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पश्चिम बंगाल पश्चिम बंगाल WEST BENGAL

V/C 1887/16
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NO-114002/16
TV-386599721

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

[Signature]
Assistant Registrar
of Assurances-1, Kolkata

11 9 AUG 2018

THIS AGREEMENT made this 12th day of August, Two Thousand and Sixteen **BETWEEN SANJAY BHUSHAN DUTTA**, son of the Late Indra Mohan Dutta, having **PAN ADIPD6425F**, residing at Premises No.98, Rajdanga Gold Park, Flat No.K-1, Ashwin, Neelachal Abasan, Post Office-East Kolkata Township (sub-office), Police Station-Kasba, Kolkata-700 107, hereinafter referred to as the **OWNER** (which expression shall unless excluded by or repugnant to the context be deemed to mean and include his heirs, executors, administrators, legal representatives and assigns) of the **ONE PART AND VEE DEE REALTORS PRIVATE LIMITED**, a company incorporated under the

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Companies Act, 1956, having **CIN U70101WB2007PTC112989**, having **PAN AADCV1781B**, having its registered office at- Room No.38, 6th Floor, Poddar Court, 18, Rabindra Sarani, Post Office-Bowbazar, Police Station-Bowbazar, Kolkata-700 001, represented through its Director Mr. Sekharendu Dutta, son of the Late Niranjana Dutta, having **DIN 00657059**, having **PAN AADCV1781B**, residing at BC-199, Salt Lake City, Sector-I, Police Station-Bidhannagar, Post Office-Bidhannagar, Kolkata-700 064, hereinafter referred to as the **DEVELOPER** (which expression shall unless excluded by or repugnant to the context be deemed to mean and include its successor or successors in interest and assigns) of the **OTHER PART**:

WHEREAS:

A. One Atul Krishna Dutt was seized and possessed of and/or otherwise well and sufficiently entitled to All that the piece or parcel of railway relinquished revenue redeemed collectorate land containing an area of 1 Bigha 8 Cottahs 7 Chittacks and 33 Sq.ft. be the same or a little more or less together with one single storied brick-built dwelling house erected thereon or on the part thereof lying and situate at Mouza Bondel, Dihi Panchannagram, Grand Division-V, Holding No.485, being Premises No.19, Bediadanga 1st Lane within the then Tollygunge Municipality in the district of the then 24 Parganas (herein after referred to as the **said larger premises**).

B. By a Deed of Conveyance dated the 20th day of May, 1947 made between the said Atul Krishna Dutta therein referred to as the Vendor of the One Part and one Punyabant Singh Bothra and Benoybant Singh Bothra therein jointly referred to as the Purchasers of the Other Part and registered with the Sub-Registrar at Alipore in Book No.I, Volume No.28, Pages 271 to 276, Being No.1541 for the year 1947 the Vendor therein at and for the consideration mentioned therein granted transferred conveyed assigned and assured unto and in favour of the Purchasers therein All that the said larger premises more fully and particularly described in the Schedule there under written.

C. Tollygunge Municipality was thereafter merged with the then Corporation of Calcutta.

D. Subsequently the said Premises No.19, Bediadanga 1st Lane was renumbered as Premises No.13, Bediadanga, 1st Lane, the then Calcutta.

E. By another Deed of Conveyance dated the 16th day of September, 1958 made between the said Benoybant Singh Bothra therein referred to as the Vendor of the One Part and one Smt. Magan Kumari Bothra, wife of the said Punyabant Singh Bothra therein referred to as the Purchaser of the Other Part and registered with the

Sub-Registrar Alipore in Book No.I, Volume No.131, Pages 213 to 222, Being No.8012 for the year 1958 the Vendor therein at and for the consideration mentioned therein granted transferred conveyed assigned and assured unto and in favour of the Purchaser therein All that his undivided half share in the said larger premises more fully and particularly described in the schedule there under written.

F. Thus the said Smt. Magan Kumari Bothra and Punyabant Singh Bothra became jointly seized and possessed of and/or otherwise well and sufficiently entitled to All that the said larger premises each having undivided half share therein.

G. By another Indenture of Conveyance dated the 14th day of August, 1974 made between the said Smt. Magan Kumari Bothra, therein referred to as the Vendor of the First Part, said Punyabant Singh Bhotra therein referred to as the Confirming Party of the Second Part and one Nil Ratan Dutta, Nemai Ratan Dutta and Netai Ratan Dutta therein jointly referred to as the Purchasers of the Third Part and registered with the office of the Registrar of Assurances, Calcutta in Book No.I, Volume No.202, Pages 286 to 293, Being No.4998 for the year 1974 the Vendor therein at and for the consideration mentioned therein granted transferred conveyed assigned and assured unto and in favour of the Purchasers therein All that her undivided half share in the demarcated eastern portion of the said larger premises containing an area of 21 Cottahs 11 Chittacks and 37 Sq.ft. be the same a little more or less more fully and particularly described in the schedule there under written.

