terrorist action (7) civil unrest (8) riots (9) non availability or reduced availability of building materials and strike by material suppliers, transporters, contractors, workers and employees (10) delay on account of receiving statutory permissions (11) delay in the grant of electricity, water, sewerage and drainage connection or any other permission or sanction by the Government or any statutory authority (12) any notice, order of injunction, litigation, attachments, etc. and (13) any rule or notification of the Government or any other public authority or any act of Government such as change in legislation or enactment of new law, restrictive Governmental laws or regulations (collectively **Circumstances Of Force Majeure**).
- 15.2 **No Default:** The Lead Co-Vendor/ Owners shall not be deemed to have defaulted in the performance of the their respective contractual obligations whilst the performance thereof is prevented by Circumstances Of Force Majeure and the time limits laid down in this Agreement for the performance of obligations shall be extended accordingly upon occurrence of any event constituting Circumstances Of Force Majeure.
- 16. Miscellaneous**
- 16.1 **Indian Law:** This Agreement shall be subject to Indian Laws.
- 16.2 **One Transaction:** This Agreement relates to the transaction recorded and contemplated herein and no other transaction.
- 16.3 **Confidentiality and Non-Disclosure:** The Parties shall keep confidential all non-public information and/or documents concerning the transaction recorded herein, unless compelled to disclose such information and/or documents by judicial or administrative process.
- 16.4 **Partial Invalidity:** If any provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other circumstances shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. When any provision is so held to be invalid, illegal or unenforceable, the Parties hereto undertake to use their best efforts to reach a mutually acceptable alternative to give effect to such provision in a manner which is not invalid, illegal or unenforceable. In the event any of the terms and conditions of this Agreement are set-aside or declared unreasonable by any Court of Law or if the Parties take the plea of frustration of contract, the entire Agreement shall not be void and shall continue to subsist to the extent of the remaining terms and conditions and bind the Parties.
- 16.5 **No Claim of Un-Enforceability:** This Agreement is being entered into by the Parties out of free will and without any duress or coercion. Hence, none of the Parties shall have the right to claim un-enforceability of this Agreement.
- 16.6 **Right of Possession:** The right of possession of the Purchasers in respect of the Said Flat And Appurtenances shall arise only upon the Purchasers fulfilling all the obligations as are contained in this Agreement.

- 16.7 **Nomination by Purchasers with Consent:** The Purchasers admit and accept that before the execution and registration of conveyance deed of the Said Flat And Appurtenances, the Purchasers will be entitled to nominate, assign and/or transfer the Purchasers' right, title, interest and obligations under this Agreement on payment of 2% (two percent) of the market price prevailing at that time (to be determined by the Owners) as nomination charge to the Owner No. 3.1 (on behalf of itself and the Owner Nos. 3.2 to 3.26) **subject to** the covenant by the nominee that the nominee will strictly adhere to the terms of this Agreement **and subject also to** the following conditions:
- (a) **Purchasers to Make Due Payments:** The Purchasers shall make payment of all dues of the Owners in terms of this Agreement, up to the time of nomination.
  - (b) **Written Permission of Owners:** The Purchasers shall obtain prior written permission of the Owners and the Purchasers and the nominee shall be bound to enter into a agreement with the Owners.
  - (c) **Additional Legal Fee:** The Purchasers shall pay an additional legal fee of Rs.10,000/- (Rupees ten thousand) to the Legal Advisors towards the tripartite Nomination Agreement.

The Purchasers admit and accept that the Purchasers shall not nominate or assign the rights under this Agreement **save** in the manner indicated above.

