

भारतीय गैर न्यायिक

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INDIA

INDIA NON JUDICIAL

পশ্চিমবঙ্গ পশ্চিম বঙ্গাল WEST BENGAL

33AB 840785

AGREEMENT

1. Date: 2<sup>nd</sup> July 2017

2. Place: Kolkata

3. Parties

3.1 Industrial Paints Mfg. Co.(I) Private Limited, a company incorporated under the provisions of the Companies Act 1956 as extended by the Companies Act 2013, having its registered office situated at No.73A Ganesh Chandra Avenue, Kolkata 700013, represented by its Authorized Director, Mr. Jahan Numazar Mehta, son of Mr. Noomi Mehta, of 10/1G, Diamond Harbour Road, Police Station Alipore, Kolkata-700027

(Owner/Lessee, includes successors-in-interest and/or permitted assigns)

And

3.2 ATK Builders and Developers LLP, a limited liability partnership firm, constituted and registered under the Limited Liability Partnership Act, 2008, having its registered office at 63, Rafi Ahmed Kidwai Road Kolkata-700016, represented by its Designated Partner, Mr. Syed Abrar Imam, son of Late Syed Mohammad Nemet Imam, of 72 Tiljala Road, Kolkata 700046

(Developer, includes successors-in-interest and/or permitted assigns).

Owner/Lessee and Developer are hereinafter individually referred to as such or as Party and collectively as Parties.

ATK Builders & Developers LLP  
Jahan Numazar Mehta  
Authorized Director

For Industrial Paints Mfg. Co. (I) Pvt. Ltd.

JM Imam  
Director

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


4. Subject Matter of Agreement

- 4.1 **Development of Said Property:** This Agreement records the understanding between the Owner and the Developer with regard to development and commercial exploitation (in the manner specified in this Agreement) of land measuring 16 (sixteen) *cottahs*, more or less, together with structures erected thereon, situate, lying at and presently being Municipal Premises No.9/5/1, Topsia Road (South), Kolkata 700046 [formerly known as Municipal Premises No. 3, Mahendra Roy Lane and Municipal Premises No. 9/5 Topsia Road (South) Kolkata, which after amalgamation is presently known and has been re-numbered as Municipal Premises No.9/5/1, Topsia Road (south)] and described in the Schedule below (Said Property/Premises).

5. Background And Representations:

- 5.1 **Lease in favour of Owner/Lessee:** By a Deed of Lease dated 14<sup>th</sup> March 2007 and made between Kolkata Metropolitan Development Authority (KMDA), therein referred to as The Authority of the One Part and Industrial Paints Mfg. Co (I) Pvt Ltd, therein referred to as the Lessee of the Other Part, and registered at the office of the Additional Registrar of Assurances, Kolkata, in Book No. I, Volume No.1, Pages 1 to 21, Being No. 03474 for the year 2007 (Said Lease Deed), the KMDA granted a Lease unto and in favour of the Lessee in respect of ALL THAT piece and parcel of land measuring approximately 12 (twelve) *cottahs*, situated within Municipal Premises No. 3, Mahendra Roy Lane and land measuring approximately 4 (four) *cottahs*, situated in Municipal Premises No. 9/5 Topsia Road (South) Kolkata, aggregating to 16 (sixteen) *cottahs* of land, at the rent and subject to the terms and conditions contained and recorded in the Said Lease Deed.
- 5.2 **Amalgamation:** In pursuance of the Said Lease Deed, the Owner/Lessee caused the aforesaid lands to be amalgamated and upon such amalgamation the same has been numbered as Municipal Premises No.9/5/1 Topsia Road (South), Kolkata 700046, being the Said Property more fully described in the Schedule below.
- 5.3 **Decision to Develop:** The Owner decided to have the Said Property developed and pursuant thereto discussions were held with the Developer for taking up the development of the Said Property by constructing thereon a new fully commercial Basement + Ground + 7 (seven) storied building (New Building) and commercial exploitation of the New Building for the benefit of the Parties (such development and commercial exploitation collectively Project) by selling/sub-leasing the, units, car parking spaces, saleable spaces and amenities in the New Building (Units) to prospective buyers [collectively Transferees, which expression includes, without limitation or exception all persons who agree to buy Units in the New Building and shall include the Owner and the Developer for unsold Units comprised in the New Building].

