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पश्चिम बंगाल WEST BENGAL

33AB 745841

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No. 701346/2019



Certified that the Documents in this registration. The Signatures and Indorsements attached to this document are the part of this Document.

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Additional Registrar of Assurances-III, Kolkata

Additional Registrar of Assurances III Kolkata
- 7 MAY 2019

DEVELOPMENT AGREEMENT

1. Date : 7th Day of May, 2019.
- 1.2 Place : Kolkata
- 1.3 Parties :

3.1 **SUDIP BHADRA (PAN NO. ADRPB5501B)**, son of Late Haradhan Bhadra, by Nationality - Indian, Faith Hindu, Occupation Business, residing at 37/3, Masjid Bari Street, P.O. Beadon Street, P.S. Burtolla, Kolkata - 700006, (hereinafter **Owner**, includes his heirs, legal representatives, successors - in interest and/or assigns).

AND

3.2 **M/S D.S. ENTERPRISE [having PAN NO. AALFD7379J]**, a partnership firm having its principal place of business/ office at 23/29, J.N. Sarkar Street, P.O. & P.S. Lake Town, Kolkata-700048, represented by its partners (1) **Shantanu Kumar Sur [PAN NO. ALEPS2359D]**, son of Late Bimal Chandra Sur, by Occupation Business, faith Hindu, residing at 550D Rabindra Sarani, P.O. Bagbazar, P.S. Shyampukur, Kolkata- 700003, (2) **Nantu Saha [PAN NO. AWAPS9078G]** son of Surya Saha, by Faith Hindu, Occupation Business, residing at 48, J. N. Sarkar Street, P.O. & P.S. Lake Town, Kolkata - 700048, (3) **Nimai Dutta [PAN NO. AIJPD0274C]**, son Late Krishna Lai Dutta, by Faith Hindu, Occupation Business, residing at 23/29, J.N. Sarkar Street, P.O. & P.S. Lake Town, Kolkata - 700048, and (4) **Dilip Dutta [PAN NO. ACUPD7705P]**, son of Late Krishna Lal Dutta, by Faith Hindu. Occupation Business, residing at 23/29, J.N. Sarkar Street, P.O. & P.S. Lake Town, Kolkata-700048, (Developer, includes successors-in-interest/ office, representatives and/or assigns).

Nimai Dutta

Susip Bhadra

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

4. Subject Matter of Agreement

- 4.1 **Development and Commercial Exploitation of said premises :**
Understanding between the Owner and the developer with regard to development and commercial exploitation (in the manner specified in this

Govt. of West Bengal
Directorate of Registration & Stamp Revenue
e-Challan

GRN: 19-201920-001181244-1 Payment Mode Online Payment
GRN Date: 06/05/2019 13:02:35 Bank : United Bank
BRN : 14404973 BRN Date: 06/05/2019 13:03:45

DEPOSITOR'S DETAILS

Id No. : 19030000701346/3/2019
(Query No./Query Year)

Name : Bijoy Kumar Mukhopadhyay
Contact No. : Mobile No. : +91 9836008783
E-mail :
Address : City Civil Court Calcutta Kolkata 700001
Applicant Name : Mr Biswadev Kar
Office Name :
Office Address :
Status of Depositor : Advocate
Purpose of payment / Remarks : Sale, Development Agreement or Construction agreement
Payment No 3

PAYMENT DETAILS

Sl. No.	Identification No.	Head of A/C Description	Head of A/C	Amount[₹]
1	19030000701346/3/2019	Property Registration- Stamp duty	0030-02-103-003-02	20011
2	19030000701346/3/2019	Property Registration- Registration Fees	0030-03-104-001-18	70105

Total

90116

In Words : Rupees Ninety Thousand One Hundred Sixteen only

Agreement) of land admeasuring 13 (thirteen) cottah 01 (one) chittack 40 (forty) Sq.Ft., more to less, lying and situate at Holding No. 12 (old), J.N. Sarkar street , at Mouza Dakshindari, J.L. No. 25. P.S. Laketown, present Holding No. 15. within the Municipal limits of Ward No. 32 of South Dum Dum Municipality, morefully described in the 1st **Schedule** below and delineated on the **Plan** annexed hereto and bordered in color **Red** thereon (said **premises**), by way of constmction of a complex comprising of residential and commercial units/apartment and ancillary facilities and other areas on the said premises (collectively Said **complex**). **The Plan** attached to this Agreement forms a part of this Agreement.

5. Representation, Warranties and Background

5.1 **Owner's Representations:** The owner have represented and warranted to the Developers as follows:

5.1.1 **Absolute Ownership and Marketable Title:** By Virtue of the events and series of deeds and documents as described in the 2nd **Schedule** below (**Devolution of Title**), The owner became absolute owner of the Said Premises.

5.1.2 **Owner to ensure Continuing Marketability :** The owner shall ensure that Owner's title to said Premises continues to remain marketable and free from all encumbrances at all times.

5.1.3 **No Previous Agreement:** The owner have not entered into any agreement for sale, transfer, lease or development of the said premises or any part thereof with any person or persons and have not sold, transferred or leased the Said Premises.

