



उत्तर प्रदेश UTTAR PRADESH

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THIS STAMP PAPER FORMS AN INTEGRAL PART OF THE DEVELOPMENT
MANAGEMENT AGREEMENT (THE "AGREEMENT") MADE ON THIS 30th DAY
OF AUGUST 2016 BY AND BETWEEN

TATA VALUE HOMES LIMITED, 12TH FLOOR, TIMES TOWER, KAMALA MILLS
COMPOUND, SENAPATI BAPAT MARG, LOWER PAREL (W), MUMBAI 400 013

AND

LAND KART BUILDERS PRIVATE LIMITED, 7TH FLOOR, TOWER B, PLOT NO. 8,
SECTOR 137, NOIDA EXPRESSWAY, NOIDA - 201301



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27/6/16

स्टाम्प काट कराने का प्रमाण

स्टाम्प प्रोग्राम का नाम व राशि

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चिजरा पाल सिंह स्टाम्प विक्रेता

लाइसेंस नम्बर 44/2006/07 अथवा 11-05-17

राज्य स्टाम्प कार्यालय, सहायक सहायक

पुणे जिल्हा

लेख कोटि विक्रेता पाल सिंह
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[Handwritten Signature]



DEVELOPMENT MANAGEMENT AGREEMENT

THIS DEVELOPMENT MANAGEMENT AGREEMENT (the "Agreement") made on this 30th day of August 2016.

BY AND BETWEEN

TATA VALUE HOMES LIMITED, a company governed under the provisions of the Companies Act, 2013, having its registered office at 12th Floor, Times Tower, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (W), Mumbai 400 013 hereinafter referred to as "**Development Manager**" (which expression shall be deemed to mean and include its successors, representatives and permitted assigns) of the **FIRST PART**;

AND

LAND KART BUILDERS PRIVATE LIMITED, a company governed under the provisions of the Companies Act, 2013, having its registered office at 7th Floor, Tower B, Plot No. 8, Sector 127, Noida Expressway, Noida - 201301, hereinafter referred to as "**Promoter**" (which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include its successors and permitted assigns) of the **SECOND PART**.

The "**Promoter**" and "**Development Manager**" are collectively referred to as "**Parties**" and individually as "**Party**".

WHEREAS:

- A. The New Okhla Industrial Development Authority ("**NOIDA**") had through a sealed two bid tender invited bids for the allotment of sports city plot no. SC-02, Sector 150, Noida measuring approx. 12,00,000 square meters (296 acres) (the "**Sports City Plot**"). The Sports City Plot was awarded to Lotus Greens Constructions Private Limited vide allotment-cum-reservation letter no. NOIDA/Commercial/2014/1498 dated 10th September 2014 ("**Allotment Letter**").
- B. In furtherance to the Allotment Letter, an area measuring approximately 160 acres out of the Sports City Plot was sub divided, being plot no. SC-02A, Sector 150 (the "**Said Larger Property**").
- C. NOIDA has demised the Said Larger Property on lease for a period of 90 years commencing from 19th December 2014 in favour of Lotus Greens Constructions Private Limited by and under the lease deed dated 19th December 2014, ("**December Lease Deed**") which is registered in the office of the Sub-Registrar- II, vide Book No. 1, Volume No. 6486, Page No. 275 to 310, as Document No. 11297 dated 19th December 2014 and lease deed dated 8th May 2015, ("**May Lease Deed**") which is registered in the office of the Sub-Registrar- II, vide Book No. 1, Volume No. 6710, Page No. 1 to 36, as Document No. 3176 dated 11th May 2015 (together, the "**Earlier Lease Deeds**").



- D. The aforementioned Lotus Greens Constructions Private Limited has obtained permission from NOIDA to sublease the Said Property (*defined hereinafter*) in favour of Promoter (a 100% subsidiary of Lotus Greens Constructions Private Limited) under letter no. NOIDA/Commercial/2016/471 dated 06.06.2016. M/s Lotus Greens Constructions Private Limited has subleased an area admeasuring 83,970 sq. mtrs. (equivalent to 20.74 acres), being part of plot no. SC-02A, being Plot No. SC-02/A1, Sector 150, NOIDA, District Gautambudh Nagar, Uttar Pradesh, (more particularly described in **Schedule-I** hereunder and hereinafter referred to as the "**Said Property**") and delineated in red colour on the Plan annexed hereto as **Annexure A**), vide sub lease deed dated 15th June 2016, which is registered in the office of the Sub-Registrar - II NOIDA, vide Book No. 1, Volume No. 7881 Page No. 391 to 356, as Document No. 6336 dated 17th June 2016 ("**Sub-Lease Deed**"). The NOIDA has informed to Lotus Greens Constructions Private Limited under letter no. NOIDA/Commercial/2016/566 dated 08.07.2016 that NOIDA has confirmed the Sub Lease Deed and also taken the Sub Lease Deed on record. The Said Property is intended to be developed by the Promoter as a residential / commercial / retail project, by optimum utilization of the floor area ratio ("**FAR**") to the extent of 22.18 lacs sq. ft. together with the infrastructure and common areas and amenities thereof, in accordance with the Applicable Laws (after considering set back, ground coverage, green area, car parking etc.) (hereinafter referred to as the "**Project**").
- E. In order to develop the Said Property, Lotus Greens Constructions Private Limited has received the building plan approval dated 16/04/2015 from NOIDA bearing No. NOIDA/MVN-2015/IV-1457/780. Apart from the approval mentioned hereinabove, Lotus Greens Constructions Private Limited has also obtained the NOC / permissions from various statutory Authorities, to commence the Development on the Said Property and to implement the Project. A list of approvals / permissions obtained by Lotus Greens Constructions Private Limited is annexed hereto as **Annexure B**. The Approvals required for commencement of construction has been obtained by M/s Lotus Greens Constructions Private Limited. The Promoter shall cause M/s Lotus Greens Constructions Private Limited to obtain the transfer of the aforesaid Approvals in the name of the Promoter prior to the Launch.
- F. M/s Lotus Greens Constructions Private Limited has launched a residential project on the Said Property and has received application monies in relation to saleable area admeasuring 3,92,850 sq. ft. comprising of 311 Premises (hereinafter referred to as "**Sold Area**"). A detailed list of Premises sold along with the names of the purchasers of Premises is annexed hereto as **Annexure C**. The aforementioned Premises shall be considered as part of the Project envisaged herein.
- G. The Promoter intends to develop the Project in such number of phases, as may be mutually agreed between the Promoter and the Development Manager, under the expertise and management of the Development Manager.



- H. The Promoter has represented that Lotus Greens Constructions Private Limited and H.&FS Trust Company Limited ("Debtenture Trustee"), have entered into agreements dated 3rd December 2014 and 4th July 2016 along with certain other affiliates of the Lotus Greens Constructions Private Limited (including the Promoter) ("Investor Agreement") in relation to the subscription by Aitico Capital India Private Limited (earlier known as Clearwater Capital Partners India Private Limited) and Asia Opportunities III (Mauritius) Limited (Earlier known as India New Horizons Holdings Limited) (present "Debtenture Holders") to debtentures issued by Lotus Greens Constructions Private Limited, pursuant to which Investor Agreement, the Debtenture Trustee has a charge and encumbrance over the Said Property. The Debtenture Trustee has provided a no objection letter in respect of this Agreement, a copy of which letter is annexed hereto as Annexure D.
- I. The Development Manager is a leading and reputed company involved in the business of project management of real estate development and has considerable expertise in management of real estate development of residential, commercial and mixed user buildings/projects.
- J. Pursuant to mutual discussions, it is now intended that the Promoter appoint and engage the Development Manager to provide the Management Services (defined hereinafter) for the execution of the Project and to carry out branding, Marketing and facilitating sales of the Project on behalf of the Promoter, in accordance with the terms of this Agreement and the Business Plan.
- K. The Development Manager has, subject to the terms of this Agreement, agreed to provide the Management Services to facilitate the execution of the Project, in accordance with this Agreement and accordingly to associate its Brand Name with the Project, strictly in the manner and for the limited purposes, as mentioned under this Agreement.
- L. The Promoter has represented to the Development Manager that as per the Sub Lease Deed the total lease premium payable for the Said Property is Rs. 162,90,18,000/- (Rupees One Hundred Sixty Two Crore Ninety Lac Eighteen Thousand Only) out of which 20% has already been paid, and the balance 80% is payable.
- M. In order to record their mutual agreement with respect to inter-alia: (i) the Management Services to be provided by the Development Manager and the consideration / Development Management Fees, Sold Area Fees and Overhead Charges payable by the Promoter to the Development Manager for the same; (ii) the terms and conditions on which the Development Manager will provide the Management Services; and (iii) the terms and the manner in which the Brand Name will be associated with the Project, the Parties have agreed to execute this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained and for other good and valuable consideration the receipt



and sufficiency of which are hereby mutually acknowledged, the Parties hereby agree as follows:

1. **DEFINITIONS**

In this Agreement, unless the contrary intention appears, the following words and expressions shall have the following meanings:

- 1.1 "Action" shall mean all claims, demands, notices and proceedings made, initiated, commenced, continued and/or issued by any Government Authority or person(s)
- 1.2 "Affiliate" means with respect to any specified person, any other Person that directly, or indirectly (through one or more intermediaries), Controls, is Controlled by, or is under common Control with, such specified person;
- 1.3 "Agreement" shall mean this Development Management Agreement and all schedules and annexures attached to it, all read together, and shall include any modifications of this Agreement from time to time in accordance with the terms of this Development Management Agreement;
- 1.4 "Applicable Laws" shall mean any statute, legislation, treaty, code, law, regulation, ordinance, rule, notification, judgment, order, decree, bye-law, approval, order or judgment of any competent authority, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or adjudication having the force of law in India, of any of the foregoing, by any competent authority / Government Authority having jurisdiction over the matter in question;
- 1.5 "Approval(s)" means any and all approvals, authorizations, permits, licenses, registrations, permissions, consents, clearances, no objection certificates, entitlements, licenses, rulings, exemptions, declarations or regulations etc., required to be obtained including from the Authority/ies (defined hereunder) for the Project including designing, developing, constructing and completing the Project and any clearances and conversions that may be necessary for such sanction but including the approval/permission from the Union Ministry of Environment, Forest and Climate Change ("MOEF") and/or the Pollution Control Board ("PCB") clearances for the commencement of the development and construction on the Said Property including without limitation environmental clearances, temporary and permanent power connections and all other approvals and/or permissions from any other statutory or governmental or semi-governmental Authority whether state or central, required for the purposes of commencing construction and Development activity;
- 1.6 "Arbitration Act" shall have the meaning given to it in Clause 19.2;
- 1.7 "Authority/ies" means any concerned authority that may/shall grant Approvals in connection with the Said Property and/or the Project and/or any



transaction contemplated herein as also any government, including but not limited to Central Government or Government of Uttar Pradesh, or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, or any other government authority including but not limited to NOIDA, Panchayat, other Local or Public Bodies and Planning Authorities, State PCB, Central PCB, MOEF, Union Ministry of Urban Development, State Fire and Emergency Services Department and any other bodies, relevant statutory, State and Central Government Authorities, agencies, departments, boards, commissions or any political subdivisions thereof, and any court or tribunal of competent jurisdiction and any governmental agency or authority; having jurisdiction over the Project, or any of the transactions contemplated hereby;

- 1.8 "Architect" shall mean the architect appointed by the Promoter in accordance with Clause 7.8.10.1;
- 1.9 "Balance Area" shall have the meaning given to it in Clause 17;
- 1.10 "Brand Name" means the brand name 'Tata Value Homes Limited' (word/logo/trade mark/label mark as the case maybe) [owned by the Development Manager and / or licensed by the Development Manager];
- 1.11 "Business Plan" shall have the meaning ascribed to it in Clause 6.1 and shall form part of this Agreement;
- 1.12 "Commencement Date" shall have the meaning ascribed to it in Clause 5.1;
- 1.13 "Completion of the Project" shall mean the stage at which the construction of the Project has been completed, identified by the receipt of the last of the occupation certificate, for the building(s) constructed on the Said Property, as part of the Project;
- 1.14 "Confidential Information" shall mean any and all information relating to this Agreement and the transactions contemplated herein, including but not limited to the Construction Data, the existence and terms of this Agreement or any other information, which under the circumstances of disclosure ought to be treated as confidential or is notified as being confidential by the Party disclosing such information, but shall not include information:
- a. that is already in the public domain other than by breach of this Agreement;
 - b. that is later acquired by a Party from a source not obligated to any other Party hereto, or its Affiliates, to keep such information confidential;
 - c. that was previously known or already in the lawful possession of a Party, prior to disclosure by any other Party.



- 1.15 "Contract" with respect to a person, shall mean any and all agreements, contracts, undertakings, sub-contracts, leases, understandings, arrangements, instruments, notes, warranties, insurance policies, benefit plans or legally binding commitments or undertakings of any nature (whether written or oral or express or implied) entered into by the Promoter.
- 1.16 "Contractors" shall mean the Main Contractor, contractors, sub-contractors, suppliers and all other third party consultants / vendors including but not limited to the Architect, engineering consultant, cost consultant, quantity surveyor, services engineer, civil and structural engineer, planning supervisor, mechanical and electrical engineer, environmental consultant (where necessary), ground investigation engineer, landscape architect and all other consultants (where necessary) appointed by the Promoter, on the recommendations of the Development Manager, for the construction and Development of the Project and shall include any replacement thereof;
- 1.17 "Control" means, with respect to a company or other entity, the ownership, directly or indirectly, of more than 50% (Fifty percent) of the voting securities / rights of such entity, or the control over the composition of the board of directors or similar organ of such entity or the shareholding or similar interests which entitles the receipt of distributable profits exceeding 50% (Fifty One percent) and / or the power to direct the management or policies of such entity, whether by operation of law, contract, or otherwise;
- 1.18 "Construction Data" shall mean all information / material pertaining to the Project, including without limitation, the Business Plan, plans, designs, design information, descriptions, calculations, schedules, specifications, samples, patterns, models, mock-ups, computer software drawings and all other information and documents including all computer or other machine readable data relating to the Project;
- 1.19 "Defaulting Party" shall have the meaning given to it in Clause 11.4;
- 1.20 "Designs and Drawings" shall mean all of the plans, manuals, drawings, designs, calculations, samples, models and documents pertaining to the Project or in connection with the execution of the Project approved by the Development Manager and the Promoter;
- 1.21 "Development" (with all its derivatives) shall mean and include the development of the Project in accordance with the Approvals, Applicable Laws and the terms and conditions of this Agreement;
- 1.22 "Development Cost" shall mean all costs and expenses related to Project including but not limited to:
- (i) Construction cost including, cost of material, labour, contractor and all allied works and infrastructure cost, sales gallery and show flat / apartment etc., cost of approach roads and allied services on roads like



sewer, storm water line, street lighting etc and cost of development of general infrastructure for the Sports City Plot (pro-rated to the ratio of the Said Property to the Sports City Plot). It is clarified between the Parties the infrastructure cost as aforementioned shall not be applicable to the Said Property; .

- (ii) All approval costs in agreed phases including approval for temporary power / water at site etc. including the cost of obtaining occupation certificate in agreed phases;
- (iii) Consultant costs like architect and design cost, quantity and cost surveyor fees, costs and expenses for PMC (*defined hereinafter*) etc.;
- (iv) All costs and expenses incurred in accordance with Clause 8.4:
 - a. Cost of sales, Project design
 - b. Cost of administrative personnel at site as per the organisational structure provided by the Development Manager at the time of execution of the this Agreement; and
 - c. Sales administration cost including customer service and support.
- (v) Cost of maintenance and upkeep of the Project until handover of the same to the association of purchasers of Premises or any other third party;
- (vi) Interest costs and relevant charges fees and applicable taxes/duties/levies thereon on the construction finance and/or any other such loans taken by the Promoter for the Project;
- (vii) Marketing and promotion costs incurred in accordance with Clause 7.8.17.2;
- (viii) External / Infrastructure development charges / Internal development charges or such other development charges levied by the authorities, if any;
- (ix) Legal fee for the Project, electricity costs, water and sewerage treatment relating to the Project;
- (x) Cost of site office running expenses;
- (xi) Recycling system costs;
- (xii) Development Management Fees, Overhead Charges, Salary to be paid to DM Employees and Sold Area Fee (*each as defined below*) and taxes applicable therein, payable in accordance with this Agreement;
- (xiii) Insurance premium related to the Project including that of employees, third parties, etc.;
- (xiv) Any other overhead cost along with applicable taxes related to the Project as detailed in the Business Plan;



- (xv) Statutory cost, duties and levies for the Project and/or on the fees/charges/costs thereof.
 - (xvi) Lease / license charges of land for setting up labour camp / batching plant etc., if required;
 - (xvii) Renewal cost of all Approvals during the Development of Project;
 - (xviii) Infrastructure Augmentation charges as required at prevailing rate and cost of statutory compliances i.e. compliance consultants fees, fees charged by authorities;
 - (xix) Cost of IT/ERP systems (including licenses, servers, computers). These costs (either individually or combined) as included in the Business Plan.
 - (xx) Stamp duty and registration charges for agreements related to this transaction as may be applicable from time to time;
 - (xxi) Lease Premium, including lease rental and premium payments under the Sub-Lease Deed, any property taxes, etc., which are not collected (and till collection) from purchasers of Premises (that is, if such amounts are not forming part of the Pass Through Amount);
 - (xxii) Promoter Corporate Expenses to be paid to the Promoter in accordance with this Agreement; and
 - (xxiii) Costs incurred or to be incurred in respect of marketing and sale of the Sold Area.
- 1.23 "Development Management Fees" shall have the meaning ascribed to it in Clause 8.1.1;
- 1.24 "Development Manager's Representative" shall mean the person(s) designated by the Manager as its representative, for the performance of Management Services and having the requisite authority to act on behalf of the Manager and includes any replacement thereof;
- 1.25 "Discloser" shall have the meaning given to it in Clause 18.1;
- 1.26 "Dispute" shall have the meaning given to it in Clause 19.1;
- 1.27 "DM Indemnity Cap" shall have the meaning given to it in Clause 28.2;
- 1.28 "Encumbrance" means any kind of security interest of whatsoever nature including (i) any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, deed of trust, title retention, or other encumbrance of any kind securing or conferring any priority of payment in respect of any obligation of any person, including without limitation any right granted by a transaction which, in legal terms is not the granting of security but which has an economic or financial effect similar to the granting of security under Applicable Laws; (ii) any proxy, power of attorney, voting trust agreement,



option, right of first offer or refusal or transfer restriction in favour of any person; and (iii) any adverse claim as to title, possession or use;

