

**: 1 :**

**AGREEMENT OF SALE**

**THIS AGREEMENT IS MADE ON THIS THE..... DAY OF..... 2023.**

**BETWEEN**

[2]

**GANESH ENCLAVE PRIVATE LIMITED**, a Private Limited Company incorporated under the provisions of the Companies Act, 1956 bearing CIN. U45203WB2000PTC091813, dated 05.05.2000, having its registered office at Jyoti Nagar, Sevoke Road, P.O. Sevoke Road, P.S. Bhaktinagar, District-Jalpaiguri, represented by one of its Director, **SRI SHYAM AGARWAL**, Son of Sri Ram Lal Agarwal, (**Aadhar No. 8937 9714 1988**) Hindu by Religion, Indian by Nationality, Business by Occupation, Resident of Sevoke Road, P.O & P.S Siliguri, District Darjeeling --- hereinafter called the **“VENDOR”** (which expression shall mean and include unless excluded by or repugnant to the context its Directors, Executors, successors in office, representatives, Administrators and assigns) of the **“FIRST PART”**. (PAN:- AABCG5729J).

**AND**

**SIDHI GANPATI**, a Partnership Firm, having its office at the Sidhi Dham, Jyoti Nagar, P.O. Siliguri, P.S. Bhaktinagar, District - Jalpaiguri, in the State of West Bengal represented by one of its Partner, **SRI PANKAJ AGARWAL**, son of Late Kedarnath Agarwal, (**Aadhar No. 5403 3636 8349**), Hindu by Religion, Indian by Nationality, Business by Occupation, Resident of Udham Singh Sarani, Ashrampara, P.O. Siliguri, P.S. Siliguri , District: Darjeeling --- hereinafter called the **"DEVELOPER/SECOND PARTY"** (which expression shall, unless repugnant to the context or meaning thereof be deemed to mean and include the partners and partner for the time being of the said firm, the survivor or survivors of them and their partners, heirs, executors and administrator of the last surviving partner and his/her/their assigns) of the **"SECOND PART"**. (PAN:- AEHFS2419A).

**AND**

**SRI .....**, Son of ....., aged about .... years, ..... by Religion, Indian by Nationality, ..... by Occupation, Residing at ....., P.O. .... P.S..... District: ..... -hereinafter called the **“PURCHASER/ALLOTTEE”** (which expression shall unless repugnant to the context or meaning thereof be deemed to mean and

[3]

include his/her heirs, executors, administrators, successors-in-interest & permitted assignees) of the **THIRD PART. (PAN :- .....)** (**Aadhar No. ....**),

The Vendor, Developer and the Purchaser(s) shall hereinafter be collectively referred to as "Parties" and individually as a "Party".

**WHEREAS:**

**A.** The above named Vendor hereof **GANESH ENCLAVE PRIVATE LIMITED** purchased land measuring 115 Kathas 4 Chhataks 37 Square Feet in Mouza - Dabgram of R.S. Sheet No. 8 under the jurisdiction of the Siliguri Municipal Corporation, Siliguri, P.S. Bhaktinagar in the District of Jalpaiguri by virtue of the following 9 (Nine) separate Deeds of Conveyances all duly registered in the office of the Additional District Sub Registrar, Rajganj, District: .....:-

(i) Land measuring 42 Kathas 3 Chhataks appertaining to R.S. Plot No. 132, 135 & 141 recorded in Khatian No. 240 by virtue of a Deed of Conveyance executed by **ROSHAN LAL AGARWAL & SUSHILA DEVI AGARWALA** duly recorded in the Book No. I, Document No. 4965 for the year 2013.

(ii) Land measuring 3 Katha appertaining to R.S. Plot No. 140 recorded in the Khatian No. 240 by virtue of a Deed of Conveyance executed by **ROSHAN LAL AGARWAL & SUSHILA DEVI AGARWALA** duly recorded in the Book No. I, Document No. 4984 for the year 2013.

(iii) Land measuring 3 Kathas appertaining to R.S. Plot No. 140 recorded in the Khatian No. 240 by virtue of a Deed of Conveyance executed by **ROSHAN LAL AGARWAL & SUSHILA DEVI AGARWALA** duly recorded in the Book No. I, Document No. 4986 for the year 2013.

[4]

(iv) Land measuring 43 Kathas appertaining to R.S. Plot No. 140, 135, 141, 139 & 138 recorded in the Khatian No. 240 by virtue of a Deed of Conveyance executed by **ROSHAN LAL AGARWAL & SUSHILA DEVI AGARWALA** duly recorded in the Book No. I, Document No. 4987 for the year 2013.

(v) Land measuring 5 Kathas 4 Chhataks 36 Square Feet appertaining to R.S. Plot No. 132 recorded in Khatian No. 240 by virtue of a Deed of Conveyance executed by **SAMAR KUMAR BOSE & AMAR BOSE** duly recorded in the Book No. I, Document No. 6687 for the year 2014.

(vi) Land measuring 3 Kathas 13 Chhataks 1 Square Feet appertaining to R.S. Plot No. 132 recorded in the Khatian No. 240 by virtue of a Deed of Conveyance executed by **SAMAR KUMAR BOSE & AMAR BOSE** duly recorded in the Book No. I, Document No. 6726 for the year 2014.

(vii) Land measuring 5 Kathas appertaining to R.S. Plot No. 132 recorded in the Khatian No. 240 by virtue of a Deed of Conveyance executed by **MIRA BHOWMICK** duly recorded in the Book No. I, Document No. 7693 for the year 2014.

(viii) Land measuring 5 Kathas appertaining to R.S. Plot No. 132 recorded in the Khatian No. 240 by virtue of a Deed of Conveyance executed by **SANDHYA GUPTA** duly recorded in the Book No. I, Document No. 7869 for the year 2014.

(ix) Land measuring 5 Kathas appertaining to R.S. Plot No. 132 recorded in the Khatian No. 240 by virtue of a Deed of Conveyance executed by **SHANTI CHHETRI** duly recorded in the Book No. I, Document No. 1195 for the year 2015.

[5]

**WHEREAS** in the manners aforesaid the abovenamed Vendor hereof **GANESH ENCLAVE PRIVATE LIMITED** became the owner of land measuring 115 Kathas 4 Chhataks 37 Square Feet having permanent, heritable and transferable, right, title and interest therein, free from all encumbrances and charges whatsoever and the said land is fully described in Schedule - A below.

**WHEREAS** the above named Vendor hereof **GANESH ENCLAVE PRIVATE LIMITED** prayed before the office of the B.L. & L.R.O, Rajganj to mutate the aforesaid land in its name and during the current revenue settlement survey (LR) the aforesaid land was duly mutated in its name and L.R. Khatian No. 79 was duly opened in its name.

**WHEREAS** the above named Vendor hereof **GANESH ENCLAVE PRIVATE LIMITED** prayed before the office of the D.L.&L.R.O. Jalpaiguri to change the character of the land to commercial bastu and the said office changed the character of the land vide conversion case no. **210/XIII-26/836/LMS-II/DLLRO/JAL/19 DATED 25/10/2019.**

**WHEREAS** the above named Vendor hereof **GANESH ENCLAVE PRIVATE LIMITED** being desirous of constructing a residential complex or mixed use building on the Schedule-A plot of land but not being in a position to put its contemplation and scheme into action due to preoccupation & inadequate expertise was in search of a developer who could construct the residential complex or mixed use building.

**AND WHEREAS** the abovenamed Vendor hereof **GANESH ENCLAVE PRIVATE LIMITED** thereafter interested in constructing a Residential Complex on the land fully described in Schedule 'A' entered into an Registered Agreement for Development with "**M/S SIDHI GANPATI**", a Partnership Firm, to construct a Residential Complex on the Schedule 'A' land, being Document No. I - 5249 for the year 2020 and the same was Registered in the Office of the A.D.S.R Bhaktinagar, District - Jalpaiguri.

[6]

**B.** The said land is earmarked for the purpose of building of multistoried residential cum commercial building and the said project shall be known as “**SIDHI PARADISE**”.

**C.** The Vendor/Developer is fully competent to enter into this Agreement and all the legal formalities with respect to the right, title and interest of the Vendor/Developer regarding the said land on which Project is to be constructed have been completed.

**D.** The Siliguri Municipal Corporation Area had granted the commencement certificate to construct the Project vide approval plan dated 08.06.2019, bearing Plan No. 533/S.

