

This Agreement for Sale executed on this \_\_\_\_\_ day of \_\_\_\_\_ (“Agreement”)

**By and Between**

**Akshay Vinimay LLP** (LLPIN No. AAG-0923; Income Tax PAN No. ABFFA1232L), a limited liability partnership existing under the provisions of the Limited Liability Partnership Act, 2008, having its registered office at 12B, Beliaghata Road, Kolkata - 700 015, Police Station Entally and Post Office Tangra, represented by its authorized signatory, Mr. \_\_\_\_\_ (Income Tax PAN No. \_\_\_\_\_; Aadhar No. \_\_\_\_\_ and Mobile No. \_\_\_\_\_), son of \_\_\_\_\_, working for gain at 12B, Beliaghata Road, Kolkata - 700 015, Police Station Entally and Post Office Tangra, hereinafter referred to as the “**Promoter**”/“**Owner**” (which expression shall mean and include its successors-in-interest and/or assigns) of the **One Part**

**And**

**Mr./Ms.** \_\_\_\_\_ (Income Tax PAN No. \_\_\_\_\_; Aadhar No. \_\_\_\_\_ and Mobile No. \_\_\_\_\_), son/wife of \_\_\_\_\_, residing at \_\_\_\_\_, Police Station \_\_\_\_\_ and Post Office \_\_\_\_\_,

**Or**

\_\_\_\_\_ (CIN/LLPIN No. \_\_\_\_\_; Income Tax PAN No. \_\_\_\_\_), a company existing under the provisions of the Companies Act, 2013/a limited liability partnership existing under the provisions of the Limited Liability Partnership Act, 2008, having its registered office at \_\_\_\_\_, Police Station \_\_\_\_\_ and Post Office \_\_\_\_\_, represented by its authorized signatory, Mr. \_\_\_\_\_ (Income Tax PAN No. \_\_\_\_\_; Aadhar No. \_\_\_\_\_ and Mobile No. \_\_\_\_\_), son of \_\_\_\_\_, working for gain at \_\_\_\_\_, Police Station \_\_\_\_\_ and Post Office \_\_\_\_\_, hereinafter referred to as the “**Allottee**” (which expression shall mean and include only his/her/each of their respective/its permitted successors-in-interest) of the **Other Part**:

The “**Promoter**”/“**Owner**” and the “**Allottee**” are hereinafter individually referred to as such or as a “**Party**”, and collectively as the “**Parties**”.

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

- (a) “**Act**” means the West Bengal Housing Industry Regulation Act, 2017 (West Ben. Act XLI of 2017), as amended and/or substituted and/or updated and/or revised from time to time;
- (b) “**Rules**” means the West Bengal Housing Industry Regulation Rules, 2018 made under the West Bengal Housing Industry Regulation Act, 2017, as amended and/or substituted and/or updated and/or revised from time to time;
- (c) “**Regulations**” means the Regulations made under the West Bengal Housing Industry Regulation Act, 2017, as amended and/or substituted and/or updated and/or revised from time to time;
- (d) “**Section**” means a section of the Act, as updated or revised or amended or substituted from time to time.

**Whereas:**

- A. The Promoter/Owner herein became and is the full and absolute owner of All That the piece and parcel of land recorded as admeasuring 5 (five) bighas 2 (two) cottahs 9 (nine) chittacks and 19 (nineteen) sq.ft. more or less, but upon physical

measurement found to admeasure 5 (five) bighas 1 (one) cottah 7 (seven) chittacks and 34 (thirty four) sq.ft. more or less, together with the structures standing thereon and/or the Project to be developed thereon, situate, lying at and being Premises No. 12B, Beliaghata Road (also known as Beliaghata Main Road), Kolkata - 700 015, Police Station Entally, Post Office Tangra, within Ward No. 57 of The Kolkata Municipal Corporation (“**Said Premises**”), more specifically described in **Part - I of Schedule A** hereunder written, by virtue of the Devolution of Title.

- B. The Owner being desirous of commercially exploiting the Said Premises, earmarked the same for development of the Project thereon, and in pursuance thereof applied to The Kolkata Municipal Corporation, whereupon the Plan was sanctioned.
- C. The Owner is fully competent to enter into this Agreement, and to the best of the knowledge of the Owner all the legal formalities with respect to the right, title and interest of the Owner regarding the Said Premises, on which the Project is to be constructed, have been completed.
- D. The Owner has duly intimated The Kolkata Municipal Corporation about commencement of construction of the Project vide its letter dated 9<sup>th</sup> September, 2019.
- E. The Owner has obtained the final layout plan, Plan, specifications and approvals for the Project from the concerned competent authority and/or the concerned entities save and except in respect of any Additional FAR, and agrees and undertakes not to make any changes to the Plan except in compliance with Section 14 of the Act and other Applicable Laws, if any.
- F. The Owner has registered the Project under the provisions of the Act with the West Bengal Housing Industry Regulatory Authority at \_\_\_\_\_ on \_\_\_\_\_ under registration No. \_\_\_\_\_.
- G. The Allottee had applied to the Owner for allotment of an Apartment in the Project vide application No. \_\_\_\_\_ dated \_\_\_\_\_ (“**Application**”) on the terms and conditions recorded therein, in pursuance whereof, by and under a provisional allotment letter bearing No. \_\_\_\_\_, dated \_\_\_\_\_ (“**Allotment Letter**”), the Owner has provisionally allotted in favour of the Allottee All That the Apartment described in **Part - II of Schedule A** hereunder written (“**Said Apartment**”) together with the permission to use such number(s) of car parking space(s), if any, to be earmarked, identified and designated by the Owner at the Building and/or the Said Premises, which do not form a part of the Common Areas, as stated in **Part - III of Schedule A** hereunder written (“**Car Parking Space**”) for the parking of private medium sized/standard car(s) owned by the Allottee within such space(s), subject to and on the terms and conditions recorded in the Application and the Allotment Letter and the general terms and conditions forming a part of and/or governing the said provisional allotment and/or the Allotment Letter, and further subject to the Allottee making payment of the consideration amount as well as all other dues, deposits, costs and expenses, each of which were unconditionally accepted by the Allottee, with the tentative floor plan of the Said Apartment being annexed hereto, marked as **Schedule B**.
- H. The Parties have gone through all the terms and conditions set out in this Agreement including but not limited to the several representations and disclosures recorded herein and have understood their mutual rights and obligations as detailed herein.
- I. At or before the execution of this Agreement, the Allottee confirm(s) that after having conducted and completed to his/her/their/its complete satisfaction, an

independent due diligence and title verification in respect of *inter alia* the Said Premises as also the compliance and/or non-compliance, if any, by the Owner of all/any applicable law(s), notification(s), rule(s) etc., and after having carried out a physical inspection of the Said Premises including of the area thereof/comprised therein, and further after inspecting, examining and perusing all the title deeds pertaining *inter alia* to the Devolution of Title, papers, documents etc. (including the various covenants, terms, conditions etc. respectively stipulated therein) related *inter alia* to the Said Premises including but not limited to amongst others, several plans including the layout plan, the Plan, Specifications, approvals etc. for the Project, the deeds, papers, documents, details, schedules etc. referred to and/or specified under the Act and the Rules as also those referred to and/or described herein, each of which have from time to time been provided by the Owner to the Allottee and the Allottee confirm(s) and acknowledge(s) receipt of the true copies thereof, which are in the custody and possession of the Allottee, and the Allottee having understood and/or having complete and due notice and knowledge of, and after fully satisfying himself/herself/themselves/itself, has/have accepted, without any reservation, each of the aforesaid including the right of the Owner to utilize the Additional FAR as stipulated in this Agreement, and *inter alia*:-

- i) the right, title and interest of the Owner to/over/in respect of the Said Premises and to develop and deal with the Project intended to be constructed/developed on the Said Premises;
- ii) the Devolution of Title;
- iii) the nature, state, condition and measurement of the Said Premises and the Project, as applicable, and the manner in which the same is/are presently intended to be used;
- iv) the permission to park private medium sized car(s) within the space comprising the Car Parking Space if any, comprises an integral and inseparable part of the Said Apartment, subject to due compliance by the Allottee of each of the stipulated terms, to the satisfaction of the Owner;
- v) the proposed location, lay out plan and the dimensions of each of the Said Apartment and the Car Parking Space;
- vi) the Common Areas which are intended to form a part of the Project;
- vii) the laws/notifications and rules applicable to the area where the Said Premises is situate, in general, and the Project and similar projects, in particular;
- viii) the present estimated respective Carpet Area and Built-Up Area of the Said Apartment and the manner of calculation thereof;
- ix) the reservation/retention of the rights and areas/portions including the Retained Areas to, unto and in favour of the Owner;
- x) the nature and the extent of the rights and benefits proposed to be granted and/or extended to the Allottee as also the several obligations to be performed and fulfilled by the Allottee, each to the satisfaction of the Owner;
- xi) the terms, conditions, covenants, stipulations, restrictions, reservations and obligations in the matter of acquiring freehold title in respect of the Said Apartment along with the permission to park private medium sized car(s) within the space comprising the Car Parking Space if any, and the manner and method of use and enjoyment of the same as well as the covenants

running with the land and the Said Apartment And Properties Appurtenant Thereto;

- xii) the Specifications as also the measurements, dimensions, designs and drawings, each of which may be varied by the Owner subject to the terms of this Agreement;
- xiii) the state and condition in which the Said Apartment and the Car Parking Space if any are intended to be handed over to the Allottee subject to compliance by the Allottee of each of the stipulated terms to the satisfaction of the Owner;
- xiv) the Owner is and shall be entitled to the Additional FAR, whereupon subject to compliance with the provisions of Section 14 of the Act and as provided for in this Agreement, the Owner shall be entitled to and would be well within its right to alter, modify, amend, revise etc. the Plan and to undertake any further and/or additional construction(s) at the Said Premises including constructing further upper floors above the topmost floor as it presently stands sanctioned, as a consequence whereof such floor shall not remain as the topmost floor of the Building, and the Owner shall be further entitled to connect such further and/or additional construction(s) with the existing utilities and amenities at the Project/Building including all the Common Areas, notwithstanding any temporary disruption caused in the use and/or enjoyment of the Said Apartment and/or the Car Parking Space if any, and each of such further constructions shall absolutely belong to the Owner who shall be entitled to deal with the same in such a manner as the Owner may deem fit and proper, and the Allottee hereby agree(s) and undertake(s) not to do, execute or perform or permit the doing, execution or performance of any act, deed or thing which may prevent the Owner from undertaking the construction of and/or dealing with or otherwise transferring the aforesaid with full knowledge and acceptance of the fact that the aforesaid shall result in several changes including but not limited to a change in the Undivided Share, and the Allottee covenant(s) and undertake(s) not to object to the same on any ground whatsoever or to claim, demand etc. any compensation, damages etc.;
- xv) the right of the Owner to carry out, implement etc. any variations and/or additions and/or alterations and/or deletions and/or modifications and/or revisions to the Plan, the layout plans, the estimated proposed respective Carpet Area and Built-Up Area of the Said Apartment, the Specifications and the Common Areas subject to the terms of this Agreement, and the Allottee hereby grant(s) and accord(s) his/her/their/its unambiguous and unconditional consent to the same, and no further consent of the Allottee shall be necessary and/or required for making any such variations, additions, deletions, modifications, alterations, revisions etc., and further the Allottee agree(s) and undertake(s) not to make or raise any objection to such variations, alterations, additions, deletions, modifications, revisions etc. on any ground whatsoever or howsoever, with full knowledge and acceptance of the fact that such variations and/or additions and/or alterations and/or deletions and/or modifications and/or revisions shall result in several changes including but not limited to a change in the Undivided Share, and the Allottee covenant(s) and undertake(s) not to object to the same on any ground whatsoever or to claim, demand etc. any compensation, damages etc., it being clarified and understood that only if the Owner determines that there is any change in the areas as stated in para/Clause 1.7 hereinbelow, then the Parties shall strictly abide by and comply with the provisions of para/Clause 1.7 hereinbelow;

xvi) the limited right of the Allottee (as and when granted) shall remain restricted only to the Said Apartment coupled with the permission to park private medium sized car(s) within the space comprising the Car Parking Space if any together with the limited right to use the Common Areas in common with the other Apartment Allottees and other Persons as stipulated elsewhere in this Agreement, and similarly the limited right of the Association (as and when granted) shall remain restricted only to the Common Areas, each subject to the terms hereof and in the manner stipulated herein and/or in the Conveyance Deed, and thus neither the Allottee nor the Association shall have or claim any manner or nature of right and/or title and/or interest to/over/in respect of any of the other parts and portions of the Said Premises and the Project, any of the open and/or covered and/or stacked areas/spaces at/of the Said Premises and/or the Building, and any of the other Apartments, constructed spaces and such other areas which the Owner retains under its exclusive ownership and/or control and/or use and/or possession, as the case may be, including but not limited to the Additional FAR (collectively, “**Retained Areas**”) save those in respect whereof the Owner has specifically granted hereunder a right in favour of the Allottee, and, the Allottee, without any coercion/force and of his/her/their/its own volition, hereby and hereunder unconditionally and irrevocably and perpetually release(s), relinquish(es), surrender(s), disclaim(s) in favour of the Owner all rights, title, interest, right of user and/or of common use or any other right of any nature whatsoever or howsoever, if any, over and/or in respect of the Retained Areas, and the Allottee covenant(s) and undertake(s) not to at any time claim, set up, make, raise etc. any manner/nature of claim, demand or action contrary to the aforesaid,

and the Allottee further declare(s), confirm(s) and acknowledge(s) each of the following:

- a) that each of the terms, conditions, covenants, stipulations, restrictions, reservations and obligations recorded herein as well as the covenants running with the land and/or the Said Apartment And Properties Appurtenant Thereto and the manner and method of the use and enjoyment of the Said Apartment And Properties Appurtenant Thereto including those stated herein, have been arrived at after mutual discussions and negotiations between/amongst the Parties hereto, each of which have been accepted and voluntarily agreed to by the Allottee (without any coercion and/or influence), none of which can be treated as and/or considered to be oppressive or one-sided or unfair or heavily leaned in favour of the Owner and/or as imposition of unfair conditions, as each has been formulated/stipulated bearing in mind the nature of the Project and the larger interest of the entire development proposed on the Said Premises, which would, *inter alia*, protect the rights of and/or enure to the benefit of the Allottee, and therefore are fair and reasonable;
- b) that the Allottee has sought and obtained independent legal advice and opinion and has caused this Agreement to be vetted by advocates/lawyers appointed by the Allottee;
- c) that the Allottee has entered into this Agreement after taking into account/consideration several factors, and thus the quantum of the Total Price, the Deposits, Extra Charges and all other amounts, charges, costs, deposits, expenses etc. as stipulated in this Agreement and agreed to be paid by the Allottee, are fair and just;
- d) that there has been no domination by the Owner, and the Allottee has voluntarily agreed to the terms and conditions herein contained;

- e) that upon signing this Agreement, no conditions, stipulations, representations, guarantees, warranties etc. have been made by and/or on behalf of the Owner other than those if any specifically set forth herein;
- f) that the Owner has provided all the information and clarifications as required by and/or requested for from time to time, and the Allottee is/are fully satisfied with the same, and the Allottee further acknowledge(s) and confirm(s) that the Allottee has/have carefully read the terms, conditions and stipulations contained/recorded in this Agreement and understood the obligations and limitations of the Owner as set forth herein, as also the obligations and liabilities of the Allottee, and has/have relied on his/her/their/its own judgment and investigation while deciding to apply to the Owner for granting the rights and/or permissions (of the specific nature specified herein) in respect of the Said Apartment and the Car Parking Space, if any, and to execute this Agreement (which is final in all respects), and the Allottee undertakes(s) and covenant(s) to faithfully abide by each of the terms and conditions of this Agreement;
- g) that in view of the Allottee having agreed to make timely payment of and/or to timely deposit the various amounts including those stipulated herein, and having further undertaken and covenanted to faithfully abide by and comply with and perform and observe each of the terms and conditions stipulated herein, the Owner has blocked for the Allottee the Said Apartment and the Car Parking Space, if any;
- h) that the Owner shall have the unfettered right to grant in favour of the Retained Areas' Owners & Occupiers, a right, title and interest to/over/in respect of the Common Areas,

and the Allottee hereby and hereunder undertake(s) and covenant(s) not to make or raise any objection or claim or requisition *inter alia* in respect of any of the aforesaid, or to make or raise or set up or initiate any claim or demand or action contrary to the aforesaid on any ground whatsoever or howsoever.

- J. The Parties hereby confirm that they are entering into this Agreement with full knowledge of all the laws, rules, regulations, notifications, etc., applicable to the Project.
- K. 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 the Applicable Laws, are now willing to enter into this Agreement on the terms and conditions appearing hereinafter.
- L. In accordance with the terms and conditions set out in this Agreement and as mutually agreed upon by and between the Parties, the Owner hereby provisionally agrees to sell and the Allottee hereby agrees to purchase the Apartment on ownership basis and further the Owner provisionally agrees to permit the Allottee to park private medium sized car(s) owned by the Allottee within the space comprising the Car Parking Space, all as specified in Recital G hereinabove.

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

## **1. Terms**

- 1.1 Subject to the terms and conditions as detailed in this Agreement, the Owner provisionally agrees to sell to the Allottee and the Allottee hereby agrees to

purchase the Apartment and further the Owner provisionally agrees to permit the Allottee to park private medium sized car(s) owned by the Allottee within the space comprising the Car Parking Space, all as specified in Recital G hereinabove.

1.2 The Total Price for the Said Apartment (based on the Carpet Area) and for the permission to park private medium sized car(s) owned by the Allottee within the space comprising the Car Parking Space, if any, comprises of the following:

a) A mutually agreed composite sum of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) as detailed hereinbelow (“**Apartment & CP Price**”):-

Sl. No.	Consideration/amount payable towards	Rs.
1.	Said Apartment (calculated at the rate of Rs. _____ /- (Rupees _____ only) per sq.ft. of the Carpet Area of the Said Apartment)	_____ /-
2.	Balcony/Verandah	/-
3.	Open Terrace	/-
4.	Preferential location charges, if any	/-
5.	Car Parking	/-
6.	Cost of the Common Areas	/-
<b>Total</b>		/-

and

b) The applicable Taxes payable on the Apartment & CP Price as determined from time to time (“**Apartment & CP Taxes**”).

*Explanation:*

- (i) The Total Price above includes the Booking Amount paid by the Allottee to the Owner towards the Said Apartment And Properties Appurtenant Thereto;
- (ii) The Total Price above includes Taxes (consisting of tax paid or payable by the Owner by way of G.S.T. and cess or any other similar taxes which may be levied, in connection with the construction of the Project payable by the Owner, by whatever name called) up to the date of handing over the possession of the Said Apartment/plot to the Allottee and the Project to the Association, after obtaining the Completion Certificate:

Provided that in case there is any change/modification in the Taxes, the subsequent amount payable by the Allottee to the Owner shall be increased/reduced based on such change/modification:

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

- (iii) The Owner shall periodically intimate in writing to the Allottee, the amount

payable as stated in (i) above and the Allottee shall make payment demanded by the Owner within the time and in the manner specified therein. In addition, the Owner shall provide to the Allottee 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 Total Price together with the Deposits and Extra Charges includes recovery of price of land, cost of construction of not only the Said Apartment but also the Common Areas, the internal development charges, the external development charges as charged by the Competent Authority at the time of sanction of the Plan, the Taxes (as prevailing on the Execution Date), the cost, as prevailing on the Execution Date, of providing electric wiring and electrical connectivity to the Said Apartment, lift, water lines and plumbing, finishing with flooring, doors, windows and the fire detection and fire fighting equipment comprising a part of the Common Areas, and also includes the cost, as prevailing on the Execution Date, for providing the facilities, amenities and specifications disclosed as being provided within the Said Apartment and the Project.
- 1.3 The Total Price is escalation-free, save and except increases which the Allottee hereby agrees to pay due to increase on account of development charges payable to the concerned competent authority(ies) and/or any other increase in charges which may be levied or imposed by the concerned competent authority(ies) from time to time. The Owner undertakes and agrees that while raising a demand on the Allottee for increase in development charges, cost/charges imposed by the concerned competent authorities, the Owner shall enclose the said notification/order/rule/regulation to that effect along with the demand letter being issued to the Allottee, which shall only be applicable on subsequent payments. Provided that if there is any new imposition or increase of any development charges after the expiry of the scheduled date of completion of the Project as per registration with the Authority, which shall include the extension of registration, if any, granted to the said Project by the Authority as per the Act, the same shall not be charged from the Allottee.
- 1.4 The Allottee shall make payment of the Total Price as per the payment plan set out in **Schedule C** hereunder written (“**Payment Plan**”).
- 1.5 The Owner may allow, at its sole discretion, a rebate for early payment of the instalments payable by the Allottee in terms of the Payment Plan, by discounting such early payments at the rate of 5% (five percent) per annum for the period by which the respective instalment has been preponed. The provision for allowing rebate and such rate of rebate shall not be subject to any revision/withdrawal, once granted to the Allottee by the Owner save and except if the Allottee delays/defaults in making timely payment.
- 1.6 It is agreed that the Owner shall not make any additions and alterations in/to the sanctioned plans, layout plans and specifications and nature of fixtures, fittings and amenities described in **Schedule D** hereunder written (which are in conformity with the advertisement and prospectus published by the Owner in respect of the Project) save in the manner provided under the Act and/or the Rules and/or the Applicable Laws and/or as may be required by the authorities concerned and/or as a consequence of any new policies formulated and/or changes in the rules pertaining to the floor area ratio, and the Allottee hereby grant(s) his/her/their/its unambiguous and unconditional consent to the same, and further agree(s) and undertake(s) not to make or raise any objection to the same on any ground whatsoever or howsoever.

Provided that notwithstanding the aforesaid, the Owner shall be entitled to make such minor additions or alterations *inter alia* to the layout of the Said Apartment

and/or the Apartment Specifications: (a) as may be expedient (subject to the threshold provided in para/Clause 1.7 hereinbelow); and/or (b) as per the provisions of the Act and/or the Rules and/or the Applicable Laws; and/or (c) as may be required by the concerned competent authorities and/or the Competent Authority and/or due to change in law and/or due to non-availability of specified materials and/or due to engineering exigencies and/or to improve and/or protect the quality of the Project; and/or (d) as may be necessary to provide any essential services to the Project.

- 1.7 The Owner shall confirm to the Allottee the final Carpet Area of the Said Apartment as also the changes, if any, in the respective areas of the Balcony/Verandah (if any) and the Open Terrace (if any) after construction of the Building is complete and the Completion Certificate has been granted, by furnishing the details of the changes, if any, in the areas of each of the aforesaid as stated herein, whereupon the quantum of the Total Price as also any other applicable charges and/or deposits if any, shall be re-calculated at the same rate at which each of the aforesaid may have been calculated to arrive at the quantum(s) stated in the Payment Schedule. If there is reduction in the respective areas of any/some/each of the aforesaid by more than 3% (three percent), then the Owner shall refund the excess money paid by the Allottee within 45 (forty five) days. If there is an increase in the respective areas of any/some/each of the aforesaid by more than 3% (three percent), then the Owner shall be entitled to demand the differential amount from the Allottee including as part of the next milestone/instalment due in terms of/under the Payment Plan, which the Allottee undertake(s) and covenant(s) to pay.
- 1.8 Subject to *inter alia* para/Clause 9.3 hereinbelow, the Owner agrees and acknowledges, that on and after execution and registration of the Conveyance Deed, the Allottee shall have the rights as mentioned hereinbelow:
- (i) The Allottee shall have exclusive ownership of the Said Apartment;
  - (ii) The Allottee shall also have undivided proportionate share in the Common Areas through the Association and/or by becoming a member of the Association, which share/interest being undivided, cannot be divided or separated, and the Allottee shall use the Common Areas subject to the terms stipulated herein and/or in the Conveyance Deed, along with *inter alia* the other Apartment Allottees, the permitted users and occupiers of all the Apartments, the owners and permitted users/occupiers of the several units/areas/spaces/portions at/of/comprising the Building and/or the Said Premises the maintenance staff, the Retained Areas' Owners & Occupiers and the Other Owners & Occupiers etc., and without causing any inconvenience or hindrance to any of the aforesaid users, occupiers etc. It is clarified that the Owner shall hand over the Common Areas to the Association after duly obtaining the Completion Certificate from the Competent Authority as provided in the Act;
  - (iii) That the computation of the Total Price together with the Deposits and Extra Charges includes recovery of price of land, cost of construction of not only the Said Apartment but also the Common Areas, the internal development charges, the external development charges as charged by the Competent Authority at the time of sanction of the Plan, the Taxes (as prevailing on the Execution Date), the cost, as prevailing on the Execution Date, of providing electric wiring and electrical connectivity to the Said Apartment, lift, water lines and plumbing, finishing with flooring, doors, windows and the fire detection and fire fighting equipment comprising a part of the Common Areas, and also includes the cost, as prevailing on the Execution Date, for

providing the facilities, amenities and specifications disclosed as being provided within the Said Apartment and the Project;

(iv) The Allottee has the right to visit the Project site to assess the extent of development of the Project and the Said Apartment, as the case may be.

1.9 It is made clear by the Owner and the Allottee agree(s) that the Said Apartment along with Car Parking Space (if any) shall be treated as a single indivisible unit for all purposes. It is agreed that the Project is an independent, self-contained residential project being developed on the Said Premises, and presently is not a part of any other project or zone and save as provided in this Agreement, and without prejudice to the same: (a) the Project shall not form a part of and/or linked/combined with any other project in its vicinity or otherwise except for the purpose of integration of infrastructure for the benefit of the Allottee; and/or (b) the facilities and amenities of the Project shall be available only for use and enjoyment of the Apartment Allottees in the manner provided in this Agreement.

1.10 The Owner agrees that before transferring physical possession of the Said Apartment to the Allottee, any amounts collected by the Owner from the Allottee towards outgoings payable to any third party (including towards land cost, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the Project), will be paid by the Owner to the concerned third parties, and in the event before handing over the Said Apartment to the Allottee the Owner fails to pay all or any of the aforesaid outgoings if any so collected by the Owner from the Allottee, the Owner agrees to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person.

1.11 The Allottee has paid a sum of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) as the Booking Amount (as stated in **Schedule I** hereunder written), the receipt of which the Owner hereby acknowledges and the Allottee hereby agrees to pay the remaining price including as prescribed in the Payment Plan as may be demanded by the Owner within the time and in the manner specified therein:

Provided that if the Allottee delays in payment towards any amount which is payable, the Allottee shall be liable to pay interest at the rate prescribed from time to time in the Rules (“**Interest**”).

## **2. Mode of Payment**

Subject to the terms of this Agreement and the Owner abiding by the construction milestones (as stipulated in the Payment Plan), the Allottee shall make all payments, on written demand by the Owner, within the stipulated time as mentioned in the Payment Plan through A/c Payee cheque/demand draft/bankers cheque or online payment (as applicable)] in favour of Akshay Vinimay LLP and/or any of the Other Entities as may be advised in writing by the Owner, payable at Kolkata.

