

## AGREEMENT TO SELL

THIS AGREEMENT IS MADE ON THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 2023.

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**B E T W E E N**

**1. VICTOR TRADELINK PRIVATE LIMITED**, a Private Limited Company, registered under the Companies Act, 1956, bearing Certificate of Incorporation No.U51909WB2008PTC124326, Dtd.19.03.2008, having its Office at 327, Bidhan Road, Siliguri, P.O. and P.S.-Siliguri, District-Darjeeling, PIN - 734001, in the State of West Bengal, represented by its **Director - MISS RICHA CHOUDHARY**, daughter of Sri Bijay Choudhary, Indian by Nationality, Hindu by faith, Business by occupation, residing at Burdwan Road, Siliguri, Ward No. 9 of Siliguri Municipal Corporation, P.O. - Siliguri Bazar, P.S. - Siliguri, District - Darjeeling, PIN - 734005, in the State of West Bengal, ( which expression shall unless excluded by or repugnant to the context be deemed to include its Directors, executors, successors-in-office, representatives, administrators and assignees ) ( I.T. PAN - AACCV8005H) and

**2. DEEPAK ENTERPRISES**, a Partnership Firm, having its Office at 327, Bidhan Road, Siliguri, P.O. and P.S. - Siliguri, District-Darjeeling, PIN - 734001, in the State of West Bengal, represented by its **Partner - SMT. PREMLATA BIHANI**, wife of Sri Ratan Kumar Bihani, Indian by Nationality, Hindu by faith, Business by occupation, residing at 327, Bidhan Road, Siliguri, P.O. and P.S. - Siliguri, District - Darjeeling, PIN - 734001, in the State of West Bengal, ( which expression shall unless excluded by or repugnant to the context be deemed to include its Partners, executors, successors-in-office, representatives, administrators and assignees ) ( I.T. PAN - AAPFD5760M )

hereinafter called the "**VENDORS**" of the "**FIRST PART**".

**A N D**

\_\_\_\_\_, son of \_\_\_\_\_, Indian by Nationality, Buddhist by faith, \_\_\_\_\_ by occupation, residing at \_\_\_\_\_, P.O. - \_\_\_\_\_, P.S. - \_\_\_\_\_, District - \_\_\_\_\_, PIN - \_\_\_\_\_, in the State of \_\_\_\_\_, hereinafter called the "**PURCHASER**" ( which expression shall unless excluded by or repugnant to the context be deemed to include his heirs, executors, successors, representatives, administrators and assignees ) of the "**SECOND PART**". ( I.T. PAN - \_\_\_\_\_ )

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**A N D**

**DEEPAK ENTERPRISES**, a Partnership Firm, having its Office at 327, Bidhan Road, Siliguri, P.O. and P.S.-Siliguri, District-Darjeeling, PIN-734001, in the State of West Bengal, represented by its **Partner - SMT. PREMLATA BIHANI**, wife of Sri Ratan Kumar Bihani, Indian by Nationality, Hindu by faith, Business by occupation, residing at 327, Bidhan Road, Siliguri, P.O. and P.S. - Siliguri, District - Darjeeling, PIN - 734001, in the State of West Bengal, hereinafter called the "**DEVELOPER**" ( which expression shall unless excluded by or repugnant to the context be deemed to include its Partners, executors, successors-in-office, representatives, administrators and assignees ) being the **CONFIRMING PARTY** of the "**THIRD PART**". ( I.T. PAN - AAPFD5760M ).

The Vendors, the Purchaser/s and the Confirming Party shall hereinafter collectively be referred to as the "Parties" and individually as a "Party".

**DEFINITIONS:**

For the purpose of this Agreement for Sale, unless the context otherwise requires:

- a) "**Act**" means the Real Estate (Regulation and Development) Act, 2016 ;
- b) "**Rules**" means the West Bengal Real Estate (Regulation and Development) Rules, 2021;
- c) "**Section**" means a section of the Act.

I. WHEREAS **VICTOR TRADELINK PRIVATE LIMITED** (the Vendor No.1 of these presents), by virtue of twelve separate Sale Deeds, i) Dated 08-10-2010, being Document No.2366 for the year 2010, ii) Dated 08-10-2010, being Document No.2367 for the year 2010, iii) Dated 08-10-2010, being Document No.2368 for the year 2010, iv) Dated 08-10-2010, being Document No.2369 for the year 2010, v) Dated 08-10-2010, being Document No.2370 for the year 2010, vi) Dated 08-10-2010, being Document No.2371 for the year 2010, vii) Dated 08-10-2010, being Document No.2372 for the year 2010, viii) Dated 06-10-2012, being Document No.2638 for the year 2012, ix) Dated 06-10-2012, being Document No.2639 for the year 2012, x) Dated 06-10-2012, being Document No.2640 for the year 2012, xi) Dated 06-10-2012, being Document No.2641 for the year 2012 and xii) Dated 06-10-2012, being Document No.2642 for the year 2012, all the Deeds registered in the Office of the Addl. Dist. Sub-Registrar, Siliguri, became the sole, absolute and exclusive owners of all that piece or parcel of land measuring 60 Kathas, forming part of R.S. Plot No.259 recorded in R.S. Khatian No.432, situated within Mouza - Siliguri, J.L. No.110(88), Pargana-Baikunthapur, P.O. and P.S.- Pradhan Nagar, Sub-Div. and A.D.S.R.O. - Siliguri, Ward No. II of Siliguri Municipal Corporation, in the District of Darjeeling, having permanent, heritable and transferable right, title and interest therein and the said land was subsequently recorded in its name in the Record of Rights in L.R. Khatian No.3343 comprising of L.R. Plot No.288, situated within L.R. Mouza - Siliguri Uttar Paschim, L.R. J.L. No.89, Pargana - Baikunthapur, P.S. - Siliguri, District - Darjeeling.