For Industrial Paints Mfg. Co. (I) Pvt. Ltd.

  
Director

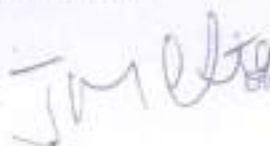
  
Designated Partner

- 5.4 **Owner's Representations:** At or before the execution of this Agreement the Owner has assured and represented to the Developer as follows:
- 5.4.1 **Entitlement to Said Property:** The Owner/Lessee is the long-term lessee of the Said Property.
- 5.4.2 **No Legal Proceedings:** There are no suit and/or legal proceedings presently pending in respect of the Said Property.
- 5.5 **Developer's Representations:** At or before the execution of this Agreement the Developer has assured and represented to the Owner as follows:
- 5.5.1 **Satisfaction Regarding Title and Possession:** The Developer has examined, verified, investigated and understood (1) the right, title and interest of the Owner to the Said Property (2) the nature and character of the land and existing structures comprised in the Said Property (3) the status of government records regarding the Said Property and (4) the possession of the Said Property.
- 5.5.2 **Infrastructure, Expertise and Financial Capacity of Developer:** The Developer is carrying on business of construction and development of real estate and have necessary infrastructure and expertise in this field as also the financial capacity to successfully undertake and complete the Project, in the manner envisaged in this Agreement.
- 5.6 **Purpose of Agreement:** The purpose of this Agreement is to record the terms and conditions that have been agreed between the Parties with regard to the Owner appointing the Developer as the developer for development of the Said Property in the manner mentioned herein.

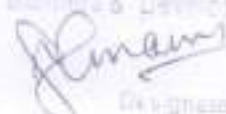
## 6. Terms Agreed

- 6.1 **Refundable Security Deposit and Advance Security Deposit:** The Developer shall pay to the Owner a total sum of Rs.1,50,00,000/- (Rupees one crore and fifty lac) as interest free security deposit (Security Deposit). At or before the execution of this Agreement, the Developer has paid to the Owner a sum of Rs.50,00,000/- (Rupees fifty lac) towards part payment of the Security Deposit (Advance Security Deposit), receipt of which the Owner hereby as well as by the Receipt and Memo of Consideration hereunder written, admits and acknowledges. The balance Security Deposit of Rs.1,00,00,000/- (Rupees one crore) (Balance Security Deposit) shall be paid by the Developer to the Owner simultaneously with the Owner fulfilling the conditions precedent as mentioned in Clause 6.11 below.
- 6.2 **Reimbursement of Construction Cost:** Subsequent to obtaining sanction of the Said Building Plan (as defined in Clause 6.5 below), the Owner commenced the work of construction of the New Building at the Said Premises and completed construction upto the plinth level. The amount so incurred by the Owner in undertaking such construction has been settled at Rs. 1,50,00,000/- (Rupees one crore and fifty lac) (Settled Sum) and the Developer has agreed to reimburse the Owner the Settled Sum. The Settled Sum of Rs. 1,50,00,000/- (Rupees one crore and fifty lac), after adjustment/deduction of the costs borne by the Developer (on behalf of the Owner) to revalidate the Said Building Plan and create accesses of the Project entrance from E.M Bypass Road, Kolkata (as mentioned in this

For Industrial Paints Mfg. Co. (I) Pvt. Ltd.

  
Director

ATK Builders & Developers LLP

  
Designated Partner

Agreement), shall be paid by the Developer to the Owner simultaneously with the fulfillment of the conditions precedent as mentioned in Clause 6.11 below.