## **3. Compliance of laws relating to remittances**

3.1 The Allottee, if resident outside India, shall be solely responsible for complying with the provisions of and/or the necessary formalities as laid down in Foreign Exchange Management Act, 1999, the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000, Reserve Bank of

India Act, 1934 and the rules and regulations made thereunder or any statutory amendments/modification(s) made thereof and/or all other necessary and/or applicable provisions and/or applicable laws as laid down and/or passed and/or notified by the government and/or the concerned statutory authorities and/or the concerned Governmental Authority(ies) from time to time, including those pertaining to remittance of payment for acquisition/sale/transfer of immovable property in India etc. and the Allottee shall provide the Owner with such permissions, approvals etc. which would enable the Owner to fulfill its obligations under this Agreement and/or as may be requested by the Owner. 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 the statutory enactments or amendments thereof and the rules and regulations of the Reserve Bank of India or any other Applicable Law. The Allottee understand(s) and agree(s) that in the event of any failure on the part of the Allottee to comply with the Applicable Laws and/or the applicable guidelines issued by the Reserve Bank of India from time to time, the Allottee shall be solely and exclusively liable and responsible for any and every action under the Foreign Exchange Management Act, 1999 and/or all other Applicable Laws, as amended from time to time.

- 3.2 The Owner accepts no responsibility in regard to matters specified in para/Clause 3.1 above. The Allottee shall keep the Owner fully indemnified and harmless in this regard. Whenever there is any change in the residential status of the Allottee subsequent to the signing of this Agreement, it shall be the sole responsibility of the Allottee to intimate the same in writing to the Owner and immediately and comply with necessary formalities, if any, under the Applicable Laws. The Owner shall not be responsible for any third party making payment/remittances on behalf of the Allottee, and such third party (by virtue of such payments/remittances and/or otherwise) shall not have any right in the application/allotment of the Said Apartment applied for herein in any way and further shall neither have nor shall acquire any manner or nature of right or interest to/over/in respect of any part or portion of the Said Apartment and/or the Car Parking Space and/or under this Agreement on any ground whatsoever or howsoever, and the Owner shall issue the payment receipts in favour of the Allottee only.

#### **4. Adjustment/Appropriation of payments**

The Allottee authorizes the Owner to adjust appropriate/all payments made by the Allottee under any head(s) of dues against lawful outstanding of the Allottee against the Said Apartment And Properties Appurtenant Thereto, if any, in the name of the Allottee, and the Allottee undertake(s) not to object/demand/direct the Owner to adjust the payments of the Allottee in any manner.

#### **5. Time is Essence**

The Owner will abide by the time schedule for completing the Project as envisaged at the time of registration of the Project under the Act and as extended from time to time, and for handing over the Said Apartment to the Allottee, and the Common Areas to the Association, unless prevented by circumstances beyond its control and/or by any Force Majeure event(s) (“**Tentative Completion Date**”).

#### **6. Construction**

The Allottee has seen and/or understood to his/her/their/its complete satisfaction, the Plan as also the proposed layout plan and floor plan of the Said Apartment, along with the Specifications and the Common Areas including such of the aforesaid which have been approved by the Competent Authority, as represented by the Owner. The Owner shall develop the Project in accordance with the said

layout plans, floor plans and Specifications subject to the terms of this Agreement, and undertakes to strictly abide by such plans approved by the Competent Authority and also the bye-laws, floor area ratio and density norms and provisions prescribed by the Competent Authority, and shall not have an option to make any variation/alteration/modification in/to such plans, other than in the manner provided under the Act and breach of this term by the Owner shall constitute a material breach of this Agreement.

## **7. Possession of the Said Apartment**

### **7.1 Schedule for possession of the Said Apartment**

The Owner agrees and understands that timely delivery of possession of the Said Apartment to the Allottee and the Common Areas to the Association is the essence of the Agreement. The Owner assures to endeavor to make the Said Apartment ready for hand over on or before \_\_\_\_\_, on which date, the Common Areas will also be in place with all Specifications and agreed amenities and facilities of the Project unless there is delay or failure due any Force Majeure event(s) and/or unless prevented by circumstances beyond its control subject to the Allottee having complied with each of the terms, conditions etc. stipulated herein to the satisfaction of the Owner, including the Allottee having made timely payment and/or deposit of all amounts etc., all to the satisfaction of the Owner. If, however, the completion of the Project is delayed due to the Force Majeure conditions then the Allottee agree(s) that the Owner shall be entitled to the extension of time for delivery of possession of the Said Apartment and the Common Areas.

Provided that such Force Majeure conditions are not of a nature which make it impossible for the contract to be implemented. The Allottee agree(s) and confirm(s) that, in the event it becomes impossible for the Owner to implement the Project due to Force Majeure conditions, then this allotment shall stand terminated and the Owner shall refund to the Allottee the entire amount received by the Owner, from the allotment within 45 (forty five) days from that date save and except all and/or any amounts collected by the Owner as Taxes and deposited with the concerned authorities, with the Allottee being free to approach the authorities concerned for refund of such Taxes. The Owner shall intimate the Allottee about such termination at least 30 (thirty) days prior to such termination. After refund of the money paid by the Allottee, the Allottee agree(s) that the Allottee shall not have any rights, claims etc. against the Owner and that the Owner shall be released and discharged from all its obligations and liabilities under this Agreement.

### **7.2 Procedure for taking possession**

Upon obtaining the Completion Certificate from the Competent Authority and subject to the Allottee not being in breach of any of his/her/their/its obligations under this Agreement, the Owner shall offer in writing to the Allottee, the possession of the Said Apartment ("**Possession Notice**"), in terms of this Agreement to be taken by the Allottee within 2 (two) months from the date of issue of the Completion Certificate ("**Outgoings Payment Commencement Date**"). Each Party agrees and undertakes to indemnify the other Party for any loss or damage which may be suffered or sustained or incurred by the other Party in case of failure of fulfilment of any of the provisions, formalities, documentation pertaining to the aforesaid. The Allottee agree(s) to pay the Maintenance Charges as determined by the Owner/Association, as the case may be, after the issuance of the Completion Certificate for the Project. The Owner shall hand over a photocopy of the Completion Certificate to the Allottee at the time of conveyance of the same.

### **7.3 Failure of Allottee to take possession of the Said Apartment**

Upon receiving a written intimation from the Owner as per para/Clause 7.2 hereinabove i.e. the Possession Notice, the Allottee shall, subject to compliance of all his/her/their/its obligations to the satisfaction of the Owner and further subject to the terms of this Agreement, take possession of the Said Apartment from the Owner by executing necessary indemnities, undertakings and such other documentation as required and/or as advised by the Owner including those as prescribed in this Agreement and/or in/under the Act and/or the Rules and/or any other Applicable Laws, and the Owner shall give possession of the Said Apartment to the Allottee. In case the Allottee fails to take possession within the time provided in para/Clause 7.2 hereinabove, the Allottee shall continue to be liable to pay the Maintenance Charges on and from the Outgoings Payment Commencement Date including as specified in para/Clause 7.2 hereinabove.

#### **7.4 Possession by the Allottee**

After obtaining the Completion Certificate and handing over physical possession of all the Apartments to the concerned Apartment Allottees, it shall be the responsibility of the Owner to hand over the necessary-documents and plans in respect of the Project including the Common Areas to the Association, as per Applicable Laws.

Provided that, in the absence of any Applicable Laws, the Owner shall, unless prevented by any Force Majeure event(s) hand over the necessary documents and plans in respect of the Project including the Common Areas to the Association within 30 (thirty) days after obtaining the Completion Certificate or within such time period as may be prescribed under the Act and/or Rules.

#### **7.5 Cancellation by Allottee**

The Allottee shall have the right to cancel/withdraw his/her/their/its allotment in the Project as provided in the Act read with the terms of this Agreement.

Provided that where the Allottee proposes to cancel/withdraw from the Project without any fault of the Owner, the Owner herein shall be entitled to forfeit the Booking Amount. The balance amount of money paid by the Allottee shall be returned by the Owner to the Allottee within 45 (forty five) days of such cancellation.

#### **7.6 Compensation**

The Owner shall compensate the Allottee in case any loss is caused to the Allottee due to established defective title of the land on which the Project is being developed or has been developed, in the manner as provided under the Applicable Laws/the Act, and the claim for interest and compensation under this provision 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 Owner fails to complete or is unable to give possession of the Said Apartment: (i) in accordance with the terms of this Agreement, duly completed by the date specified in para/Clause 7.1 hereinabove; or (ii) due to discontinuance of the Owner's business as a developer on account of suspension or revocation of its registration under the Act or the Rules, or for any other reason, the Owner shall be liable, on demand to the Allottee, in case the Allottee wishes to withdraw from the Project without prejudice to any other remedy available, to return the total amount received by the Allottee in

respect of the Said Apartment with Interest including compensation in the manner as provided under the Act within 45 (forty five) days of it becoming due.

Provided that where if the Allottee does not intend to withdraw from the Project, the Owner shall pay the Allottee Interest for every month of delay, till the handing over of the possession of the Said Apartment which shall be paid by the Owner to the Allottee within 45 (forty five) days of it becoming due.

## **8. Representations and warranties of the Owner**

The Owner hereby represents and warrants to the Allottee as follows:

- i)* The Owner has absolute, clear and marketable title to/in respect of the Said Premises as also the requisite rights to develop the Said Premises coupled with absolute, actual, physical and legal possession of the Said Premises for the development of the Project;
- ii)* The Owner has lawful rights and requisite approvals from the Competent Authority to carry out the development of the Project;
- iii)* There are no known encumbrances upon the Said Premises save and except that the Owner has taken or intends to take loan(s) from bank(s)/financial institution(s) against security of the Said Premises and the constructions to be made thereon as further detailed in para/Clause 34.15 hereinbelow;
- iv)* There are no litigations pending before any court of law or before the authority constituted under the Act, with respect to the Said Premises, to the best of the knowledge of the Owner;
- v)* All approvals, licenses and permits issued by the Competent Authority with respect to the Project and the Said Premises are valid and subsisting and have been obtained by following due process of law. Further, the Owner has been and shall remain in material compliance with all Applicable Laws in relation to the Project to the extent not handed over and/or transferred in favour of any Apartment Allottee;
- vi)* The Owner has the right to enter into this Agreement and has not committed or omitted to perform any act, deed or thing whereby the right, title and interest to be acquired by the Allottee in pursuance of this Agreement may be prejudicially affected;
- vii)* The Owner has not entered into any agreement for sale and/or development agreement or any other agreement/arrangement with any person or party with respect to the Said Premises including the Project (save and except: (a) the several specific agreements, if any, executed with several Apartment Allottees *inter alia* in respect of the several Apartments comprising the Project; (b) pertaining to the loan(s) if any taken from bank(s)/financial institution(s) against security of the Said Premises and the constructions to be made thereon as further detailed in para/Clause 34.15 hereinbelow) and the Said Apartment, which will, in any manner, affect the rights of the Allottee under this Agreement;
- viii)* The Owner confirms that the Owner is not restricted in any manner whatsoever from selling the Said Apartment to the Allottee in the manner contemplated in this Agreement;

- ix)* At the time of execution of the Conveyance Deed, the Owner shall hand over lawful, vacant, peaceful, physical possession of the Said Apartment to the Allottee and the Common Areas to the Association in the manner and on the terms stipulated in this Agreement;
- x)* The Said Premises is not the subject matter of any HUF and no part thereof is owned by any minor and/or no minor has any right, title and claim over the Said Premises (save and except the limited rights if any agreed to be granted under any specific agreement executed in favour of any Apartment Allottee who may be a minor, duly represented by his/her parent and/or natural guardian);
- xi)* The Owner has duly paid and shall continue to pay and discharge all the undisputed 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 Project to the concerned competent authorities, till hand over of the Said Apartment and the Common Areas has been respectively offered to the Allottee and the Association in terms of this Agreement;
- xii)* No adverse 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 Premises) has been received by or served upon the Owner in respect of the Said Premises and/or the Project.

## **9. Events of Defaults and consequences**

9.1 Subject to Force Majeure event(s), the provisions of this Agreement and further subject to the Allottee making timely payments hereunder, the Owner shall be considered under a condition of default in the following events (“**Owner Event of Default**”):

- (i)* the Owner fails to provide ready to move in possession of the Said Apartment to the Allottee within the time period specified in para/Clause 7.1 hereinabove or fails to complete the Project within the Tentative Completion Date. For the purpose of this para/Clause ‘ready to move in possession’ shall mean that the Said 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 the Completion Certificate has been issued; or
- (ii)* discontinuance of the Owner’s 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.

9.2 On the occurrence of an Owner Event of Default, the Allottee will be entitled to:

- (i)* Stop making further payments to the Owner as demanded by the Owner. If the Allottee stops making payments, the Owner shall correct the situation by completing the construction milestones (as stipulated in the Payment Plan), and only thereafter the Allottee shall be bound and obliged to make the next payment due but without any Interest on the then outstanding/delayed payments; or
- (ii)* The Allottee shall have the option of terminating the Agreement, in which event the Owner shall be liable to refund the entire money paid by the

Allottee under any head whatsoever towards provisional allotment of the Said Apartment along with Interest within 45 (forty five) days of receiving the termination notice save and except all and/or any amounts collected by the Owner as Taxes and deposited with the concerned authorities, with the Allottee being free to approach the authorities concerned for refund of such Taxes.

Provided that where an Allottee does not intend to withdraw from the Project or terminate the Agreement, The Allottee shall be paid by the Owner Interest for every month of delay or part thereof till the date the Owner corrects the situation as stated above, or till the date of the Possession Notice, whichever be earlier, such Interest to be paid by the Owner to the Allottee within 45 (forty five) days of the same becoming due.

9.3 The Allottee shall be considered under a condition of default on the occurrence of the following events (“**Allottee Event of Default**”):

- (i) In case the Allottee fails to make payment for consecutive demands made by the Owner as per the Payment Plan of any amount due and payable by the Allottee under this Agreement (including his/her/their/its proportionate share of taxes, levies and other outgoings) despite having been issued a notice in that regard, and the Allottee shall be liable to pay Interest to the Owner on the unpaid amounts;
- (ii) In case of default by the Allottee under the condition listed above continues for a period of 1 (one) month after notice from the Owner in this regard, the Owner may cancel the provisional allotment of the Said Apartment in favour of the Allottee and refund the money paid to the Owner by the Allottee after deducting the Booking Amount and the interest liabilities (save and except all and/or any amounts collected by the Owner as Taxes and deposited with the concerned authorities, with the Allottee being free to approach the authorities concerned for refund of such Taxes) and this Agreement shall thereupon stand terminated.

Provided that the Owner shall intimate the Allottee about such termination atleast 30 (thirty) days prior to such termination.

## **10. Conveyance of the Said Apartment**

The Owner, on receipt from the Allottee of the Total Price as mentioned in para/ Clause 1.2 of this Agreement, shall execute in favour of the Allottee the Conveyance Deed and convey the title of the Said Apartment together with proportionate indivisible share in the Common Areas (the Undivided Share) within the time period stated in Applicable Laws.

Provided that, in the absence of local law, the conveyance deed in favour of the Allottee shall be executed by the Owner within 3 (three) months from the date of issuance of the Completion Certificate. However, in case the Allottee fails to deposit the stamp duty and/or registration charges (which shall be and remain the sole and exclusive liability of the Allottee) within the period mentioned in the notice, the Allottee authorizes the Owner to withhold registration of the conveyance in his/her/its/their favour till payment of stamp duty and registration charges is made by the Allottee to the Owner.

## **11. Maintenance of the Building /Said Apartment / Project**

The Owner 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 upon the issuance of the Completion Certificate of the Project. The cost of such initial maintenance has been included in the Deposits and Extra Charges detailed in this Agreement.

## **12. Defect Liability**

It is agreed that in case the Allottee alleges any structural defect in the construction of the Said Apartment or any defect in the Apartment Specifications, and the Allottee brings the same to the notice of the Owner in writing within a period of 5 (five) years from the date of handing over possession or within the time prescribed in the Act and/or the Rules or within the time period prescribed in para/Clause 7.2 hereinabove, whichever be earlier, it shall be the duty of the Owner to, without further charge, undertake necessary remedial steps for rectification and/or replacement of the same as advised by the Architect within 30 (thirty) days, and in the event of the Owner's failure to rectify such defects within such time, the aggrieved Allottee shall be entitled to receive appropriate compensation in the manner as provided under the Act.

## **13. Right to enter the Said Apartment for repairs**

The Owner/maintenance agency (Facility Management Entity)/Association shall have rights of unrestricted access of/to all the Common Areas, garages/covered parking and parking spaces for providing necessary maintenance services and the Allottee agrees to permit the Owner/Association and/or the maintenance agency (Facility Management Entity) to enter into the Said Apartment or any part thereof, after due notice and during the normal working hours, unless the circumstances warrant otherwise, with a view to set right any defect.

## **14. Usage**

**Use of basement and service areas:** The basement(s) and service areas, if any, located within the Project, shall be used only for the purpose(s) the same have been ear-marked for, such as parking spaces and services including but not limited to electric sub-station, transformer, DG set rooms, underground water tanks, pump rooms, maintenance and service rooms, fire fighting pumps and equipments etc. and other permitted uses as per the Plan. The Allottee shall not be permitted to and undertake(s) not to use the basement and the service areas in any manner whatsoever, other than those earmarked as parking spaces subject to the same having been specifically allotted in favour of the Allottee under these presents, and each of the said areas shall be reserved for use in such a manner as may be determined by the Owner.

## **15. Compliance with respect to the Said Apartment**

- 15.1 Subject to para/Clause 12 above, the Allottee shall, after taking possession, be solely responsible to maintain the Said Apartment at his/her/its/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 Said Apartment, or the staircases, lifts, common passages, corridors, circulation areas, atrium or the compound which may be in violation of any laws or rules of any authority or change or alter or make additions to the Said Apartment and shall keep the Apartment, its walls and partitions, sewers, drains, pipe and appurtenances thereto or belonging thereto, in good and tenantable repair and maintain the same in a fit and proper condition and ensure that the support, shelter etc. of the Building is not in any way damaged or jeopardized.

- 15.2 The Allottee further undertake(s), assure(s) and guarantee(s) that he/she/it/they would not put any sign-board/name-plate, neon light, publicity material or advertisement material etc. on the face facade of the Building or anywhere on the exterior of the Project, the Buildings therein or the Common Areas. The Allottees shall also not change the colour scheme of the outer walls or painting of the exterior side of the windows or carry out any change in the exterior elevation or design. Further, the Allottee shall not store any hazardous or combustible goods in the Said Apartment or place any heavy material in the common passages or staircase of the Building. The Allottee shall also not remove any wall including the outer and load bearing wall of the Said Apartment.
- 15.3 The Allottee shall plan and distribute his/her/its/their electrical load in conformity with the electrical systems installed by the Owner and thereafter the Association and/or maintenance agency (Facility Management Entity) appointed by the Association. The Allottee shall be responsible for any loss or damages arising out of breach of any of the aforesaid conditions.

#### **16. Compliance of laws, notifications etc. by the Parties**

The Parties are entering into this Agreement for the allotment of the Said Apartment with the full knowledge of all laws, rules, regulations, notifications applicable to the Project.

#### **17. Additional constructions**

The Owner undertakes that it has 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 authority(ies) and disclosed, except for as provided in this Agreement and/or in the Act.

#### **18. Owner shall not mortgage or create a charge:**

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

#### **19. Apartment Ownership Act**

The Owner has assured the Allottee that the Project in its entirety will be in accordance with the provisions of the West Bengal Apartment Ownership Act, 1972 to the extent not contrary and/or inconsistent to/with the Act and/or the Rules and/or any other Applicable Laws (including those, if any, in supercession of the West Bengal Apartment Ownership Act, 1972). The Owner will show material compliance of various laws/regulations as applicable in West Bengal.

#### **20. Binding Effect**

Forwarding this Agreement to the Allottee by the Owner and/or the original of this Agreement having been handed over to the Allottee does not create a binding obligation on the part of the Owner or the Allottee until firstly the Allottee signs

and delivers this Agreement with all the Schedules along with the payments due as stipulated in the Payment Plan within 30 (thirty) days from the date of receipt of this Agreement, and secondly, the Allottee appears for registration of this Agreement before the Registering Authority as and when intimated by the Owner after depositing with the Owner the entire stamp duty, registration fees and applicable fees, taxes and charges as levied by the government and/or any other authority(ies) and/or Governmental Authority(ies) as applicable/prevaling at the time of registration of this Agreement together with all other related and/or incidental charges and expenses. If the Allottee fail(s) to execute and deliver to the Owner this Agreement within 30 (thirty) days from the date of receipt of this Agreement and/or appears before the Registering Authority for registration of this Agreement as and when intimated by the Owner after paying and/or depositing the amounts stated hereinabove, then the Owner shall serve a notice to the Allottee for rectifying the default, which if not rectified within 30 (thirty) days from the date of its receipt by the Allottee, the Application and Allotment Letter shall be treated as cancelled whereupon after forfeiting such sums as stipulated in this Agreement, all sums deposited by the Allottee in connection therewith including the Booking Amount shall be returned by the Owner to the Allottee without any interest or compensation whatsoever.

## **21. Entire Agreement**

This Agreement along with its Schedules, read with the Application and the Allotment Letter (together with the modifications thereto if any) constitutes the entire agreement between the Parties in respect of the subject matter hereof, and supercedes all earlier/other recordings, promotional literature, agreements, arrangements, memoranda, understandings, brochures, advertisements, sales plans etc., and/or representations, statements etc., whether by the Owner and/or by any real estate agents, channel partners, brokers, agents, representatives, employees etc., if any, and in no event shall the Allottee be entitled to set up any oral agreement.

## **22. Right to amend**

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

## **23. Provisions of this Agreement applicable on Allottee/subsequent Allottees**

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 Said Apartment and the Project shall equally be applicable to and enforceable against and by any subsequent Allottees of the Said Apartment, in case of a transfer subject to the terms stipulated herein, as the said obligations go along with the Said Apartment for all intents and purposes.

## **24. Waiver not a limitation to enforce**

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

- 24.2 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.

**25. Severability**

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

**26. Method of calculation of proportionate share wherever referred to in the Agreement**

Wherever in this Agreement it is stipulated that the Allottee has to make any payment, in common with the other Apartment Allottees, the same shall be the proportion which the Carpet Area of the Said Apartment bears to the total Carpet Area of all the other Apartments in the Project.

**27. Further Assurances**

Both Parties agree that they shall execute, acknowledge and deliver to the other such instruments and take such other actions, in addition 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.

**28. Place of Execution**

The execution of this Agreement shall be completed only after its execution by the Owner, through its authorized signatory (at the office of the Owner, or at some other place in Kolkata within the same jurisdiction where the office of the Owner and/or the Said Premises is situate) which may be mutually agreed between the Owner and the Allottee) and the Allottee, simultaneously with the registration thereof at the office of Registering Authority, and hence this Agreement shall be deemed to have been executed at Kolkata.

**29. Notices**

All notices to be served on the Allottee and the Owner as contemplated by this Agreement shall be deemed to have been duly served if sent to the Allottee or the Owner by registered post at their respective addresses specified below:

\_\_\_\_\_ (Name of Allottee)

\_\_\_\_\_ (Allottee's address)

Akshay Vinimay LLP (Owner's name)

12B, Beliaghata Road, Kolkata - 700 015 (Owner's address)

It shall be the duty of the Allottee and the Owner to inform each other of any change in the above address subsequent to the execution of this Agreement by registered post, failing which all communications and letters posted at the above address shall be deemed to have been received by the Allottee or the Owner, as the case may be.

### **30. Joint Allottees**

In case there are joint Allottees/ more than one Person comprises/constitutes the Allottee herein, all communication shall be sent by the Owner to the Allottee/ Person whose name appears first in the nomenclature of this Agreement and at the address given by such Allottee/Person, which shall for all intents and purposes be considered as properly served on all the Allottees/each of the Persons comprising/ constituting the Allottee.

### **31. Savings**

Any application letter, allotment letter, agreement, or any other document signed by the Allottee in respect of the apartment, plot or building, as the case may be, prior to the execution and registration of this Agreement for such apartment, plot or building, as the case may be, shall not be construed to limit the rights and interests of the Allottee under the Agreement or under the Act or the Rules or the Regulations made thereunder.

### **32. Governing Law**

The rights and the 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 for the time being in force.

### **33. Dispute Resolution**

All or any disputes arising out or touching upon or in relation to the terms and conditions of this Agreement including the interpretation and validity of the terms thereof and the respective rights and obligations of the Parties, shall be settled amicably by mutual discussion, failing which the same shall be settled under the Arbitration and Conciliation Act, 1996, as updated or revised or amended or substituted from time to time, by a sole arbitrator appointed for the same by the Owner.

### **34. Other Terms and Conditions**

The Parties have agreed and hereby and hereunder confirm and undertake that notwithstanding anything to the contrary or otherwise contained/recorded/stated in this Agreement hereinbefore/hereinabove, this Agreement shall be subject to and be read together with each of the following/undernoted other/further terms, conditions and covenants, to be respectively paid, observed and performed on the part of the Owner and Allottee, as the case may be, it being clarified and agreed that in the event of any inconsistency or contradictions in/between the paras/Clauses stated hereinabove and those contained hereinafter, then notwithstanding there being no

specific reference/cross-referencing to the particular para/Clause in question and/or the provisions of para/Clause 34 being in derogation of other provisions/paras/Clauses of this Agreement, the provisions of the paras/Clauses contained in this para/Clause 34 and/or hereinafter shall prevail and/or supercede in its entirety or to the extent of such inconsistency, as the case may be, and thus be binding on the Parties.

### 34.1 Additional Definitions

In addition to any other terms which are defined in this Agreement by inclusion in parenthesis and/or quotations, the undernoted terms, shall, unless repugnant to the context or meaning thereof, have the meaning respectively assigned to each of such terms hereinbelow:-

“**Additional Cost**” shall have the meaning ascribed to such term in para/Clause 34.6(iv) of this Agreement.

“**Additional FAR**” shall have the meaning ascribed to such term in para/Clause 34.6(i) of this Agreement.

“**Advocate** shall mean the advocate for the time being appointed by the Owner to *inter alia* draw and prepare all the papers and documents required for and/or in connection with the Said Premises and/or the Project and/or the Building and/or the Said Apartment And Properties Appurtenant Thereto, or such other Person(s), who the Owner may appoint or nominate or designate as the advocate from time to time for any/all of the aforesaid purposes.

“**Agreement**” shall mean this agreement together with each of the Recitals and Schedules stated and/or incorporated herein by reference or otherwise, as may be amended in the manner as recorded herein and/or in writing by the Parties from time to time by way of letters and/or supplemental agreements and/or addenda to this agreement.

“**Allottee Event of Default**” shall have the meaning ascribed to such term in para/Clause 9.3, 34.9(i) and 34.6(ii) of this Agreement.