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II. AND WHEREAS DEEPAK ENTERPRISES (the Vendor No.2 of these presents), by virtue of two separate Sale Deeds, i) Dated 05-08-2019, being Document No.1835 for the year 2019 and ii) Dated 06-08-2019, being Document No.1896 for the year 2019 both the Deeds registered in the Office of the Addl. Dist. Sub-Registrar, Siliguri, became the sole, absolute and exclusive owner of all that piece or parcel of land measuring 27 Kathas 8 Chattaks forming part of R.S. Plot No.259 recorded in R.S. Khatian No.433, situated within Mouza - Siliguri, J.L. No.110(88), Pargana - Baikunthapur, P.O. and P.S.- Pradhan Nagar, Sub-Div. and A.D.S.R.O. - Siliguri, Ward No.II of Siliguri Municipal Corporation, in the District of Darjeeling, having permanent, heritable and transferable right, title and interest therein and the said land was subsequently recorded in its name in the Record of Rights in L.R. Khatian No.3349 comprising of L.R. Plot No.288, situated within L.R. Mouza - Siliguri Uttar Paschim, L.R. J.L. No.89, Pargana - Baikunthapur, P.S. - Siliguri, District - Darjeeling.

III. AND WHEREAS abovenamed **VICTOR TRADELINK PRIVATE LIMITED** and **DEEPAK ENTERPRISES** (the Vendors of these presents) had amalgamated their aforesaid respective land for constructing a residential cum commercial building on the aforesaid land in total measuring 87 Kathas 8 Chattaks.

IV. AND WHEREAS the Vendors being desirous of constructing a residential cum commercial building on the said land and to put its scheme and contemplation into action had entered into a Development Agreement with **DEEPAK ENTERPRISES** (the Confirming Party of these presents) to promote the said building on the aforesaid land and the said Indenture was executed on 29-07-2022, being Document No.2263 for the year 2022, entered in Book - I, Volume No.0402-2022, Pages 75789 to 75820, registered in the Office of the Additional District Sub-Registrar, Siliguri.

V. AND WHEREAS abovenamed **DEEPAK ENTERPRISES**, is constructing a building on the said land, the plan prepared for which is approved by the appropriate authority, vide Building Plan No.0109146255500032, Dated 06-10-2020, sanctioned on 04-12-2021 for B + G + 7 Storied Residential cum Commercial building.

VI. AND WHEREAS the Vendors/Confirming Party have divided the said building into several independent flats / units / premises / parking spaces alongwith the common facilities.

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VII. AND WHEREAS the Vendors/Confirming Party have formulated a scheme to enable a person/party intending to have his/ her/ its/ their own flats / units / premises / parking spaces in the said building alongwith the undivided proportionate share and interest in the land on which the said building stands. The proportionate share or interest in the land is to be determined according to the constructed area comprising the unit or premises proportionate to the total constructed area on the said land.

VIII. AND WHEREAS the Landlord No.2 and Developer out of its allocation as per the aforesaid Development Agreement, being Document No.2263 for the year 2022, has now firmly and finally decided to sell and have offered for sale to the purchaser/s all that Residential Flat measuring \_\_\_\_\_ .00 Sq.ft. (Super Built-up Area) at \_\_\_\_\_ Floor in Block-II of the building complex and the right to park one car in the Parking Space, measuring \_\_\_\_\_ .00 Sq.ft. at \_\_\_\_\_ in Block-II of the building complex, more particularly described in the Schedule-A given hereinunder, for a valuable consideration of Rs. \_\_\_\_\_ .00 ( Rupees \_\_\_\_\_ ) only.

IX. AND WHEREAS the Purchaser/s being in need of Schedule-A property in ownership in the locality where the aforesaid building is situated and after inspecting the documents of title of Vendors to the said land, site plan, sanctioned building plan, Agreement with the Developer, standard of workmanship in construction, quality of materials used etc. as well as the construction of the said building and considering the price so offered by the Vendors/Confirming Party as fair, reasonable and highest have agreed to purchase from the Vendors/Confirming Party the Schedule-A property with undivided common share or interest in the stairs, open space, toilet, water source and other fittings and fixtures and other common parts services of the building, free from all encumbrances, charges, liens, lispendens, attachments, mortgages and all or any other liabilities whatsoever with sole, absolute, exclusive, transferable and irrevocable right, title and interest for the Schedule-A property for a valuable consideration of Rs. \_\_\_\_\_ .00 ( Rupees \_\_\_\_\_ ) only.