- 1.29 "Execution Date" shall have the meaning ascribed to it in Clause 4.1;
- 1.30 "Exit" shall have the meaning ascribed to it in Clause 7.4;
- 1.31 "Force Majeure Event" shall mean any events or circumstances which are beyond the reasonable control of a Party including but not limited to: fire, drought, flood, earthquake, epidemics, typhoons, hurricanes, storms, landslides, lightning, explosions, and other natural disasters or calamities, act of God, prolonged failure of energy, revocation of sanctioned Approvals without any default, court orders/injunctions, change of laws, action and/or order by statutory and/or Authority/ies, political/public strikes or lock outs other than strikes initiated by employees of any Party or acts of terrorism, civil commotion, sabotage, plagues etc.; non-availability of cement, steel or other construction material due to strikes of manufacturers, suppliers, transporters or other intermediaries beyond a period of 6 (six) months from the initial date of non-availability; delay/obstructions/disturbances or interference from the concerned Authority/ies resulting in stalling of the Project beyond 6 (six) months, events of war, war like conditions, blockades, embargoes, insurrection, governmental directions and intervention of defense authorities or any other agencies of government, riots, including but not limited to delay in obtaining , statutory Approvals, consent, sanctions etc. resulting in stalling of the Project beyond 6 (six) months, acquisition/requisition of the said Property or any part / portion thereof by the government or any other statutory authority and such other circumstances affecting the Development of the Project the promulgation of or amendment in any law, rule or regulation or the issue of any injunction, court order or direction from any Authority/ies that prevents or restricts a Party from proceeding with implementation of Project as agreed in this Agreement or perform its covenants and/or obligations as contemplated hereunder; or any event or circumstances analogous to the foregoing. Provided that no Force Majeure Event shall relieve either Party from its obligation to pay any sum due to the other Party in respect of the period prior to the date of occurrence of Force Majeure Event;
- 1.32 "Government Authority" shall mean any national, state, provincial, local or similar government, governmental, semi-governmental, regulatory or administrative authority, branch, agency, any statutory body or commission or any non-governmental regulatory or administrative authority, body or other organization in India to the extent that the rules, regulations and standards, requirements, procedures or orders of such authority, body or other organization have the force of law or any court, tribunal, arbitral or judicial or quasi-judicial body, or any stock exchange of India;
- 1.33 "Gross Sale Proceeds" shall mean all Receivables less the Pass Through Amounts, provided that the following are excluded from the Gross Sales Proceeds:



- (i) Any refundable deposits and/or municipal deposits or charges specifically for any services to be rendered (other than customization charges), collected from the purchasers of the Premises, to the extent not representing the sale price of the Premises.
- (ii) Stamp duty registration fees, Service Tax, VAT, GST and all other amounts of taxes (other than the tax deducted at source by the purchasers Premises, which already forms part of the Receivables) as applicable from time to time as per Applicable Laws and other incidental and allied costs and expenses for all agreements, deeds and documents, collected and recovered from the purchasers of the Premises.
- 1.34 "**Indemnified Party**" shall have the meaning given to it in Clause 28.1;
- 1.35 "**Indemnifying Party**" shall have the meaning given to it in Clause 28.1;
- 1.36 "**Launch**" or "**Launch date**" shall have the meaning attributed to the term in Clause 4.3 below;
- 1.37 "**Litigation**" includes all suits, civil and criminal actions, arbitration proceedings, and all legal proceedings (including any investigation, claim, complaint, grievance, appeals and applications for review), which are pending or are threatened;
- 1.38 "**Main Contract**" means the contract(s) to carry-out the construction and development of the Project (or a phase thereof), entered into between the Promoter and the Main Contractor;
- 1.39 "**Main Contractor**" refers to the entity with which the Promoter executes the Main Contract for construction and development of the Project (or any phase thereof);
- 1.40 "**Management Services**" mean the services as specified in **Schedule-II** to be provided by the Development Manager subject to and in accordance with the terms of this Agreement;
- 1.41 "**Marketing**" shall mean all forms of advertising and promotion of and any other form of dissemination of information about the Project and the Premises to be constructed on the said Property to the public for the sale/transfer/disposal of the Premises, through any medium, mode or format, including whether through print media, television, online, digital, electronic, audio, visual, signboards, billboards, letterheads, fee receipts, deposit receipts, promotional material and brochures or through channel partners, brokers, participation in the exhibitions, roadshows, etc., or otherwise;
- 1.42 "**Master Account**" shall have meaning ascribed to it in Clause 12.1;



- 1.43 "**Non-Defaulting Party**" shall have meaning ascribed to it in Clause 11.4;
- 1.44 "**Overhead Charges**" shall have the meaning ascribed to it in Clause 8.2.1;
- 1.45 "**Phase-I**" shall mean Sold Area, residential area admeasuring 1330855 sq. ft saleable area, and commercial area admeasuring 11787 sq. ft saleable area, as per Business Plan unless agreed otherwise mutually.
- 1.46 "**Phase-II**" shall mean residential area admeasuring 1234360 sq. ft saleable area, as per Business Plan unless agreed otherwise mutually.
- 1.47 "**Phase-III**" shall mean residential area admeasuring 360540 sq. ft saleable area as per Business Plan unless agreed otherwise mutually.
- 1.48 "**PMC**" shall have the meaning ascribed to it in Clause 7.8.9;
- 1.49 "**Promoter's Conditions Precedent**" shall have the meaning ascribed to it in Clause 5.1;
- 1.50 "**Preliminary Approval Notice**" shall have the meaning given to it in Clause 17;
- 1.51 "**Project Offer Notice**" shall have the meaning given to it in Clause 17;
- 1.52 "**Promoter's Conditions Precedent Period**" shall have the meaning ascribed to it in Clause 5.1;
- 1.53 "**Promoter's Funding Amount**" shall have meaning ascribed to it in clause 7.8.11.1;
- 1.54 "**Promoter's Representative**" means the person(s) appointed by the Promoter as its representative(s) for the performance of the Promoter's obligations under this Agreement and having the requisite authority to act on behalf of the Promoter and includes any replacement thereof and whose decisions shall be binding on the Promoter;
- 1.55 "**Pass Through Account**" shall have the meaning ascribed to it in Clause 12.3;
- 1.56 "**Pass Through Amount**" shall mean all statutory charges, fees, expenses, payments / contributions to be received from the purchasers of Premises towards lease rent, electricity, power back up, water, sewerage, maintenance security deposit, advance maintenance charges, association deposit, society / association formation charges, legal fees/expenses and charges, stamp duty, registration charges, VAT, service tax and all such other similar statutory charges, fees and costs and reimbursement of specific fee/expense that are not considered as revenue by the Promoter, which would be collected / recovered from the purchasers of Premises as contribution from the purchasers of Premises for onward transfer/deposit/security to the concerned Government



Authority or association (if any) of the purchasers of Premises or to the maintenance agency of the Project, as the case may be;

- 1.57 "Person" shall mean any natural person, limited or unlimited liability company, corporation, partnership (whether limited or unlimited liability), proprietorship, Hindu undivided family, trust, union, association, government or any agency or political subdivision thereof or any other entity that may be treated as a person under Applicable Laws;
- 1.58 "Power of Attorney" or "POA" means the Power of Attorney granted by the Promoter in favour of the Development Manager simultaneously upon execution of this Agreement;
- 1.59 "Premises" means and includes all the shops, units, flats, apartments and commercial premises in the building/s constructed / to be constructed on the Said Property, intended for any type of independent residential/commercial use along with the car parks, garages, common areas and facilities, limited common areas and facilities to be constructed and developed on the Said Property as part of the Project;
- 1.60 "Project" shall have the meaning ascribed to it in Recital D;
- 1.61 "Project Account" shall have the meaning ascribed to it in Clause 12.4;
- 1.62 "Promoter Indemnity Cap" shall have the meaning given to it in Clause 28.2;
- 1.63 "Recipient" shall have the meaning given to it in Clause 18.1;
- 1.64 "Receivables" shall mean all cash flows/proceeds/ revenue received from the purchasers / prospective purchasers/transferees / third parties towards the sale or any other arrangement in relation to the Premises and shall include the basic sale price and the other revenue collected for club membership fees, preferential location charges, floor rise, legal fees, administrative charges on transfers, late payment charges, forfeited earnest money, advertisement fee, transfer fee, future FAR/FSI benefits, if any as per the terms of this Agreement and any other amounts to be received from the prospective purchasers / transferees / third parties of whatsoever nature. It is clarified that any (i) CENVAT benefit availed by the Promoter on the VAT taken from the prospective purchasers / transferees / third parties of the Premises or any set off on taxes payable (ii) any tax deducted at source by the purchasers of Premises, shall be considered as Receivables;
- 1.65 "Said Modifications" shall have the meaning ascribed to it in Clause 7.8.10.1;
- 1.66 "Said Property" shall have the meaning ascribed to it in Recital D;



- 1.67 "Services" mean the services which are described in this Agreement to be provided by the Development Manager to the Promoter on the terms and conditions contained in this Agreement;
- 1.68 "Sold Area Fees" shall have meaning ascribed to it in Clause 8.3.1;
- 1.69 "Sold Area Pass Through Amount" shall mean the Pass Through Amount received in respect of the Sold Area;
- 1.70 "Sold Area Proceeds" shall mean the Gross Sale Proceeds for Sold Area;
- 1.71 "Sold Area Receivables" shall mean all Receivables received from the purchasers / prospective purchasers/transferees / third parties, on and from the Commencement Date, towards the sale or any other arrangement in relation to the Sold Area;
- 1.72 "Standards" shall have the meaning ascribed to it in Clause 7.7.2;
- 1.73 "Supplier" means any Person(s) from whom any goods or materials are procured in relation to the construction and Development of the Project;
- 1.74 "Supply Contract(s)" shall mean and include any and all contracts and agreements to be entered into by the Promoter with the Supplier(s) in relation to the Project and in consultation with the Development Manager;
- 1.75 "Suspension Period" shall have the meaning given to it in Clause 13.1;
- 1.76 "Taxes" shall mean all forms of taxation, duties, levies, imposts, including, VAT, service tax, and other transaction taxes, municipal taxes and duties, environmental taxes and duties and any other type of taxes or duties in any relevant jurisdiction, together with any related interest, penalties, surcharges or fines, due, payable, levied, imposed upon or claimed to be owed in any relevant jurisdiction in relation to the said Property and the Project;
- 1.77 "Term" shall have the meaning ascribed to it in Clause 4.2;
- 1.78 "Third Party" or "Third Parties" shall mean any Person other than a Party or its Affiliates; and