5.1.4 **No Acquisition, Requisition or Vesting:** The Said Premises has neither been acquisitioned. requisitioned or vested nor notified for any acquisition,

requisition, vesting or scheme of the Municipal Authority, Government or any Statutory Body and further the Owner have not received any notice in this regard.

- 5.1.5 **No Excess Land:** There are sufficient record dwelling units in the Said Premises and there is no excess vacant land therein the further Owner do not hold any excess land under the Urban Land (Ceiling and Regulation) Act, 1976 or the West Bengal land reforms Act, 1955 or the estates Acquisition Act, 1953.
- 5.1.6 **No Act of Owner:** The owner have not, at any time, done or executed pr knowingly suffered or been party privy to any act, deed, matter or thing whereby the Said Premises can or may be impeached, encumbered or affected in Title.
- 5.1.7 **Certificate Case:** No Certificate case is pending for realization of any Government revenue from the owner.
- 5.1.8 **No Right of Preemption:** No person or persons whosever has or has claimed to have any right of preemption over and in respect of the Said Premises or any part thereof.
- 5.1.9 **No Mortgage:** No mortgage, lien or charge is presently subsisting in respect of the Said Premises or any part thereof.
- 5.1.10. **No Personal Guarantee:** The Said Premises is not affected by or subject to any personal guarantee for securing any financial accommodation.
- 5.1.11. **No Bar by Court Order or Statutory Authority :** There is no order of Court or any other statutory authority prohibiting the Owner from

Developing, selling, Transferring and/or alienating the said Premises or any part thereof.

5.1.12 Free from all encumbrances : The Said Premises free from all claims, demands, encumbrances, mortgages, charges, liens, attachments, Us pendens, reversionary rights, testamentary rights, covenants for maintenance, right for residence, uses, debutters, trusts, prohibition, Income Tax attachments, financial institution charges, statutory prohibitions, acquisitions, requisitions, vesting and liabilities, whatsoever or howsoever made or suffered by the owner or any person or persons having lawfully, rightfully or equitably claiming any estate or interest therein through, under or in trust for the Owner or the Owner's predecessors- in- title and the title of the Owner to the Said Premises is free, clear and marketable.

5.1.13 Owner have Authority: The Owner have full right and power and absolute authority to enter into this agreement and appropriate Resolution/Authorizations to that effect exist and the Owner have neither done nor permitted to be done anything whatsoever that would in any way impair, hidden and/or restrict the appointment and grant of rights to the developer under this Agreement.

5.1.14 Possession with tenants/occupants: No tenants/occupants are in possession and occupation of the Said Premises.

5.2. Developer's Representations: The Developer has represented and warranted to the Owner as follows:

5.2.1 Developer has Authority : The Developer has full authority and ability to enter into this agreement and appropriate Resolutions/ Authorizations to that effect exist.

- 5.2.2. **Decision to Develop:** The Owner Decide to develop the Said Premises. Pursuant thereto, preliminary discussions were held with the developer for taking up the development of the Said Premises by Constructing the Said Complex and commercial exploitation of the complex (Collectively Project) by selling the saleable spaces and amenities in the Said Complex (Units) to prospective buyers collectively Transferees, which expression includes, without limitation or exception (1) all persons who agree to buy units in the Said Complex, (2) the Owner for unsold Units comprised in the Owner's Saleable units (defined in Clause 11.1), (3) The Developer for unsold units comprised in the Developer's Saleable units (defined in Clause 11.2).

6. Basic Understanding

- 6.1 **Development of Said Premises by Constructing and Commercial Exploitation of Said Complex :** The parties have mutually decided to take up the project, i.e. the development of the Said Premises by construction of the Said Complex by way of sale, transfer etc.
- 6.2 **Nature and Use of Said Complex :** The Said Complex shall be constructed in accordance with architectural plans (**Building plans**) and the Architects to be appointed from time to time (said **Architect**) and sanctioned by the south Dum Dum Municipality (SDDM) and other statutory authorities concerned with sanction (collectively **Planning Authorities**), as a complex comprising of ready-to-use cluster of new residential and/or commercial units/ apartments and ancillary facilities and other areas, with specified areas, amenities and facilities to be enjoyed in common.
- ## 7. Development and Commencement
- 7.1 **Development:** The parties hereby accept the basic understanding between them as recorded in clause 6 above and all other terms and condition concomitant thereto including those mentioned in this

Agreement. Consequent thereto, the Owner confirm that developer confirm that the Developer shall act as the developer of the said premises with right to execute the project and the Developer confirms that it shall act as the developer of the said Premises with right to execute the project and the Developer confirms that it shall act as the developer of the said premises.

- 7.2 **Commencement and Tenure:** This Agreement commences and shall be deemed to have commenced on and with effect from the date of execution as mentioned above and this agreement shall remain valid and in force till all obligations of the parties towards each other stand fulfilled and performed and all Units in the said Complex are transferred and/or sold and/ or delivered or till this Agreement.