- A. The said land is earmarked for the purpose of constructing a B + G + 7 Storied Residential cum Commercial building (hereinafter referred to as “ Project ”) and the said building shall be known as “ The Crest ”.
- B. The Vendors/Confirming Party are fully competent to enter into this agreement and all the legal formalities with respect to the right, title and interest of the Vendor regarding the said land on which the Project is to be constructed have been completed.
- C. The Vendors/Confirming Party have obtained the final layout plan, sanctioned plan, specifications and approvals for the Project from the appropriate authority vide Plan No.0109146255500032, Dated 06-10-2020, sanctioned on 04-12-2021. The Vendors agree and undertake that they shall not make any changes to these approved plans except in strict compliance with section 14 of the Act and other laws as applicable.

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- D. The Vendors/Confirming Party shall register the Project under the provisions of the Act with the Real Estate Regulatory Authority as and when the said Authority commences its operations in the state of West Bengal.
- E. The Purchaser/s has/have applied for a flat and parking space in the Project vide application No. \_\_\_\_\_ dated \_\_\_\_\_ and has been allotted the Schedule-A property, as permissible under the applicable law.
- F. The Parties have gone through all the terms and conditions set out in this Agreement and understood the mutual rights and obligations detailed herein.
- G. 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.
- H. 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.
- I. In accordance with the terms and conditions set out in this Agreement and as mutually agreed upon by and between the Parties, the Vendors/Confirming Party hereby agree to sell and the Purchaser/s hereby agrees to purchase the Schedule-A property.

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:-**

**1. TERMS:**

1.1 That the Vendors/Confirming Party hereby agree to sell and transfer unto the Purchaser/s the Schedule-A property and the Purchaser/s hereby agree to purchase the same for a valuable consideration of Rs. \_\_\_\_\_ .00 ( Rupees \_\_\_\_\_ ) only.

**Explanation :**

- (i) The consideration amount above includes the booking amount paid by the Purchaser/s to the Vendors/Confirming Party towards the Schedule-A property;
- (ii) The consideration amount is exclusive of Taxes (consisting of tax paid or payable by the Purchaser/s by way of GST and Cess or any other similar taxes which may be levied) up to the date of handing over the possession of the Schedule-A property to the Purchaser/s and the project to the Association of Purchasers or the competent authority, as the case may be, after filing of the application of the completion certificate;

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Provided that in case there is any change/modification in the taxes, the subsequent amount payable by the Purchaser/s to the Vendors/Confirming Party shall be increased/reduced based on such change/modification;

(iii) The Vendors/Confirming Party shall periodically intimate in writing to the Purchaser/s, the amount payable as stated in (i) above and the Purchaser/s shall make payment demanded by the Vendors/Confirming Party within the time and in the manner specified therein. In addition, the Vendors/Confirming Party shall provide to the Purchaser/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;

(iv) The consideration amount of Schedule-A property includes recovery of price of land (proportionate share), construction of not only the Schedule-A property but also the Common Areas, internal development charges, external development charges, taxes, cost of providing electric wiring, electrical connectivity to the apartment, lift, water line and plumbing, finishing with POP, tiles, doors, windows, fire detection and firefighting equipment in the common areas, and includes cost for providing all other facilities, amenities and specifications to be provided within the Building Complex.

1.2 The consideration amount is escalation-free, save and except increases which the Purchaser/s hereby agrees to pay due to increases 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 Vendors/Confirming Party undertake and agree that while raising a demand on the Purchaser/s for increase in development charges, cost/charges imposed by the competent authority, the Vendors/Confirming Party shall enclose the said notifications/order/rule regulations to the effect along with the demand letter being issued to the Purchaser/s, which shall only be applicable on subsequent payments.

Provided that if there is any new impositions or increase of any development charges after the expiry of the scheduled date of completion of the project as per registrations 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/s.

1.3 It is agreed that the Vendors/Confirming Party shall not make any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities with respect to the Schedule-A Property, without the written consent of the Purchaser/s as per the provisions of the Act.

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1.4 The Vendors/Confirming Party agree and acknowledge that the Purchaser/s shall have the right to the Schedule-A property as mentioned below:

(i) The Purchaser/s shall have exclusive ownership of the Schedule-A property;

(ii) The Purchaser/s shall also have undivided proportionate share in the Common Areas, along with other occupants without causing any inconvenience or hindrance to them, it is clarified that the Vendors/Confirming Party shall hand over the common areas to the Association of Purchasers on its formation after duly applying for the completion certificate to the competent authority as provided in the Act;

(iii) That the computations of the consideration amount of the Schedule-A property includes recovery of price of land, construction of the Schedule-A property, the Common Areas, internal development charges, external development charges, taxes, cost of providing electric wiring, electrical connectivity to the Schedule-A property, lift, water line and plumbing, finishing with paint marbles, tiles, doors, window, fire detection and firefighting equipment in the common areas and includes cost for providing all other facilities, amenities and specifications to be provided within the Schedule-A property and the project;

(iv) The Purchaser/s has/have the right to visit the project site to assess the extent of development of the project.

1.5 It has been made clear by the Vendors/Confirming Party to the Purchaser/s that the Schedule-A property shall be treated as a single indivisible unit for all purpose. 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 any other project in its vicinity or otherwise except for the purpose of integration of infrastructure for the benefit of the Purchaser/s. It is clarified that Project's facilities and amenities shall be available only for use and enjoyment of the Purchaser/s.

1.6 The Vendors/Confirming Party agree to pay all outgoing before transferring the physical possession of the Schedule-A property to the Purchaser/s, which it has collected from the Purchaser/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, bank and financial institutions, which are related to the project). If the Vendors/Confirming Party fails to pay all or any of the outgoings collected from the Purchaser/s, or any liability, mortgage loan and interest thereon before transferring the Schedule-A property to the Purchaser/s, then the Vendors/Confirming Party shall be liable, to pay such outgoing 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.