“**Allotment Letter**” shall have the meaning ascribed to such term in Recital C of this Agreement.

“**Apartment**” shall mean a constructed space at the Building intended and/or capable of being exclusively enjoyed by a specific Apartment Allottee as identified by the Owner.

“**Apartment Allottee(s)**” shall mean the various Person(s) to whom/in whose favour the Owner has, for the time being and subject to compliance by such Person of the terms and conditions stipulated by the Owner, all to the satisfaction of the Owner, provisionally agreed to transfer the right, title and interest in respect of a specific Apartment, which shall as applicable include the Allottee herein, but shall not include a tenant, licensee etc. of such a Person.

“**Apartment & CP Price**” shall have the meaning ascribed to such term in para/Clause 1.2(a) of this Agreement.

“**Apartment & CP Taxes**” shall have the meaning ascribed to such term in para/Clause 1.2(b) of this Agreement.

“**Apartment Specifications**” shall mean and include the various specifications in terms whereof the Said Apartment is intended to be constructed, the brief and tentative details whereof are stated in **Schedule D** hereunder written.

“**Applicable Laws**” shall mean and include all applicable laws, statutes, enactments, acts of legislature or parliament, ordinances, rules, by-laws, regulations, ordinances, notifications, protocols, codes, guidelines, policies, directions, directives, notices, orders, judgments, decrees or other requirements or official directives, binding actions etc. of any Governmental Authority, or person acting under the authority of any Governmental Authority and/or of any statutory authority in India, whether in effect on the date of this Agreement or thereafter or hereafter, as updated or revised or amended or substituted from time to time.

“**Application**” shall have the meaning ascribed to such term in Recital C of this Agreement.

“**Application Money**” shall mean Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only).

“**Approved Changes**” shall have the meaning ascribed to such term in para/Clause 34.6(iv) of this Agreement.

“**Appurtenant Property**” shall have the meaning ascribed to such term in para/Clause 34.6(vii) of this Agreement.

“**Architect**” shall mean the architect for the time being appointed by the Owner for the development of the Project or such other Person(s), who the Owner may appoint or nominate or designate as the architect of the Project from time to time.

“**Association**” shall mean the entity to be formed and/or caused to be formed under the provisions of The West Bengal Apartment Ownership Act, 1972 and the rules governing the same (each as updated or revised or amended or substituted from time to time) *inter alia* for the Common Purposes and to assume and perform such other roles and obligations as may be determined by the Owner at its sole and absolute discretion, the nature, composition, constituents, structure, manner of governance, administration, functioning, management etc. of which entity shall be determined by the Owner at its sole and absolute discretion, without any objection being raised by the Allottee and/or by any of the Apartment Allottees on any ground whatsoever or howsoever.

“**Authority**” shall mean the authority established under the Act.

“**Balcony/Verandah**” shall mean the balcony(ies)/verandah(s) which is/are meant exclusively for the use of an Apartment Allottee, and which comprises an integral and inseparable part/component of an Apartment.

“**Booking Amount**” shall mean 10% (ten percent) of the Total Price, which includes the Application Money.

“**Building**” shall mean the new building consisting of various self-contained apartments and constructed spaces, proposed to be constructed at the Said Premises.

“**Built-Up Area**” shall mean the aggregate of: (i) the Carpet Area of an Apartment, (ii) the area of the Balcony/Verandah, (iii) 50% (fifty percent) of the area of the Open Terrace and (iv) the niches, elevation, treatment and external walls of an Apartment, all as computed by the Architect.

“**Car Parking Space**” shall mean the [*covered/open/stacked*] space(s) situate at the Building and/or the Said Premises to be earmarked, designated, identified and

reserved by the Owner for the parking of private medium sized car(s), as stated in **Part - III** of **Schedule A** hereunder written.

“**Carpet Area**” shall mean the net usable area of an Apartment, excluding the area covered by the external walls, areas under the services’ shafts, the areas respectively comprised in the Balcony/Verandah and the Open Terrace, but including the area covered by the internal partition walls of such an Apartment.

“**Common Expenses**” shall include each of the undernoted charges, expenses etc. payable proportionately by the Allottee and the other Apartment Allottees, each as determined by the Owner at its sole and absolute discretion, which shall be final, binding and conclusive on each Apartment Allottee including the Allottee:

- a) all the costs, charges, expenses, fees etc. to be incurred for and/or on behalf of the Apartment Allottees for rendition of the Common Purposes; and
- b) all the Outgoings payable in respect of the Said Premises, the Building and the Common Areas; and
- c) the recurring costs, charges, fees, expenses etc. to be incurred/payable/incurred for the smooth operation, running, management, maintenance, upkeep and administration of the several facilities, infrastructure, utilities etc. at/of the Said Premises and/or the Building including but not limited to those comprising a part of the Common Areas including repairs, replacements, improvements etc. thereof; and
- d) such other charges, expenses etc. as determined by the Owner from time to time; and
- e) such charges, expenses etc. as stipulated in **Schedule G** hereunder written,

each of the aforesaid together with the applicable Taxes thereon.

“**Common Purposes**” shall include:

- a) the maintenance, management, upkeep, administration, protection etc. of the Said Premises, the Building, the Common Areas and the several facilities, infrastructure, utilities, etc. at/of the Said Premises and/or the Building including the repairs, replacements, improvements etc. thereof;
- b) dealing with and regulating matters of common interest of each of the Apartment Allottees relating *inter alia* to their mutual rights and obligations in respect of the Said Premises and the Project, for the use and enjoyment of their respective Apartments and the Common Areas;
- c) the collection and disbursement of the Common Expenses;
- d) all other common purposes and/or other matters, issues etc. in which the Apartment Allottees have common interest relating to the Project, the extent, mode and manner of each of the above to be as determined and formulated by the Owner; and
- e) the performance and/or discharge of such roles, duties, responsibilities and obligations as may be determined by the Owner.

“**Common Areas**” shall mean such of the areas, facilities and infrastructure of/at the Said Premises and/or the Building as may be specifically made available by

the Owner for the use and enjoyment of the Apartment Allottees and/or the lawful occupants of all the Apartments to access and/or facilitate the use and enjoyment of their concerned Apartment(s), each as specifically determined and/or identified and/or earmarked and/or designated by the Owner and/or altered, modified or changed by the Owner, and presently intended to comprise of the areas and facilities described in **Schedule F** hereunder written.

“**Competent Authority**” shall mean The Kolkata Municipal Corporation or any other local body constituted under any law for the time in being force for providing municipal services or basic services, as the case may be, to/in respect of the Said Premises and/or which has powers to give permission for development of the Said Premises.

“**Completion Certificate**” shall mean the completion certificate or such other certificate, by whatever name called, issued by the Competent Authority, certifying that the Project has been developed according to the plan, layout plan and specifications approved by the Competent Authority and/or permitting occupation thereof.

“**Conveyance Deed**” shall have the meaning ascribed to such term in para/Clause 34.10(i) of this Agreement.

“**Deed of Cancellation**” shall have the meaning ascribed to such term in para/Clause 34.9(vii) of this Agreement.

“**Deposits**” shall mean each of the various/several interest free refundable and/or adjustable and/or transferable amounts each together with the applicable Taxes thereon, payable from time to time by an Apartment Allottee including the Allottee, the frequency, quantum and heads whereof shall be as determined by the Owner from time to time at its sole and absolute discretion, as interest free deposits, sinking funds, corpus deposits etc. *inter alia* for the installation, on-going maintenance and management, upkeep, repairs, replacements and improvements of *inter alia* the electrical infrastructure, water connections, generator, all facilities serving the Said Premises and the Building, the Common Areas, the Common Expenses and further all other deposits, each as determined by the Owner at its sole and absolute discretion, including but not limited to those stipulated in **Part - I of Schedule H** hereunder written, which will be held by the Owner till the same, as applicable and subject to such deductions/adjustments as may be determined by the Owner, are transferred to the Association or are made over to any authority, statutory or otherwise.

“**Devolution of Title**” shall mean the mode and manner in which the right, title and interest in/over the Said Premises devolved upon and/or was acquired by the Owner, as more specifically described in **Schedule J** hereunder written.

“**Encumbrances**” shall mean any mortgage, charge (whether fixed or floating), pledge, lien, lispendens, hypothecation, assignment, security interest or other encumbrances of any kind, securing or conferring any priority of payment in respect of any obligation of any Person, and shall include 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 security, in each case under law.

“**Extra Charges**” shall mean the extra amounts to be paid by and/or the reimbursements to be made by the Allottee to the Owner and/or to the Other Entities (each together with the applicable Taxes) towards any extra charges, generator charges together with the charges and expenses allied/related thereto, charges towards electrical infrastructure, charges/fees towards/in lieu of having

sanctioned any deviations in the construction from the sanctioned plan(s) as stipulated in the relevant statute governing the same, legal fees, legal expenses, stamp duty, registration fees etc., each as determined by the Owner at its sole and absolute discretion including but not limited to the amounts, expenses etc. stipulated in **Part - II of Schedule H** hereunder written.

“**Execution Date**” shall mean the date of execution of this Agreement.

“**Facility Management Entity**” shall mean a professional facility management and maintenance entity to be appointed for undertaking and/or rendering such of the Common Purposes as may be determined by the Owner.

“**Fit Out/Interior Works**” shall have the meaning ascribed to such term in para/Clause 34.8(i) of this Agreement.

“**Force Majeure** shall include:-

- i) fire, explosion etc.;
- ii) natural calamity, drought, earthquake, lightning, cyclone, floods, environmental issues and other unforeseeable severe weather conditions;
- iii) any act of God;
- iv) abnormal increase in the price of building materials;
- v) non-sanction and/or non-availability and/or irregular and/or delayed supply/availability and/or scarcity of building materials, essential inputs, water, electricity, sewerage disposal, any connection(s) from the concerned authority(ies) etc.;
- vi) labour unrest, lock-out, strike, slow down, disputes with contractors/ construction agencies employed and/or to be employed;
- vii) local problem(s), local disturbance(s), sabotage, disturbances, insurrection, enemy action, embargoes;
- viii) war (declared or undeclared), civil commotion, terrorist action, litigation, blockade, bandh, armed conflict, riots, curfew, acts of government;
- ix) any judgment/injunction/interim order and/or any other order of and/or notice, rule or notification of/from/by or any restriction(s) imposed by any court/tribunal of competent jurisdiction and/or by any statutory authority and/or by any Governmental Authority and/or by the government and/or any other public/competent/statutory authority and/or The Kolkata Municipal Corporation and/or the Competent Authority;
- x) delay due to any application under any of the rules of The Kolkata Municipal Corporation and/or of the Competent Authority;
- xi) temporary or permanent interruption and/or failure of any utilities serving the Project and/or necessary in connection with the development thereof;
- xii) delay in decisions/clearances/approvals/connections/permissions from/by any statutory and/or other authorities/bodies and/or any Governmental Authority and/or the Competent Authority;

- xiii) any delay, obstruction or interference whatsoever in the work of construction resulting from any cause which has or may reasonably be expected to have a material adverse effect on the Owner's rights or duties to perform its obligations under this Agreement;
- xiv) any other circumstance beyond the control of the Owner and/or beyond the anticipation of the Owner.

**“Governmental Authority”** shall mean: (a) any national, state, city, municipal or local government and/or governmental authority; and/or (b) any agency or instrumentality of any of the authorities referred to in (a) above; and/or (c) any non-governmental regulatory or administrative authority, body, board or other organization, to the extent that the rules, regulations, standards, requirements, procedures or orders of such authority, body or other organization have the force of law; and/or (d) any competent court or tribunal; and/or (e) any law, rules or regulations making entity, having or purporting to have jurisdiction on behalf of the Government of India or any State or other sub-division thereof or any municipality, district or other sub-division thereof and any other municipal/local authority including but not limited to those having jurisdiction over the Said Premises.

**“Indemnified Parties”** shall mean each of the Owner and the respective designated partners, partners, stakeholders, officers, employees, personnel, members, representatives, servants, agents etc. of each of the Owner and its successors and assigns.

**“Interest”** shall have the meaning ascribed to such term in para/Clause 1.11 of this Agreement.

**“Maintenance Charges”** shall comprise of the Common Expenses and such other charges incurred for the welfare and maintenance of the Project.

**“Management & Maintenance Rules”** shall have the meaning ascribed to such term in para/Clause 34.11(ii) of this Agreement.

**“Open Terrace”** shall mean the open terrace which is meant exclusively for the use of an Apartment Allottee, and which comprises an integral and inseparable part/component of an Apartment.

**“Other Entities”** shall mean such Person(s) as may be nominated/identified/designated/appointed by the Owner at its sole and absolute discretion.

**“Other Owners & Occupiers”** shall have the meaning ascribed to such term in para/Clause 34.6(vii) of this Agreement.

**“Outgoings”** shall mean all the municipal rates and taxes, land revenue, assessments, electricity charges (including transmission loss), utility charges and all other outgoings by whatever name called including but not limited to those determined by the Owner at its sole and absolute discretion, which shall be final and binding on all the Apartment Allottees including the Allottee, each together with the applicable Taxes, interest and penalty thereon, if any.

**“Outgoings Payment Commencement Date”** shall have the meaning ascribed to such term in para/Clause 7.2 of this Agreement.

**“Owner Event of Default”** shall have the meaning ascribed to such term in para/Clause 9.1 of this Agreement.

“**Payment Plan**” shall have the meaning ascribed to such term in para/Clause 1.4 of this Agreement.

“**Permitted Transferee**” shall have the meaning ascribed to such term in para/Clause 34.17(iii) of this Agreement.

“**Person(s)**” shall mean any individual, proprietorship, enterprise, unincorporated association, body corporate, corporation, company, firm, partnership, limited liability partnership, joint venture, Governmental Authority, trust, hindu undivided family, union, association, or any other entity or organization including those as prescribed under the Act, and where permitted, such person’s permitted successors, permitted assigns and permitted transferees.

“**Plan**” shall mean the plan sanctioned by the Kolkata Municipal Corporation for construction on the Said Premises, bearing building permit No. 2018070231, dated 10<sup>th</sup> January, 2019, and shall mean and include all modifications, variations, alterations, amendments, revisions etc. as may be made thereto from time to time by the Owner.

“**Possession Notice**” shall have the meaning ascribed to such term in para/Clause 7.2 of this Agreement.

“**Project**” shall mean the residential development proposed to be undertaken by the Owner on/at the Said Premises broadly in accordance with the Specifications, intended to comprise of the Building and the spaces identified, demarcated and reserved by the Owner for parking of car(s), with various utilities and/or amenities thereat as determined by the Owner, to be known as “**The Crown**”.

“**Project Specifications**” shall mean and include the various specifications in terms whereof the Project is intended to be constructed, the brief and tentative details whereof are stated in **Schedule E** hereunder written.

“**Retained Areas**” shall have the meaning ascribed to such term in Recital I (xvi) of this Agreement.

“**Registering Authority**” shall mean any registering officer appointed under the Registration Act, 1908, and/or any Registrar and/or Additional Registrar and/or District Registrar and/or District Sub-Registrar and/or Additional District Sub-Registrar having jurisdiction over the Said Premises.

“**Retained Areas’ Owners & Occupiers**” shall have the meaning ascribed to such term in para/Clause 34.6(vii) of this Agreement.

“**Said Apartment**” shall mean the Apartment more specifically described in **Part - II** of **Schedule A** hereunder written.

“**Said Apartment And Properties Appurtenant Thereto**” shall mean All That the Said Apartment together with the permission to park private medium sized car(s) owned by the Allottee within the space comprising the Car Parking Space if any.

“**Said Premises**” shall mean All That the piece and parcel of land recorded as admeasuring 5 (five) bighas 2 (two) cottahs 9 (nine) chittacks and 19 (nineteen) sq.ft. more or less, but upon physical measurement found to admeasure 5 (five) bighas 1 (one) cottah 7 (seven) chittacks and 34 (thirty four) sq.ft. more or less, together with the structures standing thereon and/or the Project to be developed thereon, situate, lying at and being Premises No. 12B, Beliaghata Road (also known as Beliaghata Main Road), Kolkata - 700 015, Police Station Entally, Post

Office Tangra, within Ward No. 57 of The Kolkata Municipal Corporation, more specifically described in **Part - I of Schedule A** hereunder written.

“**Schedule**” shall mean a schedule of this Agreement.

“**Specifications**” shall mean the collective of the Apartment Specifications and the Project Specifications.

“**Taxes**” shall mean all the taxes, cesses, assessments, duties, levies, impositions, charges etc. by whatever name called including but not limited to sales tax, service tax, works contract tax, value added tax, goods and services tax (GST) etc. imposed/leviable/levied/charged/chargeable *inter alia* on each amount:

- i) paid/payable/deposited/to be deposited by the Allottee;
- ii) paid or payable by the Owner in respect of any part or portion of the Project (including the construction thereof); and
- iii) paid or payable on the sale/transfer and/or the permission contemplated hereunder,

irrespective of whether such taxes, cesses, levies, charges etc. are subsisting as on the Execution Date or are imposed/levied/revised in the future, with retrospective effect or otherwise, and shall mean and include any increments thereof.

“**TDS**” shall have the meaning ascribed to such term in para/Clause 34.4(ii) of this Agreement.

“**TDS Interest**” shall have the meaning ascribed to such term in para/Clause 34.4(v) of this Agreement.

“**Tentative Completion Date**” shall have the meaning ascribed to such term in para/Clause 5 of this Agreement.

“**Total Price**” shall mean the collective of the Apartment & CP Price and the Apartment & CP Taxes.

“**Undivided Share**” shall mean an undivided variable impartible indivisible proportionate share in the Common Areas attributable to the Said Apartment as may be determined by the Owner at its absolute discretion, subject to the exceptions and reservations in favour of the Owner.

## 34.2 Interpretation

In the interpretation of this Agreement, the following rules of interpretation shall apply, unless the contrary intention appears:

- i) references to any law shall include any statutes and/or rules and/or regulations made and/or guidelines issued thereunder, and any other rules, regulations, guidelines, policy statements, orders or judgments having the force of law, and in each case, as amended, modified, restated or supplemented from time to time;
- ii) reference to any agreement, contract, deed or document shall be construed as a reference to it as it may have been or may from time to time be amended, varied, altered, modified, supplemented or novated;

- iii) references to Recitals, paras/Clauses and Schedules are references to the recitals, clauses and schedules of/to this Agreement. The Recitals and the Schedules form an integral part of this Agreement and/or a part of the operative provisions of this Agreement, and references to this Agreement shall include references to the Recitals and the Schedules;
- iv) the obligation and/or covenant of the Allottee to do something shall include an obligation and/or covenant to ensure that the same shall be done, and the obligation and/or covenant on the part of the Allottee not to do something shall include an obligation and/or covenant not to permit, suffer or allow the same to be done;
- v) words denoting the masculine gender shall include the feminine and neutral genders as well;
- vi) words denoting the singular number shall include the plural and vice versa;
- vii) where a word or phrase is defined, other parts of speech and grammatical forms and the cognate variations of that word or phrase shall have the corresponding meanings;
- viii) any reference to this Agreement or to any of the provisions hereof shall include all amendments and modifications made to this Agreement from time to time in the manner stipulated herein;
- ix) the headings in this Agreement have been incorporated only for convenience of reference, and shall not, in isolation or otherwise, be considered in or affect the interpretation and/or construction of this Agreement;
- x) in the event of any inconsistency between the paras/Clauses and the Schedules hereto, the paras/Clauses of this Agreement shall prevail;
- xi) the term “or” shall not be exclusive, and the terms “herein”, “hereof”, “hereto” and “hereunder” and other terms of similar import shall refer to this Agreement as a whole and not merely to the specific provision where such terms may appear;
- xii) the words “include”, “including” and “amongst others” are to be construed without limitation, and shall be deemed to be followed by “without limitation” or “but not limited to”, whether or not they are followed by such phrases or words of like import;
- xiii) reference to days, months and years are to Gregorian calendar days, months and years respectively;
- xiv) in the determination of any period of days for the occurrence of an event or the performance of any act or deed or thing, the day on which the event happens or the act or deed or thing is done shall be deemed to be excluded, and if the last day of the period is not a working day, then the period shall include the next following working day;
- xv) the words “directly or indirectly” mean directly or indirectly through one or more intermediary Persons or through contractual or other legal arrangements, and “direct” or “indirect” shall have the correlative meanings;
- xvi) in the event any provision of the Application and/or the Allotment Letter is inconsistent with and/or contradictory to any provision of this Agreement,

then to the extent of such inconsistent and/or contradictory, the corresponding provision of this Agreement shall prevail;

- xvii) no provision of this Agreement shall be interpreted in favour of or against any Party on account of the Advocate having drafted this Agreement, or by reason of the extent to which any such provision is inconsistent with any prior draft thereof.

### **34.3 Additional terms and covenants regarding the principal understanding between the parties**

- i) In consideration of the various amounts stipulated herein and/or as determined by the Owner from time to time, each agreed to be paid and/or deposited by the Allottee to/with the Owner and/or the Other Entities, and in further consideration of the Allottee agreeing and undertaking to perform, observe and comply with each of the terms, conditions, covenants and obligations stipulated by the Owner including but not limited to those stated herein, and the performance thereof by the Allottee, each to the satisfaction of the Owner, the Owner has at the request of Allottee provisionally agreed to: (i) sell and/or transfer in favour of the Allottee All That the Said Apartment; and (ii) permit the Allottee to park private medium sized car(s) owned by the Allottee within the space comprising the Car Parking Space; and (iii) transfer in favour of the Association All That the Undivided Share, each of which the Allottee has agreed to accept, on the clear and unequivocal understanding that nothing in this Agreement does and/or shall and/or shall be construed/deemed to be a demise or transfer in praesenti, as such transfer is intended to take place only upon execution of the Conveyance Deed in terms hereof and/or subject to the provisions of this Agreement.
- ii) If at any time after the date hereof it is ascertained by the Owner and/or it transpires that the information furnished by the Allottee is false and/or misleading, then without being required to establish/prove such act/conduct of the Allottee, the Owner shall at its option, be entitled to terminate this Agreement, whereupon the consequences stipulated in para/Clause 34.9 of this Agreement shall apply, and the Allottee accept(s) and consent(s) to the same.

### **34.4 Additional terms and covenants regarding the Total Price, Deposits, Extra Charges etc., and the payment thereof**

- i) In consideration of this Agreement and as and by way of consideration for being granted the specific rights and/or permissions of the nature stipulated in this Agreement, and accepting each of the terms and conditions stipulated in this Agreement, in addition to payment of the Total Price, the Allottee shall be liable and responsible to and hereby agree(s) and undertake(s) to make payment of the various amounts as determined by the Owner including those as and by way of Deposits, Extra Charges, Common Expenses etc. (each together with the applicable Taxes thereon) to the Owner and/or to the Other Entities and/or to any Governmental Authority(ies) and/or to any statutory/quasi-statutory authorities/bodies, each as identified and stipulated by the Owner, each to be paid/deposited within such time frames as may be determined by the Owner, it being unequivocally agreed, understood, acknowledged and accepted by the Allottee as follows:-
  - a) that certain deposits are in the nature of transferable deposits and/or funds, which shall be held by the Owner, free of interest and shall be made over by the Owner to the Association after its formation, subject to deductions, if any, as ascertained by the Owner;

- b) that the Allottee shall not permit or allow or request for any part or portion of the deposits and/or funds to be adjusted and appropriated towards payment of municipal rates and taxes, Common Expenses, Outgoings and other outgoings agreed to be paid and/or contributed by the Allottee in terms of this Agreement;
  - c) that the rate and/or the quantum of each of the Deposits, the Extra Charges and the Common Expenses, amongst others may be higher than those normally stipulated for and/or incurred by other real estate projects, even those situate in the vicinity of the Said Premises;
  - d) that without making payment of the entirety of each of the Total Price, Deposits, Extra Charges, Interest (if any), TDS Interest (if any) amongst others, each in the manner and within the time periods stipulated by the Owner and fulfilling each of his/her/their/its obligations, all to the satisfaction of the Owner, the Allottee shall not be entitled to call upon the Owner to hand over the Said Apartment, and further without making payment of the Common Expenses, the Allottee and/or his/her/their/its Permitted Transferee(s) and/or permitted users/occupiers shall not be entitled to use and enjoy and/or to continue the user and enjoyment of the Common Areas.
- ii) In no event shall the Allottee be entitled to or shall claim/demand any abatement or reduction or deduction in the Apartment & CP Price and/or in the Apartment & CP Taxes on any ground whatsoever or howsoever provided that the Allottee shall only be entitled to deduct from the Apartment & CP Price the amount, if any, towards the prevailing applicable tax deductible at source subject to the Applicable Laws (“TDS”).
  - iii) It is agreed and understood between the Parties that in the event at any time prior to the expiry of the scheduled date of completion of the Project as envisaged at the time of registration of the Project under the Act and as extended from time to time:
    - a) there be any change, modification, amendment, increase, decrease etc. in any of the Taxes comprising the Apartment & CP Taxes and/or the manner of computation thereof including but not limited to due to change of/in Applicable Laws; and/or
    - b) any new and/or fresh taxes, cesses, assessments, duties, levies, charges, impositions etc. (central, state or local) by whatever name called be imposed, levied, notified etc. with retrospective effect or otherwise including but not limited to on the Project and/or the Said Apartment and/or the Car Parking Space and/or this Agreement and/or the transaction contemplated under this Agreement; and/or
    - c) the Owner and/or the Project be made liable for payment of any tax (excepting income tax), duty, development charges (payable to the concerned competent authority), cess, assessment, charge, levy etc. and/or for any other liability under any statute or law for the time being in force or enforced in future by the State Government, Central Government or any other authority or body or Governmental Authority on account of *inter alia* the Owner having agreed to perform the obligations under this Agreement or having entered into this Agreement; and/or
    - d) there be any other increase in charges which may be levied or imposed by any Governmental Authority and/or the Competent Authority from time to time;

then in such an event, each and/or some of the several amounts payable by and/or to be deposited by the Allottee shall accordingly stand increased or decreased, as the case may be, and further some additional amounts may become payable by the Allottee, and the Allottee hereby covenant(s) and undertake(s) to make timely payment/deposit of each of such amounts in terms of the demand(s) and/or revised demands raised by the Owner provided that in no event shall the Allottee be entitled to call upon the Owner to refund any amount since then already paid by the Allottee to the Owner.