- 16.8 **Entire Agreement:** This Agreement constitutes the entire understanding between the Parties and supersedes the terms and conditions whatever agreed between the Purchasers and the Owners prior to execution of this Agreement but does not supersede any document contemporaneously entered into between the Purchasers and the Owners.
- 16.9 **Counterparts:** This Agreement is being executed simultaneously in duplicate and each copy shall be deemed to be an original and both copies shall together constitute one instrument and agreement between the Purchasers and the Owners. One copy shall be retained by the Purchasers and another by the Owners.
- 16.10 **Amendments/Modifications:** No amendments or modifications of this Agreement or any part hereof shall be valid and effective unless it is by an instrument in writing executed by all the Purchasers and the Owners.
- 16.11 **Reservation of Rights:** No forbearance, indulgence, relaxation or inaction by either the Owners or the Purchasers at any time to require performance of any of the provisions of this Agreement shall in any way affect, diminish or prejudice the right of the Purchasers and/or the Owners to require performance of that provision.
- 16.12 **Waiver:** Any term or condition of this Agreement may be waived at any time by the Owners and/or the Purchasers who are entitled to the benefit thereof. Such waiver must be in writing and must be executed by the Owners or the Purchasers or an authorized agent of the Owners or the Purchasers. A waiver on one occasion will not be deemed to be waiver on a future occasion. Omission or delay on the part of either the Owners or the Purchasers to require due and punctual performance of any obligation by the Owners or the Purchasers shall not constitute a waiver of such obligation and it shall not in any manner constitute a continuing waiver and/or as a waiver of other

breaches of the same or other obligations hereunder or as a waiver of any right or remedy that the Party may otherwise have in law or in equity.

- 16.13 **No Agency:** The Owners and the Purchasers are entering into this Agreement on principal-to-principal basis and nothing contained herein shall make them the agents of each other.

## **17. Notice**

- 17.1 **Mode of Service:** Notices under this Agreement shall be served by email or by messenger or by registered post/speed post with acknowledgment due at the above mentioned addresses of the Parties, unless the addresses are changed by prior intimation in writing. Such service shall be deemed to have been effected **(1)** on the date of delivery, if sent by email/messenger and **(2)** on the 4<sup>th</sup> day of handing over of the cover to the postal authorities, if sent by registered post/speed post, irrespective of refusal to accept service by the Parties.

## **18. Alternative Dispute Resolution**

- 18.1 **Disputes:** Disputes or differences in relation to or arising out of or touching this Agreement or the validity, interpretation, construction, performance, breach or enforceability of this Agreement (excepting disputes which are to be expressly referred to and resolved by the Architects) (collectively **Disputes**) shall be referred to the Arbitral Tribunal described in Clause 18.1.1 below and finally resolved by arbitration under the Arbitration and Conciliation Act, 1996, with modifications made from time to time. In this regard, the Parties irrevocably agree that:

- 18.1.1 **Constitution of Arbitral Tribunal:** The Arbitral Tribunal shall consist of 1 (one) arbitrator, who shall be an Advocate, to be nominated by the Legal Advisors.

- 18.1.2 **Place:** The place of arbitration shall be Kolkata only.

- 18.1.3 **Language:** The language of the arbitration shall be English.

- 18.1.4 **Binding Effect:** The Arbitral Tribunal shall have summary powers and be entitled to give interim awards/directions regarding the Disputes and shall further be entitled to avoid all rules relating to procedure and evidence as are expressly avoidable under the law. The interim/final award of the Arbitral Tribunal shall be binding on the Parties.

- 18.2 **No Legal Proceeding without Recourse to Arbitration:** The Parties shall not commence legal proceedings or have any receiver appointed over the Said Flat And Appurtenances and/or the Said Building/Said Property without first referring the matter to arbitration and till the Arbitral Tribunal has given its direction/award.

## **19. Jurisdiction**

- 19.1 **District Judge and High Court:** In connection with the aforesaid arbitration proceeding, only the District Judge, South 24 Parganas District and the High Court at Calcutta shall have jurisdiction to entertain and try all actions and proceedings.