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1.7 That in pursuance of the aforesaid offer, acceptance and agreement the Purchaser/s have already paid to the Vendors/Confirming Party a sum of Rs. \_\_\_\_\_ .00 ( Rupees \_\_\_\_\_ ) only, inclusive of G.S.T., as earnest/baina money, the receipt of which the Vendors/Confirming Party do hereby acknowledge by execution of these presents.

1.8 That the balance amount shall be paid as particularly described in the Schedule-C given hereinbelow.

1.9 That the Vendors/Confirming Party shall handover the Schedule - A property to the Purchaser/s after completion, which shall be completed within 31-12-2025, and the registration of the same shall be executed by the Vendors/Confirming Party in favour of the Purchaser/s simultaneously after receiving full and final payment, along with the G.S.T as may be applicable at the relevant time.

## **2. MODE OF PAYMENT**

Subject to the terms of this Agreement and the Vendors/Confirming Party abiding by the construction milestones, the Purchaser/s shall make payments, by cheque / RTGS to the Vendors/Confirming Party, within the stipulated time as aforesaid.

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

3.1 The Purchaser/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 ,1934 and Rules and Regulations made thereunder or any statutory amendments (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 Vendors/Confirming Party with such permission, approvals which would enable the Vendors/Confirming Party 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 Purchaser/s understands and agrees that in the event of any failure on his/her part to comply with the applicable guidelines issued by the Reserve Bank of India, he/she may be liable for any action under the Foreign Exchange Management Act, 1999 or other laws as applicable, as amended from time to time.

3.2 The Vendors/Confirming Party accept no responsibility with regard to matters specified in Para 3.1 above. The Purchaser/s shall keep the Vendors/Confirming Party fully indemnified and harmless in this regard. Whenever there is any change in the residential status of the Purchaser/s subsequent to the signing of this Agreement, it shall be the sole responsibility of the Purchaser/s to intimate the same in writing to the Vendors/Confirming Party immediately and comply with necessary formalities if any under the applicable laws. The Vendors/Confirming Party shall not be responsible towards any third party making payment/remittances on behalf of any Purchaser/s and such third party shall not have any right in the application/allotment of the said apartment applied for herein in any way and the Vendors/Confirming Party shall be issuing the payment receipts in favour of the Purchaser/s only.

#### **4. ADJUSTMENT/APPROPRIATION OF THE PAYMENT**

The Purchaser/s authorizes the Vendors/Confirming Party to adjust/appropriate all payments made by him/her/them under any head (s) of dues against lawful outstanding of the Purchaser/s against the Schedule-A property if any, in his/her/their name and the Purchaser/s undertakes not to object / demand / direct the Vendors/Confirming Party to adjust his/her/their payments in any manner whatsoever.

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

The Vendors/Confirming Party shall abide by the time schedule for completing the project as disclosed at the time of registration of the project with the authority and towards handing over the Schedule-A property to the Purchaser/s and the common areas to the Association of Purchasers or the competent authority.

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

The Purchaser/s has/have seen the proposed plan, specifications, amenities and facilities of the Schedule-A property and accepted the Payment Plan, floor plans, and the specifications, amenities and facilities which has been approved by the competent authority, as represented by the Vendors/Confirming Party. The Vendors/Confirming Party shall develop the Project in accordance with the said layout plans, floor plans and specifications, amenities and facilities subject to the terms in this Agreement, the Vendors/Confirming Party undertake to strictly abide by such plans approved by the competent Authorities and shall also strictly abide by the bye-laws, FAR and density norms and provisions prescribed by the Laws 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/or as elsewhere stated in this agreement, and breach of this term by the Vendors/Confirming Party shall constitute a material breach of the Agreement.

## **7. POSSESSION**

**7.1 Schedule for possession of the Schedule-A Property** – The Vendors/Confirming Party agree and understand that timely delivery of possession of the Schedule-A property to the Purchaser/s and the common areas to the Association of Purchasers or the competent authority is the essence of the Agreement. The Vendors/Confirming Party assures to hand over possession of the Schedule-A property along with ready and complete common areas with all specifications, amenities and facilities of the project in place on 31-12-2025, 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 (as defined in the Act) then the Purchaser/s agrees that the Vendors/Confirming Party shall be entitled to the extension of time for delivery of possession of the Schedule-A property.

Provided that such Force Majeure conditions are not of a nature which make it impossible for the contract to be implemented. The Purchaser/s agrees and confirms that, in the event it becomes impossible for the Vendors/Confirming Party to implement the project due to Force Majeure conditions, then this allotment shall stand terminated and the Vendors/Confirming Party shall refund to the Purchaser/s the entire amount received by the Vendors/Confirming Party from the allotment within 6 (six) months. The Vendors/Confirming Party shall intimate the Purchaser/s about such termination at least 1 (one) month prior to such termination. After refund of the money paid by the Purchaser/s, the Purchaser/s agrees that he/she/they shall not have any rights, claims etc. against the Vendors/Confirming Party and that the Vendors/Confirming Party shall be released and discharged from all its obligations and liabilities under this Agreement.