- iv) The Allottee shall be bound and obliged to and undertake(s) and covenant(s) to make payment of and/or deposit each amount within the timelines determined/designated by the Owner for the same, and while the Owner shall periodically intimate in writing to the Allottee the amount payable and the Allottee shall make pay/deposit the amount(s) as demanded by the Owner within the time period and in the manner specified in such intimation, the Allottee has covenanted and undertaken to and further hereby and hereunder covenant(s) and undertake(s) to make payment of the Total Price in terms of the Payment Plan, it being recorded that the Allottee has informed the Owner that such schedule of payment comprising the Payment Plan is more convenient to/for the Allottee, and the Allottee covenant(s) and undertake(s) to make each of such payments as and when the same become due.
- v) The Allottee shall be bound and obliged to and undertake(s) to: (i) deposit with the concerned authorities, the TDS if any deducted, within the 7<sup>th</sup> (seventh) day of the month succeeding the month of payment; and (ii) issue and hand over to the Owner, the relevant TDS certificate within the time period stipulated by Applicable Laws, failure whereof shall attract and accrue interest on the amount so deducted for the period of default/delay, such interest to be calculated at the rate prescribed/prevaling under the Applicable Laws governing the subject matter of TDS (“**TDS Interest**”). Delay caused by the Allottee in fulfilling the aforesaid obligation shall be deemed to be an event of default by the Allottee in his/her/their/its payment obligations as stipulated in para/Clause 34.4(vii) herein, which shall entail the same consequences as stated therein.
- vi) In case the Owner condones the default of the Allottee in making timely payment of and/or in depositing any amount and/or in depositing the TDS and/or furnishing the TDS certificate within the stipulated timeline(s), then and in such an event, the Allottee shall, along with the outstanding dues and/or arrears, pay to the Owner, the Interest and/or the TDS Interest, as the case may be, on each of the amounts remaining unpaid/outstanding for the period of default/delay until the date of actual realization thereof together with the administrative charges in terms of the then prevailing policy of the Owner in respect thereof. Any condonation granted by the Owner shall not amount to waiver of the future defaults and/or the breaches and/or delays of/by the Allottee, and shall be without prejudice to the other rights of the Owner.
- vii) Delay by the Allottee in making payment of and/or depositing any amount due to any reason and/or on any ground whatsoever or howsoever shall not in the normal course be condoned. In case of any such delay, the Owner shall, without prejudice to its other rights, be entitled to exercise its right to terminate this Agreement at its sole option, whereupon the consequences enumerated in para/Clause 34.9 shall apply, and the Allottee accept(s) and consent(s) to the same, and without prejudice to the aforesaid, in the event such delay/default is condoned by the Owner in the manner stated hereinafter, the Owner shall not be liable for the delay, if any, in handing over the Said Apartment in terms of and in accordance with this Agreement.

- viii) Notwithstanding anything to the contrary stated anywhere in this Agreement, any payment made by the Allottee (notwithstanding any specific instruction regarding the same having been given/issued by the Allottee) shall, at the first instance, be applied by the Owner towards payment of the Interest and the TDS Interest ascertained by the Owner as due and payable by the Allottee, and thereafter, the balance, if any, shall be utilized towards adjustment of the defaulted/delayed payments due from the Allottee as ascertained by the Owner, and the Allottee authorize(s) and empower(s) the Owner to so adjust and/or appropriate all payments made by the Allottee, and the Allottee undertake(s) not to object to the same and/or to demand/direct the Owner to adjust the payments in any manner.
- ix) All payments shall be made by the Allottee at the office of the Owner against proper receipts and in no event shall the Allottee be entitled to set up any oral agreement regarding payment or otherwise. Further, all costs in respect of any payment being made by outstation/dollar cheques, shall be borne and paid by the Allottee. Furthermore, on the dishonour of any banking negotiable instrument on any ground whatsoever, without prejudice to the other rights and remedies of the Owner and/or of the Other Entities, the Allottee shall compensate the Owner and/or the Other Entities for every such dishonour by making payment of Rs. 1500/- (Rupees One Thousand Five Hundred only), and the Allottee accept(s) and consent(s) to the same.
- x) In the event the Allottee is a Person of Indian Origin and/or a Non-Resident Indian (as such terms are respectively defined/described under the governing Applicable Laws), the Allottee confirm(s) that all remittances shall be made in compliance with all Applicable Laws as modified/revised from time to time, and the Allottee shall provide the Owner with all certifications, declarations etc. pertaining to/in support thereof.
- xi) All refunds, if any in terms of this Agreement, even to Non-Resident Indians and/or Persons of Indian Origin shall be made in Indian Rupees unless mandated otherwise by the then prevailing Applicable Laws.
- xii) The Owner neither accepts nor has any responsibility in respect of the matters specified in para/Clause 3 hereinabove as also those in this Clause 34.4, and the Allottee shall and undertake(s) to keep each of the Indemnified Parties fully safe, harmless and indemnified in respect thereof.

#### **34.5 Additional terms and covenants regarding time being of essence**

Time for payment by the Allottee is and shall always be and shall remain and be treated as the essence of the contract. The Allottee shall and undertake(s) to make timely payment and/or deposit of each of the amounts as stipulated in this Agreement, and further to meet, fulfil and perform, in a timely manner, each of the obligations of the Allottee under this Agreement.

#### **34.6 Additional terms and covenants regarding construction**

- i) The Allottee has understood to his/her/their/its complete satisfaction that the Owner, if it so desires/deems it fit and proper, shall be entitled to apply for and/or utilize any unconsumed and/or extra and/or additional floor area ratio which is presently available and/or which may be sanctioned and/or which may in the future be made available and/or sanctioned in accordance with *inter alia* the building rules of The Kolkata Municipal Corporation and/or any Applicable Law and/or by the Competent Authority including by way of certification of the Project as a green building project under the Applicable Laws including the present plan of the Owner to apply for and obtain sanction for additional 3 (three) floors (collectively,

“**Additional FAR**”) and the Allottee has accepted each of the aforestated along with the Payment Plan.

- ii) The Owner shall not have an option to make any variation/alteration/modification in/to the plans pertaining to the Project other than:
  - a) in the manner provided under the Act and/or the Rules and/or the Applicable Laws; and/or
  - b) for the purpose of utilization of the Additional FAR; and/or
  - c) as may be required by: (1) the authorities concerned; and/or (2) as a consequence of any new policies formulated; and/or (3) changes in the rules pertaining to the floor area ratio,

and the Allottee hereby grant(s) his/her/their/its unambiguous and unconditional consent to the same, and further agree(s) and undertake(s) not to make or raise any objection to the same on any ground whatsoever or howsoever.

- iii) The Tentative Completion Date and the date stipulated in para/Clause 7.1 hereinabove are hereby and hereunder accepted and confirmed by the Allottee and the Allottee hereby agree(s) and undertake(s) not to raise any objection to the same on any ground whatsoever or howsoever. However, in the event prior to the Tentative Completion Date and/or the date stipulated in para/Clause 7.1 hereinabove the Said Apartment is ready for hand over in terms of this Agreement, the Allottee undertake(s) and covenant(s) not to make or raise any objection to the consequent pre-ponement of his/her/their/its payment obligations, having clearly understood and agreed that the payment obligations of the Allottee are linked *inter alia* to the progress of construction, and the same is not a time linked plan.
- iv) Subject to Applicable Laws and the Act, in the event the Allottee desires any modifications or changes in or upgradation of the Apartment Specifications, the Allottee shall within the mutually agreed time period of 30 (thirty) days from the date hereof communicate the same in writing to the Owner, and if the Owner agrees to such modifications or changes (“**Approved Changes**”), the Owner shall intimate the Allottee of the estimated and tentative cost which could be incurred for carrying out the Approved Changes which shall *inter alia* include amongst others, the fees, costs, expenses, charges etc. for obtaining all clearances, sanctions etc. from the concerned Governmental Authorities and/or the Competent Authority for such Approved Changes as also for constructing, executing and implementing the Approved Changes (“**Additional Cost**”). Only after receiving from the Allottee: (i) the entirety of the Additional Cost over and above the Total Price and all other amounts payable by the Allottee in terms of this Agreement (on the clear and unequivocal understanding that the Additional Cost shall under no circumstance be treated or deemed to be a part payment of the Total Price or of any of the other amounts payable by the Allottee in terms of this Agreement); and (ii) a written undertaking from the Allottee to bear and pay any further and/or other costs which have to be/incurred by the Owner in/while carrying out the Approved Changes; (iii) the written approval of each of the Apartment Allottees and the concerned competent authorities to the carrying out of the Approved Changes, the Owner will carry out the Approved Changes, at the cost, expense, risk and liability of the Allottee, it being further agreed and understood by the Allottee that the decision in respect of the Approved Changes and/or carrying out the Approved Changes shall be subject to the sole and absolute discretion of the Owner, who shall be entitled to reject and/or decline such request of the Allottee without assigning any reason therefor, which decision shall be final and binding on the Allottee, whereupon the Allottee shall not be entitled to and further undertake(s) and covenant(s) not to carry out any such modification, change etc.

- v) Notwithstanding the provisions of para/Clause 34.6(iv) hereinabove, the Allottee shall not be entitled to request/call upon the Owner for any modification *inter alia* in/to the internal layout of the Said Apartment and/or the external façade of the Building and/or the Project Specifications.
- vi) The Allottee shall neither do, execute or perform nor permit the doing, execution or performance of any act, deed or thing whereby the construction or development of the Project may in any manner be hindered or impeded or obstructed, and further until hand over of the Said Apartment subject to the terms hereof, the Allottee will have the right to visit the Project site to assess the extent of development of the Project and the Said Apartment, but subject to compliance of such rules, terms and conditions as may be stipulated from time to time by the Owner in that regard, and further, the Allottee shall not in any manner commit breach of any of such stipulated terms, conditions, stipulations etc. or of those herein contained.
- vii) The Allottee agree(s) and confirm(s) that subject to compliance with Applicable Laws, the Owner shall at any time be entitled to amalgamate/consolidate and/or connect the Building and/or the Project and/or the Said Premises with any land(s)/building(s)/development(s)/structure(s) adjacent to and/or adjoining the Building and/or the Project and/or the Said Premises (“**Appurtenant Property**”) and/or to use/apply any part or portion of the Building and/or the Project and/or the Said Premises to use/access any Appurtenant Property in such a manner as the Owner may deem fit and proper at its sole and absolute discretion, it being clarified that in such an event, the Owner shall be entitled to and the Allottee hereby consent(s) to the Owner joining the then existing facilities and/or amenities of/at the Building and/or the Project and/or the Said Premises including all the Common Areas to/with any such Appurtenant Property and/or granting in favour of the owners and permitted users/occupiers of any part or portion of the Appurtenant Property, each as identified by the Owner (collectively “**Other Owners & Occupiers**”) as also the owners and permitted users/occupiers of any part or portion of the Retained Areas, each as identified by the Owner (collectively “**Retained Areas’ Owners & Occupiers**”), a right, title and interest in/to/over/ in respect of and/or the right to access, use and enjoy the same, and further the Allottee agree(s) that the Allottee shall neither be entitled to nor shall make or raise or set up any claim, objection etc. to the aforesaid on any ground whatsoever, nor shall do, execute or perform any act, deed or thing which may in any manner whatsoever obstruct/impede/restrict/hinder the consolidation/amalgamation/connection etc. of the Building and/or the Project and/or the Said Premises with any Appurtenant Property and the works related thereto, and furthermore the Allottee shall neither have nor shall claim any manner of right or title or interest in any part or portion of such Appurtenant Property, and also shall not be entitled to question the same.

#### **34.7 Additional terms and covenants regarding possession/hand over**

- i) In the event after receipt of the Possession Notice, the Allottee fail(s) and/or neglect(s) in making timely payment/deposit of each of the amounts then outstanding and/or payable and/or to be deposited by the Allottee (each as ascertained by the Owner) and/or in observing, fulfilling and performing each of his/her/their/its obligations, covenants, undertakings etc., all to the satisfaction of the Owner, the Owner shall be entitled, at its sole and exclusive option, to exercise its right to terminate this Agreement, whereupon the consequences enumerated in para/Clause 34.9 shall apply, and the Allottee hereby accept(s) and consent(s) to the same.
- ii) In the event on the Outgoings Payment Commencement Date, the Allottee fails to timely comply with and/or fulfil each of his/her/their/its stipulated obligations as a consequence whereof the Owner is unable to hand over possession of the Said

Apartment to the Allottee and/or the Allottee fails to take possession of the Said Apartment, then without prejudice to the right of the Owner to terminate this Agreement whereupon the consequences enumerated in para/Clause 34.9 shall apply:

- a) the liability in perpetuity of the Allottee to make payment of, *inter alia*, the Maintenance Charges, Common Expenses, the Outgoings etc., in respect of the Said Apartment and the Said Premises, each as determined by the Owner, each together with the applicable Taxes, shall commence irrespective of the fact that on the Outgoings Payment Commencement Date, the Said Apartment has not been handed over to and/or taken over by the Allottee; and
- b) the Allottee shall be liable to and agree(s) and undertake(s) to pay to the Owner, as and by way of mutually agreed pre-determined holding/carrying charges to be calculated at the rate of Rs. 1,000/- (Rupees One Thousand only) per day (commencing on and from the Outgoings Payment Commencement Date) together with all applicable Taxes thereon until such time hand over of the Said Apartment is taken by the Allottee (subject to the terms of this Agreement) provided that the same shall not render the Owner liable or responsible *inter alia* for the damage, deterioration etc. that may be caused to the Said Apartment due to such delay caused/occasioned by and/or attributable to the Allottee including but not limited to in the state, condition etc., of the Said Apartment, and the Allottee shall be bound and obliged to take the hand over of the Said Apartment (subject to and after compliance and fulfilment by the Allottee of each of his/her/their/its obligations stipulated herein) on "as is where is basis", and the Allottee shall give a written declaration to this effect as and when required by the Owner, with the Allottee further hereby and hereunder accepting and confirming that the abovementioned mutually agreed pre-determined holding/carrying charges are a fair and reasonable estimate of the loss and damage that would be suffered by the Owner due to the abovementioned default committed by the Allottee, and are not in the nature of any penalty,

and the Allottee accept(s) and confirm(s) each of the aforesaid, and covenant(s) and undertake(s) not to set up or raise or make or initiate any claim, demand etc. contrary thereto. Further, the Allottee hereby agree(s) and undertake(s) to indemnify and keep each of the Indemnified Parties indemnified for/from/against any losses, claims, damages etc. arising from the aforesaid failure/default on the part of the Allottee.

- iii) Without prejudice to the other provisions of this Agreement, the Allottee shall not be entitled to and further covenant(s) and undertake(s) not to call upon the Owner to hand over possession of the Said Apartment in contravention of the provisions of this para/Clause 34.7.
- iv) In the event due to any direct and/or indirect act of commission or omission by/of the Allottee and/or by/of the contractors, men, servants, agents, personnel, employees etc. of the Allottee, obtaining of the Completion Certificate is delayed and/or refused and/or any loss or damage is caused to the Owner and/or to any of the Apartment Allottees, then the Allottee shall and undertake(s) to compensate the Owner and/or each of the Apartment Allottees, as the case may be, for all the costs, charges, expenses, damages etc. as may be assessed by the Owner at its sole and absolute discretion, which shall be final and binding on the Allottee, and the Allottee hereby and hereunder accept(s) and confirm(s) the same.
- v) It is agreed and understood by the Allottee that hand over of possession of the Said Apartment shall be withheld till all the amounts due and payable by the Allottee and each of the obligations of the Allottee, each as ascertained by the Owner, are

paid/deposited and/or performed and/or fulfilled by the Allottee, all at the cost, expense, risk and liability of the Allottee.

#### **34.8 Terms and covenants regarding Fit Out/Interior Works**

- i) Only after hand over of the Said Apartment to the Allottee, the Allottee shall be entitled, at his/her/their/its own cost, expense, risk, liability and responsibility, to fit out and/or commence interior works therein/thereat as permitted by the Owner/Association (“**Fit Out/Interior Works**”) subject to compliance by the Allottee of all Applicable Laws and all rules, regulations etc. in respect thereof as may be stipulated by the Owner/Association (including the specific working hours as also the specific working days on which the same may be carried out) together with payment of such charges as may be determined by the Owner/Association for user by the Allottee of *inter alia* the several utilities at/of the Said Premises and/or the Building for/while carrying out the Fit Out/Interior Works.
- ii) While carrying out any permitted Fit Out/Interior Works at the Said Apartment, each subject to the terms hereof, the Allottee shall not and Allottee undertake(s) and covenant(s) not to *inter alia*: (i) carry out and/or make any addition(s) and/or alteration(s) into or upon the Said Apartment including the external façade thereof without the prior written consent of the Owner; and/or (ii) do any works which may be in contravention with/of the Plan and/or any law and/or as ascertained by the Owner, with the decision of the Owner being final and binding on the Allottee; and/or (iii) cause any damage and/or injury to the other Apartments and/or the other parts and portions of the Building and/or the Project and/or the Said Premises; and/or (iv) carry out any works which may endanger the Building and/or the structural stability thereof; and/or (v) store or permit to be stored any materials, goods, articles etc. which in the opinion of the Owner/Association are of a hazardous and/or combustible and/or offensive and/or obnoxious and/or dangerous nature (such opinion of the Owner/Association being final and binding on the Allottee), and further shall not store/keep or permit to be stored/kept any materials, goods, articles etc. in the staircases, landings, lobbies, passages etc.. In the event of any contravention and/or violation of the aforestated, the Allottee undertake(s) to remedy, to the complete satisfaction of the Owner, such breach and/or contravention and/or violation, and/or to demolish to the complete satisfaction of the Owner, any unauthorized construction(s) within such time period as may be stipulated in the notice in this regard issued by the Owner. Failure on the part of the Allottee to so remedy the breach and/or contravention and/or violation and/or to demolish any unauthorized construction(s) to the satisfaction of the Owner, shall entitle the Owner to take all steps in respect thereof as the Owner may deem fit and proper, at the cost, expense, risk and liability of the Allottee including payment of the demolition charges, if any, and the Allottee hereby consent(s) to the same, and further the Owner may, at its sole and exclusive option, exercise its right to terminate this Agreement, whereupon the consequences enumerated in the said para/Clause 34.9 shall apply. Further, in case any injury or damage is ascertained by the Owner as having been caused directly and/or indirectly by the Allottee and/or by the men, servants, agents, personnel, contractors, employees etc. of the Allottee, the Allottee shall be liable to pay compensation to the Owner and/or to any other aggrieved party, each as may be determined by the Owner at its sole and absolute discretion, and such decision of the Owner shall be final and binding on the Allottee, and the Allottee hereby consent(s) to the same.
- iii) The Allottee shall be solely liable and responsible for any accidents that may occur while carrying out and/or completing any permitted Fit Outs/Interior Works, and all the consequent injury, loss, damage etc. including any compensation as may be determined by the Owner/Association shall exclusively attach to the Allottee alone, and the Allottee shall be bound and obliged to and undertake(s) to keep each of the

Indemnified Parties fully safe, harmless and indemnified from and against all costs, charges, claims, damages, actions suits, proceedings etc. in respect thereof.

- iv) The Owner and/or the Association and/or the representatives of the Owner and/or of the Association, with or without workmen, shall be entitled to take inspection from time to time of the progress/completion of the Fit Out/Interior Works, and the Allottee agree(s) to co-operate with and render all co-operation to the Owner and/or the Association and/or the representatives of the Owner and/or the Association.

**34.9 Additional terms and covenants regarding Events of Defaults and/or Cancellation and/or Termination, and its consequences**

- i) In the event the Allottee is in breach of and/or has failed to perform and observe any of his/her/their/its covenants, obligations, representations or warranties under this Agreement and/or the terms and conditions of this Agreement, which breach and/or failure has not been remedied despite having been issued a notice in that regard, the Allottee shall be considered under a condition of default, and an Allottee Event of Default shall be deemed to be occurred.
- ii) Without prejudice to and in addition to the events/grounds stated elsewhere in this Agreement on the occurrence whereof the Owner shall be entitled to terminate this Agreement (each of which also to be treated as an Allottee Event of Default), on the occurrence of an Allottee Event of Default which continues for a period beyond 30 (thirty) days after notice from the Owner in this regard (such failure being as determined by the Owner), then without prejudice to the right of the Owner to charge and recover from the Allottee, Interest and other amounts as stipulated in this Agreement including that for the period of delay, the Owner shall be entitled, at its option, and is hereby authorized by the Allottee, to determine and/or rescind and/or terminate this Agreement provided that the Owner shall intimate the Allottee about the Owner's intention to so terminate this Agreement by a written notice of at least 30 (thirty) days prior to such termination.
- iii) The Allottee may at any time after the date hereof and without the occurrence of any Owner Event of Default, but no later than 30 (thirty) days prior to the execution and registration of the Conveyance Deed subject to the terms hereof, by a 30 (thirty) days' notice in writing intimate the Owner of his/her/their/its intent to terminate this Agreement provided that in view of *inter alia* the fact that the Owner has as a consequence of this Agreement blocked the Said Apartment and the Car Parking Space if any for the Allottee, on the date of termination of this Agreement by the Owner and/or by the Allottee (as the case may be) in terms hereof, the undernoted mutually agreed amounts shall, without any further act, deed or thing by the Owner and/or by the Allottee stand forfeited in favour of the Owner from out of all the sums paid/deposited till such date by the Allottee to/with the Owner and/or any of the Other Entities at the specific instructions of the Owner (irrespective of the account/head towards which such sum may have been paid/deposited by the Allottee), and the balance, if any ascertained by the Owner as payable by the Allottee to the Owner, shall forthwith and immediately be paid on demand by the Allottee to the Owner, and the Allottee accept(s) such consequences and consent(s) to the same:-
  - (a) a sum equivalent to 20% ( twenty percent) of the Total Price together with the applicable Taxes thereon; and
  - (b) the Common Expenses and each of the amounts stipulated in para/Clause 34.(ii) hereinabove, as applicable, each payable with effect from the Outgoings Payment Commencement Date till the date of termination (being the date of notification/acceptance/receipt by the Owner of the termination notice, as the case may be); and

- (c) the Interest and/or the TDS Interest, if any due, accrued and payable by the Allottee on any amount, as ascertained by the Owner; and
  - (d) the amounts deducted by the Allottee as TDS while making any payment to the Owner and/or to any of the Other Entities; and
  - (e) all amounts paid/payable by and/or recoverable from the Allottee towards any of the Taxes; and
  - (f) brokerage/commissions paid to any real estate agent/channel partner/ broker; and
  - (g) the stipulated charges on account of dishonor, if any, of a banking negotiable instrument; and
  - (h) the entirety/such part or portion of the Additional Costs together with the costs, expenses, charges, fees etc. incurred by the Owner towards executing/ implementing the Approved Changes; and
  - (i) in the event of the Owner having carried out any of the Approved Changes in terms of this Agreement, the costs, charges, fees, expenses etc. which would have to be incurred by the Owner for re-instating the Said Apartment to its original state and condition; and
  - (j) the entirety/such part or portion of the Deposits and Extra Charges as already expended by the Owner; and
  - (k) administrative charges in terms of the then prevailing policy of the Owner in respect thereof; and
  - (l) stamp duty, registration fees/charges, legal fees and charges and any other fees, charges etc. payable/to be paid/ paid on pertaining to this Agreement and the Deed of Cancellation; and
  - (m) the amount if any payable by the Allottee in terms of para/Clause 34/9(viii) hereinbelow.
- iv) The Allottee accept(s) and confirm(s) that:
- a) bearing in mind that the Said Apartment and the Car Parking Space, if any, would have been kept blocked by the Owner for the Allottee till the date of termination (as stated hereinabove) the abovementioned mutually agreed amounts are a fair and reasonable estimate of the loss and damage that would be suffered by the Owner due to the abovementioned termination, and
  - b) all and/or any amounts collected by the Owner as Taxes and deposited with the concerned authorities shall not be returned/refunded by the Owner, and the Allottee shall be free to approach the authorities concerned for refund of such Taxes,
- and the Allottee covenant(s) and undertake(s) not to set up or raise or make or initiate any claim, demand, action etc. contrary to the aforesaid.
- v) In the event after the aforesaid forfeiture, the Owner ascertains that any amount is to be refunded by the Owner to the Allottee, such amount will be refunded: (i) without any interest and/or compensation; and (ii) subject to the Allottee executing, at his/her/their/its at the cost and expense, the Deed of Cancellation if so

- determined by the Owner; and (iii) only after the Owner has entered into a fresh agreement in respect of the Said Apartment And Properties Appurtenant Thereto with any other Person(s). The Allottee acknowledge(s) that it is justifiable for the Owner to refund the amount, if any ascertained as due by the Owner to the Allottee, after expiry of a reasonable period of time after the date on which the Owner enters into the abovementioned new agreement, in as much as the Owner would be blocking the Said Apartment and the Car Parking Space, if any, on account of the Allottee, and thus the Allottee agree(s) and covenant(s) not to raise any objection whatsoever or howsoever to the same, and hereby consent(s) to the same.
- vi) Notwithstanding the non-execution of the Deed of Cancellation, immediately on the issuance and/or acceptance/receipt of the termination notice by the Owner, the Allottee shall cease to have any manner of right or claim or demand under this Agreement and/or against the Owner (save and except receipt of refund, if any, subject to and/or in accordance with the provisions of this para/Clause 34.9) and the Owner shall stand released and discharged from all its obligations and liabilities under this Agreement, and though none created hereunder, for the avoidance of any doubt, it is confirmed and accepted by the Allottee herein that upon the occurrence of the aforesaid event, any manner of right or interest or claim or demand of the Allottee in respect of/to/over any part or portion of the Said Premises and/or the Project and/or the Said Apartment And Properties Appurtenant Thereto shall automatically and without the execution of any further act, deed or thing by the Allottee and/or the Owner, stand terminated, cancelled, revoked, surrendered, released, relinquished, disclaimed etc. in favour of the Owner for all intents and purposes, and the Owner shall be entitled to deal with the same in such a manner as the Owner may deem fit and proper.
- vii) On the date of termination of this Agreement by any of the Parties hereto subject to and in accordance with the terms hereof, any works done or executed by the Allottee in the Said Apartment shall be deemed to comprise an integral part of the Said Apartment, and the Allottee shall not be entitled to remove and/or dismantle the same and/or claim/demand any reimbursements, costs, charges etc. in lieu thereof.
- viii) It is unequivocally agreed and understood that upon termination or cancellation of this Agreement on the terms stipulated in this Agreement, the Parties hereto shall, if so determined by the Owner at its sole and absolute discretion, but without prejudice to the provisions of para/Clause 34.9(vi) hereinabove, execute a deed of cancellation for the same (such deed being in such form and containing such particulars and/or covenants and/or stipulations as the Advocate may deem fit and proper) and register the same with the Registering Authority ("**Deed of Cancellation**"), as and when intimated by the Owner, at the cost and expense of the Allottee. In the event the Allottee fail(s) or refuse(s) to execute and/or register the Deed of Cancellation for any reason whatsoever, the Allottee shall, in addition to his/her/their/its liability stated anywhere in this Agreement, be liable and obliged to and undertake(s) to pay to the Owner an amount equivalent to 10% (ten percent) of the Total Price together with all costs, expenses, losses, damages etc. as may be suffered, incurred or sustained by the Owner, each ascertained by the Owner due to such default of the Allottee, with the Allottee hereby and hereunder accepting and confirming that the abovementioned is fair and reasonable, and not in the nature of any penalty, and thus the Allottee accept(s) and confirm(s) the aforesaid, and covenant(s) and undertake(s) not to set up or raise or make or initiate any claim, demand etc. contrary thereto. The Allottee hereby agree(s) and undertake(s) to do, execute and perform all such acts, deed and things and sign, execute, deliver and register (if required) such deeds, documents etc. (in such form and containing such particulars and/or covenants and/or stipulations as the Advocate may deem fit and proper), as may be determined by the Owner, all at the cost and expense of the Allottee.