**E.** The Vendor/Developer has obtained the final layout plan approvals for the project from Siliguri Municipal Corporation Area. The Vendor/Developer agrees and undertakes that they shall not make any changes to these layout plans except in strict compliance with Section 14 of The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as “**the Act**”) and other laws as applicable.

**F.** The Vendor/Developer shall register the Project under the provisions of the Act with the Real Estate Regulatory Authority.

**G.** The Allottee(s) had applied for an Apartment in the Project *vide* application No. \_\_\_\_\_ dated \_\_\_\_\_ and has been allotted the Flat No. \_\_\_\_\_, having carpet area measuring \_\_\_\_\_ square feet, on ..... Floor in Block No. \_\_\_\_\_ (“Building”) as permissible under the applicable law and of pro rata share in the common areas (“Common Areas”) as defined under Clause (n) of Section 2 of the Act (hereinafter referred to as the “Apartment” more particularly described in Schedule B and the floor plan of the apartment is annexed hereto and marked as Schedule I).

[7]

**H.** The Parties have gone through all the terms & conditions set out in this Agreement and understood the mutual rights and obligations detailed herein.

**I.** The Parties hereby confirm that they are signing this Agreement with full knowledge of all the laws, rules, regulations, notifications etc. applicable to the Project.

**J.** The Parties, relying on the confirmations, representations and assurances of each other to faithfully abide by all the terms, conditions and stipulations contained in this Agreement and all applicable laws, are now willing to enter into this Agreement on the terms and conditions appearing hereinafter.

**K.** In accordance with the terms and conditions set out in this Agreement and as mutually agreed upon by and between the Parties, the Vendor/Developer hereby agrees to sell and the Allottee(s) /Purchaser(s) hereby agrees to purchase the Apartment as specified in paragraph G or Schedule 'B' Property.

**NOW THEREFORE, in consideration of the mutual representations, covenants, assurances, promises and agreements contained herein and other good and valuable consideration, the Parties agree as follows:**

**1. TERMS:**

Subject to the terms and conditions as detailed in this Agreement, the Vendor/Developer agrees to sell to the Allottee(s) and the Allottee(s) hereby agrees to purchase the Apartment as specified in paragraph G;

The Total Price for the Apartment based on the carpet area is Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) ("Total Price") excluding GST.

[8]

Block No.	Rate of Apartment per square feet
Apartment No.	
Type	
Floor	

That all Registration Expenses, GST or any other taxes by the authority shall be paid by the Allottees separately.

**1. Explanation:**

1.1 The Total Price above includes the booking amount paid by the Allottee(s) to the Vendor/Developer towards the Apartment;

1.2 The Total Price above excludes Taxes (consisting of Municipal tax and Khajna paid or payable by the Vendor/Developer in connection with the construction of the Project payable by the Vendor/Developer) up to the date of handing over the possession of the Apartment:

Provided that in case there is any change/modification in the taxes, the subsequent amount payable by the Allottee(s) to the Vendor/Developer shall be increased/reduced based on such change/modification;

Provided further that if there is any increase in the taxes after the expiry of the schedule date of completion of the Project as per registration with the Authority, which shall include the extension of registration, if any, granted to the said Project by the Authority, as per the Act, the same shall not be charged from the Purchaser;

1.3 The Vendor/Developer shall periodically intimate to the Allottee(s), the amount payable as stated in (1.1) above and the Allottee(s) shall make payment within 30 (thirty) days from



**[9]**

the date of such written intimation. In addition, the Vendor/Developer shall provide to the Allottee(s) the details of the taxes paid or demanded along with the Acts/rules/notifications together with dates from which such taxes/levies etc. have been imposed or become effective;

1.4 The Total Price of the Apartment includes proportionate share in the Common Areas as provided in the Agreement.

The Total Price is escalation free, save and except increases which the Allottee(s) hereby agrees to pay, due to increase on account of development charges payable to the competent authority and/or any other increase in charges which may be levied or imposed by the competent authority, from time to time. The Vendor/Developer undertakes and agrees that while raising a demand on the Allottee(s) for increase in development charges, cost/charges imposed by the competent authorities, the Vendor/Developer shall enclose the said notification/ order/ rules/ regulations to that effect along with the demand letter being issued to the Allottee(s), which shall only be applicable on subsequent payments.

Provided that if there is any new imposition or increase of any development charges after the expiry of the scheduled date of completion of the project as per registration with the Authority, which shall include the extension of registration, if any, granted to the said project by the Authority, as per the Act, the same shall not be charged from the Allottee(s).

1.5 The Allottee(s) shall make the payment as per the payment plan set out in Schedule 'C' ("Payment Plan"). It is agreed that the Vendor/Developer shall not make any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the Apartment, as the case may be, without the previous written consent of the Allottee(s). Provided that the Vendor/Developer may make such minor additions or alterations as may be required by the Allottee(s), or such minor changes or alterations as per the provisions of the Act.

**[10]**

The Vendor/Developer shall confirm the final carpet area that has been allotted to the Allottee(s) after the construction of the Building is complete and the Occupancy certificate is granted by the competent authority, by furnishing details of the changes, if any, in the carpet area. The total price payable for the carpet area shall be recalculated upon confirmation by the Vendor/Developer. If there is any reduction in the carpet area within the defined limit then Vendor/Developer shall refund the excess money paid by Allottee(s) within forty-five days with annual interest at the rate specified in the Rules, from the date when such an excess amount was paid by the Allottee(s). If there is any increase in the carpet area allotted to Allottee(s), the Vendor/Developer shall demand that from the Allottee(s) as per the next milestone of the Payment Plan. All these monetary adjustments shall be made at the same rate per square feet as agreed in Clause 1.2 of this Agreement.

1.6 Subject to Clause 9.3 the Vendor/Developer agrees and acknowledges, the Allottee(s) shall have the right to the Apartment as mentioned below:

(i) The Allottee(s) shall have exclusive ownership of the Apartment.

(ii) The Allottee(s) shall also have undivided proportionate share in the Common Areas. Since the share / interest of Allottee(s) in the Common Areas is undivided and cannot be divided or separated, the Allottee(s) shall use the Common Areas along with other occupants, maintenance staff etc., without causing any inconvenience or hindrance to them. Further, the right of the Allottee(s) to use the Common Areas shall always be subject to the timely payment of maintenance charges and other charges as applicable. It is clarified that the Vendor/Developer shall convey undivided proportionate title in the common areas to the association of Allottee(s) as provided in the Act;

(iii) That the computation of the price of the Apartment includes recovery of price of land, construction of not only the Apartment but also the Common Areas, internal development

[11]

charges, external development charges, taxes, cost of providing electric wiring, electrical connectivity to the Flat, lift, water line and plumbing, finishing with paint, tiles, doors, windows, fire detection and firefighting equipment in the common areas etc. and includes cost for providing all other facilities, amenities and specification to be provided within the Apartment and the Project but excludes taxes and maintenance charges as provided within the Project.

The Purchaser has the right to visit the Project site to assess the extent of development of the Project and his/her/their Apartment, as the case may be.

It is made clear by the Vendor/Developer and the Purchaser agrees that the Apartment shall be treated as a single indivisible unit for all purposes. It is agreed that the Project is an independent, self-contained Project covering the said Land and is not a part of any other project or zone and shall not form a part of and/or linked/ combined with any other project in its vicinity or otherwise except for the purpose of integration of infrastructure for the benefit of the Allottee(s). It is clarified that Project's facilities and amenities shall be available only for use and enjoyment of the Allottee(s) of the Project.

It is understood by the Allottee(s) that all other area and i.e., areas and facilities falling outside the Project, namely “**SIDHI PARADISE**” shall not form a part of the declaration to be filed with the Competent Authority in accordance with the West Bengal Apartment Ownership Act, 1972.

The Vendor/Developer agrees to pay all outgoings before transferring the physical possession of the Apartment to the Allottee(s), which it has collected from the Allottee(s), for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project). If the Vendor/Developer

[12]

fails to pay all or any of the outgoings collected by it from the Allottee(s) or any liability, mortgage loan and interest thereon before transferring the Apartment to the Allottee(s), the Vendor/Developer agrees to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefore by such authority or person.