8. Sanction and Construction

- 8.1 **Sanction of Building Plans:** The Owner applied and obtained sanctioned Building Plans from the planning Authorities and the cost of the sanction plan shall be borne by Developer. The Developer shall be responsible for obtaining all such other approvals needed for the project (including sanction of revised plan, completion certificate) and in this regard Owner to assist and co-operate the Developer, the Owner undertake to sign and execute all necessary affidavits, applications, documents as and when so required, and all costs and fees as to be further required to be borne and paid by the Developer.
- 8.2 **Architect and Consultants:** The Owner confirm that the Owner have authorized the developer to appoint the Architects and other consultants to assist in the project. All costs charges and expenses in this regard including professional fess and supervision charges shall be paid by the Developer and the Owner shall have no liability or responsibility.

- 8.3 **Construction of Said Complex** : The Developer shall, at its own costs and expenses and without creating any financial or other liability on the Owner, commence of the Said Complex within 2 (two) months from sanctioned building plan and shall construct, erect and complete the said Complex in accordance with the sanctioned Building Plans. Such if construction shall be as per specifications common to all Units of the said Complex (Specifications).
- 8.4 **Completion Time** : The Developer shall construct, erect and complete the Said Complex within a period of 36 months from the date of executing of this Agreement. If this Developer fail to complete the Construction within stipulated time i.e. (36 months) then a demurrage of Rs.1,00,000/- per month will be charged till the date of delivery of Owners allocation of the 36 months.
- 8.5 **Common portions**: The Developer shall at its own costs install and erect in the said Complex, common areas, amenities and facilities and such as stairways, lifts, generators, fire fighting apparatus, passages, driveways, lavatory, electric meter room, pump room, underground reservoir, over head water tank water pump and motor, water connection, sewerage connection and other facilities, if any (collectively Common Portions). The Transferees shall pay extra amounts to the Developer towards (1) costs and expenses for transformer, sub-station, HT panel, cabling and allied equipment installed for supply of electricity to the said Complex. (2) deposits or proportionate share of deposits required to be given to the electricity supplying agency and any other utility supply agencies and statutory bodies, (3) costs and expenses for installing Generator set, cabling and installation of allied equipment for providing power backup to the said Complex, (4) fixed charge on per square foot basis for

maintenance charges for 1 (one) year in advance and corpus deposit for maintenance and (5) legal documentation charges (collectively Extras).

- 8.6 **Temporary Connections:** The Developer shall be authorized by the Owner to apply for and obtain temporary connections of water, electricity, drainage and sewerage at the said Premises. It is however clarified that the Developer shall also be entitled to use the existing electricity and water connection, if any, at the said premises, upon payment of all usage charges.
- 8.7 **Modification of Building Plans:** Any amendment or modification to the Building plans, as suggested by the architect, may be made or caused to be made by the Developer, with prior intimation and knowledge of the Owner, within the permissible limits of the Planning Authorities.
- 8.8 **Co-operation by Owner:** shall not indulge in any activities which may be detrimental to the development of the Said Premises and/or which may affect the mutual of the parties. The Owner shall provide all cooperation that may be necessary for successful completion of the Owner hereby consents to all the decisions of the Developer taken for the smooth completion of the said project.
9. **Possession**
- 9.1 **Possession to Developer :** The Owner hereby handed over the physical possession of the said Premises and the Developer acknowledges the receipt of physical possession The Owner hereby also granted premises license to the Developer to enter upon the Said Premises for the development of the said Premises and the vacant, Physical possession of the entirety of the said premises shall be retained by the developer till the project is completed and shall protect the same from encroachment of any third party.

10. **Powers and Authorities**

10.1 **Power of Authority for Sanction:** The Owner shall grant to developer a power of Authority for the purpose of getting the Building Plans sanctioned / revalidate / altered by the SDDM and Planning Authorities for obtaining all necessary permission from different authorities in construction of the Said Complex.

10.2 **Power of Authority for Construction :** The Owner shall grant to the developer a Power of Attorney for construction of the Said Complex and doing all acts that may be necessary with regards thereto.

10.3 **Power of Attorney for marketing and selling of units/ apartments in the said project:** The owner shall grant to the Developer and/or its nominees a Registered Power of Attorney for marketing, negotiating, sale booking of the units/ apartments in-the proposed new building at the Said Premises in the manner as stated in Clause 11.3. below. It is clarified that all agreement, deeds and the other paper required be signing and executing in favour of proposed transferee with regard to the sale of units/ apartments may be signed by the Developer or its authorised signatory on behalf of the Owner in terms of the Registered power of attorney.

10.4 **Further Acts :** Notwithstanding grant of the aforesaid Power of Attorney, the Owner hereby undertake that they shall execute, as and when necessary, all papers, documents, plans etc. for enabling Developer to perform all obligation under this agreement.

11. **Allocations, Sale, Financials, Possession and Project Finance :**

11.1 **Owner's Allocation:** The Developer shall, at its own costs expenses, construct, finish, complete and make available (in tenantable condition and

according to the Construction area of Building Plans) to the Owner (in the manner mentioned hereafter), 45% (Forty-five percent) of the (1) saleable area of the Said Complex and (2) Covered and open car parking spaces in the Said Complex/ Said Premises (collectively **Owner's Allocation**) which shall also include undivided, impartibly, indivisible and proportionate of land share in Common Portions and Share in the Said Premises.