2. INTERPRETATION

In this Agreement (unless otherwise specified);

- 2.1 references to any document, agreement or contract are to that document, agreement or contract as amended, modified or supplemented from time to time in accordance with its terms;



- 2.2 references to a Recital, Clause or Schedule are to a recital, clause or schedule of or to this Agreement and a reference to a Sub-clause or Paragraph is to a sub-clause or paragraph of the Clause or Schedule in which it appears;
- 2.3 whenever the words **include**, **includes** or **including** are used, they will be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import;
- 2.4 the expressions "hereof", "herein", "hereto" and/or similar expressions shall be construed as references to this Agreement as a whole and not limited to the particular Clause or Sub-Clause in which such expression appears;
- 2.5 references to an individual include such person's estate and personal representatives;
- 2.6 any reference to any law shall include a reference to such law as amended, modified or re-enacted from time to time, and any rule or regulation promulgated thereunder;
- 2.7 references to days, months and years are to Gregorian days, months and calendar years respectively;
- 2.8 expressions in the singular will include the plural and in the masculine shall include the feminine and neuter and vice versa;
- 2.9 the headings in this Agreement are for convenience only and do not affect its construction or interpretation;
- 2.10 the Recitals and Schedules form an integral part of this Agreement; and
- 2.11 time is of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence. When any number of days is prescribed herein, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day does not fall on a Holiday, in which case the last day shall be the next succeeding day which is a Business Day.
- 2.12 The Parties acknowledge that this Agreement has been drafted jointly by the Parties and agree that the rule of "*contra proferentem*" will not be applicable for interpreting the same.
- 2.13 Any obligation of a Party under this Agreement shall at all times remain subject to performance of such obligation being in compliance with Applicable Laws.



3. **APPOINTMENT OF DEVELOPMENT MANAGER**

- 3.1 The Promoter hereby appoints the Development Manager to provide the Services in relation to the Project as described in this Agreement and the Development Manager hereby accepts such appointment.
- 3.2 The Promoter shall within a period of 15 (fifteen) days from the Execution Date provide to the Development Manager, access/entry to the Said Property and to all Approvals and related documentation, available as of the Execution Date, including land related internal records, application for Approvals, agreements with NOIDA, Allotment Letter, etc. for the limited purposes of enabling the Development Manager to provide the Services.
- 3.3 In consideration of the Development Manager (i) agreeing to provide the Services (including the Management Services as set out in Schedule-III) and (ii) permitting the usage and association of the Brand Name on non-exclusive basis as per the terms of this Agreement, the Promoter shall pay to the Development Manager, the Development Management Fees, Sold Area Fees, reimbursement of the monthly remuneration of the DM Employees in accordance with Clause 8 below and Overhead Charges in accordance with the terms of this Agreement.
- 3.4 The Promoter acknowledges, agrees, accepts and confirms that during the term of this Agreement, the Promoter shall not, appoint or agree to appoint any Person other than the Development Manager to provide any of the Management Services or itself undertake the Management Services as a development manager.

4. **COMMENCEMENT AND TERM**

- 4.1 The Agreement shall come into force on and from the date of execution of the Agreement by the Parties ("Execution Date").
- 4.2 Unless terminated earlier in accordance with the terms hereof, the term of this Agreement shall be for a period commencing from the Execution Date and expiring on the later of: (i) sale of all the Premises in the Project and receipt of all Receivables in respect thereof subject to what is mentioned in Clause 7.4; and (ii) handing over of the possession of the Project to the common organization of the purchasers of Premises, or such extended period as may be mutually agreed between the Parties, in writing. ("Term") It is agreed between the Parties that subject to the terms and conditions mentioned herein the Promoter shall with the assistance and support of the Development Manager endeavor to cause the Completion of the Project within an estimated time period of 6 (six) years, from the Launch Date under this Agreement or the date of receipt of all the Approvals required to commence the construction work on the Project, whichever is later.
- 4.3 The Promoter shall obtain the Line of Credit and the No Due Letter from NOIDA as enumerated in Clause 5.1(ii) and 5.1(iii) on or before 31st August



2016. The Parties shall cause the Launch of the Project in accordance with the Business Plan and this Agreement, within a period of 3 weeks from the aforesaid date. The exact date shall be mutually agreed between the Parties. ("Launch Date"). The Parties shall execute all documents and take all such actions as may be required for launch, but till such time as the No Due Letter is obtained, neither Party shall make any public announcement and/ or marketing of the Project.

- 4.4 The Promoter shall cause the development and completion of the Club House and Lawn Tennis Academy to be developed on the Said Property along with the development and completion of the first phase of the Project i.e Phase-I (as per the phasing of the Project mutually agreed between the Promoter and the Development Manager, and in any case including the Sold Area)
- 4.5 In the event that the Project construction is delayed beyond a period of 6 (six) months from the time frame estimated in the Business Plan, then the Managing Director and CEO of the Development Manager and the Chairman of the Promoter shall discuss and mutually agree on the remedial measures required to be undertaken for Completion of the Project.

5. PROMOTER'S CONDITIONS PRECEDENT

5.1 Prior to Development Manager commencing its obligations to perform the Development Management Services set out in Schedule - II and all provisions, covenants and obligations of the Parties in respect thereof coming into effect, the Promoter shall fulfill the following conditions (hereinafter referred to as the "Promoter's Conditions Precedent") within the periods as mentioned in in Clause 5.1 (i) (ii) & (iii) herein below from the Execution Date or such extended period as may be mutually agreed between the Promoter and the Development Manager, in writing (hereinafter referred to as the "Promoter's Conditions Precedent Period"). The Development Manager shall commence the Management Services and all provisions, covenants and obligations of the Parties in respect thereof shall come into effect, on the day immediately succeeding the completion of Promoter's Conditions Precedent ("Commencement Date"):

- (i) all requisite Approvals listed in Annexure B and required to Launch the Phase-I of the Project, shall have been obtained and in case have already obtained in the name of Lotus Greens Constructions Private Limited, shall have been validated/ endorsed in favour of the Promoter within a period of 45 (forty five) days from the Execution Date;
- (ii) the Promoter shall have obtained a No Due Letter issued by NOIDA in relation to the lease premium payments under the Sub-Lease Deed on or before 31st August 2016.
- (iii) Line of Credit for Construction Finance of Rs 60,00,00,000-(Rupees Sixty Crores only) as part of the Promoter Funding Amount as per



clause 4.3 shall be arranged by the Promoters before Launch of the Project on or before 31st August 2016, subject to the peak cash flow requirement as projected in the Business Plan provided by the Development Manager.

6. **BUSINESS PLAN AND PERIODIC REVIEW**

6.1 As of the date hereof, the Development Manager has formulated the preliminary business plan for the Project in consultation with and with the approval of the Promoter which is annexed hereto as Schedule-III ("Business Plan") which business plan is indicative only and all underlying assumptions of sales and cost are subject to change based on the market conditions and actual award of contract. Both parties shall review every 6 months and take necessary steps to achieve the business plan on best effort basis, provided that the minimum sales price shall always be adhered to. Within 30 days of finalization of all goods for construction drawings and bill of quantities, by an external agency, the Development Manager and Promoter shall jointly formulate the revised business plan (and every reference to 'Business Plan' in this Agreement shall always be the then extant revised business plan) and the Development Manager shall manage the Project in accordance with the Business Plan, which Business Plan includes:

- the estimated Development Cost;
- minimum sales price (along with permissible deviations) and sales volumes;
- cost estimates and building specifications;
- Marketing and sales expenses;
- development mix, massing;
- saleable area of the Project and inventory;
- timelines for completion of the construction of the Project;
- broad parameters and the timelines for utilization of the FAR/FSI, construction schedule for the Development of the Project which shall be flexible, depending on the Marketing of the Premises on the said Property, which shall be subject to the market conditions;
- such other information as the Development Manager may, from time to time, deem necessary;
- the overall limit of costs and expenditure to be incurred by the Promoter for obtaining Approvals, liaising costs etc.; and
- the overall limit of the costs and expenditures to be incurred by the Development Manager in respect of the Project (including the Overhead Charges as mentioned Clause 8.2.1 of this Agreement).



- 6.2 The Parties agree that the Project shall be executed and managed in accordance with the Business Plan and any deviation from the Business Plan (over and above the permissible deviations already mentioned in the Business Plan) shall only be permissible upon mutual consent of the Parties.
- 6.3 The Business Plan shall be reviewed every 6 (Six) months for the first 12 (twelve) months from the Execution Date and thereafter at a mutually agreed frequency, being not less than once a year. If for any reason, the Promoter and the Development Manager are unable to agree on a revised Business Plan at any time, then the Business Plan in force at that time, shall continue to remain valid until the revised Business Plan is mutually approved by the Promoter and Development Manager.
- 6.4 Notwithstanding the frequency of revision mentioned in Clause 6.3 above, in the event that there is an adverse change in market conditions which results in a 15% adverse deviation from the Business Plan, then the Development Manager and the Promoter shall mutually review the Business Plan for suitable revisions, within 30 days of a Party requesting such review. In the event that the Development Manager and the Promoter are unable to agree on the revisions required (if any), then the review shall be escalated by both Parties for determination by the Managing Director & CEO of the Development Manager and the Chairman of the Promoter. The Parties shall adhere to the Business Plan as in force, from time to time.
- 6.5 Resourcing plan and organization chart of resources which are directly linked to the Project along with experience profile shall be a part of the Business Plan.
- 6.6 The Promoter shall be responsible for the design and specifications of the Project and for cost management to adhere to the estimates of the Business Plan along with underlying assumptions.
- 6.7 The Area to be completed in each phase shall be covered in complete towers and no tower shall form part of more than one phase. It is clarified between the Parties hereto that wherever the term Phase/phase is used in the Agreement shall be deemed to mean and include the amenities and services for such phase.

