

004451/18

I

4613/18



पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

W 590165

m  
 18/06/18  
 9/999385/18  
 Mr. A. S. 60,000/-  
 Loan Rs. 15,00,000/-

Certified that the Document is admitted to registration. The Stamp Sheet and the fee thereon are attached to this document on the part of the Deponent.

Additional Registrar  
of Assessment-1, Kolkata

18 JUN 2018

**INDENTURE OF MORTGAGE**

(without possession)

**THIS INDENTURE** is made at Kolkata on this *18th day of*, June, 2018 (the "Indenture")

by:

1. **Jiten Commercial Pvt. Ltd**, a private limited company registered under the Companies Act 1956, and a 'Company' within the meaning of the Companies Act, 2013 having its registered office at 26, Mahamaya Mandir Road, Post Office Garia, Police Station Sonarpur, Kolkata-700084 and having its (PAN: AAACJ7335) being represented by its Director, **Mr. Bikash Agarwal** (PAN: AHAPA8484B), son of Late Rajendra Kumar Agarwal.
2. **Kriston Merchants Pvt. Ltd**, a private limited company registered under the Companies Act 1956, and a 'Company' within the meaning of the Companies Act, 2013 having its registered office at 26, Mahamaya Mandir Road, Mahamayatala, Garia Kolkata- 700084 and having its (PAN: AABCK2317G), being represented by its Director, **Mr. Bikash Agarwal** (PAN:AHAPA8484B), son of Late Rajendra Kumar Agarwal
3. **Rajwada Developers Pvt. Ltd**, a private limited company registered under the Companies Act 1956, and a 'Company' within the meaning of the Companies Act, 2013 having its registered office at 26, Mahamaya Mandir Road, Post Office Garia, Police Station Sonarpur, Kolkata- 700084 and having its (PAN: AAECR6254Q), being represented by its Director, **Mr. Bikash Agarwal**, (PAN: AHAPA8484B), son of Late Rajendra Kumar Agarwal.
4. **Mr. Parveen Agarwal**, S/o Rajendra Kumar Agarwal, Aged 37 years, R/o, 26, Mahamaya Mandir Road, P.O. Garia, , Police Station Sonarpur, Kolkata-700084 having his (PAN:AGPPA1802M) being represented by his Constituted Attorney, **Mr. Bikash Agarwal** (PAN:AHAPA8484B), son of Late Rajendra Kumar Agarwal
5. **Mrs. Sarala Agarwal**, D/o Atmaram Kandoi, Aged 58 years, R/o, 26, Mahamaya Mandir Road, Mahamayatala, Kolkata, -700084 having her (PAN: ACXPA0964A), being represented by his Constituted Attorney, **Mr. Bikash Agarwal** (PAN: AHAPA8484B) son of Late Rajendra Kumar Agarwal.

6. **SRI RAJKUMAR AGARWAL** (PAN: AHAPA845A), son of Late Rajendra Agarwal, R/o, 26, Windsor Green, Mahamaya Mandir Road, Mahamayatala, Kolkata, -700084, being represented by his Constituted Attorney, **Mr. Bikash Agarwal** (PAN: AHAPA8484B) son of Late Rajendra Kumar Agarwal.
7. **Mr. Bikash Agarwal**, S/o. Rajendra Kumar Agarwal, Aged 36 years, R/o at 26, Mahamaya Mandir Road, Post Office Garia, Police Station Sonarpur, Kolkata- 700084, (PAN AHAPA8484B).
8. **SRI HASMUKH PAREKH**, son of Sri Santilal Haribhai Parekh Agarwal, residing at 5/1, Russel Street, Post Office-Middleton Row, Police Station Shakespeare Sarani, Kolkata- 700071 (PAN: AFTPP2385R), being represented by his Constituted attorney Being represented by his Constituted Attorney, **Mr. Bikash Agarwal** (PAN: AHAPA8484B), son of Late Rajendra Kumar Agarwal.
9. **SRI JAYSUKH PAREKH**, son of Shantilal Haribhai Parekh, residing at residing at 5/1, Russel Street, **P.O. Middleton Row**, Police Station Shakespeare Sarani, Kolkata- 700071, (PAN: AFGPP4149C) being represented by his Constituted Attorney being represented by his Constituted Attorney, **Mr. Bikash Agarwal** (PAN: AHAPA8484B) son of Late Rajendra Kumar Agarwal.
10. **SRI MEHUL PAREKH** Son of Jaysukh Shantilal Parekh, residing at residing at 5/1, Russel Street, Post Office Middleton Row, Police Station Shakespeare Sarani, Kolkata- 700071, (PAN: AIDPP5714F), being represented by his Constituted attorney **Mr. Bikash Agarwal** (PAN: AHAPA8484B), son of Late Rajendra Kumar Agarwal.
11. **SRI NIKHIL PAREKH** (PAN: AKJPP5964B), Son of Has Mukh Parekh, residing at 5/1, Russel Street, Post Office Middleton Row, Police Station Shakespeare Sarani, Kolkata-700071, being represented by his Constituted attorney **Mr. Bikash Agarwal** (PAN: AHAPA8484B), son of