- 11.2 **Developer's Allocation:** The Developer shall be fully and completely entitled to the balance 55% (fifty-five percent) of the (1) saleable area of the Said Complex and (2) covered and opened car parking spaces in the Said Complex/ Said Premises (collectively **Developer's Allocation**) which shall also include undivided, impartible, indivisible and proportionate of land share in Common Portions and Share in the Said Premises.
- 11.3 **Marketing and Selling of Constructed Area:** The Developer shall sale by Agreement of his allocated portion with intending transferee and the Owner shall sell by Agreement of its allocated portion with the including transferee. Both parties will not interfere in respect of this allocated portion for transferring to their respective portions as per registered Power of Attorney.
- 11.4 **Allocation Demarcated Area and Allocation Demarcation Agreement:** The Developer may negotiated and sale the Units/ Apartments to the intending and prospective purchasers/ transferees (**Saleable Area**) and the sale proceeds out of such sale shall be divide in proportionate ratio between the Owner and the Developer, according to their respective allocation and all such left over Units/ Apartments in the said complex shall be indentified and demarcated between the Owner and the Developer as their respective allocation in the Ratio of 45:55 and in the respect in furtherance of this agreement the parties shall enter into an

agreement (**Allocation Demarcation Agreement**), whereunder the Owner's Allocation and the Developer's Allocation shall be identified demarcated and allocated. It is clarified that the identification, demarcation and allocation shall be based on the Building Plans and if there are any variations of the Building Plans, the Parties shall by mutual consent vary their respective allocations, if necessary.

- 11.5 **Completion of Sale and Transaction with the Transferee :** In purchase of the sale agreement executed with the transferees in respect of the sold Units/ Apartments and upon receiving the total agreed consideration and other receivable and extras the Owner and the Developer shall, sign and execute deeds of conveyances in respect of the respective Unit/ Apartments the undivided proportionate shares, in the land contained in the Said Premises and right to use the common facilities and amenities in common available at the same proposed Complex in favour of the respective Transferee.
- 11.6 **Cost of Transfer:** the Cost of aforesaid conveyances including stamp duty and registration fees and all the other legal expenses shall be borne and paid by the Transferees/Developer.
- 11.7 **Refundable Deposit/Advance:** The Developer shall pay to the Owner and interest free refundable sum of Rs.1,00,00,000/- (Rupees one crore only) (**Refundable Security Deposit**) as on following norms –
- i) Rs.70,00,000/- (Rupees Seventy Lakh) only to be paid after registered of the Development Agreement.
 - ii) Rs.30,00,000/- (Thirty Lacs Only) to be paid on or before 31st May, 2019.
- 11.8 **Refund of Security Deposit:** The entirety of the Security Deposit shall be refunded by the Owner to the Developer within one month from the

date of receipt of the completion certificate and delivery of owner's allocation and shall not be adjusted with the Owner's Allocation by no means.

- 11.9 **Original Deeds and Documents relating to the said premises:** The Owner has produced originals of the title deeds and related documents with the Developer, which the Developer at all reasonable request of the statutory authorities, purchasers/ transferees and/or their banker, shall arrange for their inspection and verification.
- 11.10 **Possession to Owner:** As soon as the said Complex is completed, the Developer shall give a written notice to the Owner and the Owner shall be obliged to take possession of the sold and unsold units forming part of the Owner's Allocation after getting Completion Certificate, Maintenance of the unsold area of the Owner's allocation should be borne by the Owner after getting the Completion Certificate.
- 11.11 **Possession to Transferees:** Possession of all other Units in the said Complex shall be delivered by the Owner & Developer directly to the concerned Transferees, subject to after receiving the agreed consideration amount, extra charges and applicable taxes and levies, subject of their respective allocation.
- 11.12 **Project Finance:** The Developer, for the purpose of achieving financial closure of the Project, may arrange for financing of the project (Project Finance) by a Bank/Financial Institution (Banker). Such Project Finance can be secured on the strength of the security of the Developer's Allocation and construction work-in-progress/ receivables to the extent pertaining to the Developer's Allocation only. It is made clear and understood that the Banker shall have no right of recovery against the Owner and the

Developer will not encumber any areas and/or receivables from the Owner's Allocation. It is agreed that the Owner shall execute necessary documents (if required by the Banker) to create a charge in respect of the Developer's Allocation in favour of Banker for availing the Project Finance.

12 **Municipal Rates & Taxes :**

- 12.1 **Relating to Prior Period:** All Municipal rates, taxes and outgoings on the Said Premises (collectively Rates) and electricity dues relating to the period prior to the date of Agreement, shall be borne, paid and discharged by the Owner and the same shall remain the liability of the Owner, to be borne and paid by the Owner as and when called upon by the Developer, without raising any objection.
- 12.2 **Relating to Subsequent Period:** As from the date of Agreement, Developer shall be liable for the rates, till such time the Said Complex is ready for occupation, after which, the Owner (for unsold Units out of the Owner's Allocation), the Developer (for the unsold Units out of the Developer's Allocation) and the respective Transferees (for their respective Units) shall become liable and responsible for the Rates, Proportionately till separate assessment and wholly thereafter after getting completion certificate from the authority and delivery of procession letter received by the Owner.
- 12.3 **Punctual Payment and Mutual Indemnity:** The Owner (for the unsold Units out of the Owner's Allocation), the Developer (for the unsold Units out of the Developers Allocation) and the respective Transferees (for their respective Units) shall punctually and regularly pay the Rates to concerned authorities and the parties shall keep each other indemnified against all claims, actions, demands, costs, charges, expenses and proceedings

whatsoever directly or indirectly instituted against or suffered by or paid by any of them, as the case maybe, consequent upon default by the other subject to delivery of possession and getting completion certificate .