7 **PROJECT EXECUTION AND DEVELOPMENT MANAGER'S OBLIGATIONS**

- 7.1 The Development Manager shall perform the Management Services and shall comply with all related obligations of the Development Manager in consideration of the Development Management Fees, Sold Area Fees, and the Overhead Charges payable in accordance with this Agreement. The Development Manager may also render, in its discretion, such additional services as may be requested by the Promoter, for such additional fees as may be agreed between the Parties. The Development Manager shall exercise reasonable skill, care and diligence in the performance of the Management Services.



- 7.2 A joint committee shall be formed to monitor the Project and perform such other functions as described in this Agreement ("Joint Committee"). The Joint Committee shall consist of two individuals, with the Promoter and the Development Manager each nominating one person to be a part of the Joint Committee. The unanimous decisions taken by the Joint Committee, which are within the purview of the agreed Business Plan, shall be binding on the Promoter and Development Manager.
- 7.3 In case of any disagreement between the Joint Committee members, senior management of the respective Parties shall address the issue within 30 (thirty) days from the date of reference of the issue by the Joint Committee. In case there is no resolution of the issue by the senior management of the respective parties then the same shall be resolved then the Managing Director and CEO of the Development Manager and the Chairman of the Promoter shall discuss and mutually agree on the remedial measures required to be undertaken for Completion of the Project.
- 7.4 The Development Manager shall exit the Project after 6 months from the date of completion of the Project as evidenced by grant of Occupancy Certificate, provided that (i) 95% of the Premises are sold and (ii) 90% of the total Receivables and Sold Area Receivables of the Project have been received. Upon receipt of Occupancy Certificate, and if (i) 95% Premises are sold and (ii) 90% of the total Receivables and Sold Area Receivables of the Project have been received, then the Development Manager shall have an option to exit the Project with the DM fee for the balance Premises calculated @ selling price of average of last 6 months. The exercise of the right to exit shall hereinafter referred to as "Exit". Provided that upon such Exit, the Promoter shall be entitled to sell the balance Premises, using the Brand Name in accordance with this Agreement but without the payment of any further fee or charges to the Development Manager.
- 7.5 If the Development Manager has exercised its rights to Exit, however, is required to stay beyond 6 (six) months from the date of completion of the Project as evidenced by grant of Occupancy Certificate (provided that (i) 95% of the Premises are sold and (ii) 90% of the total Receivables and Sold Area Receivables of the Project have been received) for the reason not attributable to the Development Manager (that is, at the request of the Promoter), then post expiry of the said 6 months, the Development Manager shall be entitled to only a fixed fees of Rs 25,00,000/- (Rupees Twenty Five Lacs Only) per month and the Development Management Fee, Sold Area Fee and Overhead Charges will not be payable to the Development Manager. Provided that the Development Manager when required to continue beyond the aforesaid period of 6 (six) months, will depute resource (as may be required) at the Development Manager's cost to coordinate and supervise facility management, customer management, and management in relation to the 95% sold Premises and shall not be obligated to undertake sales of the remaining 5% unsold Premises. It is clarified that the Promoter shall bear the cost of third party facility management and customer management.



7.6 The Parties shall every 6 (six) months, review and discuss the expenses incurred for the execution/development of the Project in the previous months. The Parties shall extend all co-operation to each other, including sharing all relevant information with each other, as may be required in this regard.

7.7 Project Specifications

7.7.1 The specifications of the Project shall be mutually decided between the Parties from time to time and shall be set out in the Business Plan subject to compliance with Applicable Laws. Any change in such specifications shall only be undertaken with the mutual consent of the Development Manager and the Promoter.

7.7.2 The quality, safety standards and operating standard of development as provided by the Development Manager shall be mutually agreed on or before Launch ("Standards"). The Standards shall be strictly adhered to between the Parties. Any change in such Standards shall only be undertaken with the mutual consent of the Development Manager and the Promoter.

7.7.3 The loading shall be mutually and optionally determined by the Promoter and the Development Manager as per statutory norms, relevant Approvals and the market conditions.

7.8 Main contractor, Contractors, etc.

7.8.1 The Parties agree that the Main Contractor shall be appointed on an arm's length basis, provided that it satisfies the Development Manager's empanelment criteria and the general conditions of contract for the Main Contract including conditions applicable for sub-contracting and undertakes to follow the Standards.

7.8.2 The Promoter shall be entitled to appoint Main Contractor and Contractors for execution of the Project on such terms and conditions as may be agreed between the Promoter and such Main Contractor/Contractor on the recommendation of the Development Manager based upon a competitive bidding process.

7.8.3 In the event any default/breach is committed by any of the Main Contractor / Contractors / Suppliers / Third Party consultants / vendors, the Development Manager shall promptly notify the Promoter of such default/breach and pursuant to mutual discussions between the Promoter and the Development Manager, the Promoter shall notify the defaulting Main Contractor / Contractors / Suppliers / Third Party consultants / vendors of such default or breach. However, in the event that the Promoter and the Development Manager both conclude that the said breach/default is not remedied within the cure period, if any, provided under the Contract with such Person, the Promoter shall, pursuant to consultation with the Development Manager, terminate the relevant Contract with such Main Contractor / Contractors/ Supplier / Third Party consultants / vendors and appoint new Main Contractor



/ Contractors/ Suppliers / Third Party consultants / vendors. Any replacement Main Contractor / Contractors / Suppliers / Third Party consultants / vendors shall also be appointed in the same manner as contemplated in Clauses 7.8.2 and 7.8.3.

- 7.8.4 All invoices shall be raised and provided by the Main Contractor / Contractors / Suppliers / Third Party consultants / vendors to the PMC. The PMC shall verify and certify the invoices and forward the same to the Project Head of the Development Manager. Upon the receipt of the invoices the Project Head Development Manager shall forward a copy of the same to the Promoter for its verification/inputs if any in order to save the time in processing the payment. In the event of any observations, upon such verification, the Promoter shall communicate the same to the Project Head for necessary action. The Project Head shall certify the invoices taking into account the observations/inputs of the Promoter and forward the same to the Promoter for the making of the payment. In the event of either Party failing to sign the authorisations for release of the certified payments in a timely manner the other Party shall not be liable for such delay in payment.
- 7.8.5 The Development Manager shall not be responsible for any delay or non-performance by the Main Contractor, except where such a delay is caused due to the act or omission of the Development Manager.
All records in respect of each contractor, supplier, vendor, consultant etc engaged for the construction and Development of the Project along with the Approvals shall remain in the possession of the Promoter and copies of the same shall be kept at the Project site and the Development Manager shall at all times have access to the same. The Promoter shall immediately upon request by the Development Manager provide all requested information available with the Promoter to the Development Manager.
- 7.8.6 The Promoter shall specify in the tenders, agreements (including the sale contracts/agreements/deeds with the purchasers of Premises) and contracts that the Development Manager is only a development manager of the Project and the Promoter alone will be responsible for all contractual matters as per the agreement/contracts and the Development Manager shall not be responsible for the same unless the Development Manager has exercised rights pursuant to the POA in a manner contrary to Clause 7.8.18 below. The Promoter shall incorporate a clause in all such contracts to the effect that on termination of this arrangement between the Promoter and the Development Manager, the Development Manager shall cease to have any association with the Project and the Development Manager is and shall not be responsible or liable to any of the other counter parties (including the purchasers of Premises) by reason of this Agreement the Development Manager having exercised rights pursuant to the POA in a manner contrary to Clause 7.8.18 below.
- 7.8.7 The Development Manager shall not be liable in any manner whatsoever (other than due to any breach by the Development Manager of this Agreement or any Contracts, subject to Clause 28.2 for:
- (i) any claim or liability of any nature whatsoever arising from or in connection with the Main Contract and/or any Contract, entered into by



the Promoter with the Main Contractor and/or any of the Contractors, Suppliers, Third Party consultants/vendors, prospective customers or any Government Authority; or

- (ii) any delay in Completion of the Project for any reason whatsoever, including for delays arising due to failure or delay on the part of the Promoter in appointing the Main Contractor, Contractor and/or Supplier and/or other Third Party consultants/vendors, but other than on account of termination of the Main Contractor and/or any Contract with any Contractors / Suppliers / Third Party consultants / vendors pursuant to Clause 7.8.4 (including expenses incurred for appointment of new Main Contractor, Contractor, Supplier or Third Party consultants/vendors); or
- (iii) any act or omission of the Main Contractor and/or any Contractor/Supplier/Third Party consultant in performing its obligations in accordance with the Main Contract and/or contract executed by it; or
- (iv) Cancellation/revocation of any Approvals that have been obtained/will be obtained for the Development of the Project on account of any act/omission of the Promoter.