Late Rajendra Kumar Agarwal, hereinafter collectively referred to as "Security **Providers or the Mortgagors** " or the **Obligors** (which expression shall unless the context otherwise requires include its successors and permitted assignees).

**And**

**Rajwada Developer**, A Partnership firm registered under the Indian Partnership Act, 1932 having its principal place of business at, 26, Mahamaya Mandir Road, P.O. Garia, Police Station Sonarpur, Kolkata-700084, having its (PAN AARFR9646N) hereinafter referred to as "**Borrower**" (which expression shall unless the context otherwise requires include its successors and permitted assignees), being represented by one of its partner, **Sri Bikash Agarwal (PAN: AHAPA8484B)**, son of Late Rajendra Kumar Agarwal.

**IN FAVOUR OF:**

**BAJAJ HOUSING FINANCE LIMITED**, (PAN: AACB6018P), a Company incorporated under the provisions of the Companies Act, 1956 and a company within the meaning of Companies Act 2013 & and having its Registered Office at Mumbai-Pune Road, Akurdi, Post Office: Akurdi, Police Station Akurdi, Pune -411035, hereinafter referred to as the "**LENDER**" or the "**SECURED PARTY**" (which expression shall unless the context otherwise requires include its successors and permitted assignees), being represented by its authorised signatory, **MR. PINAKI GUPTA** (PAN: AJJPG6385J), son of Mr. Chandan Gupta. Of the **THIRD PART**

**WHEREAS:**

- A. The Mortgagors herein are the joint owners and are seized and possessed of and otherwise well and sufficiently entitled to ALL THAT land measuring about ~43 cottahs, 12 chittacks and 24 sq. ft. along with structures standing thereon forming part of R.S. Dag nos. 3171, 3173, 3174, 3175, 3176, 3177, 3178, 3182, 3184, 3185, 3186 and 3187 under R.S. Khatian nos. 152, 153,

492, 419, 604, 491, 263 and 422, J.L. no.47, R.S. no.7, Touzi no.109 in Mouza Barhans Fartabad under P.S. Sonarpur in the District South 24 Parganas, presently known and numbered as municipal Holding no. 933, Uttar-Purba Fartabad under municipal Ward no.28 within the limits of Rajpur-Sonarpur Municipality (hereinafter referred to as the "Said Premises") by virtue of purchase through several registered deed of Conveyances and have engaged M/s. Rajwada Developers (the Borrower herein) to develop the Said Premises by constructing a residential project namely "Rajwada Altitude" on the land of the Said premises (hereinafter referred to as the "Said Project") and entered into a Development Agreement dated 28<sup>th</sup> December, 2015 with the Borrower/Developer herein which was registered in the office of A.D.S.R., Garia and recorded in its Book no. 1629-2016, pages 181 to 234 as Being no. 1629041190 for the year 2015 on the terms and conditions mentioned therein.