## **20. Rules of Interpretation**

- 20.1 **Number and Gender:** Words denoting the singular number include, where the context permits and requires, the plural number and vice-versa. Words denoting any gender include the other genders.
- 20.2 **Headings:** The headings in this Agreement are inserted for convenience only and shall be ignored in construing the provisions of this Agreement.
- 20.3 **Schedules and Plans:** Schedules and Plans appended to this Agreement form a part of this Agreement and shall always be taken into consideration for interpreting the complete understanding between the Parties. Any reference to a schedule or plan is a reference to a schedule or plan to this Agreement.
- 20.4 **Definitions:** In this Agreement, words have been defined by putting them within brackets and printing them in bold. Where a word or phrase is defined, other parts of speech or grammatical forms of that word or phrase shall have corresponding meaning.
- 20.5 **Documents:** A reference to a document includes an amendment or supplement or replacement or novation of that document.
- 20.6 **Successors:** A reference to a Party includes that Party's successors and permitted assigns.
- 20.7 **Statutes:** Any reference to a statute, statutory provision or subordinate legislation shall include its amendment, modification, consolidation, re-enactment or replacement as enforced from time to time, whether before or after the date of this Agreement.

**1<sup>st</sup> Schedule**  
**(Said Property)**

Land measuring 25 (twenty five) *cottah* and 4 (four) *chittack*, more or less **together with** structures standing and/or erected thereon, situate, lying at and being Municipal Premises No.39 (formed by amalgamation of 39 and 39/1), Paddapukur Road, Kolkata-700020, Police Station Ballygunge, within Ward No.69 of the Kolkata Municipal Corporation, Sub-Registration District Alipore, District South 24 Parganas.

**2<sup>nd</sup> Schedule**  
**Part I**  
**(Said Flat)**

Residential Flat No. \_\_\_\_\_, on \_\_\_\_\_ floor, having super built-up area of approximately \_\_\_\_\_ (\_\_\_\_\_) square feet, in the Said Building named "**Siddha Nirvana**", the Said Building to be constructed on the Said Premises, being Municipal Premises No.39 (formed by amalgamation of 39 and 39/1), Paddapukur Road, Kolkata-700020, Police Station Ballygunge, within Ward No.69 of the Kolkata Municipal Corporation, Sub-Registration District Alipore, District South 24 Parganas and described in the **1<sup>st</sup> Schedule** above.

**Part II**  
**(Parking Space)**

The right to park \_\_\_\_\_ (\_\_\_\_\_) medium sized car in the covered area on the ground floor of the Said Premises.

**Part III**  
**(Said Flat And Appurtenances)**

**[Subject Matter of Agreement]**

The Said Flat, being Residential Flat No. \_\_\_\_\_, on \_\_\_\_\_ floor, having super built-up area of approximately \_\_\_\_\_ (\_\_\_\_\_) square feet, described in **Part I** of the **2<sup>nd</sup> Schedule** above, in the Said Building named “**Siddha Nirvana**”, the Said Building to be constructed on the Said Premises, being Municipal Premises No.39 (formed by amalgamation of 39 and 39/1), Paddapukur Road, Kolkata-700020, Police Station Ballygunge, within Ward No.69 of the Kolkata Municipal Corporation, Sub-Registration District Alipore, District South 24 Parganas and described in the **1<sup>st</sup> Schedule** above.

**Together With** the Parking Space, being the right to park \_\_\_\_\_ (\_\_\_\_\_) medium sized cars in the covered area on the ground floor of the Said Premises, described in **Part II** of the **2<sup>nd</sup> Schedule** above.

**And Together With** the Land Share, being undivided, impartible, proportionate and variable share in the land comprised in the Said Premises, described in the **1<sup>st</sup> Schedule** above, as be attributable and appurtenant to the Said Flat, subject to the terms and conditions of this Agreement.

**And Also Together With** the Share In Common Portions, being undivided, impartible, proportionate and variable share and/or interest in the Common Portions described in the **3<sup>rd</sup> Schedule** below, as be attributable and appurtenant to the Said Flat, subject to the terms and conditions of this Agreement.