H. By another Deed of Conveyance dated the 14th day of August, 1974 made between the said Punyabant Singh Bhotra therein referred to as the Vendor of the One Part and the said Nilratan Dutta, Nemai Ratan Dutta and Netai Ratan Dutta therein jointly referred to as the Purchasers of the Other Part and registered with the Registrar of Assurances, Calcutta in Book No.I, Volume No.202, Pages 274 to 284, Being No.4999 for the year 1974 the Vendor therein at and for the consideration mentioned therein granted transferred conveyed assigned and assured unto and in favour of the Purchasers therein All that his undivided half share in the demarcated eastern portion of the said larger premises containing an area of 21 Cottahs 11 Chittacks and 37 Sq.ft. be the same a little more or less more fully and particularly described in the schedule there under written.

I. Thus the said Nilratan Dutta, Nemai Ratan Dutta and Netai Ratan Dutta became jointly seized and possessed of and/or otherwise well and sufficiently entitled to All that the said piece and parcel of land containing an area of 21 Cottahs 11 Chittack and 37 Sq.ft. be the same or a little more or less being the eastern part of Premises No. 13, Bediadanga 1st Lane and they duly mutated their names in the

assessment records of the then Corporation of Calcutta and the same was segregated from the said larger premises and was renumbered as Premises No.24C, Bediadanga 2nd Lane, Kolkata-700 039 (herein after referred to as the **said new premises**).

J. The said Smt. Magan Kumari Bothra and Punyabant Singh Bothra, after disposing off the major portion of the said larger premises as aforesaid, mutually decided to demarcate and divide the remaining portion of the said larger premises in equal share.

K. Accordingly the said Smt. Magan Kumari Bothra became seized and possessed of All that the demarcated piece or parcel of land containing an area of 3 Cottahs 10 Chittacks 9 Sq.ft. be the same or a little more or less being Lot No.B and said Punyabant Singh Bothra became seized and possessed of the other portion being marked as Lot A.

L. The said Punyabant Singh Bothra died on 22nd December, 1974 after making and publishing his Last Will and Testament dated the 31st January, 1961 whereby and where under he-

i) appointed his wife said Smt. Magan Kumari Bothra as the Executrix and his sons Sushil Kumar Bothra and Prasanta Kumar Bothra as the joint Executors to the said Will and Testament;

ii) gave devised and bequeathed unto and in favour of his said widow and two sons all that his undivided share in the said remaining portion of the said larger premises.

M. Upon the death of the said Punyabant Singh Bothra the Executors and Executrix of his Will had duly applied to the District Delegate, Alipore for grant of Probate of the said Will and the same was numbered as Probate Case No.164 of 1975(P).

N. Sometime in March, 1976 one Sanjoy Bhusan Dutta filed a suit in the Hon'ble High Court at Calcutta being Suit No.109 of 1976 inter alia praying for a declaration that he was entitled to retain possession of the portion of the said Premises No.13, Bediadanga 1st Lane then divided into two plots being Lot "A" and Lot "B" and for further declaration that the defendants viz. said Sm. Magan Kumari Bothra, Sushil Kumar Bothra and Prasanta Kumar Bothra were not entitled to interfere with his possession in respect of the said lots of land and for other reliefs.

O. In the said suit a Terms of Settlement was filed on 10th April, 1976 and the Hon'ble High Court was pleased pass the Decree on the basis of such terms of settlement and it was decreed that the

defendants would arrange for sale of both the Lots "A" and "B" of premises No.13, Bediadanga 1st Lane to the plaintiff Sanjoy Bhusan Dutta at or for the consideration as agreed upon.

P. Pursuant to the said compromise and during the pendency of the said Probate proceeding, by a Deed of Conveyance dated the 24th day of April, 1976 made between the said Sm. Magan Kumari Devi Bothra therein referred to as the Vendor of the First Part, the said Sm. Magan Kumari Devi Bothra, Sushil Kumar Bothra and Prasanta Kumar Bothra, therein jointly referred to as the First Confirming Parties of the Second Part, Rajula Surena and others therein jointly referred to as the Second Confirming Parties of the Third Part, Ashok Kumar Bothra and others therein jointly referred to as the Third Confirming Parties of the Fourth Part and the said Sanjay Bhusan Dutta therein referred to as the Purchaser of the Fifth Part and registered with the Registrar of Assurances Calcutta in Book No.I, Volume No.127, Pages 130 to 142, Being No.2683 for the year 1976, the said Sm. Magan Kumari Devi Bothra at and for the consideration mentioned therein and with the consent and concurrence of the Confirming Parties therein granted transferred conveyed assigned and assured unto and in favour of the said Sanjoy Bhusan Dutta All that the demarcated piece or parcel of land containing an area of 3 Cottahs 10 Chittacks 9 Sq.ft. be the same or a little more or less being the demarcated Plot of land marked as Lot No.B out of the remaining portion of the said premises No.13, Bediadanga 1st Lane more fully and particularly described in the Schedule there under written.

