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भारतीय गैर न्यायिक

एक सौ रुपये

Rs. 100

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ONE HUNDRED RUPEES



सत्यमेव जयते

भारत INDIA

INDIAN NON JUDICIAL

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पश्चिमबङ्गा पश्चिम बंगाल WEST BENGAL

AC 504085

Q NO. (2) 136 3935/2020.

Certified that the Document is admitted to Registration. The Signature Sheet and the endorsement sheets attached to this document are the part of this Document.



Additional Registrar of Assurances-1, Kolkata

14 DEC 2020

**DEVELOPMENT AGREEMENT**

This Development Agreement (this "Agreement") is made and executed on this 19th day of August, 2020 at Kolkata

BY AND AMONG

ARUN PROPERTIES LLP, (PAN AB DFA7973L) & (LLPIN AAE-9508), a limited liability partnership incorporated in accordance with the Limited Liability Partnership Act, 2008, having its registered office at Premises No 13/1, Ballygunge Park Road, Police Station: Karaya, Post Office Ballygunge, Kolkata- 700 019, duly represented by its Designated Partner, **Ms. Lata Devi Bajoria**(PAN ADJPB0962A) & (DPIN 00343829), widow of the Late Arun Kumar Bajoria, residing at 76, Garden Reach Road, Police

Case No. 880/row  
J(1)-... 250  
J(2)- 400  
Total 650  
Realised on.....

ARUN PROPERTIES LLP

*Lata Devi Bajoria*  
Partner

PRIMARC PROJECTS PVT. LTD.

*[Signature]*  
DIRECTOR

628897

19 OCT 2019

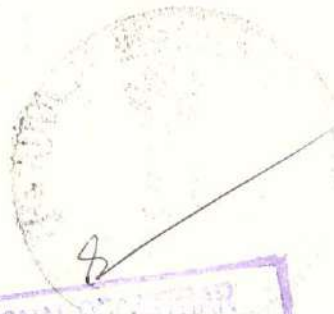
Rs.....Date.....

Name:- ARJUN GOPE, Advocate

Address:- Alipur Police Court, Kol-27

Vendor:-.....

I. CHAKRABORTY  
6B, Dr. Rajendra Prasad Sarani  
Kolkata-700 004



ADDITIONAL REGISTRAR  
OF ASSISTANCE KOLKATA  
11 NOV 2020

Somali Bhattacharya  
D/O G.S. Bhattacharya  
45/15, Moore Avenue  
Kolkata-700040.  
P.S. Regent Park. P.O. Russel

Station: West Port Police Station -, Post Office: South Eastern Railway, Kolkata- 700 043(hereinafter referred to as the "**Owner**", which expression shall, unless repugnant to the context, be deemed to mean and include its successors-in-interest and permitted assigns) of the **FIRST PART**

**AND**

**PRIMARC PROJECTS PRIVATE LIMITED**, a company incorporated under the Companies Act, 1956 (**CIN U74140WB2006PTC107474**), having (**PAN: AADCP8058P**), having its registered office at 6A Elgin Road, 2<sup>nd</sup> Floor, Post Office Lala Lajpat Rai Sarani, Police Station Bhawanipore, Kolkata – 700 020, West Bengal, duly represented by its Director, **Mr. Sidharth Pansari (PAN AFYPP8910K) & (DPIN 00551242)**, son of Mr Nand Kishore Pansari residing at 7, Lovelock Street, Post Office:& Police Station: Ballygunge, Kolkata 700019 (hereinafter referred to as the "**Developer**", which expression shall, unless repugnant to the context, be deemed to mean and include its respective successors-in-interest and permitted assigns) of the **OTHERPART**

*(The Owner and the Developer are individually referred to as 'Party' and jointly referred to as the 'Parties')*

**WHEREAS:**

- A. The Owner has represented and warranted to the Developer that it is the sole and absolute owner of immovable property being 'bastu' land admeasuring an area of 3 Bighas 5 Cottahs 6 Chittacks 5 Sq. ft. (equivalent to 4389.44 square meter or 66 cottahs) together with a brick built structure standing thereon situate lying at Premises No 13/1, Ballygunge Park Road, Police Station: Ballygunge, Ward No: 65, within the Kolkata Municipal Corporation, Kolkata-700 019 (more fully described in Schedule Ahereto, and delineated in Red colour in the sketch Map attached hereto as Annexure-1, and hereinafter referred to as the "**Schedule Property**").
- B. The Owner has got its name mutated in the records of the Kolkata Municipal Corporation under Assessee No. 110650200196.
- C. By a Development Agreement dated 5th November, 2019, registered with the District Sub Registrar - III, Alipore South 24 Parganas, in Book No. I, CD Volume No. 1603-2019, Pages 119830 to 119886, being No 160303674, for the year 2019 executed between the Owner herein, therein referred to as the Owner of the First Part and one PRIMARC MULTICON PROPERTIES LLP, the erstwhile Developer, therein referred to as the Developer of the Second Part (hereinafter referred as the said "Development Agreement"), the Owner appointed PRIMARC MULTICON PROPERTIES LLP to develop the Schedule Property and commercially exploit the same, on the terms and conditions mentioned therein.
- D. The said PRIMARC MULTICON PROPERTIES LLP started to take measures to



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initiate the process of Development of the Schedule Property including submission of plans to the municipal authorities for sanction.