7.8.8 The Development Manager has recommended ERP end users license from the vendor In4velocity, for the Project. However, the Promoter shall based on recommendations of the Development Manager finalize the relevant ERP license based upon mutual agreement and a cost benefit analysis including assessment of existing ERP used by Promoter. It is clarified that post finalization of the relevant ERP license, the obligation to use such ERP license shall be only for the PMC and not for the Contractors, Supplier or Third Party consultants or vendors or the Promoter (each of whom may or may not use ERP). The Promoter has informed to the Development Manager that presently the Promoter is using SAP based ERP. The Parties have agreed to continue with the SAP based ERP for the Project, provided that the Development Managers team shall study the SAP based ERP implemented by the Development Manager and recommend changes, if any, (such change to be mutually agreed) to comply with the requirements as per the Development Managers Standards.

7.8.9 The Parties agree that the Promoter shall appoint a project management consultant ("PMC"), from a list of 7 probable appointees listed in Schedule-IV or any other appointee acceptable to the Development Manager, on such terms and conditions as mutually agreed between the Promoter and the PMC. All costs and expenses of the PMC shall form part of the Development Cost. The role and responsibilities of the PMC shall be limited to overseeing the quality, safety, billing, statutory compliances and progress/timelines of the construction ("Parameters") by reporting to the Project Head. The PMC shall provide monthly reports to the Promoter and the Development Manager of the Development of the Project. Pursuant to mutual discussions between the Promoter and the Development Manager, the Promoter shall (or instruct the PMC to) issue suitable instructions to the Contractors.



7.8.10 Designs and Drawings

- 7.8.10.1 The Development Manager shall make recommendations to, and co-ordinate with the architect appointed by the Promoter ("**Architect**") and for preparing the detailed architectural designs and drawings for the Project ("**Designs and Drawings**"), master planning of the Project and other such related activities which shall form a part of any revised master planning for the Development of the Said Property pursuant to any change/modification/alteration in Applicable Laws ("**Said Modifications**") and the Promoter shall extend all co-operation to the Development Manager in this regard.
- 7.8.10.2 Upon preparation of such Designs and Drawings, the Architect shall submit the same to the Development Manager and the Promoter for their approval. In the event that the Development Manager or the Promoter require any changes to be made to the Designs and Drawings without prejudice to the Applicable Laws, the Architect shall carry out such changes and submit the revised Designs and Drawings for the approval of the Development Manager and the Promoter. The Designs and Drawings shall be deemed to be final only upon the written approval of the Development Manager and the Promoter. It is further agreed between the Parties that nothing herein contained shall take away the liability and/or the obligation of the Architect in relation to the Designs and the Drawings and/or the said change/modification/alteration.
- 7.8.10.3 The Promoter shall take necessary steps to get the sanctioned plans amended in accordance with the said change/modification/alteration and in terms of the Designs and Drawings. However, the time taken for such modifications shall be excluded from the time for Completion of Project
- 7.8.10.4 In the event the Development Manager requires any changes to be made to the Designs and Drawings at any stage of the construction, the Development Manager shall with the prior approval of the Promoter, supervise and facilitate such change, so that the Architect implements and carries out such changes within the time period as may be agreed to between the Promoter and the Architect and the Promoter shall ensure that such amended Designs and Drawings shall be forwarded to the Government Authorities for Approval without any inordinate delay or detour.

7.8.11 Project Finance

- 7.8.11.1 It is agreed between the Parties that the Promoter shall arrange for funding for Development Cost as per the Business Plan ("**Promoter's Funding Amount**") to meet the working capital requirements for the Project. The Promoter's Funding Amount shall be subject to alteration, in accordance with the cash flow requirement in the then agreed Business Plan. The Promoter shall, with the prior approval of the Debenture Trustee, execute necessary agreements/documents with banks, financial institutions or



third parties, if required, for procuring the Promoter's Funding Amount as and when required for the Project, which requirement shall only arise and the Promoter Funding Amount be only procured with mutual agreement between the Parties, in case of a shortfall in the Project Account and solely for the purposes of meeting such shortfall.

- 7.8.11.2 The Promoter shall procure the Promoter's Funding Amount in a manner not prejudicial to the right of the purchaser of Premises to avail home loans. In such event, the Promoter shall ensure that the lender under Clause 7.8.11.1 above, issues a no-objection for the purposes of such home loans.
- 7.8.11.3 Subject to the extant charge of Debenture Trustee and prior approval of the Debenture Trustee, it is agreed between the Parties that the Promoter shall have the right to encumber the Said Property or any part thereof, for the purposes of obtaining finance for the Development of the Project (including the Promoter's Funding Amount). Further, in the event the value of the Said Property is not sufficient coverage to secure the additional funding as may be required by the banks/financial institutions/third parties, then the Promoter shall provide such additional security so as to meet the coverage requirement of such banks/financial institutions/third parties.
- 7.8.11.4 It is clarified that the Promoter's Funding Amount and any other debt funding amount procured for the Development of the Project shall be deposited in the Project Account.
- 7.8.11.5 It is agreed between the Parties that the Promoter shall not, without prior written consent of the Development Manager, avail any loan and/or part with or create any Encumbrance on the whole or part of the Said Property and/or any interest thereon for any purpose other than securing the funding obligations of the Promoter for Development of the Project. The Promoter shall notify the Development Manager of the creation of any such Encumbrance. It is agreed between the Parties that the procurement of any financial assistance for the Promoter shall be without prejudice to and shall not in any manner adversely affect any amounts payable by the Promoter to the Development Manager, as per the terms of this Agreement.
- 7.8.11.6 The Promoter hereby covenants and undertakes to the Development Manager, that it shall:
- (i) not deal with or agree to deal with the Said Property, whether by sale, transfer, creation of encumbrance or in any other manner whatsoever except with the prior written consent of the Development Manager save an except pursuant to the existing charge of Debenture Trustee or as contemplated under this Agreement;



- (ii) not withdraw or receive any monies from the Project Account until the entire amounts due and payable to the Development Manager, including the Development Management Fees have been duly paid to the Development Manager in accordance with this Agreement; and
- (iii) bear all costs and expenses including stamp duty and registration charges payable in relation to procurement of financing in accordance with this Clause 7.8.11.

7.8.12 **Project name and Marketing**

7.8.12.1 The name of the Project ("Project Name") shall be mutually decided by the Promoter and Development Manager before the launch of the Project.

7.8.12.2 The Development Manager hereby permits the use of the Brand Name, for the restricted and limited purposes of use in relation to the Project in the following manner:

For all marketing pitches and in all documentation: *A Project executed, managed and marketed by "Tata Value Homes Limited" as Development Manager. And in every case, including hoardings, site branding, advertisements, etc. the logo of Tata Value Homes Limited shall be prominently visible.*

For all marketing pitches and in all documentation: *A Project owned by Lotus Greens. And in every case, including hoardings, site branding, advertisements, etc. the logo of the Promoter as owner/promoter shall be prominently visible.*

7.8.12.3 Save and except as set out herein above: (i) the Brand Name shall not be used in any other manner; either by the Promoter or in relation to the Project; and (ii) no right or license pertaining to the Brand Name is granted or implied herein and shall not inure by virtue of this Agreement, except to the extent stated herein.

7.8.12.4 Upon finalization of the Project Name, in writing by the Parties, the Project Name shall not at any time be changed, amended or altered, in any manner whatsoever.

7.8.12.5 The Parties agree that the Development Manager shall have the sole and exclusive rights for Marketing of the Project for and on behalf of the Promoter and the Promoter shall not at any time during the Term of this Agreement enter into any agreement or permit any other Person to undertake any Marketing activities in respect of the Project and/or for sale of the Premises in any manner whatsoever.



- 7.8.12.6 The manner of depiction of the Project Name shall be mutually finalized by the Development Manager and the Promoter and shall be deemed to be part of this Agreement.
- 7.8.12.7 The budgeting and strategy for the Marketing of the Project shall be decided by the Development Manager for and on behalf of the Promoter, subject to compliance with the Business Plan
- 7.8.12.8 All Marketing collaterals including the finalisation of hoardings, brochures, pamphlets, website content, etc. to be used for the Marketing of the Project shall be decided by the Development Manager.
- 7.8.12.9 The Development Manager shall associate its Brand Name solely for the purpose of branding and Marketing the Project as set out hereinabove in Clause 7.8.12.2, subject to the following terms and conditions:
- (i) the usage of the Brand Name shall at all times be subject to the sole control of the Development Manager and the Promoter shall not use the Brand Name in any manner or for any purpose (whether or not related to the Project) except: (A) making disclosures with regard to the Development Manager's association with the Project in the capacity of a Development Manager, (B) identification of the Project in all contractual documentation executed in relation to the Project, and (C) in any manner as permitted under this Agreement or with the prior written consent of the Development Manager;
 - (ii) the Promoter shall not associate the Brand Name with the Project beyond the Term/subsistence of this Agreement
 - (iii) the use of the Brand Name in the logos and Marketing and other material relating to the Project shall be only to the limited extent and in the manner specifically permitted and approved by the Development Manager (including as agreed herein);
 - (iv) the association of the Brand Name with the Project shall not, under any circumstances, be construed as a license or any other interest granted to any Person or to the Promoter in the Brand Name; and the Promoter shall not acquire and undertakes it shall not claim, whether before, during or after the Term hereof, or any time thereafter, to have acquired any right, title or interest in and to the Brand Name, adverse to that of the Development Manager, except to the limited extent as expressly provided under this Agreement. The Parties agree and acknowledge that all intellectual property rights in and arising out of or connected with the Brand Name and ownership of the Brand Name shall at all times vest in and be held exclusively by the Development Manager. The Promoter acknowledges and accepts that they shall have no rights, interest, title and/or any license to use the Brand Name in any manner whatsoever, and all intellectual property rights in and arising out of or connected with the Brand Name other than as specifically



permitted under this Agreement and shall not during the Term of this Agreement or after its expiry or termination, directly or indirectly, commit an act of infringement or contest or aid in contesting the validity or ownership of the Brand Name or take any other action in derogation thereof;