13. **Maintenance :**

13.1 **Scheme of Maintenance:** The Developer Shall frame a scheme for the management and administration of the Said Complex, which shall be Adopted, adhered to and abided by all Transferees, including the Owner, to which the Owner hereby give their consent.

13.2 **Maintenance Charge:** The Developer shall manage and maintain the Common Portions and services of the Said Complex either directly or through a facility manager and shall collect the costs and service charges thereof (Maintenance Charge). It is clarified that the Maintenance Charge shall include (1) premium for the insurance of the Said Complex, If any (2) charges for water and electricity, if provided, (3) sanitation and scavenging and (4) occasional repair and renewal charges for all common wiring, pipes, electrical and mechanical equipment and other installations, appliances and equipments. It is clarified that if the maintenance of the Said Complex is carried out through a facility manager, then the service charge of the facility manager shall also form part of the maintenance charge. The Owner shall not in any manner interfere with the aforesaid function of the Developer if it is adopted reasonably according to scheme stated in clause 13.1 above.

14. **Obligations of Developer :**

14.1 **Completion of Development within Completion Time:** The Developer shall complete the entire process of development of the Said Premises within the Completion Time (i.e. 36 months).

- 14.2 **Meaning of Completion:** The word "completion" shall mean habitable state with water supply, sewage connection, electrical installation lift facilities and all other facilities and amenities as be required to be provided to make the Units ready for use. Reasonable variance in period of completion shall also be acceptable to the parties.
- 14.3 **Compliance with Laws:** The execution of the Project shall be in conformity with the prevailing rules and by-laws of all concerned authorities and State Government/ Central Government bodies and it shall be the absolute responsibility of the Developer to ensure compliance.
- 14.4 **Planning, Designing and Development:** The Developer shall be responsible for planning, designing and development of the Said Complex with the help of the Architects, professional bodies, contractors, etc.
- 14.5 **Specification:** The Specifications to be adopted by the Developer for the Said Complex shall include standard quality building materials as is provided in multistoried buildings in and around Kolkata and also as more particularly mentioned in the 3rd **Schedule** hereunder.
- 14.6 **Commencement of Project:** The development of the Said Premises shall commence as per the Specifications, Building Plans, schemes, rules, regulations, bye-laws and approvals of the Planning Authorities, at the cost, risk and responsibility of the Developer, the Owner having no responsibility in respect thereof in many manner whatsoever.
- 14.7 **Construction at Developer's Cost:** The Developer shall construct the said complex at its own cost and responsibility. The Developer shall alone be responsible and liable to Government, Municipality and other authorities

concerned and to the Transferees and shall alone be liable for any claim arising from such construction and shall indemnify the Owner against any claims, loss or damages for any default for any failure or breach on the part of the Developer. If the concern authority intend to allow additional floors of the said proposed building apart from the sanctioned plan the actual cost of sanction of the additional floor plan will be beared by the owner and Developer at the ratio of 45% and 55% and after construction of additional floors of the building the allocation ratio will be 45% and 55% of the proposed sanction.

14.8 **Tax Liabilities:** All tax liabilities in relation to the construction of the said Complex shall be paid by the Developer from the date of Agreement.

14.9 **Permission for Construction:** It shall be the responsibility of the Developer to obtain all permission required from various Government authorities for sanction of the Building plans and execution of the project. The expenses to be incurred for obtaining all such sanctions and permissions shall be borne by the Developer.

14.10 **Responsibility for Marketing:** In terms of the Clause 11.3, the Developer shall be responsible for marketing of the Units in the complex. The marketing strategy, budget, selection of publicity material, media etc. Shall be decided by the Developer with the consent of the Owner.

14.11 **No Violation of Law:** The Developer hereby agrees and covenants with the Owner not to violate or contravene any of the provisions of the rules applicable to construction of the said Complex.

15. **Obligations of Owner :**

15.1 **Co-operations with Developer:** The Owner undertake to fully cooperate with the Developer for obtaining all permissions required for developer of the said premises.