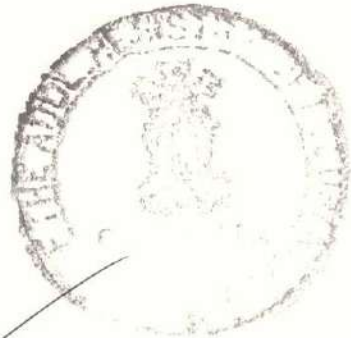
- E. Due to the pandemic situation of Covid 19 and lockdown being declared across the country as a result thereof, all the process of sanction of the said plan got suspended for an infinite period.
- F. In the above circumstances and for various other reasons the parties to the said "Development Agreement" mutually decided to cancel and/or terminate the same and revoke the Power of Attorney granted by the Owner to the Developer simultaneously therewith.
- G. By a Deed of Cancellation dated the 14<sup>th</sup> day of August, 2020, made between the Owner herein, therein referred to as the Owner of the One Part and the said PRIMARC MULTICON LLP, therein referred to as the Developer of the Other Part, and registered at the office of the Registrar of Assurances Kolkata in Book No. I, Volume No. 1901-2020, Pages 168164 to 168192, Being No. 190103378 for the year 2020, the said parties therein had mutually determined and/or cancelled the said Development Agreement dated 5<sup>th</sup> November, 2019 on the terms and conditions mentioned therein.
- H. Now the Owner and the Developer have renegotiated and arrived at an agreement to develop the said Premises for their mutual benefit and have agreed to execute this agreement to record the terms and conditions so mutually agreed upon.

**NOW THEREFORE THIS AGREEMENT WITNESSES AND IN CONSIDERATION OF THE PREMISES, MUTUAL PROMISES, COVENANTS, WARRANTIES SET FORTH HEREINAFTER, IT IS MUTUALLY AGREED AND DECLARED BY AND BETWEEN THE PARTIES AS UNDER:**

#### **CLAUSE 1A**

##### **DEFINITIONS AND INTERPRETATION**

- 1A.1 Unless the context requires otherwise, the capitalized terms used in this Agreement (including in the Recitals) shall have the meanings assigned to them hereunder:
- (a) **"Agreement"** shall mean this Development Agreement including the Schedules, Annexure, plans and sketches annexed hereto, and any amendments hereto made from time to time, in accordance with the provisions of this Agreement;
  - (b) **"Applicable Laws"** shall mean all applicable Indian laws, statutes, rules, regulations, notifications, guidelines, bye-laws, protocols, codes, policies, notices, directions, government orders, and ordinances, and shall include (i) the applicable building bye-laws, (ii) development control regulations and (iii) binding orders of any court or arbitral



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- tribunal;
- (c) **"Approvals"** shall mean all permissions, approvals, consents, validations, confirmations, licenses, clearances and other authorizations required to be obtained from statutory, government, regulatory and/or other authorities, including environmental clearance, occupancy certificate and other approvals pertaining to commencement, implementation and completion of the Project.
- (d) **"Association"** shall mean the association of the Customers (defined below) to be formed in accordance with the West Bengal Apartment Ownership Act, 1972 or any other similar Act applicable thereto, as may be formed by the Developer for the common purposes having such rules, regulations and restrictions as may be deemed proper and necessary by the Developer;
- (e) **"Built Up Area"** – shall mean carpet area plus (1) 100% area of the external walls which are not shared (2) 50% area of the external walls shared by the Apartment and the adjacent apartment, or (3) 50% area of the walls shared by the Apartment and the common facilities of the building like lift lobbies, stairs, corridors and so on, plus the balcony area or verandah, if any;
- (f) **"Business Day"** shall mean any day on which commercial banks at Kolkata are open to transact normal business;
- (g) **"Carpet Area"** shall according to its context mean the net usable floor area of an Apartment excluding the area covered by the external walls, areas under service shafts, exclusive balcony or verandah or open terrace area, but including the area covered by the internal partition walls of the Apartment;
- (h) **"Car Parking Area"** shall mean all the spaces in the portions on the ground floor or basement, whether open or covered, of the Complex expressed or intended to be reserved for parking of motor cars.
- (i) **"Customer"** shall mean a Person who proposes to purchase Unit(s) in the Project;
- (j) **"Common Area"** shall mean the common areas as defined under WBHRA and include all community and commercial facilities as may be provided by the Developer in the Project and all other areas, portion, installations and facilities of the Project necessary or convenient for its maintenance, safety, etc. and in common use of the Owner, the Developer and the Customers and/or for sections of Customers on block-wise, user-wise or other basis;
- (k) **"Completion of Development"** means completion in all respects of the construction and development of the Project on the Schedule Property as per the Approvals and provisions of this Agreement, and issuance of an occupancy certificate by the relevant Government Agency certifying



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that the Project is suitable for occupancy;

- (l) **"Completion Date"** shall have the meaning ascribed to it in Clause 9.2;
- (m) **"Complex"** shall mean the building Complex comprising of One numbers of blocks/towers together with open/covered car parking spaces and together with open areas to be constructed, erected and completed by the Developer in terms of this Agreement and the Plan.
- (n) **"Common Expenses"** – shall mean and include all expenses for maintenance, management, upkeep and administration of the Common Areas, Facilities and Amenities and for rendition of common services in common to the transferees and all other expenses for the Common Purpose including those as may be decided by the Developer after sanction of plan to be contributed, borne, paid and shared by the transferees. Provided however the charges payable on account of Generator, Electricity etc. consumed by or within any Unit shall be separately paid or reimbursed to the Maintenance in-charge;
- (o) **"Common Purpose"** – shall mean and include the purpose of managing, maintaining and up keeping the Complex as a whole in particular the Common Areas, Facilities and Amenities, rendition of common services in common to the transferees and/or the occupants in any other capacity, collection and disbursement of the Common Expenses and administering and dealing with the matters of common interest of the transferees and relating to their mutual rights and obligations for the beneficial use and enjoyment of their respective Units exclusively and the Common Areas, Facilities and Amenities in common.
- (p) **"Deposits"** shall mean deposits relating to sinking fund, maintenance charges, etc. which are more fully and particularly described under Part II of the Schedule – B hereunder, and which the Developer shall be entitled to collect on certain heads in the name of the Association over and above the price of the Unit and the Extras, to secure the obligations and liabilities of the Customers;
- (q) **"Developer's Share"** shall mean the share of the Developer being 32.00% (thirty two percent) of the Gross Sales Revenue; ✓
- (r) **"Execution Date"** shall mean the date on which this Agreement has been executed by the Parties, being 19.08.2020; ✓
- (s) **"Encumbrance"** shall mean: (i) any encumbrance, mortgage, charge (whether fixed or floating), , lien, , assignment by way of collateral, deed of trust, title retention, claims relating to title, conditions imposed on title, security interest or other encumbrance of any kind securing, or conferring any right to or priority of payment in respect of, any obligation of any Person, including without limitation, any right granted by a transaction which, in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of