Q. By another Deed of Conveyance dated the 14th day of August, 1976 made between the Executors to the Estate of Punyabant Singh Bothra therein referred to as the Executors of the First Part, the Beneficiaries to the Will and the sole heirs and legal representatives of Punyabant Singh Bothra therein jointly referred to as the Confirming Parties of the Second Part and the said Sanjoy Bhusan Dutta therein referred to as the Purchaser of the Third Part and registered with the Registrar of Assurances, Calcutta in Book No.I, Volume No.145, Pages 184 to 195, Being No.3180 for the year 1976 the Executors therein at and for the consideration mentioned therein granted transferred conveyed assigned and assured unto and in favour of the Purchaser therein All that the demarcated piece or parcel of land containing an area of 3 Cottahs 10 Chittacks 35 Sq.ft. be the same or a little more or less being the demarcated Plot of land marked as Lot No. A out of the remaining portion of the said premises No.13, Bediadanga 1st Lane more fully and particularly described in the Schedule there under written.

R. As some mistakes had crept in the said Deed of Conveyance dated 14.08.1976 being no. 3180 for the year 1976 the said mistakes was rectified through a Supplemental Deed dated 13th October, 1976

vi) To repay the loan of the said Bank granted to Jessore Comb Industry Company, Nemai Ratan Dutta & Ors. approached the said Bank to permit them to sell a piece and parcel of land measuring 5 Cottahs 13 Chittacks 6 Sq.ft. more or less with a small structure standing thereon situated at 24C, Bedia Danga 2nd Lane out of the said 21 cottahs 11 chittacks and 37 sq.ft. of land more or less together with the brick built one storied building or structure standing thereon or on part thereof at or for the consideration of Rs.9,00,000/- (Rupees Nine Lacs only).

vii) The Bank had agreed to release the said 5 Cottahs 13 Chittacks and 6 Sq.ft. of land with the small structure standing thereon free from all charges and mortgage upon the entire sale proceed being the consideration as hereinbefore stated is paid by Nemai Ratan Dutta & Ors. on behalf of the said Jessore Comb Industry Company to the said Bank for appropriation of dues of the said partnership.

viii) By a Deed of Release dated the 10th day of July, 1998 made between the said Central Bank of India therein referred to as the Releasor of the First Part, said Jessore Comb Industry Company therein referred to as the Borrower of the Second Part and said Nemai Ratan Dutta, Netai Ratan Dutta, Radharani Dutta, Subodh Kumar Dutta, Subir Kumar Dutta, Gita Rani Kundu, Shibani Saha and Rita Dutta therein jointly referred to as the Releasees of the Third Part, the Releasor therein discharged the Borrower and acquitted and released unto and in favour of the Releasees therein All that the piece and parcel of land measuring 5 Cottahs 13 Chittacks 6 Sq.ft. more or less with a small structure standing thereon situated at 24C, Bedia Danga 2nd Lane.

U. Afterwards, by an Indenture dated the 10th July, 1998 made between the said Nemai Ratan Dutta & Ors. therein jointly referred to as the Vendors of the One Part and the said Sanjay Bhusan Dutta therein referred to as the Purchaser of the Other Part and registered with the Additional Registrar of Assurances-I, Kolkata in Book No.I, Volume No.23, Pages 252 to 275, Being No.774 for the year 2000 the Vendors therein at and for the consideration mentioned therein granted transferred conveyed assigned and assured unto and in favour of the Purchaser therein All That the piece and parcel of railway relinquished revenue free land measuring 5 Cottahs 13 Chittacks 6 Sq.ft. more or less together with structures standing thereon lying and situate at and being the demarcated portion of the Premises No.24C, Bedia Danga 2nd Lane, more fully and particularly described in the Schedule there under written.

V. The said Nemai Ratan Dutta who during his lifetime was a Hindu governed by the Dayabhaga School of Hindu Law died intestate on the 16th March, 2004 leaving behind him surviving (wife being predeceased) his only son Dr. Debashish Dutta as his sole heir and legal representative who upon his death became entitled to his undivided one-third (1/3rd) share in the said Premises No.24C, Bediadanga 2nd Lane.

W. By a Bengali Aposh Bontonnama (Deed of Partition) dated the 6th day of October, 2004 made between the said Radharani Dutta, Subodh Kumar Dutta and Subir Kumar Dutta, Gita Rani Kundu, Shibani Saha and Rita Dutta therein jointly referred to as the Party of the First Part, the said Dr. Debashish Dutta therein referred to as the Party of the Second Part and the said Netai Ratan Dutta therein referred to as the Party of the Third Part and registered with the Additional District Sub-Registrar, Sealdah in Book No.I, Volume No.7, Pages 263 to 270, Being No.150 for the year 2005 the parties thereto amicably partitioned amongst themselves All that the balance piece and parcel of lands containing an area of 15 Cottahs 14 Chittacks 31 Sq.ft. (excluding the area of 5 Cottahs 13 Chittacks 6 Sq.ft. earlier sold on 10.07.1998 as aforesaid) lying and situate at and being Premises No.24C, Bedia Danga 2nd Lane, in the manner as follows:-