- 15.2 **Act in Good Faith:** The Owner undertakes to act in good faith towards the Developer (and any appointed and/or designated representatives) so that the project can be successfully completed.
- 15.3 **Documentation and Information:** The Owner undertake to provide the Developer with any and all documentation and information to the said premises as may be required by the Developer from time to time.
- 15.4 **No Obstruction in Dealing with Developer's Functions:** The Owner covenant not to do any act, deed or thing whereby the Developer may be prevented from discharging its functions under this Agreement.
- 15.5 **No Obstruction in Construction:** The Owner hereby covenant not to cause any interference or hindrance in the construction of the said Complex.
- 15.6 **No Dealing with Said Premises:** The Owner hereby covenant not to let out, grant lease, mortgage and/or charge the Said Premises or any portions thereof save in the manner envisaged by this Agreement.
- 15.7 **Making out Marketable Title:** The Owner assured that he is the legal and rightful Owner of the Said Premises and having the clear and marketable title thereof, which the Developer relied upon and also made themselves satisfied, and the Owner further hereby covenant that any encumbrance or defect relating to the title of the said Premises if so occurs hereafter, shall make out a good, bankable and marketable title to the said Premises by the Owner.
16. **Indemnity :**
- 16.1 **By the Developer:** The Developer hereby indemnifies the Owner saved, harmless and indemnified of, from :
all loss, damage or liability (whether criminal or civil) which may be

Owner in relation to the construction of the Said Complex and those resulting from breach of this agreement by the Developer, including any act of neglect or default of the Developers consultants, employees and/or the Transferees and any breach resulting in any successful claim by any third party or any permission, rules, regulation or bye-laws or arising out of any accident or otherwise.

16.2 **By Owner:** The Owner hereby indemnify and agree to keep the Developer saved, harmless and indemnified of, from and against any and all loss, damage or liability (whether criminal or Civil) suffered by the Developer in the course of implementing the Project including marketing thereof for any successful claim by any third party for any defect in title of the Said Premises or any of the Representation of the Owner being incorrect apart from all these things, the Developer can search and verify the title before executing the agreement.

17. **Miscellaneous :**

17.1 **Parties Acting under Legal Advice:** Each party has taken and shall take its own legal advice with regard to this agreement.

17.2 **Essence of Contract:** In addition to time, the Owner and the Developer expressly agree that the mutual covenants and premises contained in this Agreement shall be the essence of this contract.

17.3 **Valid Receipt:** The Owner shall pass valid receipts for all amounts paid under this Agreement.

17.4 **No Partnership:** The Owner and the Developer have entered into a joint venture agreement for the limited purpose of development and construction of the Said Complex and nothing contained herein shall be

deemed to be or constructed as a partnership between the Parties in any manner nor shall the parties constitute an association of person.

17.5 **Taxation:** The Owner shall not be liable for any Income Tax, Goods & Service Tax or any other taxes in respect of the Developer's Allocation and the Developer shall be liable to make payment of the same and keep the Owner indemnified against all actions, suits, proceedings, costs, charges and expenses in respect thereof. Similarly, the Developer shall not be liable for any Income Tax, Wealth Tax, Service Tax or any other taxes in respect of the Owner having entered into this Agreement and/or the Owner's Allocation and the Owner shall be liable to make payment of the same and same and keep the Developer indemnified against all actions, suits, proceedings, costs, charges and expenses in respect thereof.

17.6 **Name of Said Complex:** The name of the said Complex shall be decided by the Owner and Developer by mutual consent.

18. **Defaults :**

18.1 **No Cancellation:** None of the parties shall be entitled to cancel or rescind this Agreement without recourse to arbitration. In the event of any default on the part of either party, the other party, the other party shall be entitled to sue the party in default for specific performance of this Agreement and also for damages.

19. **Force Majeure :**

19.1 **Meaning:** Force Majeure shall mean and include an event preventing either party from performing any or all of their obligations under this Agreement, which arises from, or is attributable to unforeseen occurrence, acts, events, omissions or accidents which are beyond the reasonable control of the party so prevented and dose 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, structural damage, epidemic or other natural physical disaster, failure or shortage of power supply, war, military operations, riot, crowd disorder, strike, lock-outs, labour unrest or other industrial action, terrorist action, civil commotion, non-availability of construction material, hike in prices of construction material 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 Government or Court orders.

- 19.2 **Saving Due to Force Majeure:** If either party is delayed in or prevented from performing any of its obligations under this Agreement by any event of force majeure, that Party shall have no liability in respect of the performance of such of its obligations as are prevented by the event/s of force majeure, during the continuance thereof, and for such time after the cessation, as is necessary for that Party, using all reasonable endeavors, to re-commence its affected operations in order for it to perform its obligations. Neither the Owner nor the Developer shall be held responsible for any consequences or liabilities under this Agreement if prevented in performing the same by reason of majeure. Neither Party shall be deemed to have defaulted in the performance of its contractual obligations whilst the performance thereof is prevented by force majeure and time limits laid down in this Agreement for the performance of such obligations shall be extended accordingly upon occurrence and cessation of any event constituting force majeure.

20. **Entire Agreement :**

- 20.1 **Supersession :** This Agreement constitutes the entire agreement between the Parties and revokes and supersedes all previous discussions/ correspondence and agreement between the parties, oral or implied.

21. **Counterparts :**

- 21.1 **All Originals:** This Agreement is being executed simultaneously in two counterparts, each of which shall be deemed to be an original and all of which shall constitute one instrument and agreement between the Parties. The copy retained by the Developer shall be the property of the Developer.