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- security, (ii) any power of attorney, agreement, interest or option in favour of any Person granting power or authority to create any security, (iii) any adverse claims as to title, possession or use (iv) any contractual restrictions on transfer, and (v) any physical encumbrance and/or encroachment on any portion of the Schedule Property;
- (t) **“Extras”** shall mean the fees, costs, charges and expenses relating to stamp duty, registration fee, property tax, goods and service tax, maintenance charges, common expenses, municipal rates and taxes, charges towards electricity & transformer, power back-up, gas supply, water supply, sewage system and statutory payments, costs relating to formation of Association and such other amounts which are more fully and particularly described under Part I of the Schedule – B hereunder, and which the Developer shall be entitled to charge and collect from the Customer over and above the price of the Unit and the Deposits;
- (u) **“Force Majeure Event”** shall mean any of the following events beyond there as on able control of the Party claiming Force Majeure, if the occurrence of such event makes it impossible or illegal for such Party to perform its obligations under this Agreement.
- i. Fire, earthquake, storm, cyclone, typhoon, lightning, flood, drought, pandemics or any other calamity caused by nature affecting the regular development of the Project;
  - ii. Act of war, hostilities, invasion, act of foreign enemies;
  - iii. Act of terrorism, riots or civil commotion, and disturbances, insurgency;
  - iv. Events effecting construction activities at site or restricting or restraining the Developer to achieve completion of the Project at the said Property or any part thereof within the Completion Date, due to any act of the Government, statutory or local authority or any judicial pronouncement, Court order or injunction.
- (v) **“Government”** shall mean the Central and/or Government of West Bengal State;
- (w) **“Government Agency”** shall mean central, state or local Government or governmental, department, commission, board, body, bureau, agency, authority, instrumentality appointed by central, state, or local authority having jurisdiction over the Schedule Property or any portion thereof, or the performance of the obligations of the Developer under this Agreement;
- (x) **“Gross Sales Revenue”** shall mean and include all the amounts to be received by the Developer towards consideration for the sale of units comprising of flats, prime location charges, floor rise charges, car parking space usage charges, in the proposed Project and amounts



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receivable from the unit purchasers towards, any preferred location charges but shall not include the power back-up, goods and service tax, or any other present and future tax payable on sale of the units, as applicable, collection of various extras and deposits mentioned hereunder, deposits towards electricity and water connection, Apartment Association Registration charges, stamp duty, registration fee and other incidental and allied costs, expenses, of all deeds, documents, agreements, collected from the prospective unit purchasers.

- (y) **"Incidental Charges"** shall mean and include the Extras and the Deposits, more fully and particularly described under Schedule – B of this Agreement;
- (z) **"Indemnified Persons"** shall have the meaning attributed to that term in Clause 13.1 of this Agreement;
- (aa) **"Lenders"** shall have the meaning ascribed to it in Clause 11.2;
- (bb) **"Material Adverse Effect"** shall mean any event, occurrence, fact, condition, change, development or effect, claim, litigation, or investigation, which individually or in the aggregate, has/had/will or is likely to materially or adversely affect (i) the Schedule Property; and/ or (ii) the ability of the Owner to perform its material obligations under this Agreement; and/ or (iii) the development of the Project by the Developer in accordance with this Agreement;
- (cc) **"Owner's Share"** shall mean the share of the Owner from the Project being 68.00% (sixty eight percent) of the Gross Sales Revenue;
- (dd) **"Person"** shall mean any individual, company, corporation, partnership, joint venture, association, joint stock company, trust, society, sole proprietorship, Government or Government Agency/ies or any other business entity;
- (ee) **"Project"** shall have the meaning attributed to that term in Clause 1.4 of this Agreement;
- (ff) **"Representations and Warranties"** shall mean the representations and warranties made by the Owner or the Developer, as the case may be, under this Agreement;
- (gg) **"Security Deposit"** shall have the meaning attributed to that term in Clause 3.1 of this Agreement;
- (hh) **"Specifications"** shall mean the specifications for development and construction of the Project as more fully set out in Annexure-2 to this Agreement.
- (ii) **"Tax" or "Taxes"** shall mean and include all taxes, levies, duties, cess, charges and the like, including but not limited to income tax, capital gains tax, Goods and Service Tax, wealth tax, gift tax, property tax,



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employment related statutory payments, payroll tax, occupation tax, governmental charges, fees, levies or assessments or other taxes, levies, fees, stamp duties, statutory gratuity and provident fund payments or other employment benefit plan contributions, withholding obligations and similar charges, of any jurisdiction and shall include any interest, fines, and penalties related thereto and, with respect to such taxes, any estimated tax, interest and penalties or additions to tax and interest on such penalties and additions to tax;

- (jj) **"Title Deeds"** shall have the meaning ascribed to that term in Clause 11.4 of this Agreement;
- (kk) **"Units"** shall mean each unit of residential/commercial usage in the Project constructed on the Schedule Property including an exclusive balcony or verandah area or exclusive open terrace area, servant quarter/store room as the case may be, appurtenant to such unit and meant for the exclusive use of the Customer and further including a sanctioned covered/open car parking area or a garage, as the case may be, collectively meant to be exclusively held, occupied and enjoyed independently by the Customer ;
- (ll) **"WBHIRA"** shall mean the West Bengal Housing Industry Regulatory Act, 2017 and the Rules framed there under for West Bengal State.