### 34.10 Additional terms and covenants regarding the Deed of Conveyance

- i) After and subject to compliance by the Allottee of each of his/her/their/its obligations to the satisfaction of the Owner including but not limited to receipt by the Owner of each of the several amounts due and payable by and/or to be deposited by the Allottee (each as ascertained by the Owner), and further subject to the Allottee depositing with and/or making payment to the Owner and/or to the concerned Governmental Authority of each of the amounts stipulated in this Agreement including those stipulated in para/Clause 34.10(ii) hereinbelow and furthermore subject to the Allottee not having committed any breach, violation, contravention etc. of any of the terms and conditions as stipulated herein and as determined by the Owner, the Owner and the Allottee shall take steps to execute in favour of the Allottee, the deed of conveyance, whereby and whereunder the title in respect of the Said Apartment shall be transferred and conveyed in favour of the Allottee, while the title in respect of the Undivided Share shall be transferred and conveyed in favour of the Association, such deed of conveyance being in such form and containing such particulars and/or covenants and/or stipulations as the Advocate may deem fit and proper (“**Conveyance Deed**”), on such date as may be determined by the Owner provided that in the absence of any Applicable Law, the Owner shall subject to the aforestated and further unless prevented by a Force Majeure Event, comply with its aforesaid obligation within 3 (three) months from the date of issuance of the Completion Certificate or within such time period as may be prescribed under the Act and/or Rules.
  
- ii) In addition to the amounts stated elsewhere in this Agreement, the Allottee shall further be liable and responsible to and hereby and hereunder covenant(s) and undertake(s) to bear and pay *inter alia*: (i) the entire stamp duty, registration fees and other fees, taxes and charges as may be levied from time to time by the government and/or any other authority(ies) and/or any Governmental Authority on the aforestated transfer of the Said Apartment and the Undivided Share, including those applicable/prevaling at the time of registration of the Conveyance Deed; and (ii) the legal fees as determined by the Owner; and (iii) other related and/or incidental charges and expenses including but not limited to documentation charges. Each of such amounts shall be paid/deposited by the Allottee to/with the Owner within the time period prescribed for the same by the Owner in its notice of demand in respect thereof, and until receipt of the same, the Owner shall be entitled to, and the Allottee hereby and hereunder authorize(s) the Owner to, without any liability or responsibility, withhold the execution and registration of the Conveyance Deed in favour of the Allottee. Further, the Allottee hereby agree(s) and undertake(s) to indemnify and keep indemnified each of the Indemnified Parties for/from/against any losses, claims, damages etc. arising from the aforestated failure on the part of the Allottee.
  
- iii) If the Allottee fail(s) and/or neglect(s) to comply with each of his/her/their/its abovementioned obligations, each to the satisfaction of the Owner, as a consequence whereof the Conveyance Deed cannot be executed and registered on/within the date notified by the Owner, then without prejudice to the right of the Owner to terminate this Agreement (such right to be exercised at the sole discretion of the Owner) whereupon the consequences enumerated in para/Clause 34.9 shall apply, which the Allottee accept(s) and consent(s) to, the Allottee shall be solely and exclusively liable and responsible for such delay and the consequences emanating therefrom including but not limited to increase in the costs, charges, fees,, duties, expenses etc. payable for/on the execution and registration of the Conveyance Deed together with any penalties in respect thereof, and in addition to the aforesaid the Allottee agree(s) and undertake(s) to pay to the Owner, as and by way of mutually agreed pre-determined holding/ carrying charges all the loss and damage which may be caused/suffered/sustained by the Owner, as ascertained by

the Owner, commencing on and from the expiry of the abovementioned date notified by the Owner until such time that the Conveyance Deed is executed and registered by the Allottee, on the clear and unequivocal understanding that the aforesaid delay shall not render the Owner liable or responsible on any ground whatsoever or howsoever. The Allottee accept(s) and confirm(s) that the abovementioned mutually agreed pre-determined holding/carrying charges are fair and reasonable bearing in mind the abovementioned default committed by the Allottee, and are not in the nature of any penalty, and the Allottee covenant(s) and undertake(s) not to set up or raise or make or initiate any claim/demand etc. contrary thereto.

#### **34.11 Additional terms and covenants regarding the Common Areas, and the management, maintenance etc. thereof**

- i) At such time as the Owner may deem fit and proper (even prior to the formation of the Association), the Owner shall be entitled to assign/delegate its rights pertaining to the Common Purposes and/or any part thereof in favour of any third party and/or to nominate/appoint a Facility Management Entity for undertaking and/or rendering such of the Common Purposes as may be determined by the Owner at its sole and absolute discretion, with the Owner having the right and authority to determine at its sole and absolute discretion *inter alia* the terms and conditions governing such appointment, and the Allottee agree(s) and undertake(s) not to object to the same on any ground whatsoever. The Allottee further confirm(s) that the Allottee shall be liable to and undertake(s) to make payment of the proportionate amount of the fees payable to the Facility Management Entity, and further, so long as the Owner or the Association, as the case may be, themselves render and/or conduct the redemption of the Common Purposes, the Allottee confirm(s) that the Allottee shall be liable to and undertake(s) to make payment to the Owner or the Association, as the case may be, of a proportionate share of the fees/service charges levied by the Owner for the same. The Allottee, if so directed by the Owner or the Association, as the case may be, hereby agree(s) to execute an agreement with the Facility Management Entity and the Association.
- ii) The Owner, and thereafter the Association, and/or the Facility Management Entity, if so authorized by the Owner and/or the Association, as the case may be, shall be entitled to exclusively determine and formulate and amend from time to time, the mode and manner of the redemption and/or conduct of the Common Purposes, as also to determine from time to time the rules and regulations therefor and the amendments thereto (“**Management & Maintenance Rules**”), and the Allottee hereby give(s) his/her/their/its unfettered and irrevocable consent to the same, and agree(s) and undertake(s) that the same shall be binding on the Allottee and shall be deemed to form a part of the covenants running with the land and the Said Apartment And Properties Appurtenant Thereto, and in any event, by way of negative covenant, the Allottee agree(s) and undertake(s) not to do, execute or perform any act, deed or thing which is or may be contrary to the Management & Maintenance Rules.
- iii) The quantum of the Maintenance Charges and/or the Common Expenses as also the proportionate share thereof payable by the Allottee shall be determined and apportioned by the Owner and/or by the Association, as the case may be, and/or by the Facility Management Entity, if so authorized by the Owner and/or the Association, and the same shall be final, conclusive and binding on the Allottee, and the Allottee consent(s) to the same and shall not object to the same on any ground whatsoever or howsoever. Further, the statement of account of apportionment of the Maintenance Charges, the Common Expenses, charges etc. as prepared by the Owner and/or the Association and/or the Facility Management Entity, as the case may be, shall be conclusive, final and binding on the Allottee,

and in no event shall the Purchaser claim or demand and/or be entitled to claim or demand any abatement or reduction or reduction to the same and any clarifications sought for by the Allottee in respect thereof shall not entitle the Allottee to delay/withhold making payment of the same, and the Owner and/or the Association and/or the Facility Management Entity, as the case may be, will entertain any such request from the Allottee only subject to the Allottee first paying and clearing each of the amounts as ascertained by the Owner and/or the Association and/or the Facility Management Entity, as the case may be, as being due and payable by the Allottee.

- iii) The Allottee admit(s) and acknowledge(s) that the upkeep, administration, maintenance, management etc. of the Common Areas and the several facilities, infrastructure, utilities etc. at the Said Premises and/or the Building including the repairs, replacements, improvements etc. thereof and the redention of the Common Purposes being for the benefit of *inter alia* all the Apartment Allottees, any delay/default by the Allottee in making payment of any of the amounts in lieu thereof and/or for the same including the Maintenance Charges and the Common Expenses and all other amounts stipulated in this Agreement, would adversely effect the Common Purposes etc. and/or the interest of the Apartment Allottees, and thus the Allottee confirm(s) and undertake(s) to make timely payment of the same and further, that, without prejudice to the other rights of the Owner and/or the Association, as the case may be, in the event of any default/delay by the Allottee in making timely payment of any of the aforesaid amounts, whether before or after hand over of the Said Apartment to the Allottee and/or execution and registration of the Conveyance Deed (each subject to the terms hereof), and further without prejudice to the obligation of the Allottee to pay Interest on each of the defaulted/delayed amounts, if such delay/default shall continue for a period of 60 (sixty) days, then the Allottee authorize(s) each of the Owner and the Association, as the case may be, to adjust such outstanding amounts from the applicable Deposits if any then held by the Owner and/or the Association, as the case may be, and further the Allottee shall not be entitled to use/avail of any of the facilities and/or utilities attached to and/or serving the Said Apartment And Properties Appurtenant Thereto including but not limited to the Common Areas, and the Owner and/or the Association and/or the Facility Management Entity, as the case may be, shall be entitled to and/or shall have the right to and the Allottee hereby consent(s) to and irrevocably authorize(s) and empower(s) each of the Owner, the Association and the Facility Management Entity (acting jointly and/or severally) to, withhold/disconnect/suspend/withdraw all the utilities and facilities available to the Allottee including those forming a part of the Common Areas and/or those serving/attached to the Said Apartment And Properties Appurtenant Thereto including but not limited to water, electricity, use of lift, generator etc., till such time all the amounts due and payable by the Allottee together with the Interest thereon are received by the Owner and/or the Association and/or the Facility Management Entity, as the case may be, to their respective satisfaction, it being clarified that the Allottee shall continue to be liable to pay each of the aforesaid amounts together with the Interest thereon for the period of such disconnection/suspension/withdrawal as also the reconnection charges therefor together with such compensation as may be determined by the Owner and/or the Association and/or the Facility Management Entity, as the case may be, and the Allottee hereby and hereunder give(s) his/her/ their/its unfettered and irrevocable consent to the same. In addition, the Said Apartment And Properties Appurtenant Thereto together with rents, issues, profits, etc. accruing therefrom shall be deemed to stand charged and/or attached in favour of the Owner and/or the Association, as the case may be, for all such amounts falling due together with the Interest thereon, and thus until receipt of all such amounts to the satisfaction of the Owner and/or the Association, as the case may be, the Owner and/or the Association, as the case may be, shall have the right to receive all the rents, issues, profits, etc. accruing from the Said Flat And Properties Appurtenant Thereto, and in furtherance of the same, the

Allottee hereby and hereunder irrevocably authorize(s) and empower(s) each of the Owner and the Association (acting jointly and/or severally) to so demand and recover the same from the Allottee and/or the Permitted Transferee, as the case may be, without the intervention of and/or the requirement of applying for and obtaining any order from court(s) of competent jurisdiction, and to appropriate the proceeds therefrom towards adjustment of all the dues, and in pursuance of the same, the Allottee unconditionally consent(s) to the Owner and/or the Association, as the case may be, taking such steps in this regard as the Owner and/or the Association, as the case may be, may deem fit and proper. Further, before restoration of the services/utilities, the Allottee shall be liable to and undertake(s) deposit with the Owner and/or the Association, as the case may be, such additional interest free security deposit(s) as the Owner and/or the Association may determine at their respective sole and absolute discretion, and the Allottee hereby consent(s) to the same. Furthermore, should the Allottee default/delay in making payment of any of the aforesaid amounts for a continuous period of 120 (one hundred and twenty) days, the Owner shall additionally be entitled to and/or shall have the right, at its sole and absolute discretion, to exercise its right to terminate this Agreement at its sole option, whereupon the consequences enumerated in para/Clause 34.9 shall apply, and the Allottee accept(s) and consent(s) to the same.

- iv) It has been agreed and understood between the Parties that in respect of any Apartment which the Owner has not allotted in favour of any Person, the Owner will remain liable and responsible to bear and pay the Common Expenses in respect of such un-allotted Apartment(s) till the same is/are allotted by the Owner provided that the Owner shall not be liable or responsible to make payment of any Deposits, Extra Charges etc. in respect of/towards any such un-allotted Apartment(s).
- v) The Allottee shall not and undertakes(s) and covenants(s) not to under any circumstance, raise any claim of and/or claim ownership (exclusive or otherwise) of/to/over any component or constituent of the Common Areas and/or any absolute or exclusive right or title or interest therein/thereon/ thereto/thereof, on the clear and unequivocal understanding that subject to strict compliance of the terms stipulated in this Agreement, the Allottee will only have user rights in respect of the same and only to the extent required for the beneficial use and enjoyment of the Said Apartment And Properties Appurtenant Thereto, all in common with the Owner, the Apartment Allottees, the permitted users and occupiers of all the Apartments, the owners and permitted users/occupiers of the several units/areas/spaces/portions at/of/comprising the Building and/or the Said Premises, the maintenance staff, the Other Owners & Occupiers and the Retained Areas' Owners & Occupiers, in the manner stipulated by the Owner, subject to compliance of the terms and conditions governing such use and enjoyment, as also subject to the permanent right of easement, use and access of the same to/by the Owner and its men, servants, agents etc., and the Allottee has unconditionally accepted the same.
- vi) The Allottee has been made aware of and has unconditionally agreed and accepted that simultaneously upon sanction of the Additional Area, all the areas to be developed as a part of the Additional FAR shall be deemed for form a part and parcel of and/or comprising a part of the Building and/or the Project.

#### **34.12 Additional terms and covenants regarding defect liability**

- i) The liability of the Owner to undertake any remedial steps in pursuance/accordance with para/Clause 12 hereinabove shall arise only in cases where such alleged defect:
  - a) is established as having been caused due to the fault of the Owner; and/or

- b) has not been caused and/or occasioned, directly and/or indirectly, by/due to the commission or omission of any act, deed or thing caused/occasioned by and/or attributable to the Allottee and/or any of the contractors, men, servants, personnel, agents, employees, contractors etc. of the Allottee; and/or
- c) has not been caused and/or occasioned, directly and/or indirectly, by/due to the delay on the part of the Allottee in taking timely hand over of the Said Apartment in the manner stipulated in and subject to the terms of this Agreement; and/or
- d) is not on account of/due to normal wear and tear, accident, misuse etc.; and/or
- e) is not any manufacturing or other defect in any branded inputs or fixtures or services of a third party; and/or
- f) does not pertain to:
  - 1) equipments (including but not limited to generators, motors, sewage treatment plants, transformers and gym equipment) which carry manufacturer's guarantees for a limited period; and/or
  - 2) fittings relating to plumbing, sanitary, electrical, hardware, etc. having natural wear and tear; and/or
  - 3) allowable structural and other deformations including expansion quotient,

and further provided that no steps have been/are taken by the Allottee of his/her/their/its own volition in an endeavour to rectify any such purported defect.

- ii) The Owner's defect liability obligations stated in this Agreement shall also be subject to the Allottee/Association/Facility Management Entity continuing with all the annual or other maintenance contracts for the equipments, materials etc. installed/used within the Project and/or the Said Apartment. The Allottee also acknowledges and accepts that non-structural cracks may appear in the external and internal walls of structures on account of variations in temperature or due to occurrence of Force Majeure event(s), which shall not be covered under the defect liability obligations of the Owner.
- iii) In the event there is any dispute in relation to any alleged defect or deficiency as stated aforesaid including determining if the same tantamounts to an alleged defect in the construction of the Said Apartment and/or in the Apartment Specifications, the said dispute shall, notwithstanding anything to the contrary contained in this Agreement, be referred to the Architect, whose decision in respect thereof shall be final and binding on the Parties.
- iv) Subject to the above, in the event the Owner fails to rectify such defects and/or in cases where such defects cannot be rectified, then and in such an event, the Allottee shall be entitled to receive appropriate compensation in the manner as provided in the Act read with the Rules.

#### **34.13 Additional and other/further representations, warranties, obligations and covenants of the Parties**

- i) The Owner's representations and warranties are qualified and limited by any information:
  - a) disclosed to the Allottee by the Owner and/or its representatives; and/or

- b) which is otherwise within the knowledge of the Allottee.
- ii) Subject to any Applicable Laws to the contrary and except as provided in para/ Clause 8 hereinabove, all terms, conditions, representations, warranties and statements, whether express, implied, written, oral, collateral, statutory or otherwise, are excluded, and the Owner disclaims all liability in relation to them, including to the maximum extent permitted by Applicable Law.
  - iii) The Allottee hereby represent(s) and warrant(s) to the Owner as follows:
    - a) the execution and delivery of this Agreement and the performance by the Allottee of his/her/their/its obligations hereunder, does not and shall not:
      - 1) conflict with or result in a breach of the terms of any other contract or commitment to which the Allottee is/are a party or by which the Allottee is/are bound; and/or
      - 2) violate the memorandum of association, articles of association or byelaws, or any other equivalent organizational/constitutional document of the Allottee (if applicable); and/or
      - 3) conflict with or require any consent or approval under any judgment, order, writ, decree, permit or license to which the Allottee is/are a party or by which the Allottee is/are bound; and/or
      - 4) require the consent or approval of any other party to any contract, instrument or commitment to which the Allottee is/are a party or by which the Allottee is/are bound;
    - b) there are no actions, suits or proceedings existing, pending or threatened against or affecting the Allottee before any court or tribunal or arbitrator or authority or Governmental Authority or administrative body or agency that could affect or affects the validity or enforceability of this Agreement or that would affect the ability of the Allottee to perform his/ her/their/its obligations hereunder;
    - c) the obligations under this Agreement are legal and valid obligations binding on the Allottee and enforceable against the Allottee in accordance with the terms hereof;
    - d) the entry by the Allottee into this Agreement, and the performance and compliance with his/her/their/its obligations under or in connection with this Agreement or any other document entered into, under or in connection with this Agreement, will constitute, private and commercial acts, done and performed for private and commercial purposes;
    - e) the Allottee has and shall continue to have adequate financial and other resources for acquiring the rights and permission over and in respect of the Said Apartment and the Car Parking Space if any of the nature and in the manner stipulated herein and/or to meet and comply with all his/her/their/its obligations under this Agreement, punctually and in a timely manner, and the Allottee has not used and shall not use 'proceeds of crime', as defined under the Prevention of Money Laundering Act, 2002, for making any payments hereunder and/or in pursuance hereof;
    - f) the Allottee shall observe, perform, fulfil and comply with all the terms, conditions, covenants, stipulations, restrictions and obligations as stipulated

in this Agreement to be performed by the Allottee as covenants running with the land and the Said Apartment And Properties Appurtenant Thereto;

- g) the Allottee is and shall continue to be in compliance with all Applicable Laws, and further the Allottee shall be solely liable and responsible for compliance of the provisions of the Indian Stamp Act, 1899 and the Registration Act, 1908, including any actions taken by and/or deficiencies/penalties imposed by the concerned competent authority(ies)/Governmental Authority(ies).
- iv) The Allottee hereby agree(s), acknowledge(s), covenant(s) and undertake(s) to the Owner, as follows:-
- a) to use and/or permit the Said Apartment and every part thereof to be used/ applied only for residential purpose, and not to use and/or permit the same to be used/applied, directly and/or indirectly, for any other purpose and/or for any illegal/ unlawful/immoral purpose/activity and/or for/as a boarding house, office, professional chamber, guest house, club, hospital, nursing home, clinic, dispensary, amusement or entertainment centre, restaurant, eating or catering place, a meeting place, whether for political meetings or otherwise, conferences/conference hall, business centre, hall, place of worship and/or for any religious activities and/or for any business and/or manufacturing/ industrial activities and/or for any commercial purposes/activities and/or for any categories of business activities of non-residential nature permitted to be carried out in residential buildings under any Applicable Law(s), and further not to convert/apply for conversion of the nature/user of the Said Apartment and/or for any license to use the Said Apartment for any of the purposes stated hereinabove including but not limited to, for any direct or indirect commercial, semi-commercial use etc.;
  - b) not to use or permit the Said Apartment or any part thereof to be used, directly and/or indirectly, for any purpose which may or is likely to cause nuisance or annoyance to the other Apartment Allottees and/or to the users/ occupiers of the other Apartments and/or to the owners/users/occupiers of the other portions of the Building and/or the Said Premises and/or the adjoining/neighbouring premises and/or to the Retained Areas' Owners & Occupiers and/or to the Other Owners & Occupiers;
  - c) not to partition and/or sub-divide and/or damage and/or demolish the Said Apartment and/or the Car Parking Space (if any) and/or any part or portion thereof;
  - d) the Undivided Share shall always and at all times remain undivided, impartible and variable, and not to, at any time, make or claim, partition or division of the same or any part thereof on any ground whatsoever or howsoever;
  - e) not to keep or store or operate in or allow to be kept or stored or operated in or bring into/upon or allow to be brought into/upon the Said Apartment and/or the Car Parking Space (if any) and/or any of the Common Areas and/or any part or portion of the Said Premises and/or the Building, any goods, articles, machines etc., which in the opinion of the Owner, are hazardous and/or combustible and/or offensive and/or obnoxious and/or dangerous (save and except LPG gas cylinders for domestic use as may be permitted under applicable laws) and/or which are heavy and/or can affect or endanger or damage the structure and/or stability of the Building and/or any part or portion thereof and/or any fittings or fixtures thereof including the windows, doors, floors, outer walls of any Apartment, beams, pillars, lifts,

staircases etc., such opinion of the Owner being final and binding on the Allottee;

- f) not to do or cause or permit anything to be done or be a party to any act or deed in or around the Said Apartment and/or the Car Parking Space (if any allotted) and/or the Said Premises which in the opinion of the Owner may *inter alia* cause or tend to cause or tantamount to cause or affect or damage any part or portion of the Building including the floor(s) and/or ceiling(s) of the Said Apartment and/or of any other Apartment or in any manner interfere with the use or enjoyment of any of the other Apartments and/or any part or portion of the Common Areas and/or any part or portion of the Retained Areas, such opinion of the Owner being final and binding on the Allottee;
- g) not to hang from or attach to the beams or rafters of any part or portion of the Said Apartment and/or the Building, any article(s) or machinery(ies) which in the opinion of the Owner are heavy or are likely to effect or endanger or damage the structure and/or stability and/or the construction of the Building or any part thereof, such opinion of the Owner being final and binding on the Allottee;
- h) not to fix or install in the Said Apartment, air conditioner(s) other than split/package air conditioner(s), and further each of such air-conditioner(s) and the unit(s) thereof (both indoor and outdoor) shall be fixed/installed only at such place(s) which have been specified by the Owner for the same;
- i) not to tamper/alter/change or cause/permit any tampering or alteration or change with/in/of/to the electrical points at any part or portion of the Said Apartment including but not limited to at the Balcony/Verandah and/or the Open Terrace, and further not to permit/cause any overloading of the electrical points;
- j) not to do any act, deed or thing which may in any manner whatsoever obstruct/impede/restrict/hinder the construction and/or development and/or completion and/or transfer/alienation by the Owner of any part or portion of the Said Premises including but not limited to the Building and/or the Retained Areas and/or any further and/or additional constructions, alterations etc. at/to the Said Premises and/or the Building etc. and the works related thereto notwithstanding any disruption/hindrance in the enjoyment of the Said Apartment And Properties Appurtenant Thereto by the Allottee and/or any variation/diminishment in the Undivided Share;
- k) not to affix or change or alter the design or the placement of any of the window(s) and/or doors of the Said Apartment including the main door, and further not make or alter or change or relocate any window(s), light opening(s), door(s), path(s), passage(s), drain(s), pipe(s), conduit(s), cable(s), fittings, fixtures etc. in/serving/attached to any part or portion of the Said Apartment and/or the Car Parking Space (if any) and/or the Building and/or the Said Premises, and further not to make any encroachment(s) or easement(s) in/into/upon any part or portion of the Said Apartment and/or the Car Parking Space (if any) and/or the Building and/or the Said Premises;
- l) not to raise the floor level of the Said Apartment, and furthermore not to do any act, deed or thing which may increase/cause to increase the total load of/on the floor of the Said Apartment;
- m) not to block up or darken or obstruct or obscure or cover up any of the windows and/or lights of/at the Said Apartment, and further not to cover or obstruct any ventilating shafts and/or inlets and/or outlets;

- n) not to install or fix grills, shades, awnings, window guards, ventilators etc. and/or alter those if any already installed/fixed, without the prior written consent of the Owner;
- o) to be and remain solely responsible for the safety and security of the Said Apartment And Properties Appurtenant Thereto and the permissible goods/articles lying therein/thereat, if any, and to get the same insured at his/her/their/its own cost including against damage by fire, riot, explosion, earthquake, strike, storm, tempest, floods, wars, accidents, malicious damage, civil commotion etc.;
- p) not to make and/or carry out any modifications and/or additions and/or alterations and/or improvements of any nature whatsoever or howsoever, structural or otherwise, in/to any part or portion of the Said Apartment and/or the Car Parking Space (if any) including to the beams, columns, partition walls, load bearing walls etc., and further not to withdraw any support;
- q) to maintain the limited fire fighting equipment(s) as provided by the Owner, and not to cover the fire and/or the heat sensors, sprinklers, etc., if any installed at/within the Said Apartment, and further to comply with and adhere to/with all the laws, rules and guidelines pertaining to fire safety including by installation of all necessary, proper and adequate fire fighting, fire protection equipment(s) fire detection and smoke extraction systems amongst others at/within the Said Apartment, and the Allottee shall be and remain solely liable and responsible for strict and prompt adherence to and compliance with all laws, rules, guidelines, regulations etc. pertaining to fire safety and protections etc. as also for any violation thereof, and the Allottee shall keep each of the Indemnified Parties and each of the permitted users and occupiers of all the Apartments, the owners and permitted users/ occupiers of the several units/areas/spaces/portions at/of/comprising the Building and/or the Said Premises, the Retained Areas' Owners & Occupiers and the users and occupiers of the adjoining/neighbouring premises fully safe, harmless and indemnified in respect thereof;
- r) to keep the Said Apartment And Properties Appurtenant Thereto in a good state of preservation and cleanliness, and at all times to keep the interior walls, fittings, fixtures, appurtenances, floors, ceilings, sewerage, drainage, plumbing etc. in perfect condition and repair, and further to keep each of the Indemnified Parties, the permitted users and occupiers of all the Apartments, the owners and the permitted users/occupiers of the several units/areas/spaces/portions at/of/comprising the Building and/or the Said Premises and the Retained Areas' Owners & Occupiers fully safe, harmless and indemnified from and against *inter alia* the consequences of any damage etc. arising therefrom;
- s) to carry out any permitted interior works and/or any permitted repairs and maintenance works and/or any other permitted works inside the Said Apartment only during such working hours and only on such working days as stipulated by the Owner and/or as laid down in the Management & Maintenance Rules and/or in terms of the fit-out mandates/rules formulated by the Owner and/or by the Association, as the case may be, and the Allottee shall ensure that any repair and/or maintenance and/or other works do not cause any manner of annoyance and/or nuisance to the other users/ occupants of the Building and/or the Said Premises and/or of the adjoining/neighbouring premises and/or to the Retained Areas' Owners & Occupiers and/or to the Other Owners & Occupiers, and in the event of violation of any of the above, the Owner and/or the Association, as the case may be, and the