22. **Reservation of Rights :**

- 22.1 **Right to waive:** Any term or condition of this Agreement may be waived at any time by the Party who is entitled to the benefit thereof. Such waiver must be in writing and must be executed by both Party.

23. **Amendment/Modification :**

- 23.1 **Express Documentation:** No amendment or modification of this Agreement or any part hereof shall be valid and effective unless it is by an instrument in writing executed by both the Parties and expressly referring to the relevant provision of this Agreement.

24. **Notice :**

- 24.1 **Mode and Delivery:** Any notice or other written communication given under or in connection with this Agreement may be delivered personally, or by facsimile transmission, or registered post with acknowledgement due or through courier service to the proper address and for the attention of the relevant Party or such other address as is otherwise notified by each Party from time to time). The Owner shall address all such notices and other written communications to the Developer shall address all such notices and other written communications to the Owner. Any such notice or other written communication shall be deemed to have been served (1) if delivered personally, at the time of delivery, (2) if sent by registered post or courier service, on the 4th day of handing over the same to the postal

authorities/service provide and (3) if sent by facsimile transmission, at the time of transmission (if sent during business hours) or (if not sent during business hours) at the beginning of business hours next following the time to transmission, in the place to which the facsimile was sent.

- 24.2 **Proof of Service:** In proving service of notice served as aforesaid, it shall be sufficient to prove that personal delivery was made or in the case of registered post or courier, that such notice or other written communication was properly addressed and delivered to the postal authorities/ service provider or in the case of a facsimile message that an activity or other report from the sender's facsimile machine can be produced in respect of the notice or other written communication, showing the recipient's facsimile number and the number of pages transmitted.

25. **Arbitration :**

- 25.1 **Dispute and Pre-referral Efforts:** The Parties shall attempt to settle disputes or any differences in relation to or arising out of or touching this Agreement or the validity, interpretation, construction, performance, breach or enforceability of this Agreement (collectively Disputes), by way of negotiation. TO this end, each of the Parties shall use its reasonable endeavors to consult or negotiate with the other party in good faith and in recognizing the Parties mutual interests and attempt to reach a just and equitable settlement satisfactory to both parties.

26. **Jurisdiction:**

- 26.1 **Court:** In connection with the aforesaid arbitration proceedings, the District Court having territorial jurisdiction over the said premises and the High Court at Calcutta only shall have jurisdiction to receive, entertain, try and determine all actions and proceedings.

27. **Rules of Interpretation :**

- 27.1 **Presumptions Rebutted:** It is agreed that all Presumptions which may arise in law at variance with the express provisions of this Agreement stand rebutted and that no presumptions shall arise adverse to the right, title and interest of Parties to the Said Premises, the Said Complex and/or the respective allocations of the Parties therein.
- 27.2 **Statutes:** In this Agreement, any reference to a statute, statutory provision or subordinate legislation shall be construed as referring to that statute, statute, statutory provision or subordinate legislation as amended, modified, consolidated, re-enacted or replaced and in force from time to time, whether before or after the date of this Agreement and shall also be construed referring to any previous statute, statutory provision or subordinate legislation amended, modified, consolidated, re-enacted or replaced by such statutory provision or subordinate legislation. Any reference to a statutory provision shall be construed as including reference to all statutory instruments, orders, regulation or other subordinate legislation made pursuant to that statutory provision.
- 27.3 **Clause or paragraph:** In this Agreement, any reference to a clause or paragraph or schedule (other than to a schedule to a statutory provision) is a reference to a clause or paragraph or schedule (as the case may be) of this Agreement and the schedules from part of and are deemed to be incorporated in this Agreement.
- 27.4 **Including:** In this Agreement, any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of words preceding those terms.

27.5 **Headings:** In this Agreement, headings are inserted for convenience of reference only and are not intended to impact the interpretation or meaning of any clause and shall consequently not affect the construction of this Agreement.

27.6 **Definitions:** In this Agreement, the words put in brackets and in bold prints define the word, phrase and expression immediately preceding.

1st Schedule

(Said Premises)

ALL THAT piece and parcel of land admeasuring 13 (Thirteen) cottah 01 (one) chiltack 40 (forty) Sq. Ft., more or less, lying and situated at Holding No. 12(Old), 15(New) J. N. Sarkar Street, Kolkata - 700048, at Mouza Dakshindari, J.L. No. 25, comprises in R.S. Dag Nos. Part of 281 & 282, 283, 285 recorded in R.S. Khatian No. 646, 657, and 731, P.S. Lake Town, Holding No. 15(New), Within the Municipal limits of Ward No. 32 of South Dumdum Municipality, District North 24 Parganas, delineated on the Plan annexed hereto and bordered in colour Red thereon and butted and bounded as follows:-

- ON THE NORTH** : Premises no. 11/1/2, J.N. Sarkar Street, Kolkata - 700048.
- ON THE EAST** : Municipal Road (J N Sarkar Sreet).
- ON THE WEST** : 8 Feet Common Passage.
- ON THE SOUTH** : 8 Feet Common Passage.

2nd Schedule
(Owner's Allocation)

Owner's Allocation will be mentioned in detail on the basis of Registered Power of Attorney.