- 6.3 **Development Agreement:** The Owner and the Developer shall execute and register an agreement for recording the elaborated terms and conditions of development of the Said Property (Development Agreement), immediately on the Owner fulfilling the conditions precedent as mentioned in Clause 6.11 below. Till execution of the Development Agreement, this Agreement shall be the comprehensive agreement between the Parties.
- 6.4 **Possession of Said Property:** Simultaneously with the execution of this Agreement, the Owner has inducted the Developer in possession of the entirety of the Said Property for the purpose of carrying out the construction of the New Building/Project. As mentioned in this Agreement, immediately after the Developer taking possession of the Said Property, the Developer shall, at the cost of the Owner (and by way of deploying/utilizing part of the Settled Sum mentioned in Clause 6.2 above), take the required steps to (1) revalidate the Said Building Plan to enable the Developer to commencement construction of the New Building (as mentioned in Clause 6.5 below) and (2) take all necessary steps to ensure that the Project's main entrance is accessible from the E.M Bypass Road, Kolkata (as mentioned in Clause 6.12.7 below).
- 6.5 **Said Building Plan:** For the purpose of undertaking construction of the New Building on the Said Property, the Owner obtained a sanction plan from the Kolkata Municipal Corporation (Said Building Plan). However, since the Said Building Plan has lapsed and the Developer shall take the necessary steps to revalidate the Said Building Plan to enable the Developer to commencement construction of the New Building. It is clarified that the Said Building Plan shall be sanctioned/revalidated in such manner so as to ensure that the New Building shall comprise of covered area of approximately 34,875 square feet.
- 6.6 **Construction and Timeline of Construction:** The Developer shall at its own cost and expense, construct and complete the New Building (including the common portions and amenities therein), as per the specifications to be mutually decided by the Parties (before the execution of the Development Agreement), in usable and habitable condition. The New Building shall be completed within a period of 24 months with an additional grace period of 6 months from the date of sanction/revalidation of the Said Building Plan, subject to modification of existing lease deed as stipulated under Clause 6.11 below and further subject to force majeure (Completion Time). It is clarified that the Parties shall be at liberty to extend the Completion Time by mutual consent.
- 6.7 **Common Portions:** The Developer shall, at its own cost, install and erect in the New Building/Said Premises, the common areas, amenities and facilities required for establishment, enjoyment, maintenance and management of the New Building as be mutually decided by the Parties before the execution of the Development Agreement (collectively Common Portions).
- 6.8 **Owner's Entitlement and Developer's Entitlement:** The Owner shall be entitled to 54% (fifty four percent) of the revenue/sale proceeds of the Units in the New Building (Owners' Entitlement) and the Developer shall be entitled to 46% (forty

six percent) of the revenue/sale proceeds of the Units in the New Building(Developers' Entitlement).In addition to the above, the Parties have agreed to install and erect LED billboards/structures (at the cost of the Owner) at the Said Premises/New Building/Project (LED Advertising) and all revenue generated from the LED Advertising shall appropriated/distributed between the Owner and the Developer in the ratio of 80%:20% respectively.

6.9 **Sale of Project and Marketing:**The entirety of the Project shall be sold and marketed by the Developer. The marketing cost including the brokerage is finalized @ 4 % on the total sale area including the Owner's Entitlement/allocation and the same shall be deducted from the Owner's Entitlement in the Project.

6.10 **Refund of Security Deposit:**The Security Deposit shall be refunded by the Owner to the Developer from and out of the receipts pertaining to the Owners' Entitlement and by way of 10 % (ten percent) deduction from the Owners' Entitlement after each sale/transfer in the Project, until such time the entirety of the Security Deposited is refunded to the Developer.

6.11 **Conditions Precedent:** Within 6 (six) months from the date of execution of this Agreement and at the Owner's cost:

(i) The Owner shall apply for and obtain necessary permission from the KMDA permitting the Lessee to sublet and/or sublease the Said Property or any part or portion thereof or any new commercial building to be constructed thereat; and

(ii) The Developer shall obtain sanction/revalidation of the Said Building Plan as mentioned in Clause 6.5 above(collectively Conditions Precedent).

6.12 **Obligations of Developer**

6.12.1 **Completion of Development within Completion Date:** The Developer shall complete the entire process of development of the Said Premises within the Completion Time.

6.12.2 **Compliance with Laws:** The execution of the Project shall be in conformity with the prevailing laws, rules and bye-laws of all concerned authorities and State Government/Central Government bodies and it shall be the absolute responsibility of the Developer to ensure proper compliance.

6.12.3 **Construction at Developer's Risk and Cost:** The Developer shall construct the New Building at its own cost, risk and responsibility. The Developer shall alone be responsible and liable to Government, Corporation and other authorities concerned and to the Transferees and third parties and the public in general and shall alone be liable for any loss, damage or compensation for any claim arising from or relating to such construction and hereby indemnifies the Owner fully against any claims, losses and damages for any default, failure, breach, act, omission or neglect on the part of the Developer and/or any contractor, entity, body, agency and/or person appointed or designated by the Developer and/or any employees/agents/representatives of the Developer.