## 1A.2 Interpretation

1A.2.1 Headings and bold typeface are only for convenience and shall be ignored for the purpose of interpretation.

1A.2.2 In this Agreement, reference to:

- (a) Words denoting the singular shall include the plural and words denoting any gender shall include all genders.
- (b) A document in the "agreed form" is a reference to a document in a form approved and for the purposes of identification signed by or on behalf of the relevant Person.
- (c) The knowledge, information, belief or awareness of any Person shall be deemed to include the knowledge, information, belief or awareness such Person would have if such Person had made reasonable, due and careful enquiry.
- (d) A statutory provision includes a reference to:
  - (i) the statutory provision as modified or re-enacted or both from time to time (whether before or after the date of this Agreement); and
  - (ii) any subordinate legislation made under the statutory provision (whether before or after the date of this Agreement).



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- (e) A person includes a reference to that person's successors and permitted assigns.
- (f) A Clause or Schedule or Annexure, unless the context otherwise requires, is a reference to a Clause of or Schedule or Annexure to this Agreement.
- (g) The terms "herein", "hereto", "hereof", "hereunder" and words of similar purport refer to this Agreement as a whole.
- (h) The terms "include" and "including" shall mean "include without limitation".

1A.2.3 The Recitals, Schedules and Annexure to this Agreement form a part of this Agreement and shall have the same force and effect as if set out in the body of this Agreement.

1A.2.4 The term 'agrees' and 'agreement', wherever used in this Agreement shall be deemed to mean 'agree in writing' or 'agreement in writing', as the case may be.

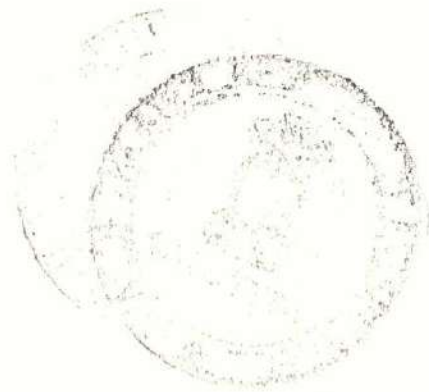
1A.2.5 The headings in this Agreement shall not affect the interpretation of this Agreement.

## **CLAUSE 1**

### **DEVELOPMENT OF THE PROJECT AND COST**

- 1.1 The Owner hereby authorizes, permits and grants exclusive development rights in, to and over the Schedule Property to undertake development thereon, by developing and constructing the Project thereon with appurtenant infrastructure, amenities and facilities, at the sole cost and expense of the Developer, as per the (a) terms and conditions of this Agreement, (b) Approvals, and (c) the Applicable Law. The Developer shall alone be entitled to design, develop, finance and construct the Project on the Schedule Property in accordance with this Agreement. The Developer shall obtain the Approvals required for commencement of the Project, and commence the developmental work on the Schedule Property, in terms of this Agreement.

The Owner has entered into this Agreement with the Developer for the development and construction on the Schedule Property by the Developer whereby and where under the Owner has agreed that the Developer shall exclusively develop the Schedule Property and the Parties have agreed to transfer the Units in the manner mentioned hereunder and to share the Gross Sals Revenues arising from transfer of the Units and to define and allocate between them unsold areas upon completion, it being clarified that the Owner shall receive the Owner's Share as consideration for sale and transfer of undivided proportionate shares in the land comprised in the Schedule Property to the Customers whereas the Developer shall receive Developer's Share as consideration for the development and construction of the Schedule Property.



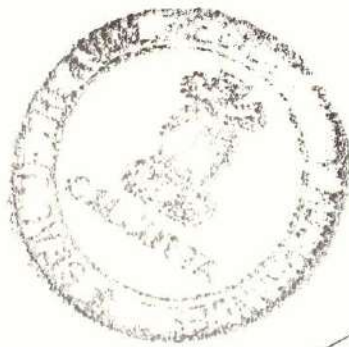
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It is further clarified that no consideration is payable by the Developer to the Owner for grant of development rights or by the Owner to the Developer for development of the Schedule Property per se under the terms of this Agreement.

In consideration of the mutual promises and obligations of the parties contained herein, the Owner hereby agrees to provide entirety of the Schedule Property and to allow the same to be henceforth used for the purpose of development of the same by the Developer and in consideration thereof, the Developer has agreed to develop the Schedule Property in accordance with the terms of this Agreement. The Owner agrees to grant, sell and transfer proportionate undivided shares in the land comprised in the Schedule Property and its entire right, title and interest and share in the Units together with Common Areas and facilities, infrastructure and amenities comprised in the Project to the Customers and the Developer agrees to grant sell and transfer the construction on the Schedule Property to such Customers for mutual benefit and consideration and on the terms and conditions hereinafter contained.

It is clarified that the transfer of the Owner's undivided proportionate share in the land comprised in the Schedule Property shall be completed upon Completion of Development of the Project in terms of this Agreement and the consideration for the same and any other right, title or interest thereunder transferred by the Owner shall be the Revenue forming part of the Owner's Allocation.