- i) An area of 5 Cottahs (Kha) was allotted to the legal heirs of Nil Ratan Dutta namely (1) Subodh Kumar Dutta, (2) Sri Subir Kumar Dutta, (3) Radha Rani Dutta, (4) Gita Rani Kundu, (5) Shibani Saha, (6) Rita Dutta being the First Party therein.
- ii) An area of 5 Cottahs 6 Chittacks (Ga) was allotted to the heir of Late Nimai Ratan Dutta namely Dr. Debasis Dutta being the Second Party therein.
- iii) An area of 5 Cottahs 8 Chittacks 31 Sq.ft. (Gha) was allotted to Nitai Ratan Dutta being the Third Party therein.

X. By another Indenture of Conveyance dated the 11th May, 2005 made between the said Debashis Dutta therein referred to as the Vendor of the One Part and the said Sanjoy Bhusan Dutta therein referred to as the Purchaser of the Other Part and registered with the Additional Registrar of Assurances-I, Kolkata in Book No.I, Volume No.1, Pages 1 to 17, Being No.6056 for the year 2005 the Vendor therein at and for the for the consideration mentioned therein granted transferred conveyed assigned and assured unto and in favour of the Purchaser therein All That the piece and parcel of land with structure thereon measuring 5 Cottahs 6 Chittacks (on physical measurement 6 cottahs 9 sq.ft.) be the same or a little more or less lying and situate at and being portion of premises No.24C, Bediadanga Second Lane, more fully and particularly described in the schedule there under written.

Y. Thus the said Sanjoy Bhusan Dutta the Owner herein became seized and possessed of and/or otherwise well and sufficiently entitled to i) All that the piece and parcel of land containing an area of **7 cottahs 5 chittaks** together with structure erected hereon or on the part thereof lying situate at and being Premises No.13, Bediadanga 1st Lane and ii) All that the piece and parcel of land containing an area of **11 cottahs 3 chittaks 6 sq.ft.** (on physical measurement 11 cottahs 13 chittaks 15 sq.ft.) together with structure erected hereon or on the part thereof lying situate at and being Premises No. 24C/1, Bediadanga 1st Lane, Kolkata (herein after collectively referred to as the **said property**) more fully and particularly described in the **First Schedule** hereunder written.

Z. The Owner has now decided to develop the said property and pursuant thereto, the Owner and the Developer have negotiated and arrived at an agreement to develop the said property by raising modern residential building(s) complex with provision for commercial building (hereinafter referred to as the **said project**).

AA. At or before the execution of these presents, the Owner herein has assured and represented to the Developer as follows:

- a. The Owner is the absolute owner of the said property and has a marketable title in respect thereof and apart from the Owner herein, there is no other owner and/or any other persons having any type of rights, title interest over the said property.
- b. The Owner has paid updated rates and taxes to the appropriate authorities in respect of the said property.
- c. The Owner presently is not restrained by any order from any Court in entering into this agreement with the Developer to develop the said property.
- d. The Owner has not entered into any Agreement for sale, transfer or development and Memo of Understanding with any other person or persons against whole, part or portion of the said property.
- e. The said property or any part or portion thereof is not affected by any notice of requisition and/or acquisition and no case is pending against the said property in any Court of Law.
- f. The Originals of Deed No. 2683 for the year 1976 and Deed No. 3180 for the year 1976 as recited in preceding

paragraphs 'Q' and 'R' are not in the custody of the Owner and it has been represented by him that the West Bengal Financial Corporation (WBFC), with which said documents of title were deposited by the Owner as collateral security, has misplaced and/or lost the same. The Owner preferred an application under Article 226 of the Constitution of India being W.P. No. 215 of 2015 before the Hon'ble High Court at Calcutta against the said WBFC. The said writ application was disposed of by the Hon'ble Court on 23rd December, 2015. The operative portion of the said Order runs as follows:

"In view of the aforesaid and in view of the clear recording in the Deed of Mortgage and Guarantee as also in the No Due Certificate dated 18th November, 2014, I cannot accept the contention of the respondent corporation that the original Title Deed in respect of the property in question was never deposited by the petitioner with the respondent Corporation. It is highly unlikely that without the original Title deed a Corporation would advance loan to a party.

It is possible that the respondent corporation has misplaced the original Title Deed. If that is the case, then the Corporation should execute a Deed of Declaration recording the fact that the original title deed has been misplaced from its custody.

Accordingly, I direct the respondent Corporation to hand over the original title deed in respect of the property situate at 13A, Bedia Danga, First Lane, Kolkata - 700 039 to the petitioner within a period of three weeks from date. In the event the respondent Corporation is unable to do so, it will execute a Deed of Declaration that the said original Title Deed has been misplaced from its custody and the property in question is free from all encumbrances in so far as the Corporation is concerned. The Corporation shall register the said Deed of Declaration which shall mention the date and number of the Title Deed and shall hand over the same to the writ petitioner within a period of six weeks from date.