- 6.12.4 **Tax Liabilities:** All tax liabilities in relation to the development, namely GST, works contract tax and other dues shall be paid by the Developer. Any tax on income arising from the Owner's Entitlement shall be borne by the Owner.
- 6.12.5 **Permission for Construction:** Save and except the Owner's obligation to sanction/revalidate the Said Building Plan, it shall be the responsibility of the Developer to obtain all permissions required from various Government authorities for execution of the Project. The expenses to be incurred for obtaining all such permissions shall be borne by the Developer.
- 6.12.6 **No Violation of Law:** The Developer hereby agrees and covenants with the Owner not to violate or contravene any laws and rules applicable to construction of the New Building.
- 6.12.7 **Entrance of Project:** The Developer shall, at the cost of the Owner, take all necessary steps to ensure that the Project's main entrance is accessible from the E.M Bypass Road, Kolkata.

### 6.13 Obligations of Owner

- 6.13.1 **Permission from KMDA:** The Owner shall apply for and obtain necessary permission from the KMDA permitting the Lessee to sublet and/or sublease the Said Property or any part or portion thereof or any new building to be constructed thereat.
- 6.13.2 **Replacement of Hoardings:** Simultaneously with the signing of the Development Agreement and payment of the Balance Security Deposit, the Owner shall replace all its hoardings with the upcoming project hoardings at the Said Premises
- 6.13.3 **Co-operation with Developer:** The Owner undertake to fully co-operate with the Developer for obtaining all permissions required for development of the Said Premises **provided however** such cooperation shall not include any illegal act, any financial outgo or any curtailment of the rights of the Owner in the Said Premises by virtue of this Agreement or otherwise.
- 6.13.4 **Act in Good Faith:** The Owner undertakes to act in good faith towards the Developer (and any appointed and/or designated representatives) so that the Project can be successfully completed.
- 6.13.5 **Documentation and Information:** The Owner undertake to provide to the Developer available documentation and information relating to the Said Premises as may be required by the Developer from time to time.
- 6.13.6 **No Dealing with Said Premises:** The Owner hereby covenant not to let out, grant lease, mortgage and/or charge the Said Premises during the subsistence of this Agreement.
- 6.14 **Parties Represented by:** The Owner has appointed Mr. Jahan Numazar Mehta as its authorized representative, who shall represent the Owner for all matters connected with this Agreement and the Project and the Developer shall deal with and communicate only with the said Mr. Jahan Numazar Mehta, which shall be

deemed to be communication with the Owner and the Owner hereby irrevocably confirms and accepts the same. Similarly, the Developer has appointed Mr. Syed Abrar Imam as their authorized representative, who shall represent the Developer for all matters connected with this Agreement and the Project and the Owner shall deal with and communicate only with the said Mr. Syed Abrar Imam, which shall be deemed to be communication with the Developer and the Developer hereby irrevocably confirms and accepts the same.