- 1.2 The Developer shall have the sole discretion in selection of construction materials, method of construction, equipment to be used for construction and other related techniques of construction etc., and the Owner shall not interfere with the same subject to the Developer complying with all its obligations hereunder and not in breach thereof, the Owner shall extend full co-operation to the Developer to complete the development and construction of the Project and shall not create any impediments or obstruction in the way of the Developer in developing or constructing the Project on the terms and conditions contained in this Agreement.
- 1.3 The Developer shall alone be entitled to undertake the construction and development of the Project on the Schedule Property, either by itself or through competent contractors and subdivide the work or appoint sub-contractors as it may deem fit and proper. The Developer alone shall also be entitled to call for tender or adopt any other method for the purposes of selection of contractors or agents, employees etc., required for construction or other purposes covered by this Agreement. The Developer will be entitled to engage architects, engineers, contractors and others as it deems fit to execute the construction work of the Project.
- 1.4 The Developer shall alone be entitled to undertake the development of the Project on the Schedule Property by constructing multistoried building/s as per



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the existing building bye laws, rules and regulations, and subject to grant of Approvals by the relevant Government Agency/ies, with appurtenant infrastructure, amenities and facilities, at the cost and expense of the Developer, in accordance with the specifications, architectural designs, pattern, style of construction and all other aspects and matters as determined by the Developer, at its sole discretion and judgment (hereinafter also referred to as the "Project").

- 1.5 The cost and expense with regard to the development and construction of the Project shall be borne and paid for by the Developer. On and from the Execution Date, the Developer shall be solely responsible for (a) mobilizing all financial resources required for implementation of the Project, (b) meeting all costs and expenses, whether direct or indirect, relating to implementation of the Project, including construction costs, fees paid to the architects, designers, costs and expenses incurred in relation to obtaining Approvals for the Project and costs, fees and charges pertaining to various service providers; and (c) make all the deposits (that are refundable to the Developer or not) and connection charges payable to the concerned departments / authorities for procurement of water, electricity and sewerage connections for the Project. The entire amount collected by the Developer from the Customer towards Incidental Charges shall not form part of the Gross Sales Revenue, for distribution amongst the Parties.
- 1.6 The Developer shall either have the Building Plan No 2015070099 dated 15 October 2015 modified/revised and re-sanctioned or obtain the sanction of fresh building plans from the Kolkata Municipal Corporation within the extended period of six months granted by Kolkata Municipal Corporation at its own cost and expenses for the construction of the Project on the Scheduled Property. If the Developer desires to have the said plan modified/revised and re-sanctioned or obtain the sanction of fresh building plans from the Kolkata Municipal Corporation, the Developer shall keep the Owner fully informed and updated from time to time. The Developer shall at its cost procure the preparation of the revised/modified or fresh building plans/drawings/designs as per the Applicable Laws, building byelaws, rules and regulations etc., for construction of the Project, and submit the same for approval of the relevant Government Agency/ies. The Developer shall be entitled to modify, add and/or delete the contents in the Project plan(s) submitted for sanction of the Government Agency/ies at its discretion and as it deems appropriate, based on the market requirements without however in anyway compromising with the maximum FAR utilisable. Further, the Developer shall be entitled to make such modifications, additions, deletions etc., in the plans as may be directed/required by the authorities concerned or due to technical or other exigencies. It is clarified herein that if the Developer commences the construction of the Project as per the existing sanctioned building plan, then the Developer shall endeavor to renew the existing plan within the said extended period from the statutory authorities in accordance with the



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Applicable Laws; at its own cost and expenses.

- 1.7 The Developer shall be entitled to (a) demolish, if necessary, the existing building/structures standing on the Schedule Property, (b) remove and clear the old foundation/s in respect of the existing building/structures standing on the Schedule Property, (c) if necessary, cut and remove all or any of the trees currently standing on the Schedule Property, after obtaining the requisite Approvals from the concerned authorities / Government Agency/ies; and (d) remove, clear and dispose off from the Schedule Property, all debris and material generated during the course of such demolition and removal of foundation and trees. The Developer shall be entitled to appropriate the salvage value recovered from the debris and/or the materials.
- 1.8 The Owner agrees to not to deal with the Schedule Property in any manner whatsoever, except in accordance with the terms of this Agreement. The Owner's rights and entitlements under this Agreement and in respect of development of the Schedule Property shall be limited to receiving the share of the Gross Sales Revenue i.e. the Owner's Share, as set out in Clause 3 hereunder.
- 1.9 In no event the Owner nor any of its estate shall be responsible and/or be made liable for payment of any dues of any lender and for that purpose Developer shall keep the Owner indemnified against all actions, suits, proceedings and costs, charges and expenses in respect thereof. So long as the Developer is not in violation of any of its obligations under this Agreement, the Owner undertakes to not interfere with the decisions of the Developer save what is provided hereunder and/or hinder or obstruct the development of the Project in any manner, whatsoever.
- 1.10. It is expressly clarified herein that as per mutual agreement of the Parties Units in the Project shall be constructed and offered to the Customer on a bare shell basis.

## **CLAUSE 2**

### **GROSS SALES REVENUE SHARING**

- 2.1 In consideration for the (a) Owner agreeing to transfer the Schedule Property in terms of this Agreement and for development rights granted by the Owner and, (b) fulfilment of the obligations of the Owner, under this Agreement, the Owner shall be entitled to the Owner's Share and the Developer shall share the Owner's Share with the Owner in terms of this Agreement. For the sake of clarity, it is hereby confirmed that (a) 68.00 % (sixty eight percent) of the Gross Sales Revenue shall be paid to the Owner (towards the Owner's Share), and (b) the Developer shall be entitled to retain the Developer's Share being the balance 32 % (thirty two percent) of the Gross Sales Revenue.
- 2.2 The accounts between the Parties with regard to sale of the Project shall be gone into, taken and settled fortnightly. The Developer shall furnish to the

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Owner a statement of sales every fortnight. Upon receipt of such statement the Owner shall settle the accounts for that period with the Developer which shall thereafter not be challenged unless manifest error or omission is detected.