The Allottee(s) has paid a sum of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) as booking amount being part payment towards the Total Price of the Apartment at the time of application the receipt of which the Vendor/Developer hereby acknowledges and the Allottee(s) hereby agrees to pay the remaining price of the Apartment as prescribed in the Payment Plan as may be demanded by the Vendor/Developer within the time and in the manner specified therein:

Provided that if the Allottee(s) delays in payment towards any amount for which is payable, he/she/they shall be liable to pay interest at the rate specified in the Rules.

---

## **2. MODE OF PAYMENT**

Subject to the terms of the Agreement and the Vendor/Developer abiding by the construction milestones, the Allottee(s) shall make all payments, on demand by the Vendor/Developer, within the stipulated time as mentioned in the Payment Plan through A/c Payee cheque/demand draft or online payment (as applicable) in favour of **M/S SIDHI GANPATI** payable at Siliguri, West Bengal.

The timely payment of all the amounts payable by the Allottee under this Agreement (including the Total Price), is the essence of the contract. An intimation forwarded by the Promoter to the Allottee that a particular milestone of construction has been achieved shall be sufficient proof thereof. The Promoter demonstrating dispatch of such intimation to the

[13]

address of the Allottee as stated at Clause 29 (Notice) including by e-mail, shall be conclusive proof of service of such intimation by the Promoter upon the Allottee, and non-receipt thereof by the Allottee/s shall not be a plea or an excuse for non-payment of any amount or amounts.

### **3. COMPLIANCE OF LAWS RELATING TO REMITTANCES**

The Allottee(s), if resident outside India, shall be solely responsible for complying with the necessary formalities as laid down in Foreign Exchange Management Act, 1999, Reserve Bank of India Act and Rules and Regulations made there under or any statutory amendment(s) modification(s) made thereof and all other applicable laws including that of remittance of payment acquisition/sale/transfer of immovable properties in India etc. and provide the Vendor/Developer with such permission, approvals which would enable the Vendor/Developer to fulfill its obligations under this Agreement. Any refund, transfer of security, if provided in terms of the Agreement shall be made in accordance with the provisions of Foreign Exchange Management Act, 1999 or statutory enactments or amendments thereof and the Rules and Regulations of the Reserve Bank of India or any other applicable law. The Allottee(s) understands and agrees that in the event of any failure on his/her/their part to comply with the applicable guidelines issued by the Reserve Bank of India, he/she/they shall be liable for any action under the Foreign Exchange Management Act, 1999 or other laws as applicable, as amended from time to time.

The Vendor/Developer accepts no responsibility in this regard. The Allottee(s) shall keep the Vendor/Developer fully indemnified and harmless in this regard. Whenever there is any change in the residential status of the Allottee(s) subsequent to the signing of this Agreement, it shall be the sole responsibility of the Allottee(s) to intimate the same in writing to the Vendor/Developer immediately and comply with necessary formalities if any under the applicable laws. The Vendor/Developer shall not be responsible towards any Third party

[14]

making payment/remittances on behalf of any Allottee(s) and such third party shall not have any right in the application/allotment of the said Apartment applied for herein in anyway and the Vendor/Developer shall be issuing the payment receipts in favour of the Allottee(s) only.

#### **4. ADJUSTMENT/APPROPRIATION OF PAYMENTS**

The Allottee(s) authorizes the Vendor/Developer to adjust/appropriate all payments made by him/her/their under any head(s) of dues against lawful outstanding, if any, in his/her/their name as the Vendor/Developer may in its sole discretion deem fit and the Allottee(s) undertakes not to object/demand/direct the Vendor/Developer to adjust his/her/their payments in any manner.

#### **5. TIME IS ESSENCE**

Time is of essence for the Vendor/Developer as well as the Allottee(s). The Vendor/Developer shall abide by the time schedule for completing the project and handing over the Apartment to the Allottee(s) and the common areas to the association of the Allottee(s) after receiving the occupancy certificate or the completion certificate or both, as the case may be. Similarly, the Allottee(s) shall make timely payments of the instalment and other dues payable by him/her and meeting the other obligations under the Agreement subject to the simultaneous completion of construction by the Vendor/Developer as provided in Schedule 'C' ("Payment Plan").

#### **6. CONSTRUCTION OF THE PROJECT/APARTMENT**

The Allottee(s) has seen the specifications of the Apartment and accepted the Payment Plan, floor plans, layout plan annexed along with the Agreement which has been approved by the competent authority, as represented by the Vendor/Developer. The Vendor/Developer shall develop the Project in accordance with the said layout plans, floor plans and specifications.

[15]

Subject to the terms in this Agreement, the Vendor/Developer undertakes to strictly abide by such plans approved by the competent Authorities and shall also strictly abide by the by-laws, FAR and density norms and provisions prescribed by the appropriate authorities and shall not have an option to make any variation /alteration /modification in such plans, other than in the manner provided under the Act, and breach of this term by the Vendor/Developer shall constitute a material breach of the Agreement.

In the event of any change in the specifications necessitated on account of any Force Majeure events or to improve or protect the quality of construction, the Promoter, on the recommendations of the Architect, shall be entitled to effect such changes in the materials and specifications provided the Promoter shall ensure that the cost and quality of the substituted materials or specifications is equivalent or higher than the quality and cost of materials and specifications as set out in Schedule D of this Agreement.

## **7. POSSESSION OF THE APARTMENT**

**7.1 Schedule for possession of the said Apartment:** The Vendor/Developer agrees and understands that timely delivery of possession of the Apartment is the essence of the Agreement. The Vendor/Developer, based on the approved plans and specifications, assures to hand over possession of the Apartment on **30.06.2025** unless there is delay or failure due to war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure"). If, however, the completion of the Project is delayed due to the Force Majeure conditions then the Allottee(s) agrees that the Vendor/Developer shall be entitled to the extension of time for delivery of possession of the Apartment, provided that such Force Majeure conditions are not of a nature which make it impossible for the contract to be implemented. The Allottee(s) agrees and confirms that, in the event it becomes impossible for the Vendor/Developer to implement the project due to Force Majeure conditions, then this allotment shall stand

terminated and the Vendor/Developer shall refund to the Allottee(s) the entire amount received by the Vendor/Developer from the allotment within 45 days from that date. After refund of the money paid by the Allottee(s), Allottee(s) agrees that he/ she shall not have any rights, claims etc. against the Vendor/Developer and that the Vendor/Developer shall be released and discharged from their obligations and liabilities under this Agreement.

**7.2 Procedure for taking possession:** The Vendor/Developer, upon obtaining the occupancy Certificate from the competent authority shall offer in writing the possession of the Apartment, to the Allottee(s) in terms of this Agreement to be taken within 3 (three) months from the date of issue of such notice and the Vendor/Developer shall give possession of the Apartment to the Allottee(s). The Vendor/Developer agrees and undertakes to indemnify the Allottee(s) in case of failure of fulfilment of any of the provisions, formalities, documentation on part of the Vendor/Developer. The Allottee(s) agree(s) to pay the maintenance charges as determined by the Vendor/Developer/Association of Allottee(s), as the case may be. The Vendor/Developer on their behalf shall offer the possession to the Allottee(s) in writing within 30 days of receiving the occupancy Certificate of the Project.

**7.3 Failure of Allottee(s) to take Possession of Apartment:** Upon receiving a written intimation from the Vendor/Developer as per clause 7.2, the Allottee(s) shall take possession of the Apartment from the Vendor/Developer by executing necessary indemnities, undertakings and such other documentation as prescribed in this Agreement, and the Vendor/Developer shall give possession of the Apartment to the Allottee(s). In case the Allottee(s) fails to take possession within the time provided in clause 7.2, such Allottee(s) shall continue to be liable to pay maintenance charges as applicable.

**7.4 Possession by the Allottee(s):** After obtaining the Occupancy Certificate and handing over physical possession of the Apartment to the Allottees, it shall be the responsibility of the Vendor/Developer to hand over the necessary documents and plans, including common areas, to the association of the Allottees or the competent authority, as the case may be, as per the local laws.



**7.5 Cancellation by Allottee(s):** The Allottee(s) shall have the right to cancel/withdraw his/her/their allotment in the Project as provided in the Act:

Provided that where the Allottee(s) proposes to cancel/withdraw from the project without any fault of the Vendor/Developer, the Vendor/Developer herein are entitled to forfeit the booking amount paid for the allotment. The balance amount of money paid by the Allottee(s) shall be returned by the Vendor/Developer within 45 days of such cancellation.