**7.2 Procedure for taking possession** – The Vendors/Confirming, upon obtaining the occupancy certificate from the competent authority shall offer in writing the possession of the Schedule-A property to the Purchaser/s in terms of this Agreement to be taken within 3 (three months) from the date of issue of such notice and the Vendors/Confirming shall give possession of the Schedule-A property to the Purchaser/s. The Vendors/Confirming agree and undertake to indemnify the Purchaser/s in case of failure of fulfillment of any of the provisions, formalities, documentation on part of the Vendors/Confirming. The Purchaser/s agree(s) to pay the maintenance charges as determined by the Vendors / Confirming / Association of Purchasers, as the case may be. The Vendors/Confirming on their behalf shall offer the possession to the Purchaser/s in writing within 45 days of receiving the occupancy certificate of the Project.

**7.3 Failure of Purchaser/s to take Possession of the Schedule-A property** – Upon receiving a written intimation from the Vendors/Confirming Party as per 7.2 above, the Purchaser/s shall take possession of the Schedule-A property from the Vendors/Confirming Party by executing necessary indemnities, undertakings and such other documentation as prescribed in this Agreement and the Vendors/Confirming Party shall give possession of the Schedule-A property to the Purchaser/s. In case the Purchaser/s fails to take possession within the time provided in paragraph 7.2, such Purchaser/s shall continue to be liable to pay maintenance charges as applicable.

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**7.4 Possession by the Purchaser/s** – After obtaining the occupancy / completion certificate and handing over physical possession of all the apartments to the Purchaser/s, it shall be the responsibility of the Vendors/Confirming Party to hand over the necessary documents and plans, including common areas, to the association of the Purchaser/s or the competent authority, as the case may be, as per the local laws.

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

Provided that where the Purchaser/s proposes to cancel / withdraw from the project without any fault of the Vendors/Confirming Party, the Vendors/Confirming Party herein is entitled to forfeit the booking amount, with applicable taxes. The balance amount of money paid by the Purchaser/s shall be returned by the Vendors/Confirming Party to the Purchaser/s within 45 (forty five) days of such cancellation.

**7.6 Compensation** – The Vendors/Confirming Party shall compensate the Purchaser/s in case of any loss caused to him/her/them due to defective title of the said 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 Vendors/Confirming Party fail to complete or are unable to give possession of the Schedule-A property (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 developer on account of suspension or revocation of the registration under the Act; or for any other reason; the Vendors/Confirming Party shall be liable, on demand to the Purchaser/s, in case the Purchaser/s wish/es to withdraw from the Project, without prejudice to any other remedy available, to return the total amount received by him in respect of the Schedule-A property, 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 Purchaser/s does not intend to withdraw from the Project, the Vendors/Confirming Party shall pay the Purchaser/s interest at the rate specified in the Rules for every month of delay, till the handing over of the possession of the Schedule-A property.

## **8. REPRESENTATIONS AND WARRANTIES OF THE VENDOR**

The Vendors/Confirming Party hereby represents and warrants to the Purchaser/s as follows :

A. That if the Vendors/Confirming Party avoid, neglect and/or fail to perform the acts as stipulated and register the necessary Sale Deed in favour of the Purchaser/s and/or his/her/their nominee/s with respect to the Schedule-A property, then the Purchaser/s shall be entitled to execute and register necessary legal Sale Deed through the process of law and the Vendors/Confirming Party shall be liable for the entire cost of the suit.

B. That the Vendors/Confirming Party covenant that the property hereby agreed to be conveyed in favour of the Purchaser/s and/or his/her/their nominees will be free from all encumbrances whatsoever and in the event of any contrary the Vendors/Confirming Party shall be liable to make good the loss or injury which the purchaser/s may suffer or sustain in consequence thereof.

C. That the Vendors/Confirming Party further undertakes to take all actions and to execute all documents required to be done or executed for fully assuring right, title and interest of the Purchaser/s to the property to be conveyed at the cost of Purchaser/s.

D. That after execution of the Sale Deed with respect to the Schedule - A property in favour of the Purchaser/s, he/she /they shall have the right to get his/her/their name mutated with respect to the said Schedule - A property with appropriate authority and shall pay such taxes as may be levied upon him/her/them from time to time though the same has not yet been assessed.

E. That after execution of the Sale Deed with respect to the Schedule - A property in favour of the Purchaser/s, he/she/they shall have the right to sale, gift, mortgage transfer otherwise of the Schedule - A property or let-out or lease-out the Schedule - A property to whomsoever.

F. The Vendors/Confirming Party have absolute, clear and marketable title with respect to the said Land, the Vendors/Confirming Party have requisite rights to carry out development upon the said land and absolute, actual, physical and legal possession of the said land for the project;

G. The Vendors/Confirming Party have lawful rights and requisite approvals from the competent authorities to carry out development of the Project;

H. There are no encumbrances upon the said land or the Project;

I. All approvals, licenses and permits issued by the competent authorities with respect to the project, said Land are valid and subsisting and have been obtained by following due process of law. Further, the Vendors/Confirming Party have been and shall, at all times, remain to be in compliance with all applicable laws in relation to the project, said land, Building and Apartments and common areas;

J. The Vendors/Confirming Party have the right to enter into this Agreement and have not committed or omitted to perform any act or thing, whereby the right, title and interest of the Purchaser/s intended to be created herein, may prejudicially be affected;