**3<sup>rd</sup> Schedule  
(Common Portions)**

- |   |  |
|---|--|
| • Lobby at the ground level of the Said Building  | • Lobbies on all floors and staircase(s) of the Said Building                    |
| • Lift machine room(s) and lift well(s) of the Said Building  | • Water reservoirs/tanks of the Said Building                                    |
| • Water supply pipeline in the Said Building  | • Drainage and sewage pipeline in the Said Building                              |
| • Wiring, fittings and accessories for lighting of lobbies, staircase(s) and other common portions of the Said Building | • Electricity meter(s) for common installations and space for their installation |
| • Intercom Network in the Said Building   | • Network of Cable TV/DTH in the Said Building, if any                           |
| • Broadband connection in the Said Building, if any   | • Fire fighting system in the Said Building, if any                              |
| • Lift(s) and allied machineries in the Said Building   | • External walls of the Said Building  |

**4<sup>th</sup> Schedule  
(Specifications)**

**Structure**

Earthquake resistant RCC framed structure.

**Doors**

Solid wooden door & frames with solid core flush shutter



### **Windows**

Anodised/powder coated fully glazed aluminum windows with superior fittings

### **Flooring**

Ground Floor Lobby: Marble of superior quality.

Master bedroom, other rooms & balcony: Marble/wooden/vitrified tiles

### **Kitchen**

*Floor*

Anti-skid ceramic tiles

*Counter Tops*

Granite slab with stainless steel sink with drainboard

*Dados*

Ceramic tiles up to a height of 2' (two) feet from granite counter tops.

### **Toilet**

*Floor*

Ceramic tiles

*Dados*

Ceramic tiles up to a height of 7 feet

Hot & cold waterline, exhaust & gyser points

### **Sanitary ware**

White, high quality porcelain fixtures.

Chromium-plated C. P. fittings.

### **Electricals**

Concealed copper wiring with the latest modular switches and miniature circuit breakers

TV socket and broadband connection

### **Telephone Wiring**

Central distribution console networked with all apartments.

### **Exterior**

Weather proof non fading exterior finish

## **5<sup>th</sup> Schedule (Common Expenses/Maintenance Charges)**

1. **Common Utilities:** All charges, costs and deposits for supply, operation and maintenance of common utilities.
2. **Electricity:** All charges for the electricity consumed for the operation of the common lighting, machinery and equipment of the Said Building/Said Premises.
3. **Association:** All capital and operational expenses of the Association.
4. **Litigation:** All litigation expenses incurred for the common purposes and relating to common use and enjoyment of the Common Portions.

5. **Maintenance:** All costs for maintaining, operating, replacing, repairing, painting, re painting, decorating, re-decorating, re-building, re-constructing, lighting and renovating the Common Portions [including the exterior or interior (but not inside any Flat) walls of the Said Building].
6. **Operational:** All expenses for running and operating all machinery, equipment and installation comprised in the Common Portions, including elevators, diesel generator set, changeover switch, pump and other common installation including their license fees, taxes and other levies (if any) and expenses ancillary or incidental thereto and the lights of the Common Portions.
7. **Staff:** The salaries of and all other expenses on the staff to be employed for the common purposes, viz. manager, caretaker, clerk, security personnel, liftmen, sweepers, plumbers, electricians, gardeners etc. including their perquisites, bonus and other emoluments and benefits.
8. **Fire Fighting:** Costs of operating and maintaining the fire-fighting equipments and personnel, if any.

**21. Execution and Delivery**

- 21.1 **In Witness Whereof** the Parties have executed and delivered this Agreement on the date mentioned above.

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**[Owners]**

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(\_\_\_\_\_)

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(\_\_\_\_\_)

**[Purchasers]**

**Witnesses:**

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Father's Name \_\_\_\_\_

Father's Name \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_