**7.6 Compensation:** The Vendor/Developer shall compensate the Allottee in case of any loss caused to him/her/them due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under the Act and the claim for compensation under this section shall not be barred by limitation provided under any law for the time being in force.

Except for occurrence of a Force Majeure event, if the Vendor/Developer fails to complete or is unable to give possession of the Apartment (i) in accordance with the terms of this Agreement, duly completed by the date specified herein; or (ii) due to discontinuance of their business as a Vendor/Developer on account of suspension or revocation of the registration under the Act; or for any other reason; the Vendor/Developer shall be liable, on demand to the Allottee(s), in case the Allottee(s) wishes to withdraw from the Project, without prejudice to any other remedy available, to return the total amount received by him/her/them in respect of the Apartment, with interest at the rate specified in the Rules within 45 days including compensation in the manner as provided under the Act. Provided that where if the Allottee(s) does not intend to withdraw from the Project, the Vendor/Developer shall pay the Allottee(s) interest at the rate specified in the Rules for every month of delay, till the handing over of the possession of the Apartment.

## **8. REPRESENTATIONS AND WARRANTIES OF THE VENDOR/DEVELOPER:**

[18]

The Vendor/Developer hereby represent and warrant to the Allottee(s) as follows:

8.1 The Vendor/Developer has absolute, clear and marketable title with respect to the said Land; the requisite rights to carry out development upon the said Land and absolute, actual, physical and legal possession of the said Land for the Project;

8.2 The Vendor/Developer has lawful rights and requisite approvals from the competent Authorities to carry out development of the Project;

8.3 There are no encumbrances upon the said Land or the Project.

8.4 There are no litigations pending before any Court of law with respect to the said Land, Project or the Apartment;

8.5 All approvals, licenses and permits issued by the competent authorities with respect to the Project, said Land and Apartment are valid and subsisting and have been obtained by following due process of law. Further, the Vendor/Developer has been and shall, at all times, remain to be in compliance with all applicable laws in relation to the Project, said Land, Building and Apartment and common areas;

8.6 The Vendor/Developer has the right to enter into this Agreement and has not committed or omitted to perform any act or thing, whereby the right, title and interest of the Allottee(s) created herein, may prejudicially be affected;

8.7 The Vendor/Developer has not entered into any agreement for sale and/or development agreement or any other agreement/ arrangement with any person or party with respect to the said Land, including the Project and the said Apartment which will, in any manner, affect the rights of Allottee(s) under this Agreement;

[19]

8.8 The Vendor/Developer confirms that the Vendor/Developer is not restricted in any manner whatsoever from selling the said Apartment to the Allottee(s) in the manner contemplated in this Agreement;

8.9 At the time of execution of the conveyance deed the Vendor/Developer shall handover lawful, vacant, peaceful, physical possession of the Apartment to the Allottee(s) and the common areas to the Association of the Allottees;

8.10 The Schedule Property is not the subject matter of any HUF and that no part thereof is owned by any minor and/or no minor has any right, title and claim over the Schedule Property,

8.11 The Vendor/Developer has duly paid and shall continue to pay and discharge all governmental dues, rates, charges and taxes and other monies, levies, impositions, premiums, damages and/or penalties and other outgoings, whatsoever, payable with respect to the said project to the competent Authorities;

8.12 No notice from the Government or any other local body or authority or any legislative enactment, government ordinance, order, notification (including any notice for acquisition or requisition of the said property) has been received by or served upon the Vendor/Developer in respect of the said Land and/ or the Project;

8.13 That the property is not Waqf property.

## **9. EVENTS OF DEFAULTS AND CONSEQUENCES**

Subject to the Force Majeure clause, the Vendor/Developer shall be considered under a condition of Default, in the following events:

9.1 Vendor/Developer fails to provide ready to move in possession of the Apartment to the Allottee(s) within the time period specified. For the purpose of this clause, 'ready to move in

[20]

possession' shall mean that the apartment shall be in a habitable condition which is complete in all respects;

9.2 Discontinuance of the Vendor's/Developer's business as a Vendor/Developer of this Project on account of suspension or revocation of its registration under the provisions of the Act or the rules or regulations made thereunder;

9.3 In case of Default by Vendor/Developer under the conditions listed above, Allottee(s) is entitled to following:

(i) Stop making further payments to Vendor/Developer as demanded by the Vendor/Developer. If the Allottee(s) stops making payments, the Vendor/Developer shall correct the situation by completing the construction milestones and only thereafter the Allottee(s) be required to make the next payment without any penal interest, or

(ii) The Vendor/Developer shall have the option of terminating the Agreement in which case the Vendor/Developer shall be liable to refund the entire money paid by the Allottee(s) under any head whatsoever towards the purchase of the apartment, along with interest at the rate specified in the Rules within forty-five days of receiving the termination notice;

Provided that where an Allottee(s) does not intend to withdraw from the project or terminate the Agreement, he/she/they shall be paid, by the Vendor/Developer, interest at the rate specified in the Rules, for every month of delay till the handing over of the possession of the Apartment subject to force majeure;

9.4 The Allottee(s) shall be considered under a condition of Default, on the occurrence of the following events:

**[21]**

(i) In case the Allottee(s) fails to make payments for 30 Consecutive days after the demands have been made by the Vendor/Developer as per the Payment Plan annexed hereto, despite having been issued notice in that regard the Allottee(s) shall be liable to pay interest to the Vendor/Developer on the unpaid amount at the rate specified in the Rules.

(ii) In case of Default by Allottee(s) under the condition listed above continues for a period beyond 2 (two) consecutive months after notice from the Vendor/Developer in this regard, the Vendor/Developer shall cancel the allotment of the Apartment in favour of the Allottee(s) and refund the amount money paid to it by the Allottee(s) by deducting the booking amount and the interest liabilities and this agreement shall there upon stand terminated.

(iii) That any amount paid by the Allottee in respect of GST shall not be refunded to the Allottee by the Vendor/Developer.

## **10. CONVEYANCE OF THE SAID APARTMENT**

The Vendor/Developer, on receipt of complete amount of the Price of the Apartment under the Agreement from the Allottee(s), shall execute a conveyance deed and convey the title of the Apartment together with proportionate indivisible share in the Common Areas within 3 months from the issuance of the occupancy Certificate.

However, in case the Allottee(s) fails to deposit the stamp duty, registration charges and all other incidental and legal expenses etc. so demanded within the period mentioned in the demand letter, the Allottee(s) authorizes the Vendor/Developer to withhold registration of the conveyance deed in his/her favour till full and final settlement of all dues and stamp duty and registration charges to the Vendor/Developer is made by the Allottee(s). The Allottee(s) shall be solely responsible and liable for compliance of the provisions of Indian Stamp Act, 1899 including any actions taken or deficiencies/penalties imposed by the competent authority(ies).

## **11. MAINTENANCE OF THE SAID BUILDING/APARTMENT/PROJECT**

The Vendor/Developer shall be responsible to provide and maintain essential services in the Project till the taking over of the maintenance of the project by the association of the Allottees.

The Allottee(s) shall be liable to pay proportionate cost of the generator, fire fighting equipment and electric transformer to the Vendor/Developer. That the Vendor/Developer shall provide Electric Transformer in the Complex and the Allottee(s) shall obtain his individual Electric connection by depositing the required Security Deposit.

## **12. DEFECT LIABILITY**

(i) It is agreed that in case any structural defect or any other defect in workman ship, quality or provision of services or any other obligations of the Vendor/Developer as per the agreement for sale relating to such development is brought to the notice of the Vendor/Developer within a period of 5 (five) years by the Allottee(s) from the date of handing over possession, it shall be the duty of the Vendor/Developer to rectify such defects without further charge, within 30 (thirty) days, and in the event of Vendor's/Developer's failure to rectify such defects within such time, the aggrieved Allottee(s) shall be entitled to receive appropriate compensation in the manner as provided under the Act.