- B. Pursuant to the Loan agreement dated 8<sup>th</sup> May, 2018 entered into amongst *inter alia* the Borrower and the Lender (the "**Facility Agreement**"), the Borrower has availed of a rupee facility from the Lender, in accordance with the terms set out in the Facility Agreement (the "**Facility**"), for a loan amount of **Rs. 15,00,00,000/- (Rupees Fifteen Crores Only)**/
- C. One of the conditions of the Facility Agreement is that the Facility with all interest, additional interest, default rate and other costs and charges due and payable to the Lender under the Finance Documents shall be secured, *inter alia*, by a first ranking and exclusive Registered Mortgage of the Mortgaged Properties with respect the specified unsold units in the Said Project named "Rajwada Altitude" together with proportionate land right and the properties appurtenant thereto more fully described in the Schedule-I written hereunder (defined below).
- D. The Security Providers, the Borrower and the Secured Party have agreed that the Security will be created in favour of the Secured Party and that the

Security to be created on the Mortgage Properties shall be by way of a Registered Mortgage.

**NOW THIS INDENTURE WITNESSES AND IT IS HEREBY AGREED AND DECLARED BY THE SECURITY PROVIDER AS UNDER: -**

**I. DEFINITIONS**

Unless otherwise defined, capitalised terms in this Indenture shall have the meanings given to them in the Facility Agreement. In addition:

**Current Assets** shall have the meaning ascribed to it under Section 5(v) (*Grants and Transfers*).

**Final Settlement Date** shall mean the date on which all Secured Liabilities owed to the Secured Party by the Borrower has been paid, discharged or performed in full to the satisfaction of the Secured Party and there are no sums which are owed, even contingently, to the Secured Party by the Borrower, under or pursuant to the Financing Documents.

**"First Mortgaged Properties"** shall have the meaning set forth in Clause 5(i) of this Indenture.

**"Fourth Mortgaged Properties"** shall have the meaning set forth in Clause 5(iv) of this Indenture.

**"General Assets"** means all the assets of the Borrower comprised in the floating charge created by the Borrower pursuant to Clause 5(vi) of this Indenture, but does not include the Specifically Mortgaged Properties.

**Insurance Contracts** shall mean collectively the insurance contracts and policies, more particularly described in Schedule 2 (*Insurance Contracts*) hereto, any substitutes therefor and any additional insurance contracts or policies required under.

**Maximum Lending Rate** shall have the meaning ascribed to it in Section 13(b)(viii) (*Reimbursement with Interest*).

**"Mortgaged Properties"** mean the Specifically Mortgaged Properties, the Current Assets and the General Assets.

**Person** shall mean any individual, corporation, partnership, (including, without limitation, association), joint stock company, trust, unincorporated organization or government authority or political subdivision thereof.

**"Second Mortgaged Properties"** shall have the meaning set forth in Clause 5 (ii) of this Indenture.

**Secured Liabilities** shall mean the Facility or part of the Facility that has been secured by the Mortgaged Properties.

**"Specifically Mortgaged Properties"** shall mean collectively the First Mortgaged Properties, the Second Mortgaged Properties, Third Mortgaged Properties and Fourth Mortgaged Properties.

**"Third Mortgaged Premises"** shall have the meaning set forth in Clause 5 (iii) of this Indenture.

## 2. CONSTRUCTION

In this Indenture:

- (a) Reference to an account includes a reference to any sub-account of that account;
- (b) References to this Indenture shall be construed as references also to any separate or independent stipulation or agreement contained in it;
- (c) References to "Party" means a party to this Indenture and references to "Parties" shall be construed accordingly; and
- (d) Words and abbreviations, which have, well known technical or trade/commercial meanings are used in this Indenture in accordance with such meanings;



Government of West Bengal  
Office of the A.R.A. - I KOLKATA, District: Kolkata  
W.B. FORM NO. 1504