Facility Management Entity shall be entitled to forthwith stop the same without any liability, at the cost and expense of the Allottee

- t) after execution of the Conveyance Deed, all repairs and maintenance of any kind as may be desired by the Allottee inside the Said Apartment shall be carried out only by persons authorized or provided by the Owner and/or the Association and/or the Facilities Management Entity, as the case may be, and the Allottee shall be liable to pay and bear such amounts that the Vendor and/or the Association and/or the Facilities Management Entity, as the case may be, may reasonably determine from time to time towards their charges for administration of such repair works;
- u) not to hang/put out/dry any linen/clothes in or upon the windows and/or any part or the portion of the Balcony/Verandah and/or the Open Terrace and/or any other part or portion of the Said Apartment such that the same be visible from the outside and/or to outsiders, and further not to throw anything from any floor, window, the Balcony/Verandah, the Open Terrace etc. and furthermore not to place any goods, articles, things etc. upon any of the window sills of the Building;
- v) not to throw or accumulate or cause to be thrown or accumulated any dirt, rubbish or other refuse within/at the Said Apartment and/or in/at any part or portion of the Said Premises and/or the Building and/or in/at any of the areas comprising the Common Areas, save at the places indicated therefor by the Owner and/or the Association, as the case may be;
- w) not to slaughter or permit to be slaughtered any animals at/within any part or portion of the Said Apartment and/or the Car Parking Space (if any) and/or the Building and/or the Said Premises on any religious occasion or otherwise, and further not to do or execute or permit to be done or executed any act, deed or thing which may hurt or injure or cause provocation of the sentiments and/or feelings (religious or otherwise) of any of the users and/or occupiers of the Apartments and/or the owners/users/occupiers of the several units/areas/spaces/portions at/of/comprising the Building and/or the Said Premises and/or the Retained Areas' Owners & Occupiers, and/or cause disharmony amongst them;
- x) not to ever close or permit the closing of the Balcony/Verandah, the Open Terrace, the lounges, lobbies, passages, corridors, any of the open areas including those comprised in the Said Apartment and/or comprising the Common Areas etc., with grills or otherwise, and to at all times keep the same in the same manner as intended and/or constructed and/or delivered by the Owner, and further not to make any construction thereon;
- y) not to alter the elevation and/or the outside colour scheme of or decorate in any manner whatsoever, the exposed/external walls of the Building, the Said Apartment, the Balcony/Verandah, the Open Terrace, the lounges, passages, corridors, any of the areas comprising the Common Areas etc. and/or any external walls and/or both the faces of the external doors and windows of the Said Apartment, which in the opinion of the Owner *inter alia* differs from and/or is in deviation from and/or may effect the colour scheme of the Building and/or the elevation thereof, such opinion of the Owner and/or the Association, as the case may be, being final and binding on the Allottee;
- z) not to make/permit any changes in/to the signage of the Building and/or the Said Premises as installed by the Owner, and further not to install any monogram etc. at any part or portion of any of the external walls including those of the Building and/or the Said Premises;

- aa) not to make/permit any changes in/to any of the entrance lobbies of the Building and/or the entrance of/to the Said Apartment including but not limited to by changing/replacing the main door, installing any collapsible gate, shutter etc.;
- bb) not to use or permit to be used the lifts for the purpose of carting pets, furniture, fixtures, fittings, equipments, goods, articles etc.;
- cc) not to allow or use any cable, internet or other service providers save and except such service providers who have been selected or designated by the Owner or the Association, as the case may be;
- dd) to co-operate with and assist in all manner, the Owner and/or the Association and/or the Facility Management Entity, as the case may be, in the management, maintenance, upkeep and administration of the Said Premises, the Building and the Common Areas and in carrying out their day to day activities, and not to object to/oppose any decision taken by the Owner and/or the Association and/or the Facility Management Entity, and in particular, to abide by, comply with, observe and/or perform, as the case may be, *inter alia* all the applicable laws, terms, conditions, rules and regulations regarding usage, operation etc. of water, electricity, drainage, sewerage, lifts, tube wells, generator and all other installations and/or amenities in/at the Building and/or the Project including without limitation those under the statute(s)/applicable laws governing fire and the rules made thereunder as amended from time to time, and the Allottee shall indemnify and keep each of the Indemnified Parties, the Association and the Facility Management Entity safe, harmless and indemnified from and against all losses, damages, costs, claims, demands, actions, proceedings etc. in respect thereof including but not limited those which the Indemnified Parties and/or the Association and/or the Facility Management Entity may suffer or incur or sustain due to any failure, non-adherence, non-compliance, non-observance, non-performance, default or negligence on the part of the Allottee;
- ee) to assist the Owner in all matters pertaining to the Association and all activities related thereto including for the formation thereof if required, as also for the purpose of inducting and/or making the Allottee a member thereof, and to strictly observe and abide by the Management & Maintenance Rules as also all the rules and regulations that may be framed/ formulated and/or amended from time to time by the Owner, and thereafter by the Association, and without prejudice to the other rights of the Owner, to pay all the penalties levied/stipulated for non-observance of and/or non-compliance with the same;
- ff) not to form with the other users, occupiers etc. of the Apartments and/or of the several units/areas/spaces comprising the Building and/or with the Retained Areas' Owners & Occupiers, any association/holding organization other than the Association, and further not to become a member of any association and/or association of persons and/or firm and/or holding organization and/or any entity, for any purpose/matter related/pertaining directly and/or indirectly to the Building and/or the Said Premises and/or for the purpose of maintenance, management, upkeep, administration etc. of the Building and/or the Said Premises, and if any such organization/company/ firm/association/other entity etc., be formed, the same shall not be recognized by the Owner or the Association;
- gg) to allow, without raising any objection, the Owner and/or the Association and/or the Facility Management Entity, as the case may be, and/or their

respective representatives, with or without workmen, to access and/or enter into the Said Apartment and/or the Car Parking Space (if any) and/or any of the Common Areas *inter alia*, for the purpose of maintenance, repairs, re-building etc. and for keeping in good order and condition, the electrical lines, the air-conditioning lines, the water lines, the pipe lines, sewage lines, storm water lines/storm water pits, plumbing systems etc. and/or any and/or all other elements amongst others;

- hh) on and from the Outgoings Payment Commencement Date, to regularly and punctually pay every month and month by month the Common Expenses at such rates as may be decided, determined and apportioned by the Owner and/or the Association and/or the Facility Management Entity and/or the concerned authorities, as the case may be, each in terms of the bills raised by the aforestated entities;
- ii) to regularly and punctually pay the entirety of the Outgoings in or relating to the Said Apartment And Properties Appurtenant Thereto as per the bills raised by the Owner and/or the Association and/or the Facility Management Entity and/or the concerned authorities, as the case may be;
- jj) to pay/make such further Deposits and/or other deposits as and when called upon by the Owner and/or the Association, as the case may be, and further to make good and pay to the Owner and/or to the Association, as the case may be, all such amounts which may have been deducted/adjusted/paid towards any amount due and payable by the Allottee and/or to replenish any shortfalls caused on account of the Allottee, and to furthermore deposit with the Owner and/or the Association, as the case may be, such further amounts as may be determined by the Owner and/or the Association, as the case may be;
- kk) not to use the Car Parking Space, if any, for any purpose other than for the parking of private medium sized car(s) owned by the Allottee within the space comprising the same;
- ll) not to use/apply the Car Parking Space if any for any categories of business activities of non-residential nature permitted to be carried out in residential buildings under any Applicable Law(s), and further not to convert/apply for conversion of the nature/user of the same and/or for any license to use the same for any of the purposes stated hereinabove;
- mm) not to partition the Car Parking Space if any in any manner, and further not to raise or put up or make thereon/thereat and/or at/on any part thereof any kutcha or pucca structure(s) of any nature whatsoever and/or any grilled wall(s) or enclosure(s), and to always keep the Car Parking Space if any open, and not to permit any Person to dwell/stay/reside thereat, and further not to store/keep any goods, furniture, articles etc. therein/thereat;
- nn) not to transfer and/or alienate and/or deal with and/or grant any manner of right in, over or in respect of the Car Parking Space (if any) separately or independently or devoid of the Said Apartment and/or by way of a separate space to anyone provided that any such alienation/transfer shall at all times be subject to the terms stipulated in this Agreement;
- oo) not to claim any right to use any car/vehicle parking space and/or to park cars/vehicles at any part or portion of the Building and/or the Said Premises unless specific written permission is granted by the Owner;
- pp) not to park or allow any car/vehicle to be parked on/in the passages(s) and/or the pathway(s) and/or the open space(s) of/at the Building and/or the Said Premises and/or at any other portions of/at the Building and/or the Said

Premises save and except at the Car Parking Space, if any, and to use the passages(s), pathway(s), open spaces etc. only in the manner as may be determined by the Owner;

- qq) not to block any area(s) and/or passage(s) including those comprising the Common Areas;
- rr) to use the Common Areas in common with the Owner, the Apartment Allottees, the permitted users and occupiers of all the Apartments, the owners and permitted users/occupiers of the several units/ areas/spaces/portions at/of/comprising the Building and/or the Said Premises, the management staff, the Retained Areas' Owners & Occupiers and the Other Owners & Occupiers, as may be determined by the Owner at its sole and absolute discretion, and only for the limited purpose for which the same are designated/identified by the Owner, and not to damage, destroy, disfigure any part or portion of the Common Areas and/or any of the utilities and/or facilities and/or infrastructure or use or employ such areas, facilities, utilities etc. in any manner not intended to be used or employed, and further not to do any act, deed or thing which may in any manner prevent and/or restrict the rights and liberties of the Owner and/or of the other users/occupiers, it being clarified that the Allottee and/or the contractors, men, personnel, employees, servants, agents etc. of the Allottee shall not be entitled to access any of the areas of the Building and/or the Said Premises including but not limited to the roof/ultimate roof, the lift machine room, the electric transformer room, the electric meter room, the generator set and/or any of the Common Areas and/or such other areas/facilities as may be identified from time to time by the Owner and/or the Association, as the case may be;
- ss) to use only such routes of entry into and/or exit from the Said Premises and/or the Building as specified by the Owner;
- tt) not to affix or draw any wires, cables, pipes etc. from or to or through any of the areas and/or corridors including but not limited to the Common Areas, the outside walls of the Building, any part or portion of the Said Premises and/or the other Apartments/areas/spaces save as specifically permitted in writing by the Owner, and further not to alter or change or permit any alteration(s) or change(s) in the pipes, conduits, cables and/or other fixtures, fittings etc. serving any of the Apartments and/or the Building;
- uu) not to keep/place/leave or permit to be kept/placed/left outside the Said Apartment and/or in/at any part or portion of the Car Parking Space, if any, and/or the Said Premises and/or in/at the Building and/or in/at the lobbies, corridors, passages, staircases, landings, and/or in/at any of the areas/facilities comprising the Common Areas etc., any packages, boxes, crates, containers etc. of any description, parcel of goods or articles, sitting stools etc., even temporarily or for a short period of time;
- vv) not to permit any driver, domestic help, servant, agent, personnel, employee, staff etc. and/or any other person employed by the Allottee to sleep and/or squat and/or loiter around in/at any part or portion of the Building and/or the Said Premises;
- ww) not to put, affix, stick etc. any signboard(s), signage(s), glow sign(s), name plate(s), bill(s), notice(s), advertisement(s), hoarding(s) etc. to/at any part or portion of the Building and/or the Said Premises including at any of the areas/facilities comprising the Common Areas and/or to/at any part or portion of the exposed/outside walls, doors, external façade, windows etc. of the Said Apartment and/or the Car Parking Space, if any, save and except displaying a

small decent name plate at the location specified for the same by the Owner outside the main door of the Said Apartment;

- xx) not to affix, install, attach, hang etc. any aerial/antenna/satellite dishes to/from any part or portion of the roof/ultimate roof of the Building and/or the balcony(ies)/verandah(s) and/or the open terrace areas that may be a part of any Apartment and/or its windows etc. and/or to/from any part or portion of the Building and/or the Said Apartment and/or the Car Parking Space, if any;
- yy) to use only such power/generator back-up as allocated by the Owner to the Said Apartment, and not to demand/claim any further/additional power/generator back-up on any ground whatsoever or howsoever;
- zz) to ensure that all the employees, servants, domestic help, drivers, personnel, visitors, agents, contractors etc. of the Allottee strictly abide by the rules framed/amended from time to time by the Owner and/or by the Association and/or by the Facility Management Entity including the Management & Maintenance Rules, as also the instructions issued from time to time for enforcing security, maintenance etc., and further to ensure that none of the aforesaid persons in any manner deface, vandalise or bring to disrepute the Project;
- aaa) the Owner and/or the Association, as the case may be, shall be entitled to take such steps as they may respectively deem fit and proper in the interest of preserving the aesthetics of the Building and/or the Said Premises including but not limited to the external façade of each of the above;
- bbb) the Owner and/or the associates/affiliates of the Owner shall have the right in perpetuity to put up signages and/or hoardings and/or neon signs and/or advertisements at the Building including at/on the main gate, the roof, walls, lifts etc. of the Building as the Owner may deem fit and proper, and *inter alia* for such purpose, the Owner shall be entitled to access and use all the Common Areas provided that the maintenance costs of such displays/signages etc. shall be borne and paid by the Owner and/or by the associates/affiliates of the Owner;
- ccc) on and from the Outgoings Payment Commencement Date, the Allottee shall be liable to bear and pay the proportionate share of the municipal rates and taxes in respect of the Said Premises as determined by the Owner, and, further, in the event of there being any enhancement to/in the rates and taxes due to any act, deed or thing done or carried out or executed by/at the instructions of the Allottee, such enhancement shall be paid and borne exclusively by the Allottee in addition to and over and above the aforesaid rates and taxes;
- ddd) not to amalgamate/join/consolidate/connect the Said Apartment with any other Apartment and/or space and/or area within the Building in any manner whatsoever or howsoever even if the Allottee has been allotted by way of a written instrument any further/other Apartments and/or spaces/areas which are adjacent to and/or adjoining the Said Apartment;
- eee) not to amalgamate/join/consolidate/connect the Car Parking Space, if any, with any car parking space and/or any other space and/or area within the Building in any manner whatsoever or howsoever even if the Allottee has been allotted by way of a written instrument any further/other car parking spaces and/or spaces/areas which are adjacent to and/or adjoining the Car Parking Space;

- fff) to comply with all notices, orders and requisitions of the local and/or municipal and/or other concerned authorities including those which may be required to be complied with by the Owner and/or the Allottee in respect of the Said Apartment And Properties Appurtenant Thereto or any part thereof, all at his/her/their/its own cost and liability;
- ggg) not to claim any right of pre-emption or otherwise in respect of any other Apartment and/or any part or portion and/or areas/spaces etc. at/of the Building and/or the Said Premises and/or the Common Areas and/or the Retained Areas, and the Allottee confirm(s) and undertake(s) that the Allottee neither has nor shall have any such right of pre-emption;
- hhh) not to at any time make or claim or bring any action or claim for partition or division on any ground whatsoever of any part or portion of the Said Premises and/or the Building and/or the Said Apartment and/or the Undivided Share and/or any of the areas/portions comprising the Common Areas;
- iii) to exercise all precautions and care and take all steps as may be necessary and/or expedient to prevent the commission of any offence under any statutory law or otherwise, and to keep each of the Indemnified Parties and each of the Apartment Allottees, the permitted users and occupiers of all the Apartments and the owners and permitted users/occupiers of the several units/areas/spaces/portions at/of/comprising the Building and/or the Said Premises and the Retained Areas' Owners & Occupiers safe, harmless and indemnified in respect thereof;
- jjj) not to claim any right of user or common use or any other right of any nature whatsoever or howsoever over/in respect of any part or portion of the Retained Areas and/or such areas which are under the exclusive ownership and/or control and/or use and/or possession of the Owner and/or any part or portion of the Appurtenant Property, and the Owner shall have the absolute and unfettered right and authority in perpetuity to deal with and/or dispose of and/or to use etc. and/or permit the user etc. of any part or portion of the Retained Areas (save those in respect whereof the Owner has already granted a right in favour of a third party and/or the Allottee) and/or any part or portion of the Appurtenant Property, for any purpose whatsoever or howsoever, each in such a manner and in favour of such Person(s) as the Owner may deem fit and proper at its sole and absolute discretion, in lieu of consideration to be exclusively determined, collected and appropriated only by the Owner (which shall absolutely belong to the Owner), and on such terms and conditions as the Owner may deem fit and proper, and the interest of the Allottee and the Association shall be subject to such right of the Owner, and neither the Allottee nor the Association shall object to the same in any manner or on any ground whatsoever; and
- kkk) to co-operate with and assist the Owner in applying for and obtaining apportionment and separation in the records of The Kolkata Municipal Corporation in respect of the municipal rates and taxes payable by the Allottee, and to sign, execute and deliver all such deeds, documents etc. as also to make payment of such fees, costs, charges etc. in respect thereof as determined by the Owner from time to time, and within 30 (thirty) days from the date of such apportionment and separation, to apply for and obtain, at his/her/their/its own cost and expense, mutation in the records of the Kolkata Municipal Corporation in the name of the Allottee in respect of the Said Apartment, and to be and remain liable and responsible for all the consequences, penalties etc. emanating and/or resulting and/or arising from any delay and/or default in complying with the aforesaid, and thus keep each

of the Owner, the Association, the Apartment Allottees and the Retained Areas' Owners & Occupiers safe, harmless and indemnified in respect thereof.

- v) The Allottee hereby further agree(s) and confirm(s) that each of the covenants, restrictions and obligations undertaken and covenanted to be observed and fulfilled by the Allottee under these presents including those stipulated hereinabove shall deemed to be covenants running with the land and/or with the Said Apartment And Properties Appurtenant Thereto, and even upon formation of the Association, the same shall not under any circumstances be changed and/or modified and/or amended, and the Allottee hereby give(s) his/her/their/its unfettered and irrevocable consent to each of the aforesaid, and agree(s), undertake(s) and covenant(s) that the same shall be binding on the Allottee.
- vi) The Allottee further admit(s) and acknowledge(s) that the Owner considers each of the representations, warranties, admissions, acknowledgements, covenants and undertakings made/given by the Allottee to be an important and inseparable part of this Agreement, and the Owner has entered into this Agreement in reliance thereof.

#### **34.14 Additional terms and covenants regarding the right of the Owner to create charge/mortgage**

- i) Notwithstanding anything contained herein, by the execution of this Agreement the Allottee has/have provided and hereby and hereunder confirm(s) his/her/its/their consent to the Owner to/for the creation of any mortgage, security, charge or other Encumbrances over and in respect of the Said Premises and/or the Building and/or any part or portion thereof in favour of any bank and/or financial institution providing loan and/or financial assistance to the Owner for the purpose of development of the Project provided that no such mortgage, security, charge or other Encumbrances shall in any manner affect the right, title and interest of the Allottee. For the avoidance of any doubt it is clarified that this Agreement by itself shall be treated as the written consent of the Allottee for creation of charge/mortgage over any part or portion of the Said Premises and/or the Building, and no separate consent of the Allottee shall be required for the said purpose.
- ii) The Owner undertakes to cause the said bank(s)/financial institution(s) to: (a) issue, if necessary, a no-objection letter in favour of the Allottee to enable the Allottee to take a home loan from any bank or financial institution for financing the purchase of the Said Apartment; and (b) upon receipt by the Owner from the Allottee (to the complete satisfaction of the Owner), of the full payment and/or deposit, as the case may be, of all sums, amounts etc. payable/to be deposited by the Allottee in terms of this Agreement, before execution of the Conveyance Deed in favour of the Allottee, subject to the terms of this Agreement, the Owner shall cause the mortgage, security, charge or other Encumbrances, if any created by the Owner over and in respect of the Said Apartment And Properties Appurtenant Thereto, to be discharged and/or released.

#### **34.15 Terms and covenants regarding loans against the Said Apartment**

- i) For availing a home loan for the purpose of making payment of the Total Price and the other amounts to be paid by the Allottee to the Owner in terms of this Agreement, the Allottee shall be entitled to approach only a bank and/or financial institution and no other party/entity/private lender, and in the event of any bank/financial institution agreeing to make available such finance and/or home loan, the Owner shall issue a no-objection for the creation of a charge over and in respect of the Said Apartment on the express condition that the amount to be provided by such bank/financial institution shall be applied only for making payment of the Total

Price and the other amounts in terms of this Agreement, and only after a written undertaking recording the same is furnished by the Allottee to such bank and/or financial institution with a copy to the Owner.

- ii) It shall be the sole and exclusive responsibility and liability of the Allottee to ensure timely payment of the Total Price and each of the amounts payable hereunder notwithstanding any loan availed of by the Allottee. The Owner shall not be liable or responsible for the repayment of any such loan taken by the Allottee from any bank/financial institution, and the Allottee shall keep each of the Indemnified Parties safe, harmless and indemnified in respect thereof including but not limited to all claims, costs, charges, liabilities, expenses, damages and losses which may be made on any of the Indemnified Parties and/or which any of the Indemnified Parties may suffer or incur or be exposed to by reason of any action that such bank/financial institution may initiate on account of such loan and/or for the recovery of the loan amount and/or any part thereof and/or on account of any breach by the Allottee of the terms and conditions governing the said loan.
- iii) All costs, expenses etc. in connection with the procurement of such loan and creation of mortgage of the Said Apartment and further payment of fees, charges etc. to the bank/financial institution shall be solely and exclusively borne and incurred by the Allottee, and the Allottee shall keep each of the Indemnified Parties safe, harmless and indemnified in respect thereof. Notwithstanding the provisions hereof, it is clarified that until all the amounts including the Total Price, the Deposits, the Extra Charges, the Common Expenses, the applicable Outgoings and all/any other charges, costs, expenses, penalties etc., as ascertained by the Owner, are paid by the Allottee to the satisfaction of the Owner, the Owner shall have a first lien/charge on the Said Apartment to which the Allottee shall have no objection to, and the Allottee hereby waive(s) his/her/its/their right to raise any objection in that regard.
- iv) The Allottee hereby expressly agree(s) that so long as the aforesaid loan remains unpaid/outstanding, the Allottee shall, subject to the terms of this Agreement, not sell, transfer, let out, assign or deal with any part or portion of the Said Apartment And Properties Appurtenant Thereto in any manner whatsoever without obtaining the prior written permission of the Owner and the concerned bank/financial institution. The Owner shall not be liable for any direct and/or indirect act of commission or omission by/of the Allottee and/or by/of any of the contractors, men, servants, agents, personnel, employees etc. of the Allottee, which are/may be contrary to the terms and conditions governing the loan and/or the disbursement thereof. It shall be the responsibility of the Allottee to inform the Association about the lien/charge of such bank/financial institution, and the Owner shall not be liable or responsible for the same in any manner whatsoever or howsoever.
- v) In the event of termination of this Agreement due to any reason and/or on any ground whatsoever or howsoever, then without prejudice to its other rights stipulated herein, the Owner shall, after deducting such amounts as may be applicable in accordance with the terms and conditions of this Agreement, refund to such bank/financial institution the balance amounts, if any, and simultaneously upon/with the tender thereof by the Owner (notwithstanding the encashment thereof by the concerned party) and/or intimation by the Owner to such bank/ financial institution of the factum of not holding any funds to the account of the Allottee, the charge/any manner of claim of such bank/financial institution and the Allottee on the Said Apartment shall automatically stand released/cancelled/terminated for all intents and purposes, and neither such bank/financial institution nor the Allottee shall have any manner of claim or demand or action against the Owner and/or in respect of/over any part or portion of the Said Apartment And Properties Appurtenant Thereto. The Allottee hereby unconditionally and irrevocably subrogate(s) his/her/their/its right to receive any amount from/payable by the

Owner to such bank/financial institution in the event of cancellation/ termination of this Agreement on any ground whatsoever, and further confirm(s) that the act of the Owner of tendering payment to such bank/financial institution (if any ascertained as due and payable by the Owner) and/or intimating the bank/ financial institution as stated hereinabove, shall amount to a valid discharge by the Owner of its obligation to pay/refund any amount to the Allottee.

#### **34.16 Additional terms and covenants regarding binding effect**

- i) On the failure of the Allottee to rectify his/her/its/their breach/default stipulated in para/Clause 20 hereinabove, the Owner shall be entitled to forfeit from all the sums deposited by the Allottee including the Booking Amount, the applicable amounts as stated in para/Clause 34.9(iii) hereinabove and refund the balance if any to the Owner on the terms stipulated in para/Clause 34.9(v) hereinabove whereupon the consequences as stipulated in para/Clause 34.9(vi) hereinabove shall apply.
- ii) The Allottee accept(s) and confirm(s) that:
  - a) the abovementioned mutually agreed amounts are a fair and reasonable estimate of the loss and damage that would be suffered by the Owner due to the abovementioned default on the part of the Allottee, bearing in mind that the Said Apartment and the Car Parking Space, if any, would have been kept blocked by the Owner for the Allottee; and
  - b) all and/or any amounts collected by the Owner as Taxes and deposited with the concerned authorities shall not be returned/refunded by the Owner, and the Allottee shall be free to approach the authorities concerned for refund of such Taxes,

and the Allottee covenant(s) and undertake(s) not to set up or raise or make or initiate any claim, demand, action etc. contrary to the aforesaid.

#### **34.17 Additional terms and covenants regarding transfer and/or nomination by the Allottee**

- i) This Agreement is personal to the Allottee, and subject to the terms and conditions herein contained, and further without the prior written consent of the Owner, the Allottee shall not be entitled to:
  - a) transfer, assign, let out, mortgage, lease, deal with the Said Apartment And Properties Appurtenant Thereto and/or any part or portion thereof; and/or
  - b) nominate any Person in his/her/their/its place and stead; and/or
  - c) permit any Person to use or occupy the Said Apartment And Properties Appurtenant Thereto and/or any part or portion thereof; and/or
  - d) transfer, assign, novate, mortgage, deal with this Agreement and/or the rights and obligations hereunder.
- ii) Only after expiry of 12 (twelve) months from the date hereof and further subject to due compliance and fulfillment by the Allottee of such terms, conditions and criteria (each as may be stipulated by the Owner) together with payment by the Allottee to the Owner of a sum equivalent to a percentage of the Total Price as transfer/nomination fees in terms of the then prevailing policy of the Owner in respect thereof, which the Allottee undertake(s) to comply with and also pay, and

further only if the Allottee has not been in breach or violation of any of the terms and conditions contained herein as determined by the Owner, and furthermore only if the Allottee has paid and cleared each of his/her/their/its dues together with the Interest thereon, if any, each to the satisfaction of the Owner, shall the Owner consider the written request of the Allottee to permit the Allottee to do any of the acts stipulated in para/Clause 34.17(i) hereinabove, it being agreed and understood that subject to and without prejudice to the aforesaid, in the larger interest of the development proposed at the Said Premises, which would *inter alia* protect the rights of and/or enure to the benefit of the Allottee, the Owner shall, at its sole and absolute discretion and without assigning any reason and/or justification, be entitled to decline to accept/consider any such request of the Allottee.