The Deed of Declaration shall be prepared, executed and registered at the cost of the respondent Corporation.

Writ petitioner No.215 of 2015 is, accordingly, disposed of."

- g. The WBFC has preferred an appeal being APO No.24 of 2016, G.A. No.391 of 2016 against the said Order and the same is pending before the Hon'ble High Court at Calcutta.
- h. The West Bengal Financial Corporation (WBFC), by its letter dated 18th November, 2014 has issued NO DUES CERTIFICATE in favour of the Owner herein in respect of the concerned property.
- i. By a Deed of Release dated the 22nd day of December, 2014 made between the said West Bengal Financial Corporation (WBFC) therein referred to as the Releasor of the One Part and the Owner herein therein referred to as the Releasee of the Other Part and registered with the R.A. Calcutta in Book No.I, Volume No. 29, Pages 1886 to 1901, Being No. 11653 for the year 2014, the Releasor therein released and re-conveyed the scheduled property unto and in favour of the Releasee therein.
- j. The Owner has also lodged a General Diary being G.D.E. No.2784 dated 19th July, 2016 with the Kasba Police Station regarding such loss of originals.
- k. The Owner has caused paper publication regarding loss of the Original Documents of Title in The Times of India and in Bartaman both published on 23rd July, 3016.

BB. The Developer has represented that it has (i) sufficient infrastructure, expertise and resources in the field of development and construction of real estate, (ii) full authority to enter into this Agreement and appropriate resolutions/authorizations to that effect exist, (iii) has made itself fully aware about the present status of the said property and (iv) verified all the documents of title, those are in the custody and possession of the Owner and the Developer has satisfied itself about the right of Owner in respect of the said property.

CC. Pursuant to the above and relying on the representations made by the Parties to each other as stated above, the final terms and conditions agreed between the parties herein are being recorded by this Agreement.

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

1. **DEFINITIONS:**

Unless in this Agreement there be something contrary or repugnant to the subject or context, the following words shall have the following meanings:-

ADVOCATES – shall mean **VICTOR MOSES & CO.**, Solicitors & Advocates, Temple Chambers, 6, Old Post Office Street, Kolkata – 700 001 appointed by the Developer and the Owner.

ARCHITECT – shall mean such person or persons who may be appointed by the Developer as the Architect for the Project.

ASSOCIATION – shall mean any company incorporated under the Companies Act, 2013 or any registered Association under the West Bengal Apartment Ownership Act, 1972 as may be formed by Developer for the Common Purposes having such rules, regulations and restrictions as may be deemed proper and necessary by the Developer not inconsistent with the provisions and covenants herein contained.

CAR PARKING SPACE – shall mean all the spaces in the ground floor, whether open or covered, of the Project expressed or intended to be reserved for parking of four wheelers and two wheelers.

COMMON AREAS, FACILITIES AND AMENITIES – shall presently mean and include corridors, hallways, stairways, internal and external passages, passage-ways, pump house, the ultimate roof of the buildings but excluding spaces if reserved by the Developer, overhead water tank, water pump and motor, drive-ways, open car parking spaces, common lavatories, Generator, transformer, water treatment plant, Fire Fighting systems, and any other facilities in the Project, which may be decided by the Developer in its absolute discretion and provided by the Developer and required for establishment, location, enjoyment, provisions, maintenance and/or management of the Project as are mentioned in the **Second Schedule** hereunder written.

COMMON EXPENSES– shall mean and include all expenses for maintenance, management, upkeep and administration of the Common Areas, Facilities and Amenities and for rendition of common services in common to the transferees and all other expenses for the Common Purpose including those mentioned in the **Third Schedule** hereunder written to be contributed, borne, paid and shared by the transferees. Provided however the charges payable on account of Generator, Electricity etc. consumed by or within any Unit shall be separately paid or reimbursed to the Maintenance in-charge.

COMMON PURPOSES – shall mean and include the purpose of managing, maintaining and up keeping the Project as a whole in

particular the Common Areas, Facilities and Amenities, rendition of common services in common to the transferees and/or the occupants in any other capacity, collection and disbursement of the Common Expenses and administering and dealing with the matters of common interest of the transferees and relating to their mutual rights and obligations for the beneficial use and enjoyment of their respective Units exclusively and the Common Areas, Facilities and Amenities in common.

COMPLEX - shall mean the building Complex comprising of residential and/or commercial spaces with open areas to be constructed, erected and completed by the Developer in terms of this Agreement and the Plan.

DEPOSITS - shall mean the amounts to be paid and/or deposited by the Owner or the respective Transferees to the Developer.