- 2.3 After the settlement of the accounts of fortnightly sales, as per Clause 2.2 above, the Developers shall pay the Owner's Share to the Owner within 3 (three) Business Days from such settlement of accounts in accordance with clause 2.4 below.
- 2.4 The Parties have agreed that the Gross Sales Revenue of the Project shall be collected from the Customers by the Developer in its name and in its own bank account. Out of the Gross Sales Revenue received by the Developer in a month ("**Monthly Gross Sales Revenue**") from the Project, the Developer shall keep aside 70% of the same ("**Blocked Amount**") in a separate account as per WBHIRA. The balance 30% of the Gross Sales Revenue shall be shared between the Parties in the ratio agreed in clause 2.1 within the time prescribed under clause 2.3. So far as sharing of the Blocked Amount is concerned, the Developer shall, in terms of clause 2.3, pay from time to time the Owner's Share as and when any amount is withdrawn out of the Blocked Amount till the time the entire Gross Sales Revenue of the Project stands shared with the Owner in the ratio agreed in clause 2.1, 2.2 and 2.3.

Provided that the Developer shall promptly withdraw the Blocked Amount from the separate account as and when and to the extent is permitted by the Applicable Law and shall share the Owner's Share out of the amount so withdrawn in terms of clause 2.1.

Provided further that any receipt and distribution of the Gross Sales Revenue shall remain subject to any arrangement that may be stipulated by the Lenders, however it is clarified that such arrangement shall not affect the payment of the Owner's share as mentioned in Clause 2.1 above.

- 2.5 The Parties hereby agree that the Owner's Share, is inclusive of all applicable Taxes, and that the Developer shall not be liable or responsible to pay any amount in excess of the shares of the respective Parties. The Owner's Share shall be paid net of Taxes, that the Developer is required to withhold under Applicable Laws.
- 2.6 The component of Extras comprised in the Incidental Charges as per Part-I of the Schedule – B shall belong solely and exclusively to the Developer, to be utilized in the manner deemed appropriate by the Developer. However, the component of Deposits comprised in the Incidental Charges as per Part-II of the Schedule - B shall be collected from the Customer(s) in the name of the Association formed by the Developer under the terms of this Agreement.
- 2.7 In the event any Unit in the Project remains unsold for a period of 75 (seventy five) days from the date of obtaining the completion certificate in respect of the Project from the Kolkata Municipal Corporation, the same shall be divided



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and allocated between the Parties in a fair and equitable manner within 15 (fifteen) days from the expiry of the above mentioned 75 (seventy five) days or such other date as may be mutually agreed upon by and between the Parties. In such an event, each Party shall be exclusively entitled to its allocation of the unsold areas with exclusive possession thereof and with exclusive right to sell, transfer or otherwise deal with and dispose of the same in any manner that such Party deems fit and appropriate, without any right, claim or interest therein whatsoever of the other Party. As and when such unsold areas are allocated amongst the Parties, the Owner or its transferees in respect of Owner's allocation of unsold areas, as the case may be, shall be liable for i) payment of Incidental Charges mentioned herein to the Developer; and ii) statutory payment to the concerned authority. Notwithstanding such apportionment of unsold Units between the Owner and the Developer, as and when requested by one Party, the other Party shall join sale deeds/conveyance for perfecting the sale of the unsold Units allotted to the Parties.

- 2.8 Prior to giving effect to clause 2.7 hereinabove, all amounts collected from the Customers on account of Goods and Services Tax shall be collected by the Developer and shall be deposited to the concerned authority in time without default and delay. Interest, penalty or any extra cost in this regard shall not be borne by the Owner.
- 2.9 Notwithstanding anything contrary contained in clauses above or elsewhere in this Agreement, the liability of the Developer to pay from time to time the Owner's Share shall always remain subject to the relevant provisions in any Applicable Law which mandates mandatory transfer of proceeds of a project to separate account and the regulated withdrawal procedure from such separate account. It is also made clear that under no circumstances the Owner shall demand from Developer any amount as Owner's Share out of such separate account which is otherwise not withdrawable for the time being. Provided however, as and when any amount is withdrawn from the said separate account, the provisions of clause 2.1 shall apply to such withdrawals.

### CLAUSE 3

#### SECURITY DEPOSIT

- 3.1 The Developer agrees to deposit with the Owner an amount of Rs. 4,00,00,000/- (Rupees Four Crores only) towards interest free refundable security deposit (the "Security Deposit").
- 3.2
- a. On or before the execution of these presents, the Developer has paid and deposited with the Owner a sum of Rs. 1,00,00,000/- (Rupees One Crore only), the receipt of which the Owner hereby confirms and acknowledges.
  - b. A sum of Rs. 2,50,00,000/- (Rupees Two Crore Fifty Lakhs only) shall be deposited by the Developer within 120 days of execution of this



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- 3.3 The balance Security Deposit amount of Rs. - 50,00,000/- (Rupees -Fifty Lakhs only) shall be deposited by the Developer with the Owner within 45 (forty-five) Business Days from the date of obtaining the new/revised sanctioned plan from the Kolkata Municipal Corporation in terms of this Agreement or by 31<sup>st</sup> March 2021, whichever is earlier. Simultaneously with the deposit of such amount, the Developer shall be deemed to have been granted license to enter the Schedule Property in terms of clause 5.1; subject however to the fact that the legal possession shall always be deemed to be with the Owner. Notwithstanding anything contained above, any time prior to payment as above, the Owner, shall permit the Developer and its men, servants and agents to enter upon the Scheduled Property for the limited purpose of measurement, soil testing and such other necessities connected with the Project.

Nothing contained herein shall be construed as delivery of possession in part performance of any Agreement of Sale under Section 53-A of the Transfer of Property Act, 1882 or transfer as defined under the provisions of the Income Tax Act, 1961.