- (v) the Brand Name shall be used by the Development Manager for the purpose of branding and Marketing of the Project on signboards, billboards, letter heads, fee receipts, deposit receipts, promotional material and brochures;
- (vi) the Promoter hereby expressly acknowledges and agrees that by construction and Development of the Project and/or by usage of the Brand Name in the manner permitted in this Agreement, the Promoter have not, do not and shall not, nor shall if they be deemed to, acquire at any time now or hereafter, any right, title or interest of any nature whatsoever in and with respect to the Brand Name, except to the limited extent as expressly provided under this Agreement
- (vii) at all times during the subsistence of this Agreement and at all times thereafter, the Promoter shall not:
 - a. dilute, harm, misuse, insult or bring the Brand Name to any disrepute;
 - b. Use any name or mark other than those Brand Name designated by Development Manager or its Affiliates for use at the Project or any portion thereof, that consists of, contains, or is similar to any Brand Name, in Development Manager's reasonable opinion;
 - c. Transfer or sublicense any of the Brand Name or any other rights to which it may be entitled under this Agreement;
 - d. Commence any legal action, file any defence, settle or otherwise compromise, or seek any relief or remedy with respect to any claim or assertion by or against third parties related to the Brand Name;
 - e. register or attempt to register for Promoter's direct or indirect benefit, in any country, the Brand Name or trade name which, in whole or in part, incorporates or is similar to the Brand Name.
- (viii) The Development Manager hereby covenants that the Promoter shall have the right to use the Brand Name in relation to the Project in the manner contemplated under this Agreement and if the Promoter suffers or incurs any liabilities or losses on account of such usage then the Development Manager hereby agrees to indemnify the Promoter for any such liabilities or losses that may accrue to the Promoter;



- (is) The Promoter hereby agree that it shall not infringe the Brand of the Development Manager and in case of an infringement by the Promoter it shall indemnify the Development Manager for any such liabilities or losses that may accrue to the Development Manager on account of such infringement by the Promoter;
- (x) The intellectual property rights in all marketing and advertisement collaterals, logos and product and building names created exclusively for the Project shall be the exclusive property of the Promoter with the Development Manager having the right to use the same while providing the Services; and
- (xi) The intellectual property of the respective Parties shall always remain their exclusive property.

7.8.13 Sale of Premises

The Development Manager shall undertake on behalf of the Promoter, the sales of the Premises in the Project as part of the Management Services, provided in accordance with this Agreement. Such Management Services shall include assisting the Promoter in Marketing of the Premises and preparation of legal documents including letter of allotment, letter of intent, agreements for sale/sublease, and sale deeds/sub lease deeds in respect of the same. The Promoter shall execute such documents in the format mutually agreed between the Promoter and the Development Manager and as per Applicable Laws. The Promoter shall, in consultation with the Development Manager, appoint the advocates and solicitors to facilitate the preparation and finalisation of documentation and other formalities for commencement and completion of the transaction for sale / lease/ license or any other arrangement in relation to the Premises. The cost of professional fees of such advocates and solicitors, shall form part of the Development Costs. The Promoter shall issue allotment letters to the Sold Area purchasers 15 days prior to the Launch providing the details of the final specification and amenities to be provided along with a covering letter of intimation of appointment of the Development Manager stating about its roles and responsibilities.

7.8.14 Safety and Statutory Compliances

- 7.8.14.1 Subject to: (i) the liabilities of the Main Contractor and/or any Contractors in this regard and (ii) no breach caused by an act or omission of the Development Manager, the Promoter shall be liable for all statutory compliances, including environmental law related compliances, compliance with safety requirements and any such other compliances required under Applicable Laws for or in connection with the Development of the Project. The Development Manager shall have no obligations or liabilities of any nature whatsoever in this regard other than liabilities arising due to the any act or omission of the Development Manager.



- 7.8.14.2 The Promoter shall as per the recommendation of the Development Manager appoint persons for monitoring compliance with all environmental laws in the execution of the Project.
- 7.8.14.3 The Promoter shall, as per the recommendation of the Development Manager and in accordance with the Business Plan (and subject to the Development Cost estimation therein) appoint an appropriate contractors / consultants, etc., as maybe identified by the Development Manager being the:
- 7.8.14.4 Persons as may be required to prepare safety plans in accordance with Applicable Laws;
- 7.8.14.5 The Promoter shall take all reasonable and proper steps for protecting, securing, lighting and guarding all places on or about the said Property and / or the Project and maintain sufficient lights, guards and fencing, where necessary or required by any Government Authority or Applicable Laws for the safety and convenience of all persons on the said Property and / or the Project and members of the public.

7.8.15 Promoter's Representative

The Promoter shall designate its representative ("Promoter's Representative") who shall be deemed to have final authority to make binding decisions on behalf of the Promoter under this Agreement. The Promoter shall be liable for all acts, omissions, decisions and/or defaults of the Promoter's Representative.

7.8.16 Development Manager's Representative

The Development Manager shall designate its representative ("Development Manager's Representative") for the performance of Management Services. The Promoter shall have the right to rely on the actions, approvals and consents of the Development Manager Representative as being binding upon the Development Manager in absence of any prior written instruction from the Development Manager to the contrary. The Development Manager shall notify the Promoter immediately if the Development Manager's Representative is replaced.

7.8.17 Other obligations of the Development Manager

- 7.8.17.1 The Development Manager shall including through the various contractors/agencies as may be appointed by the Promoter supervise and monitor and ensure the quality of works, proper supervision, safety, proper utilisation of materials, waste control (save and except in the normal course of business) relating to execution of the Project.



- 7.8.17.2 The Development Manager shall ensure that the Marketing and promotion costs do not exceed 2.5 % (two and half percent) of the Gross Sale Proceeds and are incurred in accordance with the Business Plan. However, the same shall be mutually decided by the Parties from time to time depending on market conditions. The marketing campaign for the Project will be intimated by the Development Manager to the Promoter, in advance. In the event the Promoter chooses not to have the Project campaign as part of the corporate campaign of the Development Manager then the Project shall separately bear the independent cost of such Marketing Campaign of the Project subject to the aforementioned cap.
- 7.8.17.3 The Development Manager shall ensure that the maximum commission paid to brokers shall not exceed 3.5% of the aggregate of the Gross Sales Proceeds (i.e. actual and projected as per the then existing Business Plan). In case of bulk booking if the maximum commission paid to brokers for such booking exceeds 3.5% of the aggregate of the Gross Sales Proceeds (i.e. actual and projected as per the then existing Business Plan), then the Development Manager shall ensure that the overall aggregate of maximum commission paid to brokers and the Marketing and promotion costs taken together does not exceed 6% of the aggregate of the Gross Sales Proceeds (i.e. actual and projected as per the then existing Business Plan).
- 7.8.17.4 The Development Manager hereby covenants that the Management Services will be performed in a timely manner, without any negligence (as attributable to a person acting reasonably) or misrepresentation by the Development Manager, or its employees, personnel or representatives and the performance of its Management Services shall at all times: (i) adhere to the Business Plan, and (ii) meet the standards that the Development Manager has maintained and will continue to maintain as per the standard of performance in other residential projects of similar characteristics launched across India, as of the Execution Date.
- 7.8.17.5 Notwithstanding anything stated above, the Development Manager also covenants that the Development Manager, its employees/personnel/representatives shall at all times during the Term of this Agreement comply with Applicable Laws and the terms and conditions of this Agreement and shall promptly notify the Promoter of any violations of such Applicable Laws, Approvals and regulatory requirements of which it becomes aware which has material adverse impact on the Project.
- 7.8.18 Power of Attorney and other authorizations:
- 7.8.18.1 The Parties agree that in order to facilitate an efficient development of the Project and solely for the purposes of enabling the Development Manager to fulfil its obligations, in accordance with the terms of this Agreement, the Development Manager has sought from the Promoter a power of attorney in favour of the Development Manager ("POA").



- 7.8.18.2 It is agreed by the Parties that the Development Manager shall only be entitled to exercise rights under the POA only in the event that (a) the Promoter fails to comply with any obligations within the time lines provided under this Agreement by the Development Manager; and (b) the exercise of the rights under the POA does not result in any (i) breach of any Applicable Laws, (ii) breach of the Agreement. It is hereby clarified that the grant of the POA by the Promoter to the Development Manager, is not intended to create any rights in favour of the Development Manager.
- 7.8.18.3 The Development Manager shall at all times agree to indemnify and hold harmless the Promoter and their officers, directors, agents and employees and against all costs, claims, liabilities and expenses (including the legal fees and other costs arising out any judicial or other proceedings) incurred and resulting from or connected with any claim brought by any third party or any liability arising to the Promoter (and the other mentioned persons) in relation to any misuse of the POA by the Development Manager.
- 7.8.18.4 The Promoter shall issue a Board Resolution authorizing the Managing Director, the Chief Financial Officer, the Legal Head and the Head Engineer of the Development Manager, as may be required for the Development Manager to perform under this Agreement.