(ii) It is clarified that the Promoter shall not be liable for any such defects if the same have been caused by reason of the default and/or negligence of the Allottee and/or any other allottees in the Real Estate Project or acts of third party(ies) or on account of any force majeure events including on account of any repairs / redecoration / any other work undertaken by the Allottee and/or any other allottee/person in the Real Estate Project and/or the Whole Project and/or the Larger Property. The Allottee is/are aware that the Said Tower/Building is a monolithic structure and any change(s), alteration(s) including breaking of walls or any structural members or the construction of any new wall or structural member

[23]

may adversely impact the Said Tower/Building at various places or in its entirety and hence any change(s) or alteration(s) as mentioned hereinabove will result in immediate ceasing of the Promoter's obligation to rectify any defect(s) or compensate for the same as mentioned in this Clause and the Allottee and/or the association of allottees shall have no claim(s) of whatsoever nature against the Promoter in this regard.

### **13. RIGHT OF ALLOTTEE(S) TO USE COMMON AREAS AND FACILITIES SUBJECT TO PAYMENT OF TOTAL MAINTENANCE CHARGES**

The Allottee(s) hereby agrees to purchase the Apartment on the specific understanding that his/ her/their right to the use of Common Areas shall be subject to timely payment of total maintenance charges, as determined and thereafter billed by the maintenance agency appointed or the association of Allottee(s) (or the maintenance agency appointed by it) and performance by the Allottee(s) of all his/her obligations in respect of the terms and conditions specified by the maintenance agency or the association of Allottee(s) from time to time.

### **14. RIGHT TO ENTER THE APARTMENT FOR REPAIRS**

The Vendor/Developer/Maintenance agency/association of Allottee(s) shall have rights of unrestricted access of all Common Areas for providing necessary maintenance services and the Allottee(s) agrees to permit the association of Allottee(s) and/or maintenance agency to enter into the Apartment or any part thereof, after due notice and during the normal working hours, unless the circumstances warrant otherwise, with a view to set right any defect.

### **15. USAGE**

**Use of Service Areas:** The service areas, if any, as located within the "**SIDHI PARADISE**" shall be earmarked for purposes such services including but not limited to electric sub-station, transformer, DG set rooms, underground water tanks, pump rooms, maintenance and service

[24]

rooms, fire fighting pumps and equipment's etc. and other permitted uses as per sanctioned plans. The Allottee(s) shall not be permitted to use the services areas and the basements in any manner whatsoever and the same shall be reserved for use by the association of Allottee(s) formed by the Allottee(s) for rendering maintenance services.

## **16. GENERAL COMPLIANCE WITH RESPECT TO THE APARTMENT**

Subject to Clause 12 above, the Allottee(s) shall, after taking possession, be solely responsible to maintain the Apartment at his/her/their own cost, in good repair and condition and shall not do or suffer to be done anything in or to the Building, or the Apartment, or the staircases, lifts, common passages, corridors, circulation areas, atrium or the compound which may be in violation of any laws or rules of any authority or change or alter or make additions to the Apartment and keep the Apartment, its walls and partitions, sewers, drains, pipe and appurtenances thereto or belonging thereto, in good and tenantable repair and maintain the same in a fit and proper condition and ensure that the support, shelter etc. of the Building is not in any way damaged or jeopardized. The Allottee(s) further undertakes, assures and guarantees that he/ she/they would not put any sign-board/ name-plate, neon light, publicity material or advertisement material etc. on the face/facade of the Building or anywhere on the exterior of the Project, buildings therein or Common Areas. The Allottee(s) shall also not change the colour scheme of the outer walls or painting of the exterior side of the windows or carry out any change in the exterior elevation or design. Further the Allottee(s) shall not store any hazardous or combustible goods in the Apartment or place any heavy material in the common passages or staircase of the Building. The Allottee(s) shall also not remove any wall, including the outer and load bearing wall of the Apartment. The Allottee(s) shall plan and distribute its electrical load in conformity with the electrical systems installed by the Vendor/Developer and thereafter the association of Allottee(s) and/or maintenance agency appointed by association of Allottee(s). The Allottee(s) shall be responsible for any loss or damages arising out of breach of any of the aforesaid conditions.



## **17. COMPLIANCE OF LAWS, NOTIFICATIONS ETC. BY ALLOTTEE**

The Allottee(s) is entering into this Agreement for the allotment of an Apartment with the full knowledge of all laws, rules, regulations, notifications applicable to the Project in general and this Project in particular. That the Allottee(s) hereby undertakes that he/she/they shall comply with and carry out, from time to time after he/she/they has taken over for occupation and use the said Apartment, all the requirements, requisitions, demands and repairs which are required by any competent Authority in respect of the Apartment at his/her own cost.

## **18. ADDITIONAL CONSTRUCTIONS**

The Vendor/Developer undertakes that it has no right to make additions or to put up additional structure(s) anywhere in the Project after the building plan has been approved by the competent authority(ies) except for as provided in the Act.

## **19. VENDOR/DEVELOPER SHALL NOT MORTGAGE OR CREATE CHARGE**

After the Vendor/Developer executes this Agreement it shall not mortgage or create a charge on the Apartment and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, such mortgage or charge shall not affect the right and interest of the Allottee(s) who has taken or agreed to take such Apartment.

## **20. APARTMENT OWNERSHIP ACT**

The Vendor/Developer has assured the Allottee(s) that the project in its entirety is in accordance with the provisions of the West Bengal Apartment Ownership Act, 1972. The

Vendor/Developer showing compliance of various laws/regulations as applicable in the State of West Bengal.

## **21. BIDDING EFFECT**

Forwarding this Agreement to the Allottee(s) by the Vendor/Developer does not create a binding obligation on the part of the Vendor/Developer or the Allottee(s) until, firstly, the Allottee(s) signs and delivers this Agreement with all the schedules along with the payments due as stipulated in the Payment Plan within 30 (Thirty) days from the date of receipt by the Allottee(s) and secondly, appears for registration of the same before the concerned Sub-Registrar as and when intimated by the Vendor/Developer. If the Allottee(s) fails to execute and deliver to the Vendor/Developer this Agreement within 30 (Thirty) days from the date of its receipt by the Allottee(s) and/or appear before the Registrar/Sub-Registrar/ registrar of Assurance for its registration as and when intimated by the Vendor/Developer, then the Vendor/Developer shall serve a notice to the Allottee(s) for rectifying the default, which if not rectified within 30 (Thirty) days from the date of its receipt by the Allottee, application of the Allottee(s) shall be treated as cancelled and all sums deposited by the Allottee(s) in connection therewith including the booking amount shall be returned to the Allottee(s) without any interest or compensation whatsoever.

## **22. ENTIRE AGREEMENT**

This Agreement, along with its schedules, constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes any and all understandings, any other agreements, allotment letter, correspondences, arrangements whether written or oral, if any, between the Parties in regard to the said apartment/plot/building, as the case may be.

## **23. RIGHT TO AMEND**

[27]

This Agreement may only be amended through written consent of the Parties.

#### **24. PROVISIONS OF THIS AGREEMENT APPLICABLE ON ALLOTTEE(S)/ SUBSEQUENT ALLOTTEE(S)**

It is clearly understood and so agreed by and between the Parties hereto that all the provisions contained herein and the obligations arising here under in respect of the Project shall equally be applicable to and enforceable against any subsequent Allottee(s) of the Apartment, in case of a transfer, as the said obligations go along with the Apartment for all intents and purposes.

#### **25. WAIVER NOT A LIMITATION OF ENFORCE**

The Vendor/Developer may, at its sole option and discretion, without prejudice to its rights as set out in this Agreement, waive the breach by the Allottee(s) in not making payments as per the Payment Plan including waiving the payment of interest for delayed payment. It is made clear and so agreed by the Allottee(s) that exercise of discretion by the Vendor/Developer in the case of one Allottee shall not be construed to be a precedent and/or binding on the Vendor/Developer to exercise such discretion in the case of other Allottee(s).

Failure on the part of the Vendor/Developer to enforce at any time or for any period of time the provisions hereof shall not be construed to be a waiver of any provisions or of the right thereafter to enforce each and every provision.

#### **26. SEVERABILITY**

If any provision of this Agreement shall be determined to be void or unenforceable under the Act or the Rules and Regulations made thereunder or under other applicable laws, such provisions of the Agreement shall be deemed amended or deleted in so far as reasonably inconsistent with the purpose of this Agreement and to the extent necessary to conform to Act

[28]

or the Rules and Regulations made there under or the applicable law, as the case maybe, and the remaining provisions of this Agreement shall remain valid and enforceable as applicable at the time of execution of this Agreement.