K. The Vendors/Confirming Party have 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 Schedule-A property which will, in any manner, affect the rights of Purchaser/s under this Agreement;

L. The Vendors/Confirming Party confirm that the Vendors/Confirming Party are not restricted in any manner whatsoever from selling the Schedule-A property to the Purchaser/s in the manner contemplated in this Agreement;

M. At the time of execution of the Sale Deed the Vendors/Confirming Party shall handover lawful, vacant, peaceful, physical possession of the Schedule-A property to the Purchaser/s and the common areas to the Association of Purchasers or the competent authority, as the case may be;

N. The Vendors/Confirming Party have 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 till the filing of the application of occupancy / completion certificate has been issued and possession of the units/flats/parking spaces, as the case may be, along with, common areas (equipped with all the specification, amenities and facilities) has been handed over to the Purchaser/s and the Association of Purchasers or the competent authority, as the case may be;

O. 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 Vendors/Confirming Party in respect of the said land.

## **9. COMPLIANCE**

A. That the Purchaser/s shall not do any act, deed or thing whereby the development/construction of the said building is in any way hindered or impeded with nor shall prevent the Vendors/Confirming Party from selling, transferring, assigning or disposing of unsold portion or rights, title and interest therein or appurtenant thereto.

B. That the Purchaser/s shall keep the area neat and clean and in proper condition and shall not use the same for any illegal purpose or in a manner which may cause annoyance to the other occupiers/occupants of the said building.

C. That the maintenance charge will be applicable from the date of registration and/or handover of the flat, whichever is earlier on the Super Built-up Area along with applicable G.S.T thereon per month till the time an executive body or any other authority of the apartment is formed to take care of the common maintenance of the building.

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That if there remains any balance with the Vendors/Confirming Party on account of maintenance at the time of handing over charge of maintenance of the building complex to the owners/occupants of the building, then the balance amount will be handed over by the Vendors/Confirming Party to Association of Purchasers in the name of the Purchaser/s.

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

a. Subject to the Force Majeure clause, the Vendors/Confirming Party shall be considered under a condition of Default, in the following events:

(i) Vendors/Confirming Party fail to provide ready to move in possession of the Schedule-A Property to the Purchaser/s within the time period specified in paragraph 7.1 or fails to complete the project within the stipulated time disclosed at the time of registration of the project with the authority. For the purpose of this paragraph, ready to move in possession shall mean that the apartment shall be in a habitable condition which is complete in all respects including the provision of all specifications, amenities and facilities, as agreed to between the parties, and for which occupation certificate and completion certificate, as the case may be, has been applied before the competent authority;

(ii) Discontinuance of the Confirming Party business as a developer on account of suspension or revocation of its registration under the provisions of the Act or the rules or regulations made thereunder.

b. In case of Default by Vendors/Confirming Party under the conditions listed above, the Purchaser/s is entitled to the following :

(i) Stop making further payments to the Vendors/Confirming Party as demanded by the Vendors/Confirming Party. If the Purchaser/s stops making payment, then the Vendors/Confirming Party shall correct the situation by completing the construction milestones and only thereafter the Purchaser/s be required to make the next payment without any interest; or.

(ii) The Purchaser/s shall have the option of terminating the Agreement in which case the Vendors/Confirming Party shall be liable to refund the entire money paid by the Purchaser/s under any head whatsoever towards the purchase of the Schedule-A property, along with interest at the rate prescribed in the Rules within 6 (six) months of receiving the termination notice;

Provided that where an Purchaser/s does not intend to withdraw from the project or terminate the Agreement, he/she/they shall be paid, by the Vendors/Confirming Party, interest at the rate prescribed in the Rules, for every month of delay till the handing over of the possession of the Schedule-A property, which shall be paid by the Vendors/Confirming Party to the Purchaser/s within 6 (six) months of it becoming due.

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c. The Purchaser/s shall be considered under a condition of Default, on the occurrence of the following events:

That in case of default in payment of balance amount within the stipulated period as aforesaid or non observance and compliance of any of the terms and conditions hereof the Vendors/Confirming Party shall be at liberty to terminate this agreement and forfeit 10% of the consideration amount together with the proportionate interest liability, GST and other Government Taxes and shall be at liberty to dispose of the Schedule-A property in such manner and to such person as they may think fit and the purchaser shall not be entitled to question or dispute such sale by the Vendors/Confirming Party on any ground whatsoever or claim any amount whatsoever on this account.

## **11. CONVEYANCE OF THE SAID SCHEDULE-A PROPERTY**

The Vendors/Confirming Party on receipt of Consideration Amount of the Schedule-A property from the Purchaser/s and other amounts elsewhere herein mentioned, shall execute a conveyance deed and convey the title of the Schedule-A property together with proportionate indivisible share in the common areas within 3 (three) months from the date of application of the occupancy certificate or the completion certificate, as the case may be, to the Purchaser/s.

Provided that, in the absence of local law, the conveyance deed in favour of the Purchaser/s shall be carried out by the Vendors/Confirming Party within 1 (one) month from the date of application of occupancy certificate / completion certificate. However, in case the Purchaser/s fails to deposit the stamp duty and/or registration charges within the period mention in the notice, the Purchaser/s authorized the Vendors/Confirming Party to withhold registration of the conveyance deed in his/her/their favour till payment of stamp duty and registration charges to the Vendors/Confirming Party is made by the Purchaser/s.