- 6.15 **Alternative Transaction Structure:** Before signing of the Development Agreement, the Parties hereto may mutually agree to any alternative structure/arrangement between them to give effect to the contents of this Agreement.
- 6.16 **No Assignment:** The Developer and the Owner shall not be entitled to assign and/or transfer the benefits and obligations under this Agreement without the prior written consent of the Owner and the Developer respectively.
- 6.17 **Arbitration:** All disputes or differences by and between the Owner and the Developer in relation to or arising out of or touching this Agreement or the validity, interpretation, construction, performance, breach or enforceability of this Agreement (collectively Disputes) shall be referred to and finally resolved by arbitration by an Arbitration Tribunal consisting of 1 (one) Arbitrator to be appointed by the Owner, 1 (one) Arbitrator to be appointed by the Developer and the Chairman of the Arbitration Tribunal to be jointly appointed by the above 2 (two) Arbitrators (Joint Arbitrators). The Parties irrevocably agree that in all adjudications as aforesaid (1) the place of arbitration shall be Kolkata only (2) the language of the arbitration shall be English (3) the Joint Arbitrator shall be entitled to give interim awards/directions regarding the Disputes (4) the Joint Arbitrator shall be entitled to avoid all rules relating to procedure and evidence as are expressly avoidable under the law. The arbitration shall otherwise be carried out in terms of and in accordance with the Arbitration and Conciliation Act, 1996 with modifications made from time to time and the provisions of the said Act shall apply to the arbitration proceedings. The directions and interim/final award of the Joint Arbitrator shall be binding on the Parties.
- 6.18 **Termination:** In the event the Conditions Precedent (as mentioned in Clause 6.11 below) are not fulfilled within 12 (twelve) months from the date of this Agreement, this Agreement shall stand terminated and the Owner shall refund the Advance Security Deposit to the Developer. Simultaneously with refund of the Advance Security Deposit, the Developer shall vacate the Said Premises and handover *keys*, peaceful and physical possession of the Said Premises back to the Owner and thereafter the Owner shall become free to deal with the Said Premises in any manner it may deem fit and proper. In this regard it is clarified that the Parties may by mutual consent extend the above-mentioned timeframe for fulfillment of the Conditions Precedent and consequently keep this Agreement alive.
- 6.19 **Rules of Interpretation:** The Parties agree that (1) in this Agreement, any reference to a Party is to a party to this Agreement (2) in this Agreement, the headings are inserted for convenience of reference only and are not intended to impact the interpretation or meaning of any clause and shall consequently not affect the construction of this Agreement and (3) in this Agreement, the words put in brackets and in bold print define the word, phrase and expression immediately preceding.

**Schedule  
(Said Property)**

Land measuring 16 (sixteen) *cottahs*, more or less, together with structures erected thereon, situate, lying at and presently being Municipal Premises No.9/5/1, Topsia Road (South), Kolkata, 700046 [formerly known as Municipal Premises No. 3, Mahendra Roy Lane and Municipal Premises No. 9/5 Topsia Road (South) Kolkata, which after amalgamation is presently known and has been re-numbered as Municipal Premises No.9/5/1, Topsia Road (south)].

**7. Execution and Delivery**

7.1 In Witness Whereof the Parties have executed this Agreement on the date mentioned above.

For Industrial Paints Mfg. Co. (I) Pvt. Ltd.

  
Director  
[Owner]

ATK Builders & Developers (LLP)

  
Designated Partner  
[Developer]

Witnesses:

Signature 

Name RAJ KUMAR CHA

Father's Name Shri M.L. CHA

Address 210, J. L. Bajaj St.

KOL-7

Signature 

Name SUSHIL PADDAR

Father's Name Late. B.N. Paddar

Address 21, Camac Street

HAPPY HOUSE, Kolkata-16




### Receipt and Memo of Consideration

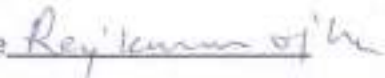
Received from the Developer a sum of Rs.50,00,000/- (Rupees fifty lac) as Advance Security Deposit, towards part payment of the Security Deposit as mentioned in Clause 6.1 above, in the following manner:

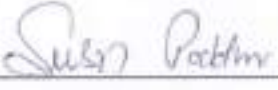
Cheque No.	Date	Bank	Amount	Favoring
000130	05-07-2019	ICICI Bank Park St Branch	5000000/-	Industrial Paints Mfg Co (I) Pvt. Ltd.

For Industrial Paints Mfg. Co. (I) Pvt. Ltd.

  
Director  
[Owner]

Witnesses:

Signature   
Name RAJ KUMAR OJHA

Signature   
Name SUSHIL PODDAR

**ICICI Bank**  
PARK STREET Branch  
45/1, Rafi Ahmed Kidwai Road, Kolkata - 700 018  
RTGS / NEFT IFSC Code : ICIC0000537

**PRIVILEGE**  
BANKING

VALID FOR THREE MONTHS ONLY

05072019  
DDMMYY

Pay Industrial Paints msg. 20 (I) Private (Limit)

OR ORDER

Rupees Fifty Lacs only

₹ 5000000/-

A/c No. 083705002912

14/2/18 CABUS CBS  
BUSINESS BANKING - NEW CURRENT ACCOUNT  
08012010617050291200013000877050029120001300013000877050029120001300087705002912  
Payable at par at all branches of ICICI Bank Limited in India

FOR ATK BUILDERS & DEVELOPERS LLP

ATK Builders & Developers LLP

Designated Partner

AUTHORISED SIGNATORIES  
Please sign above



*50 Lacs only*

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