Query No / Year	19010000939385/2018	Serial No/Year	1901:04451/2018
Transaction id	0001178197	Date of Receipt	18/06/2018 5:33PM
Deed No / Year	I - 190104613 / 2018		
Presentant Name	Mr PINAKI GUPTA		
Mortgagor	Jiten Commercial Private Limited , Kriston Merchants Private Limited , Rajwada Developers Private Limited ,Mr Parveen Agarwal,Mrs Sarin Agarwala,Shri RAJKUMAR AGARWAL,Mr Bikash Agarwal,Shri HASMUKH PAREKH,Shri JAYSUKH PAREKH,Shri MEHUL JAYSUKH PAREKH,Shri NIKHIL PAREKH, Rajwada Developer		
Mortgagee	BAJAJ HOUSING FINANCE LIMITED		
Transaction	[0310] Mortgage, Mortgage without Possession by others		
Additional Transaction	[4308] Other than Immovable Property, Agreement [No of Agreement : 2]		
Total Setforth Value	Rs. 15,00,00,000/-	Loan Amount	Rs. 15,00,00,000/-
Stamp Duty Paid	Rs. 50/-	Stamp Duty Articles	40(b)
Registration Fees Paid	Rs. 0/-	Fees Articles	
Standard User Charge	597/-	Requisition Form Fee	50/-
Remarks			

Stamp Duty Paid (Break up as below)

Stamp Type	Treasury or Vendor	Treasury or Vendor Name	Stamp Serial No	Purchase Date	Amount in Rs.
Impressed	Vendor	S MUKHERJEE	21716	11/05/2018	50/-

Other Fees Paid (Break up as below)

By Cash	Amount in Rs.
Standard User Charge	597/-

\*Total Amount Received by Cash Rs. 597/-

(Malay Chakrabarty)  
ADDITIONAL REGISTRAR  
OF ASSURANCE



- (c) Any consent required to be provided by the Secured Party shall mean the prior written consent of the Secured Party; and
- (f) In the event of any disagreement or dispute between the Parties regarding the determination as to whether any matter, event, occurrence, circumstance, change, fact, information, document, authorization, proceeding, act, omission, claims, breach, default or otherwise, is material, as provided in the Finance Documents or this Indenture, the reasonable opinion of the Secured Party in respect thereof shall be final and binding on the Security Provider.
- (g) The principles of interpretation set forth in Section 1.2 of the Facility Agreement shall apply mutatis mutandis to this Indenture as if the same were set out in full herein, and form part of this Indenture.

### **3. BENEFIT OF INDENTURE**

The Secured Party shall hold the Security Interest created by the Security Providers/Mortgagors in its favour under this Indenture over the Mortgaged Properties, including the covenants and mortgages given by the Security Providers pursuant hereto, upon trust for the benefit of the Secured Party, for the due payment of the Secured Liabilities and discharge and performance of all the obligations of the Security Providers under the Finance Documents on or prior to the Final Settlement Date.

### **4. COVENANT TO PAY**

Pursuant to the Finance Documents and in consideration of the Lender having entered into or agreed to enter into the Finance Documents to which it is a party, the Security Providers covenant to comply with the terms and conditions of the Finance Documents and to repay the Secured Liabilities in accordance with the Finance Documents.

### **5. GRANT AND TRANSFERS**

For the consideration aforesaid and as continuing security for the payment

and discharge of the Secured Obligations hereby secured or intended to be secured, the Mortgagors/Obligors doth hereby grant, assign, convey, assure, charge and transfer (without possession, i.e. the possession shall remain with the Mortgagors) unto the Lender acting for its benefit by way of continuing security:

- (i) all and singular the premises, more particularly described in **Schedule 1 hereto**, together with all things attached or affixed thereto or shall at any time hereafter during the continuance of the security hereby constituted be attached or affixed to the aforesaid premises, an undivided interest on the underlying lands and all common areas relating to the immovable property of each of the Obligors set against their names in **Schedule 1** hereof, including appurtenances whatsoever to the premises and the said lands or any part thereof belonging to or in anywise appertaining or usually held, occupied, enjoyed therewith or reputed to belong or be appurtenant thereto and all the estate, right, title, interest, property, claim and demand whatsoever of the Obligors into and upon the same (the "**First Mortgaged Properties**"), **TO HAVE AND TO HOLD** by way of security all and singular the First Mortgaged Properties unto and to the use of the Lender for its own benefit absolutely.
- (ii) Each of the rights, title, interest, benefit, claims and demands whatsoever of the Mortgagors/Obligors, in, to, under all assets of the Mortgagors/Obligors relating to the Mortgaged Properties including the development rights over the Project, all licences, permits, approvals, assignments, concessions, consents, the clearances (to the extent assignable under Applicable Law), the undertakings of the Obligors (the "**Second Mortgaged Properties**") and the Second Mortgaged Properties shall also include, without limitation, (a) all rights (including the right to compel performance thereunder), title, interest, benefits, claims and demands whatsoever of the Obligors to commence and conduct in the name of the respective Obligors, any proceedings in respect of or in relation to Second Mortgaged