## **12. MAINTENANCE**

The Vendors/Confirming Party 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 Purchasers upon the filing of the application of the completion certificate of the project subject to the payment of maintenance charges as per paragraph 9C.



### **13. DEFECT LIABILITY**

It is agreed that in case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the Vendors/Confirming Party as per the agreement for sale relating to such development is brought to the notice of the Vendors/Confirming Party within a period of 6 ( six ) months by the Purchaser/s from the date of handing over possession, it shall be the duty of the Vendors/Confirming Party to rectify such defects without further charge, within 60 days, and in the event of Vendors/Confirming Party failure to rectify such defects within such time, the aggrieved Purchaser/s shall be entitled to receive appropriate compensation in the manner as provided under the Act.

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

The Vendors/Confirming Party or the Association of Purchasers shall have right of unrestricted access of all Common Areas, garages / covered parking and utility spaces for providing necessary maintenance services and the Purchaser/s agrees to permit the Association of Purchasers and/or maintenance agency to enter into the Schedule-A property 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 Project, shall be earmarked for purposes such as parking spaces and services including but not limited to transformer, DG set rooms, underground water tanks, fire fighting pumps and equipments etc. and other permitted uses as per sanctioned plans. The Purchaser/s shall not be permitted to use the services areas in any manner whatsoever, other than those earmarked as parking spaces and the same shall be reserved for use by the association of Purchaser/s formed by the Purchaser/s for rendering maintenance services.

### **16. COMPLIANCE WITH RESPECT TO THE SCHEDULE-A PROPERTY :**

a. The Purchaser/s shall, after taking possession, be solely responsible to maintain the Schedule-A property 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 Flat, 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 Schedule-A property, and keep the Schedule-A property, 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.

b. The Purchaser/s further undertakes, assures and guarantees that he/she/they would not put any signboard/name-plate, neon light, publicity material or advertisement material etc. on the face façade of the Building or anywhere on the exterior of the Project, building therein or Common Areas. The Purchaser/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 Purchaser/s shall not store any hazardous or combustible goods in the Schedule-A property or place any heavy material in the common passages or staircase of the Building. The Purchaser/s shall also not remove any wall including the outer and load bearing wall of the Schedule-A property.

c. The Purchaser/s shall plan and distribute its electrical load in conformity with the electrical systems installed by the Vendors/Confirming Party and thereafter the Association of Purchasers and/or maintenance agency appointed by the association of Purchaser/s. The Purchaser/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 PARTIES**

The parties are entering into this Agreement for the allotment of Schedule-A property with the full knowledge of all laws, rules, regulations, notifications applicable to the Project.

#### **18. ADDITIONAL CONSTRUCTIONS**

The Vendors/Confirming Party undertake that they have no right to make additions or to put up additional structure(s) anywhere in the Project after the building plan layout plan, sanction plan and specifications, amenities and facilities has been approved by the competent authorities and disclosed, except for as provided in the Act.

#### **19. VENDORS/CONFIRMING PARTY SHALL NOT MORTGAGE OR CREATE A CHARGE**

After the Vendors/Confirming Party executes this Agreement it shall not mortgage or create a charge on the Schedule-A property 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 Purchaser/s who has taken or agreed to take the Schedule-A property.

## **20. APARTMENT OWNERSHIP ACT (OR THE RELEVANT STATE ACT)**

The Vendors/Confirming Party have assured the Purchaser/s that the project in its entirety is in accordance with the provisions of the prevailing Law of the Land.

## **21. BINDING EFFECT**

Forwarding this Agreement to the Purchaser/s by the Vendors/Confirming Party does not create a binding obligation on the part of the Vendors/Confirming Party or the Purchaser/s until, the Purchaser/s signs and delivers this Agreement with all the schedules and annexure along with the payments due as stipulated in the Payment Plan within 30 days from the date of receipt by the Purchaser/s and appears for registration of the same before the concerned Registering authority as and when intimated by Vendors/Confirming Party. If the Purchaser/s fails to execute and deliver to the Vendors/Confirming Party this Agreement within 30 days from the date of its receipt by the Purchaser/s and/or fails to appear before the concerned Registering authority for registration as and when intimated by Vendors/Confirming Party, then the Vendors/Confirming Party shall serve a notice to the Purchaser/s for rectifying the default, which if not rectified within 15 days from the date of its receipt by the Purchaser/s, application of the Purchaser/s shall be treated as cancelled and all sums deposited by the Purchaser/s in connection therewith, including the booking amount, shall be returned to the Purchaser/s after deducting the taxable amount borne by the Vendors/Confirming Party 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, as the case may be.

## **23. RIGHT TO AMEND**

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

#### **24. PROVISIONS OF THIS AGREEMENT APPLICABLE ON PURCHASER/S/ SUBSEQUENT PURCHASER/S**

It is clearly understood and so agreed by and between the Parties hereto that all the provisions contained herein and the obligations arising hereunder in respect of the Schedule-A property and the Project shall equally be applicable to and enforceable against and by any subsequent Purchaser/s of the Schedule-A property, in case of a transfer, as the said obligations go along with the Schedule-A property for all intents and purposes.