DEVELOPER'S ALLOCATION -- shall mean:-

i) **58% (Fifty Eight per cent)** of the constructed space in the New Building(s) to be constructed on the said property **TOGETHER WITH**

ii) **58% (Fifty Eight per cent)** of the ultimate roof of the New Building(s) **TOGETHER WITH**

iii) undivided proportionate impartible part or share in the land of the said property attributable thereto **TOGETHER WITH**

iv) proportionate numbers of car parking spaces in the New Building(s) after providing proportionate numbers of car parking spaces to the Owner **AND TOGETHER WITH**

v) undivided proportionate impartible part or share in all Common Areas, Facilities and Amenities attributable thereto in the New Building(s);

DEVELOPMENT RIGHTS -shall mean, in addition to what has been provided for elsewhere in this Agreement, the entire development rights of the Project on the said property and shall include (but not be limited to), *inter alia*, the right, power, entitlement, authority, sanction and permission to:

(a) enter upon and take possession of the said property and every part thereof for the purpose of developing the Project in the manner herein contained;

(b) exercise full, free, uninterrupted, exclusive and irrevocable marketing or sale rights in respect of the saleable areas of the Project by way of sale, or any other manner of transfer or creation of third-party rights therein, have exclusive control with respect to the pricing of the saleable area to be constructed on the said property and enter into agreements with such Purchasers as it deems fit and on such marketing or sale, to receive the full and complete proceeds as per the terms herein and give receipts and hand over Ownership, possession, use or occupation of the saleable area and proportionate undivided interest in the property underneath i.e. the said property;

(c) carry out the construction/development of the Project and remain in possession, control of peaceful enjoyment of the said property or any part thereof until the completion of development of the Project and marketing or sale of the saleable area on the property and every part thereof;

(d) apply for and obtain from the relevant authorities all Approvals for development and construction of the Project that are required to be obtained by the Developer in terms of this Agreement;

(e) in the event of default by the Owner in compliance of his obligations under this Agreement, at the sole discretion of the Developer, to do all such acts, deeds and things that may be required for the Project or for compliance of the terms in this Agreement;

(f) appoint, employ or engage architects, surveyors, engineers, contractors, sub-contractors, labour, workmen, personnel (skilled and unskilled) or other persons to carry out the development work and to pay the wages, remuneration and salary of such persons;

(g) make payment and or receive the refund of all deposits, or other charges to and from all public or Governmental Authorities or public or private utilities relating to the development of the said property paid by the Developer;

(h) make applications to the concerned Governmental Authority or semi-governmental authority in respect of, and carry out, all the infrastructure work, including levelling, water storage facilities, water mains, sewages, storm water drains, recreation garden, boundary walls, electrical transformer and all other common areas and facilities for the proposed building to be constructed on the said property as may be required by any

Approval, layout plan, or order of any Governmental Authority or semi-governmental authority and acquire relevant Approvals for obtaining water and electricity connections and Approvals for cement, steel and other building materials, if any as the Developer deems fit;

(i) deal with, appear before and file applications, declarations, certificates and submit/ receive information with, as may be required under the Applicable Law, any Governmental Authority in relation to the Project necessary for the full, free, uninterrupted and exclusive development of the said property, the development of and construction of building on the said property;

(j) Carry out and comply with all the conditions contained in the Approvals as may be obtained from time to time;

(k) Assign all benefits, rights and obligations as contained herein (in whole or in part) in favour of any Affiliate of the Developer;

(l) Launch the said Project for sale of the units;

(m) Execute all necessary, legal and statutory writings, agreements and documentations for the exercise of the Development Rights and in connection with all the marketing, or sale of the saleable area to be constructed on the said property as envisaged herein;

(n) manage the said property and the facilities / common areas constructed upon the said property as may be required under the West Bengal Apartment Ownership Act, 1972 or any other Applicable Laws and/or rules made there under and/or to transfer/assign right to maintenance to any third party and to retain all benefits, consideration etc. accruing from such maintenance of the Project;

(o) Take appropriate actions, steps and seek compliances, Approvals and exemptions under the provisions of the Applicable Law,

(p) Demarcate the common areas and facilities and the limited common areas and facilities in the Project in the sole discretion of the Developer, as per the lay out plan and applicable law and to file and register all requisite deeds and documents under the West Bengal Apartment Ownership Act, 1972 with the competent authority;

(q) Generally any and all other acts, deeds and things that may be required for the exercise of the Development Rights,

FORCE MAJEURE - shall mean and include an event preventing either Party from performing any or all of its obligations under this Agreement, which arises from, or is attributable to, unforeseen occurrences, acts, events, omissions or accidents which are beyond the reasonable control of the Party so prevented and does not arise out of a breach by such Party of any of its obligations under this Agreement, including, without limitation, any abnormally inclement weather, flood, lightening, storm, fire, explosion, earthquake, subsidence, epidemic or other natural physical disaster, war, military operations, riot, terrorist action, civil commotion, and any legislation, regulation, ruling or omissions (including failure to grant any necessary permissions or sanctions for reasons outside the control of either Party) or any relevant Government or Court orders.