## **27. METHOD OF CALCULATION OF PROPORTIONATE SHARE WHEREVER REFERRED TO IN THE AGREEMENT**

Whenever in this Agreement it is stipulated that the Allottee(s) has to make any payment, in common with other Allottee(s) in Project, the same shall be the proportion which the carpet area of the Apartment bears to the total carpet area of all the Apartment in the Project.

## **28. FURTHER ASSURANCES**

Both Parties agree that they shall execute, acknowledge and deliver to the other such instruments and take such other actions, in additions to the instruments and actions specifically provided for herein, as may be reasonably required in order to effectuate the provisions of this Agreement or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred here under or pursuant to any such transaction.

## **29. PLACE OF EXECUTION**

The execution of this Agreement shall be complete only upon its execution by the Vendor/Developer through its authorized signatory at the Vendor's/Developer's Office, and after the Agreement is duly executed by the Allottee(s) and the Vendor/Developer or simultaneously with the execution of the said Agreement shall be registered at the office of Sub-Registrar. Hence this Agreement shall be deemed to have been executed at Siliguri, West Bengal.

## **30. NOTICES**

[29]

That all notices to be served on the Allottee(s) and the Vendor/Developer as contemplated by this Agreement shall be deemed to have been duly served if sent to the Allottee(s) or the Vendor/Developer by Registered Post at their respective addresses specified below:

<b>GANESH ENCLAVE PRIVATE LIMITED</b>	SRI/SMT. .....
Address :- at Jyotinagar, Sevoke Road, P.O. Sevoke Road, P.S. Bhaktinagar, District Jalpaiguri,	Address :- .....
<b>M/S SIDHI GANPATI</b>	
Sidhi Dham, Jyoti Nagar, P.O. Siliguri, P.S. Bhaktinagar, District: Jalpaiguri, in the State of West Bengal	

It shall be the duty of the Allottee(s) and the Vendor/Developer to inform each other of any change in address subsequent to the execution of this Agreement in the above address by Registered Post failing which all communications and letters posted at the above address shall be deemed to have been received by the Vendor/Developer or the Allottee(s), as the case may be.

### **31. JOINT ALLOTEE(S)**

That in case there are Joint Allottee(s) all communications shall be sent by the Vendor/Developer to the Allottee whose name appears first and at the address given by

[30]

him/her/them which shall for all intents and purposes to consider as properly served on all the Allottee(s).

### **32. GOVERNING LAW**

That the rights and obligations of the parties under or arising out of this Agreement shall be construed and enforced in accordance with the laws of India for the time being in force.

### **33. DISPUTE RESOLUTION**

All or any disputes arising out or touching upon or in relation to the terms and conditions of this Agreement, including the interpretation and validity of the terms thereof and the respective rights and obligations of the Parties, shall be settled amicably by mutual discussion, failing which the same shall be settled through the Adjudicating Officer appointed under the Act.

### **34. SAVINGS:**

Any application letter, allotment letter, agreement, or any other document signed by the Purchaser, in respect of the Apartment, or building, as the case may be, prior to the execution and registration of this Agreement for Sale for such Apartment, as the case may be, shall not be construed to limit the rights and interests of the Allottee(s) under the Agreement for Sale or under the Act or the rules or the regulations made thereunder.

[31]

**SCHEDULE-‘A’**

**(DESCRIPTION OF THE LAND ON WHICH THE BUILDING STANDS)**

All that piece and parcel of land measuring 115 Kathas 4 Chattaks 37 Square Feet appertaining to R.S. Plot No. 132, 135, 141, 140, 139, 138 corresponding L.R. Plot No. 90, 94 of R.S. Sheet No. 8 corresponding to L.R. Sheet No. 25 of Mouza- Dabgram, recorded in R.S. Khatian No. 240 corresponding to L.R. Khatian No. 79, Police Station- Bhaktinagar, District of Jalpaiguri. The land is situated within the limited of **Road:- Zilla Parishad Road, Ward No. 41 of Siliguri Municipal Corporation.**

Plot wise area statements: R.S. Plot No.

<b>R.S. PLOT NO.</b>	<b>AREA</b>
132	58 KATHAS 02 CHATTAK 37 SQ FEET
140	19 KATHAS 08 CHATTAKS
135	06 KATHAS 14 CHATTAKS
141	25 KATHAS 06 CHATTAKS
139	03 KATHAS
138	02 KATHAS 06 CHATTAKS
<b>TOTAL</b>	<b>115 KATHAS 04 CHATTAKS 37 SQ FEET</b>

**The land is butted and bounded as under:**

**BY NORTH : LAND OF MAYALU ROY AND OTHERS**

**BY SOUTH : LAND OF KRISHNA HIGH RISE PVT LTD AND 15 FEET ROAD**

**BY EAST : 42 FEET ZILLA PARISHAD ROAD**

**BY WEST : LAND OF S. DENZANPA**

[32]

**SCHEDULE-‘B’**

**(DESCRIPTION OF THE APARTMENT)**

(a) One Residential Flat, being No.....on the ..... Floor, having RERA carpet area of ..... sq ft (.....) square feet, corresponding to super built-up area of ..... (.....) square feet, more or less and more or less, in Block No. .... of the complex named “**SIDHI PARADISE**”.

(b) The Share In Common Areas, being the undivided, impartible, proportionate and variable share and/or interest in the Common Areas of the Real Estate Project described in Schedule E below, as be attributable and appurtenant to the Said Flat, subject to the terms and conditions of this Agreement;

(c) The Land Share, being undivided, impartible, proportionate and variable share in the land underneath the Said Tower/Building, as be attributable and appurtenant to the Said Flat; and

**SCHEDULE- ‘C’ - PAYMENT PLAN**

➤ 10% Booking, 20% Foundation, 20% Roof Casing, 15% Wall & Plaster, 15% Flooring, 10% Finishing, 10% Complete/ registry

**SCHEDULE- ‘D’ - SEPECIFICATIONS, AMENITIES, FACILITIES (WHICH ARE PART OF THE FLAT)**

➤ Super Structure: RCC Framed Structure

➤ Wall: Bricks Masonry/AAC Blocks with Wall Putty & Primer finish. External cement paint.

➤ Flooring & Finish: Vitrified tiles in living, dinning, kitchen & in all bedrooms. Non skid tiles in toilet.

Granite kitchen slab with stainless steel sink



[33]

Ceramic tiles in toilet wall up to 7 ft height

Ceramic tiles up to 2 ft height above platform in kitchen

- Electricals: Concealed copper wiring and modular switches  
TV point in master bedroom & living room, AC point in master bedroom.
- Sanitary & Plumbing : Sanitary wares & cp fittings of reputed brands
- Doors & Windows: Wood Frame paneled main door & all other flush door. Aluminum windows with outer grill.

**SCHEDULE- 'E' - SPECIFICATIONS, AMENITIES, FACILITIES (WHICH ARE PART OF THE PROJECT)**

- Green Area
- Outdoor sitting
- Community Hall

**SCHEDULE -F (Common Areas Of the Real Estate Project) (Which Are Part Of the Real Estate Project)**

- Entrance Lobby at the ground level of the Said Tower/Building
- Lobbies on all floors and staircase(s) of the Said Tower/Building
- Lift machine room(s) and lift well(s) of the Said Tower/Building
- Water reservoirs/tanks of the Said Tower/Building

**[34]**

- Water supply pipeline in the Said Tower/ Building (save those inside any Flat)
- Drainage and sewage pipeline in the Said Tower/Building (save those inside any Flat)
- Wiring, fittings and accessories for lighting of lobbies, staircase(s) and other common portions of the Said Tower/Building
- Electricity meter(s) for common installations and space for their installation
- Intercom Network in the Said Tower/Building(if any)
- Network of Cable TV/DTH in the Said Tower/ Building, if any
- Broadband connection in the Said Tower/Building, if any
- Fire fighting system in the Said Tower/Building
- Lift(s) and allied machineries in the Said Tower/ Building
- External walls of the Said Tower/Building
- Roof Area
- Stair Room ,CCTV

(If any)

**SCHEDULE 'G'**

**(Covenants)**

The Allottee covenants with the Promoter and admits and accepts that:

1. Satisfaction of Allottee: The Allottee is acquainted with, fully aware of and is thoroughly satisfied about the title of the Owners, right and entitlement of the Promoter, the sanctioned plans, all the background papers, the right of the Owners and the Promoter to enter into this Agreement, the scheme of development described in this Agreement and the extent of the

[35]

rights being granted in favour of the Allottee and the negative covenants mentioned in this Agreement and the Allottee hereby accepts the same and shall not raise any objection with regard thereto.