- iii) Without prejudice to and subject to the terms hereof, under no circumstance shall the Allottee induct or invite into the Said Apartment And Properties Appurtenant Thereto and/or transfer, assign, let out, part with possession of any part or portion of the Said Apartment And Properties Appurtenant Thereto to a Person (“**Permitted Transferee**”), who may cause any infringement or violation of any of the terms or conditions herein contained and/or those contained in the Conveyance Deed, and any such transfer etc. shall be subject to, *inter alia*:
- a) the Permitted Transferee fulfilling the criteria laid down by the Owner; and
  - b) the Permitted Transferee executing and registering, if so deemed fit and proper by the Owner, all at the costs and expense of the Allottee and/or the Permitted Transferee including the stamp duty and registration fee payable thereon, an undertaking to observe, fulfil and abide by all the terms, conditions, stipulations, obligations etc. as stated herein and/or those stated in the Conveyance Deed including those stipulated by the Owner, on the understanding and agreement that all the provisions contained herein and the obligations arising hereunder as also those attached to the Said Apartment And Properties Appurtenant Thereto and the Project shall be equally applicable to and enforceable against the Permitted Transferee, as the said obligations are attached to and run with the Said Apartment And Properties Appurtenant Thereto for all intents and purposes; and
  - c) the Allottee providing to the Owner the full particulars of the Permitted Transferee together with the introduction of such Permitted Transferee to the designated representative of the Owner; and
  - d) in case of only letting out/parting with possession of the Said Apartment in favour any Permitted Transferee, the Purchaser providing to the Owner the full particulars of the rent and all other charges and benefits receivable by the Allottee in respect thereof (to the extent necessary, as determined by the Owner, for assessment of the liability for rates, taxes and other impositions payable by the Allottee),

each of the above to the satisfaction of the Owner.

- iv) The Allottee acknowledge(s), accept(s) and confirms that in terms of the presently prevailing Applicable Laws, upon the aforesaid assignment and/or transfer being permitted by the Owner, the benefit of the stamp duty and registration fee paid by the Allottee on this Agreement may not be available to the Permitted Transferee.

#### **34.18 Additional terms and covenants regarding waiver**

- i) No forbearance, indulgence, relaxation or inaction by the Owner at any time to require performance by the Allottee of any of the provisions, covenants or

undertakings of/in this Agreement shall in any manner be construed as a waiver by the Owner or in any manner affect, diminish or prejudice the right of the Owner to require performance of that provision, covenant or undertaking, and any waiver or acquiescence by the Owner of any breach of any of the provisions, covenants or undertakings of/in this Agreement, shall not be construed as a precedent or as a waiver or acquiescence of any future breach or of the rights hereunder or arising out of this Agreement, or acquiescence to or recognition of any other right under or arising out of this Agreement and/or a position other than as expressly stipulated in this Agreement. No waiver shall be effective unless made in writing and signed by an authorized representative of the Owner. Further, any such waiver shall not bind on the Owner to exercise such discretion in the case of any other Apartments Allottee(s).

- ii) 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.

#### **34.19 Additional terms and covenants regarding severability**

The Parties agree that if any term or provision of this Agreement is found to be invalid, illegal or otherwise unenforceable, the Parties shall thereupon discuss in good faith in order to agree on the terms of another provision in order to achieve as nearly as possible the same effect as that of the provision so found to be void or unenforceable, to satisfactorily record the intent of the Parties.

#### **34.20 Additional terms and covenants regarding notices**

All notices to be served hereunder by the Owner to the Allottee shall be deemed to have been served on the 4<sup>th</sup> (fourth) day from the date of delivery of the same to the postal authorities for dispatch by registered post/speed post with acknowledgement due at the last known address of the Allottee. Change in the address of the Allottee shall have to be notified in writing by the Allottee to the Owner at the registered office of the Owner, and acknowledgement obtained by the Allottee from the Owner for the noting of such change.

#### **34.21 Additional terms and covenants regarding joint Allottees**

Any document, paper etc. signed/executed/accepted/acknowledged by any one of the Persons comprising/constituting the Allottee shall be binding on each of the Persons comprising/constituting the Allottee. Every communication sent by the Owner shall be deemed to have been received by the Allottee. For the avoidance of doubt, it is hereby clarified that the Owner shall not be held liable in any manner whatsoever for any delay in receipt/non-receipt of any refund by the Allottee in accordance with the terms of this Agreement, for any reason, including but not limited to, any delay by the postal authorities or due to a change in the address of the Allottee (save as provided in this Agreement) or loss in transit.

### **34.22 Additional terms and covenants regarding governing law and jurisdiction**

This Agreement shall in all respects be governed by and construed and enforced in accordance with the Act and the Rules including other Applicable Laws for the time being in force. Only the courts at Calcutta/Kolkata shall have the sole and exclusive jurisdiction in respect of all matters arising out of and/or pertaining to and/or concerning this Agreement.

### **34.23 Terms and covenants regarding the Association**

- i) At such time as the Owner may deem fit and proper, the Association shall be formed.
- ii) It shall be incumbent upon the Allottee to become a member of the Association, and to pay/reimburse upon demand and at such time as designated by the Owner, the necessary subscription and/or membership charges, fees etc. together with the proportionate costs and expenses for/towards formation of the same, including and/or making the Allottee a member thereof and transfer of the Common Areas to the Association, including but not limited to stamp duty and registration costs, if any, each as ascertained by the Owner, and the Allottee hereby authorize(s) and empower(s) the Owner to take all necessary steps in respect thereof including execution and registration of all necessary forms, applications, deeds, documents etc., it being clarified that without becoming a member of the Association, the Allottee shall not be entitled to avail and/or use and/or enjoy any of the Common Areas.
- iii) The Allottee shall be bound to and undertake(s) and covenant(s) to abide by and comply with and adhere to all the Applicable Laws and all the rules, regulations, guidelines, etc. as may from time to time be framed and/or formulated and/or made applicable by the Owner and/or the Association including but not limited to the Management & Maintenance Rules.
- iv) Irrespective of the number of Persons owning an Apartment and/or irrespective of the same Person owning more than 1 (one) Apartment, each Apartment in/at the Project shall represent 1 (one) share, thus entitling the concerned Apartment Allottee to become a member of the Association. Further, in the event an Apartment is owned by more than 1 (one) Person and/or the Allottee is a minor, as the case may be, then the Person whose name first appears in the nomenclature of this Agreement as the Allottee and/or the parent/natural guardian of such minor shall only be entitled to become a member of the Association. A tenant, licensee, lessee etc. of the Allottee shall not be entitled to become a member of the Association.
- v) Simultaneously with the hand over of the Common Areas as also the rights, obligations, responsibilities liabilities etc. pertaining to the Common Purposes, it shall be incumbent upon the Allottee, along with the Apartment Allottees, to take over the affairs of the Association, and through such Association to take over, such of the rights and obligations of the Owner including those pertaining to the Common Purposes as the Owner deems fit and proper, whereupon only the Association shall be entitled thereto and obliged therefor including but not limited to the compliance, subsistence and renewal of all licenses, annual and/or other maintenance contracts, other contracts, insurances, guarantees, warranties, obligations etc. to various authorities including under various statutes and/or to various third parties, as may from time to time have been procured/obtained/entered into by the Owner, and the Association shall become liable and responsible for the proper safety and maintenance, management, upkeep and administration of the Project and all the fixtures, equipments and machineries provided by the Owner including the Common Areas, and the Owner shall on the date so designated by the

Owner immediately stand discharged and/or absolved of any liability, responsibility etc. in respect thereof, and the Association and each of the Apartment Allottees shall keep each of the Indemnified Parties safe, harmless and indemnified in respect thereof.

- vi) For the avoidance of any doubt it is clarified that if within the time period specified by the Owner in the notice issued by the Owner in this regard, the Association fails and/or neglects to take over from the Owner the hand over and/or transfer, as the case may be, of the Common Areas and/or the abovementioned rights, obligations, responsibilities, liabilities etc., then on the expiry of the aforesaid period, the Owner shall no longer be liable or responsible for the same, each of which liabilities, responsibilities, obligations etc. shall on and from such date be deemed to stand vested in all the Apartment Allottees including the Allottee and the Association. Further, as and when the Owner deems fit and proper, the Owner will also transfer in favour of/to the Association, in such a manner as the Owner may deem fit and proper, the residue, if any, then remaining of any of the applicable Deposits, if any, made by the Apartment Allottees without any interest thereon, after adjusting all amounts then remaining due and payable by any Apartment Allottee including the Allottee herein to the Owner, together with the Interest thereon, and the amounts thus transferred, shall be held by the Association, to the account of the co-Apartment Allottees and the Allottee, respectively for the purposes therefor.
- vii) The Allottee acknowledge(s) and accept(s) the right of the Owner to adjust from the Deposits any receivables and/or dues of/payable to the Owner towards the Project on any account whatsoever before the same is handed over to the Association. The Allottee further hereby agree(s) and undertake(s) to bear all the Taxes that may be levied on the Owner including but not limited to on account of making such adjustments and/or on account of the Owner transferring/handing over the Deposits (to the extent as stated hereinabove) to the Association.
- viii) The Allottee undertake(s) to make good and pay to the Owner any shortfalls as determined by the Owner, as also to make good and pay to the Association all such amounts that may be deducted/adjusted as aforesaid by the Owner as due and payable by the Allottee and/or to replenish any shortfalls caused on account of the Allottee within 7 (seven) days of a demand made on the Allottee in respect thereof without prejudice to the right of the Owner to adjust/claim such shortfalls etc. from any Deposits held by the Owner at the time of the handover stipulated hereinabove. Further, it is hereby agreed that the Owner shall not be liable in any manner whatsoever for any shortfall in any of the Deposits due to the above adjustments or otherwise after handover of the applicable Deposits by the Owner to the Association, and each of the Allottee, the Association and the Apartment Allottees shall jointly and/or severally keep the Indemnified Parties safe, harmless and indemnified in respect thereof.
- ix) The Allottee shall be bound and obliged to and accordingly covenant(s) and undertake(s) to deposit with the Association as interest free deposits, sinking funds, corpus deposits etc. amongst others, further various/several non-refundable amounts as also refundable amounts (subject to adjustments), each together with the applicable Taxes thereon, as may be determined by the Association at its sole and absolute discretion including in respect of the frequency, quantum and heads of each of such deposit(s), *inter alia* for any of the Common Purposes, the installation, on-going maintenance and management, upkeep, repairs, replacements and improvements of *inter alia* the electrical infrastructure, water connections, generator, all facilities serving the Said Premises and the Building, the Common Areas, the Common Expenses, each within such time period as may be stipulated by the Association.

- x) The Owner and/or the Association, as the case may be, shall be entitled to either hold or to invest the applicable Deposits and the other and/or the further deposits, if any, in such a manner and/or in such securities as the Owner and/or Association, as the case may be, may think fit and proper, provided that such payment towards the Deposits and the other deposits if any shall not absolve the Allottee of his/her/their/its obligation to pay the applicable Maintenance Charges and/or Common Expenses *inter alia* in terms of this Agreement, and further provided that the Allottee shall not be entitled to call upon/ request the Owner and/or the Association to adjust and/or appropriate any part or portion of any of such Deposit(s) and/or other deposits towards payment of the Maintenance Charges and/or the Common Expenses and/or any other outgoings payable by the Allottee including but not limited to the Outgoings.

#### **34.24 Terms and covenants regarding Force Majeure**

- i) The Owner shall not be regarded in breach of any of the terms and conditions herein contained and on the part of the Owner to be performed and observed if prevented by any one or more Force Majeure event(s).
- ii) In the event the Owner is prevented by/due to any Force Majeure event(s) (in respect whereof the certificate of the Architect shall be final, conclusive and binding on the Allottee) from completing the Said Apartment and/or the Project in the manner and within the time period stipulated in this Agreement, and/or as a result of any Force Majeure event(s) the Owner is constrained to suspend the fulfilment of its obligations for such time period as it may consider expedient, the Allottee shall neither have nor shall be entitled to have and/or set up, make, raise, initiate etc. any claim, demand, action etc. on/against the Owner under any circumstance and/or on any ground whatsoever or howsoever, and thus the time for the Owner to so complete the Said Apartment and the Project shall automatically stand extended by the period during which the concerned Force Majeure event(s) and its effects subsists/subsisted, and the Allottee further agree(s) and undertake(s) not to claim compensation of any nature whatsoever for the period of such suspension/extension.
- iii) The Allottee agree(s) and confirm(s) that in the event it becomes impossible for the Owner to implement the Project due to any Force Majeure event(s), then the Owner shall be entitled to terminate this Agreement by giving atleast a 30 (thirty) days notice to the Allottee prior to such termination, and thereafter the Owner will refund to the Allottee, the entire amount received till such date by the Owner from the Allottee (save those stated hereinafter), within 45 (forty five) days from the date of termination without any interest, compensation, damages etc. and after deduction of such Taxes and/or other tax/levy as may be applicable at such time, it being clarified that the Owner shall not be bound or obliged to return/refund any of the following amounts:
- (a) the TDS Interest, if any due, accrued and payable by the Allottee on any amount, as ascertained by the Owner; and
  - (b) the amounts deducted by the Allottee as TDS while making any payment to the Owner and/or to any of the Other Entities; and
  - (c) all amounts paid/payable by and/or recoverable from the Allottee towards any of the Taxes, but the Allottee shall be free to approach the authorities concerned for refund of such Taxes; and
  - (d) brokerage/commissions paid to any real estate agent/channel partner/ broker; and

- (e) the stipulated charges on account of dishonor, if any, of a banking negotiable instrument; and
- (f) the entirety/such part or portion of the Additional Costs together with the costs, expenses, charges, fees etc. incurred by the Owner towards executing/ implementing the Approved Changes; and
- (g) in the event of the Owner having carried out any of the Approved Changes in terms of this Agreement, the costs, charges, fees, expenses etc. which would have to be incurred by the Owner for re-instating the Said Apartment to its original state and condition; and
- (h) the entirety/such part or portion of the Deposits and Extra Charges as already expended by the Owner; and
- (i) administrative charges in terms of the then prevailing policy of the Owner in respect thereof; and
- (m) stamp duty, registration fees/charges, legal fees and charges and any other fees, charges etc. payable/to be paid/ paid on pertaining to this Agreement and the Deed of Cancellation; and

and the Owner shall stand released and discharged from all its obligations and liabilities under this Agreement.

- iv) Notwithstanding anything to the contrary stated elsewhere in this Agreement, immediately on the issuance by the Owner of the termination notice in terms/ pursuance of para/Clause 34.24(iii) hereinabove, the Allottee shall cease to have any manner of right or claim or demand under this Agreement and/or against the Owner (save and except receipt of refund, if any, subject to and/or in accordance with the provisions of this para/Clause 34.24) and the Owner shall stand released and discharged from all its obligations and liabilities under this Agreement, and though none created hereunder, for the avoidance of any doubt, it is confirmed and accepted by the Allottee herein that upon the occurrence of the aforesaid event, any manner of right or interest or claim or demand of the Allottee in respect of/to/over any part or portion of the Said Premises and/or the Project and/or the Said Apartment And Properties Appurtenant Thereto shall automatically and without the execution of any further act, deed or thing by the Allottee and/or the Owner, stand terminated, cancelled, revoked, surrendered, released, relinquished etc. in favour of the Owner for all intents and purposes,, and the Owner shall be entitled to deal with the same in such a manner as the Owner may deem fit and proper.
- v) The Allottee undertake(s) and confirm(s) that upon termination of this Agreement by any Party and/or due to any reason whatsoever or howsoever, the Owner shall not be liable or responsible for the stamp duty, registration fee and other expenses, charges etc. paid/incurred/expended by the Allottee *inter alia* pertaining to and/or in respect of the Said Apartment And Properties Appurtenant Thereto and/or the execution and/or registration of this Agreement.

#### **34.25 Terms and covenants regarding documentation and professional charges**

- i) The Advocate has prepared this Agreement and shall draw/draft all the papers and documents and instruments required for and/or in connection with the Said Premises and/or the Project and/or the Said Apartment And Properties Appurtenant Thereto including Conveyance Deed as also each of the deeds, documents etc. envisaged herein and/or as determined by the Owner from time to time, and each of

the deeds, documents etc. shall be in such form and shall contain such particulars and/or covenants and/or stipulations as the Owner may approve and/or deem fit and proper, and the Allottee covenant(s), undertake(s) and commit(s) to accept each of such drafts, deeds, documents, instruments etc. as shall be prepared by the Advocate without any dissent or demur bearing in mind the rights and interests of all the Apartment Allottees, provided that the Allottee shall be entitled to obtain independent advice which shall however not absolve the Allottee from his/her/their/its liability to make payment of the legal/professional fees and documentation charges payable by the Allottee to the Owner.

- ii) The Allottee shall from time to time, without raising any dissent, demur, cavil or protest on any ground whatsoever or howsoever, sign and execute all applications, papers, deeds, documents, maintenance agreements, electricity agreements, manuals, guidelines etc., each as per the formats prepared and/or caused to be prepared by the Advocate, and further the Allottee shall grant such authorities, render such co-operation and do, execute and perform all such acts, deeds and things, each as the Owner may deem fit and necessary, in the interest of the development proposed at the Said Premises.
- iii) It is hereby clarified and unequivocally understood by the Allottee that the Owner shall have no liability in the event the benefit of the stamp duty and registration fee paid by the Allottee on this Agreement is not extended to and/or made available to the Allottee at the time of execution and registration of the Conveyance Deed and/or for any variation in the amount of stamp duty and/or registration charges payable by the Allottee, including but not limited to those payable on/with respect to this Agreement, the Conveyance Deed and the Deed of Cancellation, each of which shall be solely borne by the Allottee.

#### **34.26 Terms and covenants regarding consents and approvals**

- i) Any consent or approval under this Agreement must be obtained by the Allottee before the act or event to which it applies/relates to is carried out or done, and the same shall be effective only after such consent or approval is given in writing by the Owner, and signed by a Person duly authorized by the Owner.
- ii) In the event where pursuant to this Agreement, the doing or the execution of any act, matter or thing by the Allottee is dependent upon the consent or approval of the Owner, such consent or approval may be given or withheld by the Owner at its sole and absolute discretion without the Owner being required to assign any reason therefor. However, if such consent or approval is granted, it may be given on such terms and conditions as the Owner may at its sole, absolute and unfettered discretion deem fit to impose, with the Owner having the unfettered and absolute right to withdraw and/or revoke at any point of time any such consent/approval if in the opinion of the Owner, the terms and conditions so stipulated by the Owner are not being and/or have not been complied with and/or adhered to by the Allottee to the satisfaction of the Owner, and such opinion/decision of the Owner shall be final and binding on the Allottee, which the Allottee accept(s) and consent(s) to, without any dissent or demur.
  - ii) The Allottee shall pay to the Owner, upon demand, any reasonable fees payable by the Owner to the consultant(s), if any, engaged by the Owner to examine or advise on the Allottee's application for consent or approval, and further any other expenses incurred by the Owner in connection with the Allottee's application for consent or approval.

### 34.27 Miscellaneous terms and covenants

- i) The name of the Project/Building shall be and shall always be “**The Crown**”, and the Allottee and/or the Association and/or the Apartment Allottees shall not and/or shall not be entitled to change the name and/or call upon the Owner to change the same under any circumstances.
- ii) None of the Indemnified Parties shall be liable for any direct, indirect, punitive, incidental or consequential loss, claim, demand, damage etc. suffered by the Allottee including but not limited to due to loss of documents, delay in postal services and/or any other eventualities beyond the control of the Indemnified Parties, and the Allottee agree(s) and undertake(s) to keep each of the Indemnified Parties safe, harmless and indemnified with regard thereto.
- iii) The Allottee agree(s) and accept(s) that irreparable damage would be caused to the Owner in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, and thus it is accordingly agreed that the Owner shall be entitled to specifically enforce the terms and provisions of this Agreement.
- iv) The Parties acknowledge and agree that the Parties have entered into this Agreement as independent entities and purely on principal to principal basis, and nothing stated herein shall be deemed to constitute an association of Persons and/or a partnership between/amongst any of the Parties, or be construed as a joint venture between/amongst the Parties. Each Party shall keep each of the other Party(ies) duly indemnified from and against the same.
- v) This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

### Schedule A

#### Part - I

#### (“Said Premises”)

All That the piece and parcel of land recorded as admeasuring 5 (five) bighas 2 (two) cottahs 9 (nine) chittacks and 19 (nineteen) sq.ft. more or less, but upon physical measurement found to admeasure 5 (five) bighas 1 (one) cottah 7 (seven) chittacks and 34 (thirty four) sq.ft. more or less, together with the structures standing thereon and/or the Project to developed thereon, situate, lying at and being Premises No. 12B, Beliaghata Road (also known as Beliaghata Main Road), Kolkata - 700 015, Police Station Entally, Post Office Tangra, within Ward No. 57 of The Kolkata Municipal Corporation, and butted and bounded in the following manner:-

**On the North** : Partly by Beliaghata Road, partly by portion of Premises No. 12A, Beliaghata Road and partly by portion of Premises No. 12, Beliaghata Road;

**On the East** : By Premises No. 12/1 Beliaghata Road;

**On the West** :Partly by portion of Premises No. 12A, Beliaghata Road, partly by portion of Premises No. 12 Beliaghata Road, partly by Premises No. 11/2, Beliaghata Road and partly by Premises No. 9, Beliaghata Road; and

**On the South** : By Premises No.8, Munshi Bazar.

**Or howsoever the same may be butted bounded known or numbered**

**Part - II**

**(“Said Apartment”)**

All That the Apartment No. \_\_\_\_ on the \_\_\_\_ floor of the Building being constructed on the Said Premises as a part of the Project, having a Carpet Area of \_\_\_\_ sq.ft. more or less, with the respective areas of the Balcony/Verandah and the Open Terrace, if any, being respectively \_\_\_\_ sq.ft. more or less and \_\_\_\_ sq.ft. more or less, thus aggregating to a Built-up Area of \_\_\_\_ sq.ft. more or less.

**Part - III**

**(“Car Parking Space”)**

All That the \_\_\_\_ (\_\_\_\_) number(s) of [*covered/open/stacked*] space(s) at the Building and/or the Said Premises, as earmarked, identified and designated by the Owner for the parking of private medium sized car(s) owned by the Allottee within such space.

**Schedule B**

[Floor plan of the Said Apartment]

**Schedule C**

**(“Payment Plan”)**

<b>Milestone</b>	<b>Percentage of the Total Price (%)</b>	<b>Amount (Rs.)</b>
		/-
		/-
		/-
		/-
		/-
		/-
		/-
		/-
		/-
		/-

**Schedule D**

**(“Apartment Specifications”)**

**Building-Specifications**

Foundation & Structure	: RCC Structure
Walls	: External Walls 8” : Internal Walls 5” & 3”

**Flooring**

Living/Dining & Bedroom	: Vitrified tiles
Balcony & Open Terrace	: Vitrified tiles/Tiles suitable for exterior application
Common Staircase	: Stone / Tiles as specified by the Architect
Common Passage / Corridor	: Vitrified Tiles as designed by the Architect / : interior designer

**Kitchen**

Floor	: Skid resistant / Anti skid Tiles
Counter	: Granite or similar
Wall Tiles	: Upto 2 ft. height from Counter Top
Sink	: Stainless steel sink

**Toilets**

Floor	: Skid resistant / Anti skid tiles
Wall-Dado	: Ceramic Tiles upto door height
CP Fittings	: Jaquar or similar make
Ceramic Fittings	: Jaquar, Kohler or similar make

**Doors**

Main Door	: Finished [Polish/Laminate] flush/Panel door with lock from Godrej or equivalent
All other doors	: Unfinished flush doors with metal latch

**Windows**

Anodized or powder coated aluminium windows with clear glazing

**Finishes**

Internal Finishes	: POP / Putty finish for all interior walls.
External finishes	: Painted finish as designed by the Architect
Electrical Wiring	: Concealed Copper wiring of Reputed make.
Switches	: Anchor or equivalent make
Balcony railing	: As advised by the Architect
Staircase railing	: As advised by the Architect

**Schedule E****(“Project Specifications”)**

1. Main Gate / Security Gate
2. Security Room

3. Visitors' parking spaces
4. Attractive façade as designed by the Architect
5. Storerooms, other rooms, utility rooms and public and servant toilets within the Project with ceramic tile flooring.
6. Designated driveways and pathways finished as designed by the Architect / landscape designer.
7. Landscaped areas within the Project as designed by the landscape designer.
8. Residents' activity centre, presently intended to comprise of a community hall, lounge, indoor games room, swimming pool, Lounge and gymnasium.
9. Emergency Power backup for Common Areas and Lift.

### **Schedule F**

#### **(“Common Areas”)**

1. The entire land comprised in the Said Premises save and except the Retained Areas.
2. The staircases, lifts, staircase and lift lobbies, fire escapes and common entrances and exits of the Building.
3. The common basements, terraces, parks, play areas, open and covered driveway areas and common storage spaces.
4. The premises for the lodging of persons employed for the management of the Said Premises and/or the Project including accommodation for watch and ward staffs or for the lodging of community service personnel.
5. Installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and treatment, and renewable energy.
6. The water tanks, pumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use.
7. Lift machine room, situate at a portion of the ultimate roof of the Building, as identified and designated by the Owner.
8. Electric transformer room with all equipments and facilities therein, situate at a portion of the ground floor of the Building, as identified and designated by the Owner.
9. Electric meter room situate at a portion of the ground floor of the Building, as identified and designated by the Owner.
10. Generator set, situate at a portion of the ground floor of the Building, as identified and designated by the Owner.
11. Tube well and underground and overhead water reservoirs.
12. Common plumbing installations.
14. Fire fighting pumps and fire fighting systems intended only for such of the areas and facilities as identified and designated by the Owner.
15. Plumbing, vertical stacks and shafts.

16. Feeder cable, transformers, LT switches, meters and individual electrical meters.
17. Drainage and sewage system.
18. Boundary wall and gate.
19. All community facilities provided in the Project comprising of a residents' activity centre, presently intended to comprise of a community hall, lounge, indoor games room, swimming pool and gymnasium, each with such facilities, utilities etc., as determined by the Owner at its sole and absolute discretion, to be situate at a portion of the 3<sup>rd</sup> (third) floor of the Building, as demarcated, identified and designated by the Owner.
20. All other portions of the Project as necessary or convenient for its maintenance, safety, etc. and in common use, each as identified by the Owner, but shall not include any area sanctioned and/or permitted for construction including under the Plan unless expressly authorized and/or agreed upon in writing by the Owner.