MARKETING - shall mean marketing, selling, leasing, letting out or otherwise dealing with any space in the Developer's Allocation in the New Buildings to any transferee for owning or occupying any flat, unit, apartment, and/or constructed space.

MAINTENANCE-IN-CHARGE - shall mean and include such agency or any outside agency to be appointed by the Developer under this Agreement, after completion of the building as certified by the Architect, for the Common Purposes having such rules, regulations and restrictions as may be deemed proper and necessary by the Developer not inconsistent with the provisions and covenants herein contained.

NEW BUILDING(S) - shall mean the multi storied new building(s) in the said Project to be constructed, erected and completed in accordance with the Plan on the said property.

OWNERS' ALLOCATION - shall mean:-

i) **42% (Forty Two per cent)** of the constructed space in the New Building(s) to be constructed on the said property **TOGETHER WITH**

ii) **42% (Forty Two per cent)** of the ultimate roof of the New Building(s) **TOGETHER WITH**

iii) undivided proportionate impartible part or share in the land of the said property attributable thereto **TOGETHER WITH**

iv) proportionate numbers of car parking spaces in the New Building(s) **AND TOGETHER WITH**

v) undivided proportionate impartible part or share in all Common Areas, Facilities and Amenities attributable thereto in the New Building(s);

PLAN – shall mean the plan of the building/s to be sanctioned by the Kolkata Municipal Corporation or any other sanctioning authority as the case may be Together With all modifications and/or alterations thereto and/or revisions thereof from time to time made or to be made by the Developer either under advice or on the recommendation of the Architect or approved by the sanctioning authorities.

PROJECT – shall mean the building Project with open areas to be constructed, erected and completed by the Developer in terms of this Agreement and the Plan.

PROPORTIONATE OR PROPORTIONATELY – according to the context shall mean the proportion in which the built up area of any Unit or Units may bear to the built-up area of all the Units in the Project provided that where it refers to the share of the Owner in the project, shall mean 42% and where it refers to the share of the Developer in the project, shall mean 58%.

SAID PROPERTY – shall mean All That the total piece and parcel of land containing an area of 18 cottahs 8 chittaks 16 sq.ft. (on physical measurement 19 cottahs 2 chittaks 15 sq.ft.) on physical verification) be the same or a little more or less situate lying at Mouza Bondel, Grand Division-V, Sub Division-I, presently being Premises Nos.13, Bediadanga 1st Lane and 24C/1, Bediadanga 2nd Lane, Police Station-Kasba, Ward No.67, within the Kolkata Municipal Corporation, Kolkata-700 039 more fully and particularly mentioned and described in the **First Schedule** hereunder written.

SAID SHARE – shall mean the undivided proportionate indivisible part or share in the said property attributable to either party's allocation as in the context would become applicable.

SPECIFICATION – shall mean the high end specifications for the said Project as mentioned in the **Fourth Schedule** hereunder written subject to the alterations or modifications as may be made by the Developer from time to time.

TITLE DEEDS – shall mean the documents of title of the said property as referred to herein.

TRANSFER – with its grammatical variations shall include transfer by possession and by other means adopted for effecting what is

understood as a transfer of space in multi-storied building to the Purchasers thereof as per law.

TRANSFeree(S)/PURCHASER(S) – according to the context shall mean all the prospective or actual Purchasers who would agree to acquire or shall have acquired any Unit in the Project and for all unsold Unit and/or Units shall mean the Owner and the Developer in their respective allocations i.e. 42% for the Owner and 58% for the Developer.

2. INTERPRETATION:

In this agreement save and except as otherwise expressly provided –

- i) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties require and the verb shall be read and construed as agreeing with the required word and pronoun.
- ii) the division of this agreement into headings is for convenience of reference only and shall not modify or affect the interpretation or construction of this agreement or any of its provisions.
- iii) When calculating the period of time within which or following which any act is to be done or step taken pursuant to this agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a business day, the period in question shall end on the next business day.
- iv) All references to section numbers refer to the sections of this agreement, and all references to schedules refer to the Schedules hereunder written.
- v) The words 'herein', 'hereof', 'hereunder', 'hereafter' and 'hereto' and words of similar import refer to this agreement as a whole and not to any particular Article or section thereof.
- vi) Any reference to any Act of Parliament or State legislature in India whether general or specific shall include any modification, extension or enactment of it for the time being in force and all instruments, orders, plans, regulations, bye-laws, terms or direction any time issued under it.
- vii) Any reference to any agreement, contract, plan, deed or document shall be construed as a reference to it as it may

have been or may be from time to time amended, varied, altered, modified, supplemented or notated.