Properties and (b) rights and benefits to all amounts owing to, or received by, the Obligors and pertaining to Second Mortgaged Properties and all other claims of the Obligors under or in any proceedings against all or any such Persons and together with the right to further assign any of the Second Mortgaged Properties description of which shall further include all properties of the above description whether presently in existence or acquired hereafter, **TO HAVE AND TO HOLD** by way of security all and singular the Second Mortgaged Properties unto and to the use of the Lender for its own benefit absolutely.

- (iii) all the rights, interest, claims and benefit in the Escrow Account required to be created by the Issuer and/or Security Providers under any Transaction Documents, all cash flows relating to the Mortgaged Properties, more particularly the Project Receivables and Obligor's share of unsold Units in the Projects, and including all insurance proceeds, book debts, all cash flows, all bills, whether documentary or clean, all cash in hand, all investments, book debts, uncalled capital, goodwill and all estate, rights, title, interest, property, benefits, claims and demands whatsoever of the Obligors in, to or in respect of all the aforesaid assets, both present and future, and all other assets and securities which represent all amounts in the Escrow Account and all the monies and other properties deposited in, credited to or required to be credited or required to be deposited or lying to the credit of the aforesaid account whether presently in existence or acquired hereafter (collectively, the "**Third Mortgaged Properties**") **TO HAVE AND TO HOLD** by way of security all and singular the Third Mortgaged Properties unto and to the use of the Lender for its own benefit absolutely.
- (iv) all the rights, title, interest, benefit, claims and demands whatsoever of the Borrower in, to, under and/or in respect of the Insurance Contracts both present and future (along with endorsement by a loss payee clause in favour of the Secured Party in a manner acceptable

under Applicable Law and acceptable to the Secured Party) and all rights, claims and benefits to all monies receivable thereunder and all other claims thereunder (collectively, the "**Fourth Mortgaged Properties**") by way of registered mortgage in accordance with the terms of the Finance Documents;

(v) by way of floating charge, all the current assets of the Borrower in relation to the Project other than the Specifically Mortgaged Properties, both present and future, realizable within one year, including without limitation the Borrower's receivables, cash in hand, investments classified as "held for trading", raw materials, consumable stores and spares and other current assets including trade and other receivables and receivables by way of cash assistance and/or cash incentives or any claims by way of refund of customs/excise duties, book debts and stock in trade, whether installed or not and whether lying loose or in cases or which are lying or are stored in or to be stored in or to be brought into or upon the Borrower's premises, warehouses, stockyards and godowns or the premises, warehouses, stockyards and godowns of the Borrower's agents, Affiliates, associates or representatives or at various work sites or at any place or places wherever else situated or wherever else the same may be in each case pertaining to the Project, description of which shall include all properties of the above description whether presently in existence, constructed or acquired hereafter (collectively, the "**Current Assets**") by way of registered mortgage in accordance with the terms of the Finance Documents; and

(vi) assign, convey, assure, charge and transfer by way of security on a *pari passu* basis unto and in favour of and for the benefit of the Lender by way of continuing security all the other assets of the Borrower, both present and future (other than the Specifically Mortgaged Properties) effectively charged pursuant to the provisions of Clause 5 (i) to (iii) above including all intangible assets of the Borrower including but not limited to goodwill, trademarks and

patents, present and future, description of which shall include all properties of the above description whether presently in existence or acquired hereafter and the Borrower's goodwill, uncalled capital, trademarks, patent and cash in hand, and also including without limitation, the rights, title and interest in the undertakings of the Borrower (collectively, the "**General Assets**") to have and to hold by way of security on a *pari passu* basis all and singular the General Assets unto and to the use and benefit of the Lender. Provided however that the charge created over the General Assets shall be a floating charge and shall not hinder the Borrower from selling, leasing or otherwise disposing of the same or any part thereof in the ordinary course of its business and in each case subject to and only as expressly permitted by the Finance Documents and that the Borrower shall not, without the prior written consent of the Lender, create or attempt to create any Security Interest upon the General Assets.