### **Schedule G**

#### *[Some Common Expenses]*

1. Repairing, rebuilding, repainting, improving as necessary and keeping the Said Premises, the Building, the Common Areas and the several facilities, infrastructure, utilities, etc. at the Said Premises and/or the Building and every exterior part thereof in good and substantial order and condition, and renewing and repairing etc. all worn out and/or damaged parts thereof.
2. As often as may be necessary in the opinion of the Owner and/or the Association and/or the Facility Management Entity, as the case may be, painting with quality paint and in a proper and workman like manner, all the wood, metal, stone and other work of/at the Said Premises, the Building and the Common Areas and the external surfaces of all the exterior doors etc. of the Building, and decorating and colouring all such parts of the Building and the Common Areas, as usually are or ought to be.
3. Maintaining/reinstating any boundary wall, hedge or fence.
4. Keeping the driveways, passages and pathways of the Said Premises in good repair, and clean, tidy and edged.
5. Cost of clearing, repairing, reinstating any drains and sewers.
6. Cost of operating and maintaining the various facilities/utilities comprising a part of the Common Areas.
7. Paying such workers as may be necessary in connection with the upkeep, management, maintenance, administration etc. of the Said Premises, the Building and the Common Areas.
8. Insuring against any risks.
9. Cleaning as necessary, the external walls and windows (not forming a part of any Apartment) in/at the Said Premises and/or the Building as may be necessary, as also the Common Areas, the passages, landings, staircases and all other common parts of the Building and the Said Premises as identified by the Owner and/or the Association and/or the Facility Management Entity, as the case may be.

10. Operating, maintaining, and if necessary, renewing from time to time, the lighting apparatus of the Said Premises, the Building and the Common Areas, and providing additional lighting apparatus thereat.
11. Operating, maintaining etc. the lift, generator and all facilities and utilities forming a part of the Common Areas including those identified by the Owner and/or the Association.
12. Providing and arranging for removal of rubbish.
13. Paying all the rates, taxes, commercial surcharge, levies duties, charges, assessments and outgoings whatsoever (whether central, state, or local) assessed, charged or imposed or payable presently and/or in the future, with retrospective effect or otherwise, in respect of the Said Premises and/or the Building and/or the Common Areas and/or any part thereof, excepting in so far as the same is the responsibility of an Apartment Allottee.
14. Abating any nuisance and executing such works as may be necessary for complying with any notice served by any competent authority in connection with the Said Premises and/or the Building and/or any part thereof so far as the same is not the liability of and/or attributable to an Apartment Allottee/the occupant/user of any Apartment.
15. Generally managing and maintaining and protecting the Said Premises, the Building and the Common Areas, and for such purpose employing any contractor and enforcing lawfully or attempting to enforce lawfully, the observance of the covenants on the part of the Apartment Allottees/the users/ occupants of any of the Apartments.
16. Engaging qualified accountant(s) for the purpose of auditing the accounts in respect of the Common Expenses, and certifying the total amount thereof for the period to which the accounts relate.
17. Complying with the requirements and directions of any competent authority and/or with the provisions of all statutes and regulations, orders and bye-laws made thereunder relating to the Said Premises and/or the Building and/or the Common Areas, excepting those which are the responsibility of an Apartment Allottee/the occupier/user of any Apartment/any of the Retained Areas' Owners & Occupiers.
18. The purchase, maintenance, insurance together with the applicable renewals and replacement of fire fighting appliances and other equipments, infrastructure etc. as from time to time, may be considered necessary by the Owner or the Facility Management Entity, as the case may be.
19. Administering the management of the staff and complying with all relevant regulations and orders thereunder, and employing, whenever necessary, suitable person(s) or firm(s) to deal with these matters and disengage them when required.
20. The purchase, maintenance together with the applicable renewals thereof as also the replacement of any other equipment and the provisions of any other service, which in the opinion of the Owner and/or the Association and/or the Facility Management Entity, as the case may be, it is reasonable to provide.
21. Litigation expenses that may have to be incurred for any common purpose and/or for in/the larger/greater interest of the Said Premises and/or the Building.

22. Charges, fees etc. of the Facility Management Entity.
23. Service charges of the Owner and/or the Association till the maintenance is handed over to the Facility Management Entity.
24. Such periodic amounts, as may be estimated by the Owner and/or the Association and/or the Facility Management Entity, as the case may be, whose decision shall be final and binding, and to provide for a reserve fund for items of expenditure including those referred to in this Schedule to be incurred or expected to be incurred at any time.
25. Such other costs, expenses etc. incidental to and/or ancillary to and/or related to/with any of the matters, items, issues etc. stated in this Schedule.

## **Schedule H**

### **Part - I**

#### **(“Deposits”)**

#### **Interest free refundable, adjustable and transferable deposits:**

1. Common Expenses security deposit - Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only).
2. Sinking fund/corpus deposit - Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only).
3. Security deposit on account of municipal rates and taxes in respect of the Said Apartment - Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only).

### **Part - II**

#### **(“Extra Charges”)**

1. Electricity infrastructure development and generator charges, which includes:
  - a) costs, charges and expenses for the transformer and cabling;
  - b) generator charges for providing the undernoted limited power back up:-
    - (i) \_\_\_\_\_KVA for a 2 bedroom Apartment
    - (ii) \_\_\_\_\_KVA for a 3 bedroom Apartment
    - (iii) \_\_\_\_\_KVA for a 4 bedroom Apartment
  - c) costs, charges and expenses for installation of the common electricity meter(s)
 

- Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only)
2. Individual CESC meter deposit and costs - at actuals.
3. Costs and charges for formation of the Association - Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only)
4. Legal and associated charges which includes the undernoted but excludes stamp duty, registration fees and miscellaneous costs and expenses associated with registration, as applicable, on the date of registration and as advised by the Owner:

- a) documentation charges
  - b) charges for drafting this Agreement and the Conveyance Deed
  - c) charges for carrying out the apportionment and separation in the records of the Kolkata Municipal Corporation in respect of the municipal rates and taxes payable by the Allottee  
- Rs. \_\_\_\_/- (Rupees \_\_\_\_\_ only)
5. All betterment fees, development charges etc. taxes and other levies, charges etc. imposed by the government and/or by any other Governmental Authority(ies) and/or by any statutory/quasi-statutory authorities/bodies in respect of the Said Premises and/or the Project and/or the Building and/or the Said Apartment And Properties Appurtenant Thereto, which shall be payable proportionately in respect of the Said Premises and the Project and the Building, and wholly in respect of the Said Apartment and the Car Parking Space, if any.
  6. Proportionate share of any additional facility or amenity provided for in/at the Building and/or the Said Premises for the benefit of all the Apartment Allottees including the Allottee, as may be determined entirely and at the sole and absolute discretion of the Owner, and the Allottee hereby consent(s) to the same.
  7. Charges, costs and expenses for: (i) carrying out any additional work in or at or relating to the Said Apartment; and/or (ii) providing any additional facilities and/or utilities at the Said Apartment, each as requested in writing by the Allottee and accepted by the Owner.
  8. Charges levied under Rule 25 of The Kolkata Municipal Corporation Act, 1980, and/or any equivalent statutory provision - as may be determined by the Owner.

The amounts to be determined at “actuals” shall be such as shall be certified by the Owner, and the Allottee agree(s) to accept the same.

### **Schedule I**

#### **(“Booking Amount”)**

A sum of Rs. \_\_\_\_/- (Rupees \_\_\_\_\_ only) vide Cheque No. \_\_\_\_\_, dated \_\_\_\_\_, drawn on \_\_\_\_\_ Bank, \_\_\_\_\_ Branch, \_\_\_\_\_.

### **Schedule J**

#### **(“Devolution of Title”)**

1. One Sasi Bhushan Sur alias Soshi Bhusan Sur, son of Late Peary Mohan Sur, was the full and absolute owner of All That the piece and parcel of land admeasuring 5 (five) bighas 18 (eighteen) cottahs 13 (thirteen) chittacks and 19 (nineteen) sq.ft. more or less together with various structures standing thereon, situate, lying at and being the western portion of Premises No. 12, Beliaghata Road, comprised in/ appertaining to portions of Holding Nos. 9 and 10, Sub-Division 17, Division III, Mouza Sealdah, Dihi Panchannagram, Police Station Entally, District 24 Parganas.
2. While annual revenue was payable to the Collectorate of 24 Parganas in respect of a portion of the aforesaid property admeasuring 2 (two) bighas 14 (fourteen)

- cottahs 2 (two) chittacks and 17 (seventeen) sq.ft. more or less together with various structures standing thereon, the remaining portion of the said property admeasuring 3 (three) bighas 4 (four) cottahs 11 (eleven) chittacks and 2 (two) sq.ft. more or less together with various structures standing thereon was revenue free.
3. Subsequently, the entirety of the aforesaid property admeasuring 5 (five) bighas 18 (eighteen) cottahs 13 (thirteen) chittacks and 19 (nineteen) sq.ft. more or less together with various structures standing thereon, comprising the western portion of Premises No. 12, Beliaghata Road, was separated from the other portions thereof, and was assigned the same premises number i.e. Premises No. 12, Beliaghata Road, and further the Holding Nos. in which the said property was comprised, was also changed to Holding Nos. 7 and 8 (“**Larger Property**”).
  4. By an Indenture dated 8<sup>th</sup> May, 1907, registered with the Sub-Registrar, Sealdah, in Book No. I, Volume No. 18, Pages 143 to 150, Being No. 1535 for the year 1907, the said Sasi Bhushan Sur alias Soshi Bhusan Sur, therein described as the Vendor, in lieu of valuable consideration, sold, transferred and conveyed in favour of The Calcutta Tramways Company Limited, therein described as the Company, All That the entirety of the Larger Property.
  5. By an Indenture dated 24<sup>th</sup> September, 1908, registered with the Sub-Registrar, Sealdah, in Book No. I, Volume No. 39, Pages 38 to 49, Being No. 3126 for the year 1908, the said The Calcutta Tramways Company Limited, therein described as the Company, in lieu of valuable consideration, sold, transferred and conveyed in favour of Moulvi Badruddin Haider Khan Bahadur, Mutawali of the Wakf Estate of Moonshi Boo Ali, therein described as the Purchaser, All That the entirety of the Larger Property.
  6. Subsequently, on or about 21<sup>st</sup> January, 1909, the said Moulvi Badruddin Haider Khan Bahadur alias Khan Bahadur Badruddin Haider filed an application before the District Judge, 24 Parganas, numbered as Miscellaneous Judicial Case No. 5 of 1909 (Wakf), praying for permission to sell the Larger Property to one Babu Gopal Chandra Gupta, and by an order dated 1<sup>st</sup> March, 1909, amended by another order of 24<sup>th</sup> June, 1909, the said Moulvi Badruddin Haider Khan Bahadur was granted permission by the said Court to sell the Larger Property.
  7. By an Indenture dated 5<sup>th</sup> July, 1909, registered with the Registrar, Calcutta, in Book No. I, Volume No. 45, Pages 113 to 118, Being No. 1692 for the year 1909, the said Moulvi Badruddin Haider Khan Bahadur, therein described as the Vendor, in lieu of valuable consideration, sold, transferred and conveyed in favour of Gopal Chandra Gooptu, son of Late Dwarkanath Gooptu, therein described as the Purchaser, All That the entirety of the Larger Property.
  8. Thereafter, the Holding Nos. in which the Larger Property was comprised, was changed from Holding Nos. 7 and 8 to Holding Nos. 7, 7A and 8.
  9. By and under a Redemption Certificate dated 29<sup>th</sup> November, 1918, issued by the Collector of 24 Parganas in the name of and on behalf of the Secretary of State for India in Council, in consideration of the sum paid by the said Gopal Chandra Gupta as recorded therein, the said Gopal Chandra Gupta and his heirs and assigns as also the abovementioned portion of the Larger Land in respect whereof annual revenue was payable to the Collectorate of 24 Parganas, were forever released and discharged from payment of the said revenue/rent, and thus the entirety of the Larger Property became revenue free land.
  10. The said Gopal Chandra Gooptu alias Gopal Chandra Gupta died on 10<sup>th</sup> May, 1919 after publishing his last will and testament dated 10<sup>th</sup> February, 1919,

- whereunder the said Gopal Chandra Gooptu *inter alia* bequeathed in favour of his son Fanindra Nath Gooptu alias Phanindra Nath Gooptu, the Larger Property and the business being carried therefrom under the name and style of F. N. Gooptu & Co..
11. The executor(s) named in the said last will and testament of the said Gopal Chandra Gooptu applied for probate thereof before the Hon'ble High Court of Judicature at Fort William in Bengal, in respect whereof the probate was duly granted on 29<sup>th</sup> March, 1922, as recorded in the probate dated 24<sup>th</sup> April, 1922.
  12. The said Fanindra Nath Gooptu died intestate on 18<sup>th</sup> March, 1935, and ultimately his 4 (four) sons, namely Rabi Prosad Gooptu, Rama Prasad Gooptu, Hari Prasad Gooptu and Amar Prosad Gooptu, became entitled to the entirety of the Larger Property.
  13. The said Hari Prasad Gooptu died on 5<sup>th</sup> August, 1957, after making and publishing his last will and testament dated 2<sup>nd</sup> August, 1957, whereunder the said Hari Prasad Gooptu *inter alia* bequeathed his undivided 1/4<sup>th</sup> (one-fourth) share and/or interest in the Larger Property in favour of his 3 (three) sons, namely Dilip Kumar Gooptu, Ajoy Kumar Gooptu and Ajit Kumar Gooptu, and further created a charge on his estate for the payment of maintenance and housing allowance to his wife, Smt. Annapurna Debi, and upon probate of the said will being applied for, such probate was duly granted by the concerned competent court on 27<sup>th</sup> August, 1958.
  14. The said Rama Prasad Gooptu died on 15<sup>th</sup> July, 1959, after making and publishing his last will and testament dated 4<sup>th</sup> March, 1958, whereunder the said Rama Prasad Gooptu *inter alia* bequeathed his undivided 1/4<sup>th</sup> (one-fourth) share and/or interest in the Larger Property in favour of his 6 (six) sons, namely Arun Kumar Gooptu, Tarun Kumar Gooptu, Amal Kumar Gooptu, Pronab Kumar Gooptu, Alok Kumar Gooptu and Jayanta Kumar Gooptu, subject to payment of certain legacies and annuities out of his estate to the persons named in his said will, and upon probate of the said last will being applied for, the same was duly granted on 14<sup>th</sup> May, 1960.
  15. By a Deed of Release dated 16<sup>th</sup> August, 1966, registered with the Sub-Registrar Sealdah, in Book No. I, Volume No. 40, Pages 50 to 61, Being No. 1578 for the year 1966, the said Annapurna Debi, wife of the said Late Hari Prasad Gooptu, released all her claims to/over/in respect of the Larger Property.
  16. By several registered Deeds of Conveyances, all dated 16<sup>th</sup> August, 1966, the said Rabi Prosad Gooptu, Amar Prosad Gooptu, Dilip Kumar Gooptu, Ajoy Kumar Gooptu, Ajit Kumar Gooptu, Arun Kumar Gooptu, Tarun Kumar Gooptu, Amal Kumar Gooptu, Pronab Kumar Gooptu, Alok Kumar Gooptu and Jayanta Kumar Gooptu (collectively, the "**Gooptu Family**"), in lieu of valuable consideration, sold, transferred and conveyed in favour of Kishori Lal Agarwalla and others All That the divided and demarcated western portion of the Larger Property admeasuring 16 (sixteen) cottahs 4 (four) chittacks more or less together with one partly two and partly three storied building standing thereon on the terms and conditions contained and recorded in the said deeds.
  17. After the aforesaid sale, the abovementioned members of the Gooptu Family continued to remain the full and absolute owner of the remaining/balance portion of the Larger Property admeasuring 5 (five) bighas 2 (two) cottahs 9 (nine) chittacks and 19 (nineteen) sq.ft. more or less together with the structures standing thereon ("**Balance Remaining Property**"), with each of them being respectively entitled to their respective undivided shares and/or interests therein.

18. Subsequently, by the undernoted several registered Deeds of Release, all dated 27<sup>th</sup> September, 1968, each of the several persons entitled to payment of legacies and annuities from out of the estate of the said Rama Prasad Gooptu (as detailed hereinbelow), respectively released their respective charge on the undivided 1/4<sup>th</sup> (one-fourth) share and/or interest of the said Rama Prasad Gooptu in the Larger Property and/or the Balance Remaining Property for payment of such annuities, in favour of the executors of the last will and testament of the said Rama Prasad Gooptu, namely the said Arun Kumar Gooptu, Tarun Kumar Gooptu and Amal Kumar Gooptu:

Sl. No.	Details of the Releasers	Relation with Rama Prasad Gooptu	Deed details				
			Registering Authority	Book No.	Volume No.	Pages	Being No. with year
1.	Arati Sen, wife of Indrajit Sen	Daughter	Sub-Registrar Sealdah	I	44	60 to 63	1840 for the year 1968
2.	Sreemati Jyostnamoyee Debi alias Jyotsnamoyee Debi, wife of Late Sailendra Nath Roy	Sister-in-law (sister of the wife of Rama Prasad Gooptu)	Sub-Registrar Sealdah	I	40	88 to 91	1845 for the year 1968
3.	Jayanti Sen, wife of Dr. Somnath Sen	Daughter	Registrar of Assurances, Calcutta	I	161	105 to 108	4869 for the year 1968
4.	Pronati Barat, wife of Hiranmoy Barat	Daughter	Registrar of Assurances, Calcutta	I	161	109 to 112	4870 for the year 1968
5.	Jayasree Barat, wife of Manik Chandra Barat	Daughter	Registrar of Assurances, Calcutta	I	174	91 to 94	4871 for the year 1968
6.	Sreemati Avamoyee Debi alias Abhamoyee Debi, wife of Rama Prasad	Wife	Registrar of Assurances, Calcutta	I	174	95 to 98	4872 for the year 1968

Gooptu						
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19. In pursuance of an agreement dated 16<sup>th</sup> March, 1968, by the undernoted several registered Deeds of Conveyances, all dated 27<sup>th</sup> September, 1968, each of the several members of the Gooptu Family, in lieu of valuable consideration, respectively sold, transferred and conveyed in favour of Purabi Guha, wife of Late Harilal Guha, the respective undivided share and/or interest held by each of them in the Balance Remaining Property, and thus the entirety of the Balance Remaining Property together with the respective right, title and interest held by and/or of each of the members comprising the Gooptu Family to/over/in respect of the entirety of the Balance Remaining Property, absolutely and forever, stood transferred and conveyed in favour of the said Purabi Guha:

Sl. No.	Name of the Gooptu Family member, described in the deed as the Vendor	Deed Details				
		Registering Authority	Book No.	Volume No.	Pages	Deed No. with year
1.	Rabi Prosad Gooptu	Registrar of Assurances, Calcutta	I	191	65 to 74	5569 for the year 1968
2.	Amar Prosad Gooptu	Registrar of Assurances, Calcutta	I	174	81 to 90	4865 for the year 1968
3.	Dilip Kumar Gooptu	Sub-Registrar, Sealdah	I	41	51 to 60	1821 for the year 1968
4.	Ajoy Kumar Gooptu	Sub-Registrar, Sealdah	I	46	181 to 190	2046 for the year 1968
5.	Ajit Kumar Gooptu	Sub-Registrar, Sealdah	I	39	267 to 276	1822 for the year 1968
6.	Arun Kumar Gooptu	Registrar of Assurances, Calcutta	I	166	72 to 81	4868 for the year 1968
7.	Tarun Kumar Gooptu	Sub-Registrar, Sealdah	I	44	64 to 73	1843 for the year 1968
6.	Amal Kumar Gooptu	Sub-Registrar,	I	41	71 to 80	1842 for the year

		Sealdah				1968
7.	Pronab Kumar Gooptu	Sub-Registrar, Sealdah	I	45	1 to 10	1846 for the year 1968
8.	Alok Kumar Gooptu	Sub-Registrar, Sealdah	I	34	248 to 257	1841 for the year 1968
9.	Jayanta Kumar Gooptu	Sub-Registrar, Sealdah	I	34	258 to 267	1844 for the year 1968

20. By and under a Deed of Indemnity dated 27<sup>th</sup> September, 1968, registered with the Registrar of Assurances, Calcutta, in Book No. I, Volume No. 177, Pages 253 to 258, Being No. 5424 for the year 1968, each of the members of the Gooptu Family covenanted to keep the said Purabi Guha and her successors and assigns as also the undivided shares and/or interest in the Balance Remaining Property sold and transferred by each of the said members of the Gooptu Family in favour of the said Purabi Guha by and under the deeds of conveyance recited hereinabove, indemnified from and against all claims and demands made by any person in respect of portion of the Balance Remaining Property comprised in/appertaining to Holding Nos. 7 and 8, Sub-Division 17, Division III, Panchannagram, and also from and against all actions, proceedings and demands whatever by any person claiming through or under any of the said members of the Gooptu Family and from all actions demands and proceedings in respect of the said undivided shares in the Balance Remaining Property and from all costs and expenses whatsoever in connection with any of the matters aforesaid.
21. By another Deed of Indemnity dated 27<sup>th</sup> September, 1968, registered with the Sub-Registrar Sealdah, in Book No. I, Volume No. 43, Pages 161 to 164, Being No. 2047 for the year 1968, the said Dilip Kumar Gooptu, Ajoy Kumar Gooptu and Ajit Kumar Gooptu jointly and severally covenanted to keep the said Purabi Guha and her successors and assigns as also the undivided shares and/or interest in the Balance Remaining Property sold and transferred by each of the said Dilip Kumar Gooptu, Ajoy Kumar Gooptu and Ajit Kumar Gooptu in favour of the said Purabi Guha by and under the deeds of conveyance recited hereinabove, indemnified from and against all claims of the government against the said Dilip Kumar Gooptu, Ajoy Kumar Gooptu and Ajit Kumar Gooptu by way of income tax and/or other taxes including estate duty if any payable by the said parties and also from all actions and proceedings in connection with any of the matters aforesaid.
22. By another Deed of Indemnity dated 27<sup>th</sup> September, 1968, registered with the Sub-Registrar Sealdah, in Book No. I, Volume No. 42, Pages 91 to 94, Being No. 1847 for the year 1968, the said Arun Kumar Gooptu, Tarun Kumar Gooptu, Amal Kumar Gooptu, Pronab Kumar Gooptu, Alok Kumar Gooptu and Jayanta Kumar Gooptu jointly and severally covenanted to keep the said Purabi Guha and her successors and assigns as also the undivided shares and/or interest in the Balance Remaining Property sold and transferred by each of the Arun Kumar Gooptu, Tarun Kumar Gooptu, Amal Kumar Gooptu, Pronab Kumar Gooptu, Alok Kumar Gooptu and Jayanta Kumar Gooptu in favour of the said Purabi

- Guha by and under the deeds of conveyance recited hereinabove, indemnified from and against all claims of the government for the unpaid amount of the estate duty payable in respect of the estate of their father, the said Rama Prasad Gooptu, and all unpaid claims, if any, of the legatees under the said last will and testament of the said Rama Prasad Gooptu as also all claims of the government against the said Arun Kumar Gooptu, Tarun Kumar Gooptu, Amal Kumar Gooptu, Pronab Kumar Gooptu, Alok Kumar Gooptu and Jayanta Kumar Gooptu by way of income tax and other taxes payable by each of the said parties and also from all actions and proceedings in connection with any of the matters aforesaid and from costs and expenses whatsoever in connection therewith.
23. While each of the abovementioned release deeds, deeds of conveyances and deeds of indemnity record the factum of each of the members of the Gooptu Family being jointly and/or collectively the absolute owners of the entirety of the Balance Remaining Property, each of the said release deeds, deeds of conveyances and deeds of indemnity inadvertently and as a typographical error record the area of the Balance Remaining Property as admeasuring 4 (four) bighas 6 (six) cottahs and/or 4 (four) cottahs, as the case may be, in place and stead of the correct measurement thereof, being 5 (five) bighas 2 (two) cottahs 9 (nine) chittacks and 19 (nineteen) sq.ft. more or less.
  24. The Balance Remaining Portion admeasuring 5 (five) bighas 2 (two) cottahs 9 (nine) chittacks and 19 (nineteen) sq.ft. more or less together with the structures standing thereon was renumbered as Premises No. 12B, Beliaghata Road, Kolkata 700 015, being the Said Premises herein and more fully and particularly described in **Part - I of Schedule A** hereinabove written.
  25. By an Indenture of Conveyance dated 14<sup>th</sup> January, 2008, registered with the Additional Registrar of Assurances - I, Kolkata, in Book No. I, Volume No. 21, Pages 4045 to 4070, Being No. 08659 for the year 2014, the said Purabi Guha, therein described as the Vendor, with the consent and concurrence of Prabir Guha and Subir Guha, both sons of Late Harilal Guha and Ujjaini Guha, wife of Late Ranabir Guha, therein collectively described as the Confirming Parties, in lieu of valuable consideration, sold, transferred and conveyed in favour of the Owner herein, then known as Akshay Vinimay Private Limited, and therein described as the Purchaser, the entirety of the Said Premises subject to the occupants then occupying certain identified parts and portions of the Said Premises.
  26. Thereafter, the Owner, then known as Akshay Vinimay Private Limited, mutated its name as full and absolute owner of the Said Premises in the records of the Kolkata Municipal Corporation vide Assessee No. 11-057-01-0005-1.
  27. On 31<sup>st</sup> March, 2016, Akshay Vinimay Private Limited stood converted into a limited liability partnership under the provisions of the Limited Liability Partnership Act, 2008, and Akshay Vinimay Private Limited thus came to be known as Akshay Vinimay LLP, whereupon the necessary certificate of registration on conversion was duly issued by the Registrar of Companies, West Bengal.
  28. Upon the conversion as stated hereinabove, in terms of and/or in pursuance of the provisions of the Limited Liability Partnership Act, 2008, all the tangible (moveable and immovable) and intangible property vested in and/or belonging to Akshay Vinimay Private Limited together with all the assets, interests, rights, privileges, liabilities and obligations relating to Akshay Vinimay Private Limited and the whole of the undertaking of Akshay Vinimay Private Limited which included the Said Premises, stood transferred and vested in Akshay Vinimay LLP, the Owner herein, and accordingly, the name of Akshay Vinimay LLP was duly mutated in the records of the Kolkata Municipal Corporation as the full and

absolute owner of the Said Premises under the abovementioned Assessee No. 11-057-01-0005-1.

29. The Owner has since caused each of the occupants who were as on 14<sup>th</sup> January, 2008 occupying certain identified parts and portions of the Said Premises, to be evicted, rendering the entirety of the Said Premises free from such encumbrances.

**In Witness Whereof** each of the Parties hereto have hereunto set and subscribed their respective hands and seals the day month and year first above written.

**Executed and Delivered** by the **Owner** at  
Kolkata in the presence of:

**Executed and Delivered** by the **Allottee** at  
Kolkata in the presence of:

The common seal of the Allottee has been affixed hereunto pursuant to a resolution passed by its [*Board of Directors/Designated Partners*] on \_\_\_\_\_.