- 3.4 The Security Deposit shall be refunded by the Owner in the following manner:
- i) 15% (fifteen percent) of the Owner's Share shall be paid to the Developer towards refund of the Security Deposit simultaneously from the payment of each instalment of the Owner's Share by the Developer under the terms of this Agreement. Suchre fund mechanism of 15% (fifteen percent) of Owner's Share shall be in place till the time an amount of Rs. 3,00,00,000/- (Rupees Three Crores only) has been refunded to the Developer. Thereafter, the entire Owner's Share as defined hereinabove shall be transferred to the Owner by the Developer in terms of this Agreement; ii) Rs. 1,00,00,000/- (Rupees One Crore only) along with the balance amount, if any, out of there fundable Security Deposit of Rs. 3,00,00,000/- (Rupees Three Crores only) not being refunded as per (i) above, shall be refunded by the Owner within the time stipulated as under:

- (a) (in case there is no unsold Units) within 15 days (due date) from the date the Developer obtains the completion certificate from the Kolkata Municipal Corporation; and
- (b) (in case there is unsold Units) on the date the Developer has demarcated and handed over the unsold Units to the Owner as per the Owner's Share free from any Encumbrances, including loans obtained by the Developer for the Project.

- 3.5 The Owner shall be solely liable and responsible in respect of any Taxes arising out of or in connection with the Security Deposit.

#### CLAUSE 4



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**EXPLOITATION OF MAXIMUM FAR/FSI**

- 4.1 The Project shall be carried out and completed by the Developer based on the actual FAR sanctioned by the Kolkata Municipal Corporation.
- 4.2 The Parties hereby agree that the Developer shall exploit the maximum Floor Space Index (FSI) / FAR permitted by the Applicable Laws and shall obtain the Approvals for this purpose from the relevant Government Agency(ies).The Developer may comply with the Green Building Norms for the construction and development of the Project. In such event, all costs and charges for acquiring the additional FAR shall be borne by the Owner. All costs and charges for construction on the additional FAR shall be borne by the Developer. In such event, the Owner, and the Developer will be entitled to the additional Gross Sales Revenue from such additional construction, in the same ratio as set out in Clause 2 of this Agreement.

**CLAUSE 5****PERMISSION TO ENTER**

- 5.1 The Developer shall upon obtaining the Approvals and subject to compliance to Clause 3.3, enter the Schedule Property as licensee free of all Encumbrances and obstructions to implement the Project on the Schedule Property and so long as the Developer is not in violation of any of its obligations under this Agreement, Developer' right to carry out the construction and development works in relation to the Project shall be continuous and the Owner shall not in any manner whatsoever obstruct the implementation of the Project.

**CLAUSE 6****SALE OF THE UNITS**

- 6.1 The Developer shall, be -entitled to negotiate the terms and conditions for sale of the Units constructed/developed on the Schedule Property, in the manner it deems appropriate with the objective of maximising Gross Sales Revenues.
- 6.2 Subject to Clause 6.4, the Parties shall enter into letters of intent, memorandum of understanding, agreements to sell, and sign and execute all other instruments and documents including but not limited to Conveyance Deeds / Sale Deeds in respect of the Schedule Property in relation to sale, conveyance, transfer, of the Units and area to be constructed and developed on the Schedule Property together with undivided share in the Schedule Property in favour of the Customer and/or the Association, as the case may be, in conformity with the Applicable Law and receive appropriate payments and consideration in respect thereof from the Customer.
- 6.3 Subject to Clause 6.4, the Owner hereby undertakes to convey and transfer to



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the Customer and/or the Association, as the case may be, as per the provisions of the WBHRA, and *vide* such form and number of sale deeds as may be required by the Developer from time to time, the entire Schedule Property, in such portion/s as may be identified by the Developer, from time to time. The Owner shall not be entitled to any consideration other than the Owner's Share as specified in Clause 2 of this Agreement, for such sale/transfer/conveyance of the Schedule Property.

- 6.4 Each time the Developer is ready to execute and register any agreement(s) to sell or Conveyance Deed(s) in favour of Customers, the Developer shall send (by electronic means) notice ("**Execution Notice**") to the Owner intimating the date of such execution and registration ("**Execution Date**"), which date shall not be a date less than 10 (Ten) days from the date of Execution Notice. In case the Owner does not make itself available and present on the Execution Date in spite of the preceding fortnightly accounts being settled between the Parties in terms of Clause 2.2 above and the payment therefor is made by the Developer in terms of Clause 2.3 above, to execute and present the agreement(s) to sell or Conveyance Deed(s), the Developer shall be entitled to execute and register the same for and on behalf of the Owner as its lawful attorney.

Provided that the Developer shall not send any Execution Notice for execution and registration of Conveyance Deed(s) with respect to the Schedule Property prior to receiving the completion certificate from the Kolkata Municipal Corporation and/or receiving the entire consideration from the respective Purchaser.

## CLAUSE 7

### OBLIGATIONS OF THE DEVELOPER AND OWNER

- 7.1 The Developer shall, at its own cost and expense, carry out the following acts in connection with development of the Project on the Schedule Property:
- (a) To prepare at its own cost and expenses and finalize the layouts and plans and applications required for the construction of the Project on the Schedule Property;
  - (b) To prepare at its own cost and expenses the required plans/ drawings/ designs/ applications for construction of the Project on the Schedule Property, as per all applicable building bye-laws, rules and regulations and submit the same to the concerned local municipal authorities and various government departments and authorities from whom licenses, sanctions, consents, permissions and no objections and such other orders as may be required for the construction of the Project;
  - (c) To construct, at its own cost and expenses, Project in the Schedule Property after obtaining all approvals, sanctions, license, permission, consents etc., in accordance with this Agreement and the sanctioned plan with such alterations, additions, modifications as may, from time



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to time become necessary;