Block -A

Allotted Ground Floor -GA - 685 sq. ft.

Allotted

- A1 - 1st floor 1004 sq. ft.
- A2- 2nd floor 1004 sq. ft.
- A3 - 3rd floor 1004 sq. ft.
- A4 - 4th floor 1004 sq. ft.

Allotted

- E2 - 2nd floor 766 sq. ft.
- E3 - 3rd floor 766 sq. ft.
- E4 - 4th floor 766 sq. ft.

Block -B

Allotted Ground Floor -GC - 570 sq. ft.

Allotted

- F1 - 1st floor 824 sq. ft.
- F2- 2nd floor 824 sq. ft.
- F3 - 3rd floor 824 sq. ft.
- F4 - 4th floor 824 sq. ft.

Allotted

- I2 2nd floor - 759 sq. ft.
- I3 3rd floor - 759 sq. ft.

Allotted

- G4 4th floor - 835 sq. ft.
- H4 4th floor - 1006 sq. ft.

Garage .2285 – 45% = 1029 sq. ft.

Total :15253 sq. ft.

Owners allocation

45% total flat – 14597 sq. ft.

Allotted 14224 sq. ft.

short – 373 sq. ft.

3rd Schedule

(Developer's Allocation)

Developer's Allocation will be mentioned in detail on the basis of Registered Power of Attorney.

Block –A

Allotted Ground Floor –GB – 674 sq. ft.

Allotted

B1 – 1st floor 1144 sq. ft.

B2 - 2nd floor 1144 sq. ft.

B3 – 3rd floor 1144 sq. ft.

B4 – 4th floor 1144 sq. ft.

Allotted

D1 – 1st floor 693 sq. ft.

D2 – 2nd floor 693 sq. ft.

D3 – 3rd floor 693 sq. ft.

D4 - 4th floor 693 sq. ft.

Allotted

C1 – 1st floor 451 sq. ft.

C2 – 2nd floor 451 sq. ft.

C3 – 3rd floor 451 sq. ft.

C4 – 4th floor 451 sq. ft.

Allotted1st floor – 766 sq. ft.

Block –B

Ground floor – GD – 581 sq. ft.

AllottedG1 – 1st floor 835 sq. ft.G2- 2nd floor 835 sq. ft.G3 – 3rd floor 835 sq. ft.**Allotted**I-1 – 1st floor 759 sq. ft.I-4 – 4th floor 759 sq. ft.**Allotted**H1 – 1st floor 1006 sq. ft.H2 – 2nd floor 1006 sq. ft.H3 – 3rd floor 1006 sq. ft.

Garage .2285 – 55% = 1256 sq. ft.

Total : 19740 sq. ft.

55% - Total Flat – 17841 sq. ft.

Allotted – 18214 sq. ft.**Excess - 373 sq. ft.**

Flat area of 373 sq. ft. excess or short will be equalized at the time of completion of building mutually on the basis of the then market price of the area.

4th Schedule
(Specifications)

Superstructure	: RCC structure
Windows	: Alluminium Windows.
Doors	: Flush doors with accessories in Common Portions. Bare in the Unit, Door Frame Sal Wood.
Toilets	: Concealed plumbing system using standard materials Rest of the area is to be left bare.
Flooring	: Marble/ Tiles in the Unit. Marble/ Tiles/Stone in all common Portions including the stairs.
Lift	: Four Passengers Capacity.
Electricals	: Main line in the Distribution Board of the Unit with concealed PVC conduit pipes and copper wiring. Telephone point at the entrance or near the Distribution Board in the Unit.
Water Supply	: 24 hours water supply.
Sewerage System	: Sewerage/Drainage system from the said building the main sewerage system.

29 Execution and Delivery :

29.1 IN WITNESS WHEREOF the Parties have executed this Agreement on the date mentioned above.

SIGNED AND DELIVERED by the parties in the presence of :

1. Paisswader Roy

S/o Late - Gopal Ch Roy
11/1/70 Sarbanandan Road
Ra-37

2. Bijoy Mukherjee
A/o. Late S.R. Mukherjee
5A, Kalachand Sanjal Lane,
Kolkata-700004.

Subir Bhadra.

SIGNATURE OF THE OWNER

D. S. Enterprise

1) Manoj K. Sin.
Partner

D. S. Enterprise

2) N. S. Roy
Partner

3) D. S. Enterprise

Dilip Dutta
Partner

4) D. S. Enterprise

Nimal Dutta

SIGNATURE OF THE DEVELOPER

Drafted By :

Santosh Kumar Dutta

Sri Santosh Kumar Dutta
Advocate
S.C. Court, Calcutta
WB/65# 1979

Computer printed by :

Bappa Mandal
Das Type Chamber,
12, Old Post Office Street,
Kolkata - 700001

MEMO OF RECEIPT

RECEIVED from the withinnamed Developer the within mentioned sum of Rs.70,00,000/- (Rupees Seventy Lakh only) towards payments of the Security Deposit in terms of Clause Nos. 11.8, of this Agreement.

WITNESSES :1. *Biswadev Das**Sudip Bhadra.*

SIGNATURE OF THE OWNER2. *Bijoy Mohanty*