3. **OWNER'S REPRESENTATIONS:**

3.1 The Owner has further represented and warranted to the Developer as follows:-

a. No person other than the Owner has any right, title and/or interest, of any nature whatsoever in the said property or any part thereof.

b. The Owner shall satisfy the Developer about the title in respect of the said property based on the documents furnished and representations made by the Owner. The Owner shall at his own costs and expenses make out a marketable title in respect of the said property and shall answer all necessary questions which may be raised by any bank, financial institutions or the Developer or the Solicitor of the Developer.

c. The Owner shall not do nor permit any one to do any act, deed, matter or thing which may affect the development, construction and marketability of the proposed project or which may cause charge, encroachments, litigations, trusts, liens, lispensens, attachments and liabilities on the said property or the project.

d. The said property or any part thereof is, so far as the Owner is aware of, not affected by any requisition or acquisition or alignment of any authority or authorities under any law and/or otherwise and no notice or intimation about any such proceedings has been received or come to the notice of the Owner and the said property is not attached under any Decree or Order of any Court of Law or dues of the Income Tax, Revenue or any other Public Demand.

e. Save and except as aforesaid no suit and/or any other proceedings and/or litigations are pending against the Owner in respect of the said property or any part thereof and that the said property is not involved in any civil, criminal or arbitration proceedings and no such proceedings and no claims of any nature (whether relating to, directly or indirectly) are pending or threatened by or against the Owner in respect of the said property or any part thereof.

f. Subject to what has been stated in this Agreement, the Owner has not done and shall not do nor permit to be done, anything whatsoever that would in any way impair, hinder

and/or restrict the sole and exclusive appointment of and grant of rights to the Developer under this Agreement including the unfettered exercise by the Developer of the sole and exclusive right to develop the said property, in consistence with the terms of this Agreement.

g. There is no dispute with any revenue or other financial department of State or Central Government or elsewhere in relation to the affairs of the said property and the Owner is not aware of any facts, which may give rise to any such dispute.

h. The Owner shall not transfer, alienate, encumber, mortgage, lease, create any charge and/or deal with the said property or part thereof in any manner whatsoever till the completion of the project.

4. **COMMENCEMENT:**

4.1 This Agreement commences and shall be deemed to have come in force on and with effect from the date of execution, mentioned above (commencement date) and this Agreement shall remain valid and in force till all obligations of the Parties towards each other stand fulfilled and performed or till this Agreement is terminated by either of the parties hereto.

5. **POSSESSION:**

5.1 Simultaneously with the execution of this agreement the Owner has handed over the possession of the said property unto and in favour of the Developer and the Developer shall be entitled to retain such possession during the subsistence of this agreement.

6. **TITLE DEEDS:**

6.1 Simultaneously with the execution of this agreement the Owner has deposited with the Victor Moses & Co, Solicitors and Advocates, 6, Old Post Office Street, Kolkata-700 001, all the documents of title of the said property against proper receipt thereto as and by way of security for all sums deposited or to be deposited and/or spent towards cost of construction by the Developer under this agreement. Such original documents of title would be held by the Victor Moses & Co, Solicitors on behalf of both the Owner and the Developer till the project is completed or till execution of conveyance deed to the transferees/intending purchasers. However, Victor Moses & Co. shall produce all original documents of title to the Developer as and when required exclusively for the purpose of verification by

any financial institution from which the Developer may avail project finance.

7. **STEPS FOR DEVELOPMENT OF THE SAID PROPERTY:**

- 7.1 The Parties have mutually decided the scope of the Project, that is, the development of the said property by construction of the New Building(s)/Project thereon and commercial exploitation of the New Building(s) and/or the Project. The Developer shall at its sole discretion construct or cause to be constructed the New Building(s)/Project for residential cum commercial use.
- 7.2 By virtue of the rights hereby granted the Developer is irrevocably authorized to build upon and exploit commercially the said property by (i) demolishing the existing structure thereon, (ii) constructing the New Building(s)/Project and (iii) dealing with the spaces in the Developer's Allocation in the New Building(s) together with transfer of the undivided proportionate and impartible share in the land comprised in the said property and common areas, facilities and amenities in favour of its nominee or nominees.
- 7.3 The Parties hereby accept the Basic Understanding between them as recorded above and all other terms and conditions mentioned in this Agreement. In consideration of Developer, agreeing to construct and deliver to the Owner the constructed area being the Owner's Allocation, the Owner agrees to transfer proportionate undivided share in the said property to the Developer or its nominee or nominees being the Developer's Allocation in such part or parts as Developer may desire.
- 7.4 The Developer shall at its own costs and expenses prepare the Plan for the New Building(s) in the project. The Developer shall have the plan sanctioned by the Kolkata Municipal Corporation or from the sanctioning authority in the name of the Owner at its own costs and expenses and shall make its best endeavor to have it sanctioned at the earliest.
- 7.5 The Owner shall apply for and obtain necessary no objection certificate from the competent authority under the Urban Land (Ceiling & Regulations) Act, 1976 evidencing there being no excess vacant land within the meaning of the said Act in the said property and shall also apply for and obtain amalgamation of Premises No.13, Bediadanga 1st Lane and Premises No.24C/1, Bediadanga 2nd Lane from the Kolkata Municipal Corporation. The Developer offer expertise in assisting the Owner in obtaining the NOC and order of amalgamation.