- (d) Exercise discretion in all matters relating to the conceptualization, manner, method and design of construction of the Project subject to the terms of this Agreement;
- (e) To achieve Completion of Development within the timelines specified in this Agreement;
- (f) To follow all building designs, codes, and Applicable Laws as may be applicable in the development of the Project and the Developer shall also bear all the taxes, fees that may become payable in respect of the construction of the Project;
- (g) To bear the electricity charges, water charges, property tax and/or any other assessment in respect of the Schedule Property from the date of commencement of construction till completion of the Project; and
- (h) Negotiate the sale of the Units and collect consideration / receivables from the Customer as specified in this Agreement.
- (i) The Developer shall take all the decisions regarding the specifications of the Project, modification and amendment of the existing sanctioned plan or sanctioning of a fresh plan in respect of the Project with the prior intimation and approval of the Owner. Such decisions shall, at all times, be in compliance with the provisions of WBHIRA.
- (j) The Developer shall take steps to maximize the FAR as per prevailing laws. The Developer shall construct the entire sanctioned area and shall not reduce the same without the consent in writing of the Owner.
- (k) From the Construction Commencement Date, the Developer shall bear and pay the property taxes as also other outgoings in respect of the Scheduled Property till such time the Project is ready for occupation, after which, the Parties, in the ratio of their respective allocations and/or the transferees or their nominees shall become liable and responsible for payment of property taxes and all other outgoings.
- (l) The Developer shall be responsible for planning, designing, development and construction of the Project with the help of professional bodies and/or contractors.

7.2 The Owner hereby undertakes:

- (a) To sign and execute all necessary document/s and papers as may be reasonably required for conveying title to the Developer and or prospective Customers, if any;
- (b) To allow the Developer to construct on the Schedule Property without any let or hindrance by the Owner or any third party claiming through it;
- (c) To convey and transfer undivided interest in the Schedule Property



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together with all rights, title, interest, ownership and all other rights of any nature, whatsoever, both at law and in equity, on a freehold, absolute, unrestricted and exclusive basis to the Customers or the Association, as the case may be, as per Applicable Laws in a manner requested by the Developer;

- (d) To make out a good marketable right, title and interest to the Schedule Property;
- (e) To extend reasonable cooperation and assistance to the Developer to obtain sanction/approval of the Project plan from the concerned authorities for the development and construction of the Project, at the cost of the Developer;
- (f) Not to cause any let or hindrance for development of the Schedule Property in accordance with this Agreement and the Developer are permitted to enter into and develop the Schedule Property as per the scheme of development agreed to under the terms of this Agreement;
- (g) To carry out such acts, deeds and things (as are not part of obligations of the Developer) as may be reasonably required by the Developer in order to enable the Developer to successfully develop the Project in the Schedule Property and the Owner shall rectify defects, if any, in its title to the Schedule Property, at its sole cost and expense;
- (h) Subject to the Developer complying with its obligations herein provided, the Owner agrees and undertakes that it shall not in any way correspond in any manner whatsoever with the Government of India/ Government including the Urban Development Authority, Semi Government Offices, Statutory Offices, Bodies and other Authorities, Water Supply Company, Department of Telecommunication, Electricity Supply Company, Police Department, Airport Authorities, Fire Authorities and in all other Government offices in respect of the powers conferred under the Power of Attorney in this Agreement, or otherwise countermanding or conflicting with any acts, deeds, matters and things done by the Developer pursuant to the said Power of Attorney, and the Power of Attorney granted in terms hereof shall remain operative till the Project is completed in all respect;
- (i) To deposit all original Title Deeds in accordance with Clause 11.4 of this Agreement;
- (j) Not to transfer, assign or create any charge on the Owner's rights and entitlements under this Agreement without prior written consent of the Developer.

**CLAUSE 8**  
**REPRESENTATIONS AND WARRANTIES**



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- 8.1 Each of the Parties hereby represent and warrant to the other Parties as under:
- (a) It has the full power and authority to enter into, execute and deliver this Agreement and any other deeds, documents or agreements, including Power of Attorney, development agreements and consents, contemplated hereunder or pursuant hereto and to perform the transaction contemplated hereunder and, in case of body corporate, it is duly incorporated or organised and existing under the laws of the jurisdiction of its incorporation;
  - (b) The execution and delivery of this Agreement and the performance of the transaction contemplated herein has been duly authorised by all necessary corporate or other action of the Party;
  - (c) This Agreement constitutes a legal, valid and binding obligation on the Party, enforceable against it in accordance with its terms; and
  - (d) The execution, delivery and performance of this Agreement by such Party and the consummation of the transaction contemplated hereunder shall not: (i) violate any provision of its constitutional or governance documents (including their respective Memorandum and Articles of Association); (ii) require such Party to obtain any consent, Approvals or action of, or make any filing with or give any notice to, any Governmental Authority or any other person pursuant to any instrument, contract or other agreement to which it is a party or by which it is bound, other than any such consent, Approvals, action or filing that has already been duly obtained or made or contemplated to be obtained under the terms of this Agreement; (iii) conflict with or result in any material breach or violation of any of the terms and conditions of, or constitute (or with notice or lapse of time or both will constitute) a default under, any instrument, contract or other agreement to which it is a party or by which it is bound; (iv) violate any order, judgment or decree against, or binding upon it or upon its respective securities, properties or businesses; or (v) result in a violation or breach of or default under any Applicable Law.
- 8.2 The Owner hereby represents and warrants to the Developer as under:
- (a) It has not done any act, deed or thing, which curtails or is likely to curtail, restrict or prejudice its right in the Schedule Property or prevent it from conveying the Schedule Property or any part thereof to the Customer and/or the Association, as the case may be, as per the provisions of the WBHIRA, and in terms of this Agreement;
  - (b) Clear & marketable title: The Owner possesses clear, marketable, unfettered, absolute and unrestricted right, title and interest on the Schedule Property and is the sole, absolute and exclusive owner of the Schedule Property having peaceful, legal and physical possession thereof and no other person has any right, title, interest, claim or



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