**6. CONVERSION OF FLOATING CHARGE**

The mortgage created over the Current Assets and General Assets pursuant to Section 5 (v) and Section 5 (vi) above shall be a floating charge which shall be automatically and after expiry of 7 days notice served in that behalf by the Secured Party to the Borrower, be converted into a fixed charge upon the occurrence and continuance of any Event of Default which has not been cured within the relevant cure period or waived.

**7. RANKING**

The mortgage and charge created hereunder in favour of the Secured Party shall rank first and shall have exclusive charge.

**8. SECURITY**

**8.1 Continuing Security**

The security created by or pursuant to these presents:

- (a) is a continuing security and shall remain in full force and effect till the Final Settlement Date, notwithstanding any intermediate payment or settlement of account or other matter or thing whatsoever and in particular the intermediate satisfaction by the Security Provider of the whole or any part of the Secured Liabilities in accordance with the Finance Documents;
- (b) is in addition and without prejudice, to any other security, guarantee, lien, Indemnity or other right or remedy which the Secured Party may now or hereafter hold for the Secured Liabilities or any part thereof; and
- (c) may be enforced against the Security Provider without first having recourse to any other rights of the Secured Party.

## **8.2 Other Security**

This security is in addition to, and shall neither be merged in, nor in any way exclude or prejudice, or be affected by any other security interest, right of recourse or other right whatsoever (or the invalidity thereof) which the Secured Party may now or at any time hereafter hold or have (or would apart from this security hold or have) as regards the Security Provider or any other Person in respect of the Secured Liabilities.

## **8.3 Cumulative Powers**

The powers conferred by this Indenture on the Secured Party and any receiver appointed hereunder are cumulative, without prejudice to their respective powers under the Applicable Law and any Finance Document, and may be exercised as often as the Secured Party or the receiver thinks appropriate in accordance with these presents; the Secured Party or the receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever; and the Security Providers acknowledges that the respective powers of the Secured Party and the receiver shall in no circumstances whatsoever be

suspended, waived or otherwise prejudiced by anything other than an express waiver or variation in writing by the Secured Party or receiver as relevant.

#### **8.4 Avoidance of Payments**

If any amount paid by the Security Providers in respect of the Secured Liabilities is (a) avoided or set aside on the liquidation or administration of the Security Provider or otherwise; or (b) required to be shared by the Secured Party under Applicable Law or under any sharing arrangement with any other creditor of the Security Providers or any other Person, then for the purpose of this Indenture such amount shall not be considered to have been paid when such payment is returned or becomes liable to be returned to the Security Provider or any other claimant by the Secured Party.

#### **9. FURTHER ACQUISITION**

The Security Providers/Mortgagors hereby covenant with the Secured Party that the Security Providers shall, so long as the Secured Liabilities remains outstanding, promptly upon acquisition, whether by way of ownership, lease or otherwise, of any other immovable property in India or elsewhere, inform the Secured Party and as soon as practicable thereafter at its own expense without any demand on the part of the Secured Party grant, convey, transfer, assign, secure and charge on the terms of these presents unto the Secured Party by way of a first charge and as and by way of additional security such after acquired property or properties, rights and benefits in such property according to their respective tenures, and pending formal execution by the Security Providers of assurances by way of additional security in favour of the Secured Party and such secured properties acquired thereafter or properties shall be deemed to have always been comprised in these presents.

#### **10. EASEMENTS**

For the consideration aforesaid the Security Providers/Mortgagors do hereby grant full and free rights and liberty in the Mortgaged Properties as and by