2. Allottee Aware of and Satisfied with Common Areas and Specifications: The Allottee, upon full satisfaction and with complete knowledge of the Common Areas (described in Schedule F above) and Specifications (described in Schedule D above) and all other ancillary matters, is entering into this Agreement. The Allottee has examined and is acquainted with the Said Complex and has agreed that the Allottee shall neither have nor shall claim any right over any portion of the Said Tower/Building and/or the Said Complex and/or the Larger Property and/or the Whole Project save and except the Said Flat And Appurtenances.

3. Governing Body of Flat Owners: The Promoter shall hand over management and upkeep of all Common Areas to the Association of Flat owners. In this regard, it is clarified that (1) the Association of Flat owners shall operate, manage and render specified day to day services with regard to the common areas of the Said Complex (2) the Association of Flat owners shall levy and collect the common expenses/maintenance charges (3) the Allottee shall be bound to pay the common expenses/maintenance charges to the Association of Flat owners (4) the Association of Flat owners will be required to render any accounts to the Allottee (5) the Association of Flat owners shall merely be the service provider for rendition of services with regard to the common portions and no superior rights with regard to the common portions shall vest in the Association of Flat owners and (6) the governing body of Flat owners may be replaced by consent of 80% (eighty percent) or more of the allottees of the Said Complex/Whole Project.

4. Allottee to Mutate and Pay Rates & Taxes: The Allottee shall (1) pay the Taxes, surcharge, levies, cess etc. (collectively "Rates & Taxes") (proportionately for the Said Tower/Building and/or the Said Complex and wholly for the Said Flat And Appurtenances and until the Said Flat And Appurtenances is separately mutated and assessed in favour of the Allottee, on the basis of the bills to be raised by the Promoter/the Association (upon formation)/the Apex Body (upon formation), such bills being conclusive proof of the liability

[36]

of the Allottee in respect thereof and (2) have mutation completed at the earliest. The Allottee further admits and accepts that the Allottee shall not claim any deduction or abatement in the bills of the Promoter/ or the Association (upon formation)/the Apex Body (upon formation).

5. Allottee to Pay Common Expenses/Maintenance Charges: The Allottee shall pay the Common Expenses/Maintenance Charges, on the basis of the bills to be raised by the Promoter/the Association of Allottees (upon formation)/the Apex Body (upon formation), such bills being conclusive proof of the liability of the Allottee in respect thereof. The Allottee further admits and accepts that (1) the Allottee shall not claim any deduction or abatement in the bills relating to Common Expenses/Maintenance Charges and (2) the Common Expenses/Maintenance Charges shall be subject to variation from time to time, at the sole discretion of the Promoter/the Association (upon formation)/the Apex Body (upon formation).

6. Allottee to Pay Interest for Delay and/or Default: The Allottee shall, without raising any objection in any manner whatsoever and without claiming any deduction or abatement whatsoever, pay all bills raised by the Promoter/the Association (upon formation), within 7 (seven) days of presentation thereof, failing which the Allottee shall pay interest @ 2% (two percent) per month or part thereof (compoundable monthly), for the period of delay, computed from the date the payment became due till the date of payment, to the Promoter/the Association (upon formation), as the case may be.

The Allottee also admits and accepts that in the event such bills remain outstanding for more than 2 (two) months, all common services shall be discontinued to the Allottee and the Allottee shall be disallowed from using the Common Areas Of the Real Estate Project/Whole Project Included Amenities.

7. Promoter's Charge/Lien: The Promoter shall have first charge and/or lien over the Said Flat And Appurtenances for all amounts due and payable by the Allottee to the Promoter provided however if the Said Flat And Appurtenances is purchased with assistance of a

[37]

financial institution, then such charge/lien of the Promoter shall stand extinguished on the financial institution clearing all dues of the Promoter.

8. No Rights of or Obstruction by Allottee: All open areas in the Project Property to be used do not form part of the Common Areas within the meaning of this Agreement and the Promoter shall have absolute right to sell, transfer and/or otherwise deal with and dispose of the same or any part thereof.

9. Variable Nature of Land Share and Share In Common Portions: The Allottee fully comprehends and accepts that (1) the Share In Common Areas is a notional proportion that the Said Flat bears to the currently proposed area of the Said Tower/Building/Real Estate Project (2) if the area of the Said Tower/Building/ Real Estate Project is recomputed by the Promoter, then the Share In Common Areas shall vary accordingly and proportionately and the Allottee shall not question any variation (including diminution) therein (3) the Allottee shall not demand any refund of the Total Price paid by the Allottee on the ground of or by reason of any variation of the Share In Common Areas and (4) the Share In Common Areas are not divisible and partible and the Allottee shall accept (without demur) the proportionate share with regard to various matters, as be determined by the Promoter, in its absolute discretion.

10. Allottee to Participate in Formation of Association and Apex Body: The Allottee admits and accepts that the Allottee and other intending allottees of flats in the Said Complex shall form the Association and the Allottee shall become a member thereof. Further, the Association shall be bound to form a common maintenance body with all similar associations of all building/s in the Other Residential Component for supervision of maintenance of the facilities common for occupants of the Said Complex ("Apex Body"). The Allottee shall bear and pay the proportionate expenses of the Association and the Apex Body and shall acquire and hold membership with voting rights and in this regard the Allottee shall sign, execute and deliver necessary applications and all other papers, declarations and documents as may be required. Notwithstanding formation of the Association shall look after the maintenance of the Common Areas. Each flat owner will be entitled to cast a vote irrespective of his/her/its

[38]

size of Flat. The Allottee further admits and accepts that the Allottee shall ensure and not object to the Association joining the Apex Body.

11. Obligations of Allottee: The Allottee shall:

(a) Co-operate in Management and Maintenance: co-operate in the management and maintenance of the Said Tower/Building, the Real Estate Project, the Whole Project and the Said Complex by the Promoter/the Association (upon formation)/the Apex Body (upon formation).

(b) Observing Rules: observe the rules framed from time to time by the Promoter/the Association (upon formation)/the Apex Body (upon formation) for the beneficial common enjoyment of the Said Tower/Building, the Real Estate Project, the Whole Project and the Said Complex.

(c) Paying Electricity Charges: pay for electricity and other utilities consumed in or relating to the Said Flat and Appurtenances and the Common Areas from the possession date.

(d) Meter and Cabling: be obliged to draw electric lines/wires, television cables, broadband data cables and telephone cables to the Said Flat only through the ducts and pipes provided thereof, ensuring that no inconvenience is caused to the Promoter or to the other flat owners. The main electric meter shall be installed only at the common meter space in the Said Complex. The Allottee 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 Tower/Building, the Project Property, and outside walls of the Said Tower/Building save in the manner indicated by the Promoter/the Association (upon formation). The Promoter shall endeavor to provide T.V. cable line or DTH connection with cabling but set top boxes shall have to be purchased by the Allottee.

(e) Residential Use: use the Said Flat for residential purpose only. Under no circumstances shall the Allottee use or allow the Said Flat to be used for commercial, industrial or other

[39]

non-residential purposes. The Promoter shall also not use or allow the Said Flat to be used as a religious establishment, hotel, hostel, boarding house, restaurant, nursing home, club, school or other public gathering place.

(f) No Alteration: not alter, modify or in any manner change the (1) elevation and exterior colour scheme of the Said Flat and the Said Tower/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 Allottee makes any alterations/changes, the Allottee shall compensate the Promoter /the Association (upon formation) (as the case may be) as estimated by the Promoter /the Association (upon formation) for restoring it to its original state.