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

a. The Vendors/Confirming Party may, at its sole option and discretion, without prejudice to its rights as set out in this Agreement, waive the breach by the Purchaser/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 Purchaser/s that exercise of discretion by the Vendors/Confirming Party in the case of one Purchaser/s shall not be construed to be a precedent and/or binding on the Vendors/Confirming Party to exercise such discretion in the case of other Purchaser/s.

b. Failure on the part of the Parties 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 there under 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 or the Rules and Regulations made there under or the applicable law, as the case may be, 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**

Wherever in this Agreement it is stipulated that the Purchaser/s has to make any payment, in common with other Purchaser/s (s) in Project, the same shall be the proportion which the carpet area of the Schedule-A property bears to the total carpet area of all the Units/Premises/Flats/Utility Spaces/Parking Spaces 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 hereunder or pursuant to any such transaction.

## **29. PLACE OF EXECUTION**

The execution of this Agreement shall be complete only upon its execution by the Vendors/Confirming Party through its authorized signatory at the Vendors' Office or at some other place, which may be mutually agreed between the Vendors/Confirming Party and the Purchaser/s.

## **30. NOTICES**

Unless otherwise expressly mentioned herein all notices to be served hereunder by any of the parties on the other shall be deemed to have been served if served by hand or sent by Registered Post with acknowledgment due at the address of the other party mentioned hereinabove or hereafter notified in writing and irrespective of any change of address or return of the cover sent by Registered Post without the same being served. None of the parties shall raise any objection as to service of the notice deemed to have been served as aforesaid.

## **31. JOINT PURCHASERS**

That in case there are Joint Purchaser/s all communications shall be sent by the Vendors/Confirming Party to the Purchaser/s whose name appears first and at the address given by him/her which shall for all intents and purposes to consider as properly served on all the Purchaser/s.

## **32. SAVINGS**

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

### **33. 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 Act and the Rules and regulations made thereunder including other applicable laws of India for the time being in force.

### **34. 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 in accordance with the Act and Rules.

## **S C H E D U L E - A**

[Description of Apartment]

All that Residential Flat, being Flat No. \_\_\_\_, measuring \_\_\_\_\_.00 Sq.ft. (Super Built-up Area) at \_\_\_\_\_ Floor in Block-\_\_\_\_ building complex and the right to park one car in the Parking Space, measuring \_\_\_\_\_.00 Sq.ft. at \_\_\_\_\_ in Block-\_\_\_\_ of the building complex known as “ The Crest ” together with undivided proportionate right in the said land on which the said building stands, forming part of R.S. Plot No.259 corresponding to L.R. Plot No.288, recorded in R.S. Khatian Nos.432 and 433 corresponding to L.R. Khatian Nos.3343 and 3349, situated within R.S. Mouza - Siliguri corresponding to L.R. Mouza - Siliguri Uttar Paschim, R.S. J.L. No.110(88) corresponding to L.R. J.L. No.89, Pargana - Baikunthapur, P.O. and P.S. - Pradhan Nagar, Sub-Div. and A.D.S.R.O. - Siliguri, Ward No.II of Siliguri Municipal Corporation, in the District of Darjeeling.

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**S C H E D U L E - B**

[Floor Plan of Apartment]

**SCHEDULE - C**

**INSTALLMENT PAYMENT PLAN**

On Booking / Application Money	10%
1 <sup>st</sup> Installment (on completion of basement floor roof casting)	10%
2 <sup>nd</sup> Installment (on completion of ground floor roof casting)	10%
3 <sup>rd</sup> Installment (on completion of first floor roof casting)	10%
4 <sup>th</sup> Installment (on completion of second floor roof casting)	5%
5 <sup>th</sup> Installment (on completion of third floor roof casting)	5%
6 <sup>th</sup> Installment (on completion of fourth floor roof casting)	5%
7 <sup>th</sup> Installment (on completion of fifth floor roof casting)	5%
8 <sup>th</sup> Installment (on completion of sixth floor roof casting)	5%
9 <sup>th</sup> Installment (on completion of seventh floor roof casting)	5%
10 <sup>th</sup> Installment (on completion of brick wall)	10%
11 <sup>th</sup> Installment (on completion of tiling work)	10%
Final payment on Registration	10%

All payments under installment payment plan shall be made within a maximum period of 10 days of issue of demand letter or mail, otherwise interest applicable as per rule shall be charged. In case payment is not made for two months from the demand date then the booking can be cancelled at the sole discretion of the Vendors/Confirming Party. The Vendors/Confirming Party shall deduct booking amount plus applicable GST on the amount so received till such time and refund the balance payment, without any interest thereon.

All payment received after due date will be first applied towards applicable interest and other sums if any due and thereafter towards the installment. No payment will be received after due date without the payment of applicable interest if any.



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IN WITNESSES WHEREOF THE VENDORS, THE CONFIRMING PARTY AND THE PURCHASER/S IN GOOD HEALTH AND CONSCIOUS MIND HAVE PUT THEIR SIGNATURES ON THESE PRESENTS ON THE DAY MONTH AND YEAR FIRST ABOVE WRITTEN.

WITNESSES :

1.

The contents of this document have been gone through and understood personally by the Vendors, the Confirming Party and the Purchaser/s

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VENDORS

2.

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CONFIRMING PARTY

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PURCHASER/S

Drafted as per the instructions of the parties and printed in the Office of Kamal Kumar Kedia & Associates, Siliguri.

Read over and explained the contents to the parties by me.

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Rahul Kedia  
Advocate, Siliguri.  
E.No.F/1379/1449/2017.