(g) 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 Areas or the Said Tower/Building. The Allottee shall not install any dish antenna on the balcony and/or windows of the Said Tower/Building and/or on any external part of the Said Tower/Building and/or the roof thereof. The Allottee shall not install grills on the railings of the balcony and/or outside the windows, in any form or manner. The Allottee shall install pipelines and ledge only at such places, as be specified and prescribed by the Promoter. Grills may only be installed by the Allottee on the inner side of the doors and windows of the Said Flat. The Allottee shall further install such type of air-conditioners (window or split) and at such places, as be specified and prescribed by the Promoter, it being clearly understood by the Allottee that no out-door units of split air-conditioners will be installed on the external walls of the Said Tower/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 Allottee shall install the out-door unit of the same either inside the Allottee's 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 Allottee shall also not install any collapsible gate on the main door/entrance of the Said Flat. The Allottee accepts that the aforesaid covenants regarding grills, air conditioners,

[40]

collapsible gates etc. are for maintaining uniformity and aesthetic beauty of the Said Complex, which is beneficial to all.

(h) No Sub-Division: not sub-divide the Said Flat And Appurtenances and the Common Areas, under any circumstances.

(i) No Changing Name: not change/alter/modify the names of the Said Tower/Building and the Said Complex from that mentioned in this Agreement.

(j) Trade Mark Restriction: not to use the name/mark in any Form or manner, in any medium (real or virtual), for any purpose or reason whatsoever save and except for the purpose of address of the Said Flat and if the Allottee does so, the Allottee shall be liable to pay damages to the Promoter and shall further be liable for prosecution for use of the mark .

(k) No Nuisance and Disturbance: not use the Said Flat or the Common Areas 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 Tower/Building and/or the neighbouring 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 other persons.

(l) 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 Areas.

(m) No Obstruction to Promoter/Association/ Apex Body: not obstruct the Promoter/the Association (upon formation)/the Apex Body (upon formation) in their acts relating to the Common Areas and not obstruct the Promoter in constructing on other portions of the Said Tower/Building and/or the Said Complex/Whole Project/Project Property and selling or granting rights to any person on any part of the Said Tower/Building/Said Complex/Whole Project/Project Property(excepting the Said Flat)

(n) No Obstruction of Common Areas: not obstruct pathways and passages or use the same for any purpose other than for ingress to and egress from the Said Flat.



[41]

(o) No Violating Rules: not violate any of the rules and/or regulations laid down by the Promoter/the Association (upon formation)/the Apex Body (upon formation) for the use of the Common Areas.

(p) No Throwing Refuse: not throw or accumulate or cause to be thrown or accumulated any dust, rubbish or other refuse in the Common Area save at the places indicated thereof.

(q) No Injurious Activities: not carry on or cause to be carried on any obnoxious or injurious activity in or through the Said Flat or the Common Areas.

(r) No Storing Hazardous Articles: not keep or store any offensive, combustible, obnoxious, hazardous or dangerous articles in the Said Flat.

(s) No Signage: not put up or affix any sign board, name plate or other things or other similar articles in the Common Areas or outside walls of the Said Flat/Said Tower/Building/Said Complex save at the place or places provided thereof provided that this shall not prevent the Allottee from displaying a standardized name plate outside the main door of the Flat.

(t) 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.

(u) No Installing Generator: not install or keep or run any generator in the Said Flat.

(v) No Use of Machinery: not install or operate any machinery or equipment except home appliances.

(w) No Misuse of Water: not misuse or permit to be misused the water supply to the Said Flat.

(x) No Damage to Common Areas: not damage the Common Areas in any manner and if such damage is caused by the Allottee and/or family members, invitees or servants of the Allottee, the Allottee shall compensate for the same.

[42]

(y) No Hanging Clothes: not hang or cause to be hung clothes from the balconies of the Said Flat.

(z) Fire Safety and Air Conditioning Equipment: not object to any fire safe equipment including fire sprinklers and Air Conditioning equipment being installed inside the Said Flat and/or the Common Areas, as per statutory requirements. The Allottee hereby understands and accepts that as per the present statutory requirements/fire norms, the fire extinguisher pipe line/fire sprinklers cannot be concealed within any wall and/or ceiling of the Said Flat and consequently all fire extinguisher pipe line/fire sprinklers installed in the Said Flat shall always remain exposed and the Allottee shall not raise any objection in any manner whatsoever with regard thereto and further the Allottee hereby confirms that the Allottee shall not violate any terms of the statutory requirements/fire norms.

11.1 Notification Regarding Letting/Transfer: If the Allottee lets out or sells the Said Flat And Appurtenances, the Allottee shall immediately notify the Association (upon formation)/the Apex Body (upon formation) of the tenant's/allottees address and telephone number.

11.2 No Right in Other Areas: Save and except as expressly mentioned in this Agreement, the Allottee shall not have any right in the other portions of the Larger Property/the Proposed Adjoining Land/the Said Complex and the Allottee shall not raise any dispute or make any claim with regard to the Promoter either constructing or not constructing on the said other portions of the Larger Property/the Proposed Adjoining Land/the Said Complex.

11.3 Roof Rights: A demarcated portion of the top roof of the Said Tower/Building shall remain common to all owners of the Said Tower/Building (Common Roof) and all common installations such as water tank and lift machine room shall be situated in the Common Roof and the balance of the top roof of the Said Tower/Building shall belong to the Promoter with right of exclusive transfer and the Allottee specifically agrees not to do any act which prevents or hinders such transfer.

[43]

11.4 Hoardings: The Promoter shall be entitled to put hoarding/boards of their Brand Name (including any brand name the Promoter is permitted to use), in the form of Neon Signs, MS Letters, Vinyl & Sun Boards and/or such other form as the Promoter may in its sole discretion deem fit on the Larger Property and on the façade, terrace, compound wall or other part of the buildings as may be developed from time to time. The Promoter shall also be entitled to place, select, decide hoarding/board sites

12. Nomination: The Allottee admits and accepts that before the execution and registration of conveyance deed of the Said Flat And Appurtenances, the Allottee will be entitled to nominate, assign and/or transfer the Allottee's right, title, interest and obligations under this Agreement on payment of 3% (three percent) of the market price prevailing at that time (to be determined by the Promoter) as nomination charge to the Promoter subject to the covenant by the nominee that the nominee will strictly adhere to the terms of this Agreement and subject also to the below mentioned conditions:

(a) The Allottee shall make payment of all dues of the Promoter in terms of this Agreement, up to the time of nomination.

(b) The Allottee shall obtain prior written permission of the Promoter and the Allottee and the nominee shall be bound to enter into a tripartite agreement with the Owners and the Promoter.

(c) The Allottee shall pay an additional legal fee of Rs.10,000/- (Rupees ten thousand) to the Promoter's legal advisors towards the tripartite Nomination Agreement.

(d) Subject to the approval and acceptance of the Promoter and subject to the above conditions, the Allottee shall be entitled to nominate, assign and/or transfer the Allottee's right, title, interest and obligations under this Agreement to parent, spouse and children without payment of the aforesaid transfer charge.

**SCHEDULE 'H' (Common Expenses)**

[44]

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 Tower/Building and the Said Complex and the road network, STP etc.
3. Association: Establishment and all other capital and operational expenses of the Association of Allottes.
4. Litigation: All litigation expenses incurred for the common purposes and relating to common use and enjoyment of the Common Areas.
5. Maintenance: All costs for maintaining, operating, replacing, repairing, white-washing, painting, decorating, re-decorating, re-building, re-constructing, lighting and renovating the Common Areas [including the exterior or interior (but not inside any flat) walls of the Said Tower/Building] and the road network, STP etc.
6. Operational: All expenses for running and operating all machinery, equipments and installations comprised in the Common Areas, including elevators, diesel generator set, changeover switch, pump and other common installations including their license fees, taxes and other levies (if any) and expenses ancillary or incidental thereto and the lights of the Common Areas and the road network.
7. Rates and Taxes: Municipal Tax, surcharge, Water Tax and other levies in respect of the Said Tower/Building and the Said Complex save those separately assessed on the Allottee.
8. 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.

[45]

9. Fire Fighting: Costs of operating and maintaining the fire-fighting equipments and personnel, if any.

**SCHEDULE-I**

**(FLOOR PLAN AND LAYOUT PLAN)**

[46]

IN WITNESS WHEREOF parties hereinabove named have set their respective hands and signed this Agreement for sale at .....in the presence of attesting witness, signing as such on the day first above written.

**WITNESSES:-**

1.

-----

**VENDOR**

2.

-----

**DEVELOPER**

-----

**PURCHASER**

**Drafted, readover, explained and printed in my office:**

-----

**MANOJ AGARWAL**  
**Advocate, Siliguri.**  
**Enrl. No. F-505/434 of 1997**