8 DEVELOPMENT MANAGEMENT FEES, OVERHEAD CHARGES AND EXPENSES

8.1 Development Management Fees

8.1.1 In consideration of the Development Manager providing the Services and allowing the use of the Brand Name on the terms herein, the Promoter undertakes to pay the Development Manager, the development management fees ("Development Management Fees") of 11.5% (Eleven Point Five Percent) plus applicable taxes on the Gross Sales Proceeds. The Development Manager shall be entitled to receive the Development Management Fees in the following manner:

- (i) The Development Manager shall raise the Invoice for the Development Management Fees (plus service tax and such other indirect taxes that maybe directly applicable on the Development Management Fees) in the first week of every month on the basis of the collections received in the previous month and the payment will, be made within 21 (twenty one) days from the date of the receipt of the invoice, from the monies available in the Project Account
- (ii) In the event of the Development Management Fees is due and payable and monies are not available in the Project Account, the Development Management Fees shall be paid out of the cash available on priority basis from subsequent inflows in the Project Account.



- (iii) The Parties shall carry out a quarterly reconciliation, and upon such reconciliation, if there is a difference between Development Management Fees billed and Development Management Fees payable out from the Project Account in accordance with this Agreement, the same shall be settled between the Parties in the next payment cycle (including by way of set off).
- (iv) The Development Management Fees will accrue on the Gross Sale Proceeds both in respect of residential and commercial Premises, provided as part of the Project.
- (v) The Parties shall reconcile the Development Management Fees, in the manner set out above, at the time of sale of last Premises in the Project or at the time of termination.
- (vi) The Development Management Fees are payable on the basis of Premises sold which remain sold, and accordingly in the event of any cancellations out of the Sold Area the aforementioned amounts shall stand proportionately reduced in terms of such cancelled Premises, as per the applicable cancellation and repayment policy for the sale of Premises in the Project. It being clarified that (a) where there are cancellations prior to the Development Manager exercising the Exit right, the proportionate reduction shall be administered by an adjustment against future Development Management Fees payable to the Development Manager.

8.1.2 Adjustable Advance:

An adjustable interest free mobilisation advance of Rs 6,00,00,000/- (Rupees Six Crores only) ("**Adjustable Advance**") shall be deposited by the Promoter with the Development Manager in the following manner:

- (i) Rs. 2,00,00,000/- (Rupees Two Crores Only) shall be deposited upon the execution of this Agreement.
- (ii) The balance sum of Rs 4,00,00,000/- (Rupees Four Crores Only) shall be payable upon Launch of the Project out of the Gross Sale Proceeds and Sold Area Proceeds from the Project, on a first priority basis.

The Adjustable Advance shall be adjusted in 20 (twenty) equal monthly instalments of Rs. 30,00,000/- (Rupees Thirty Lakhs) against the first 20 (twenty) instalments of the Development Management Fees and Sold Area Fees, payable in accordance with this Agreement, post the Launch of the Project. It is clarified that should the Adjustable Advance get fully exhausted and adjusted against the Development Management Fees as contemplated above, then, for subsequent Development Management Fees, the Promoter shall pay the Development Management Fees as contemplated under Clause 8.1.1.

Subject to a Force Majeure Event, in case the Promoter is unable to obtain the



Approvals required for commencement of the construction of the Project within the time-line agreed and detailed out in this Agreement, then in such an event the Development Manager shall have an option to terminate this Agreement,] subject to refund to the Promoter, of the initial Adjustable Advance of Rs. 2,00,00,000/- (Rupees Two Crores only) and/or Rs. 4,00,00,000/- (Rupees Four Crores only) in the event of the balance amount of Rs. 4,00,00,000/- (Rupees Four Crores only) also having been paid to the Development Manager

In case of failure to refund the Adjustable Advance, the Promoter shall be entitled to recover the same from any dues payable to the Development Manager

8.1.3 All Taxes, due and payable on the Development Management Fees or any other fee/charges payable by the Promoter to the Development Manager under this Agreement as per Applicable Laws in force from time to time, shall at all times be solely borne by the Promoter and accordingly such additional amounts as are necessary and required for covering the applicable tax liability shall be paid by the Promoter each time that any Development Management Fees or any other fee is paid to the Development Manager. The Promoter shall be entitled to withhold TDS as required under Income Tax Act, 1961 prior to the payment of any amounts hereunder, provided that the Promoter shall provide the Development Manager with appropriate certificates of tax deduction in the format prescribed under the Income Tax Act, 1961 and as per the time lines as provided under the Income Tax Act, 1961.

8.1.4 All payments under this Agreement shall be made in Indian Rupees.

8.1.5 In the event of cancellation of the sale by any purchaser of Premises the amount of money received by the Development Manager whether as Development Management Fee or Sold Area Fee in respect of such cancelled Premises, shall be adjusted against the future Development Management Fees or if there insufficient amount in the Project Account then the Development Manager shall refund the same subject Clause 7.4;

8.2 Overhead Charges

8.2.1 The Development Manager along with Development Management Fees shall charge Rs.100/- (Rupees Hundred only) per sq. ft. plus applicable taxes of the total saleable area to the Project towards Development Manager's head office overhead charges ("Overhead Charges"). The Overhead Charges shall be payable on a monthly basis on the basis of the projected Business Plan and payable from the Gross Sales Proceeds for the first 12 months from the Launch Date. Thereafter the Overhead Charges shall be payable on monthly basis on priority from Development Cost.

8.2.2 The Promoter shall be entitled for 6.5% (Six point five Percent) on the Gross Sales Proceeds and the Sold Area Proceeds, towards the corporate, administrative, repayment of loans and advances and other expenses of the



Promoter. Such expenses shall be payable on a monthly basis from the Gross Sales Proceeds, as a Development Cost ("Promoter Corporate Expenses").

8.3 Sold Area Fees

8.3.1 The Premises comprising the Sold Area shall be developed in the same manner and with the same specifications as the remaining saleable area of the Project. The Development Manager shall be entitled to a Fee of 6% (Six Percent) plus applicable taxes of the Sold Area Proceeds for the Sold Area sold by the Promoter prior to the execution of this Agreement ("Sold Area Fees"), payable on the Sold Area Proceeds, received in respect of the Sold Area.

8.3.2 An amount of Rs. 9,21,00,000/- (Rupees Nine Crore Twenty One Lacs only) is payable as brokerage in respect of the Sold Area. The aforesaid amount is required to be paid as set out in the Business Plan, and forms part of the Development Cost.

8.3.3 Additionally, an amount of Rs. 1,84,00,000/- (Rupees One Crore Eighty Four Lacs only) is reimbursable to the Promoter in respect of the accrued marketing and promotional costs in relation to the Sold Area.

8.3.4 The amounts mentioned in Clause , 8.3.2 and 8.3.3 above are based upon the Sold Area. In the event of any cancellations out of the Sold Area the aforementioned amounts shall stand proportionately reduced in terms of such cancelled Premises, as per the applicable cancellation and repayment policy for the sale of Premises in the Project.

8.4 EXPENSES AND PERSONNEL

8.4.1 Except the Marketing and promotion costs and the Overhead Charges incurred by the Development Manager in accordance with Clause 7.8.17.2 & 8.2 no other costs shall be incurred by the Development Manager without the prior approval of the Promoter (the cost and expenses incurred with the prior approval of the Promoter are hereinafter referred to as "Expenses"). The Expenses incurred by the Development Manager shall be payable to the Development Manager over and above the Development Management Fees and any other fee payable by the Promoter to the Development Manager from and out of the Project Account in the manner set out in Clause 8.1.1 and within 21 (twenty one) days of the Development Manager raising its invoice in this regard. The Development Manager acknowledges that if any Services are delegated and/or rendered by third parties, the cost/expense for the same would form part of the Development Management Fee/Overhead Charges and shall in an event be chargeable as Expenses.



- 8.4.2 The Development Manager shall appoint on its payrolls, three employees, designated as the Project Head, Project Finance Head and the Sales Head, upto 5 (five) sales team members and 3 (three) Customer Relationship Management team, respectively ("DM Employees"). The monthly remuneration of such DM Employees along with applicable taxes and all incidental expenses shall be reimbursed by Promoter to Development Manager, as a Development Cost, subject to an annual cap as per the Business Plan or such other revised cap as mutually agreed between the Parties. Any incidental expenses to be reimbursed to such DM Employees in relation to the Project shall also be mutually agreed.

9 REPRESENTATIONS OF THE PROMOTER AND THE DEVELOPMENT MANAGER

- 9.1 The Promoter hereby represents and warrants to the Development Manager that as of the Execution Date:

9.1.1 The Earlier Lease Deeds and Sub-Lease Deed executed in favour of the Lotus Greens Constructions Private Limited and Promoter respectively are valid and subsisting and the Promoter has not committed any breach or violation of the terms of the Lease Deeds.

9.1.2 The Said Property presently has a proper access from the NOIDA master plan road having width of 30 meters (approx.) and all necessary permissions for access from the abutting road have been obtained by the Promoter;

9.1.3 The Said Property is a contiguous land with no islands or parcels of un-acquired lands dividing the same and there are no land locked parcels/pockets within the Said Property

9.1.4 The Said Property falls in the recreational green zone and is located within the limits of Master Plan area of NOIDA;

9.1.5 The available / permissible FAR on the said Property (including the available Green FAR) for residential development is 22.18 Laas sq. ft.;

9.1.6 The Said Property is free of any encumbrance, other than the charge of Debenture Trustee and NOIDA;

9.1.7 There are no proceedings in respect of the Said Property under Urban Land (Ceiling and Regulation) Act, 1975 (since repealed) or any other acquisition proceedings;

9.1.8 The Promoter has not violated any permissions required from the forest department with respect to tree cutting and plantation, if and as required from time to time with respect to the Said Property;



- 9.1.9 There have been no orders from any town planning authority, MOEF or any other competent authority rejecting any plans or sanctions with respect to the Said Property or part thereof and the development rights of the Said Property has never been rejected or denied by any Authority;
- 9.1.10 Save and except the Promoter, NOIDA and Debenture Trustee, no other person or persons have any claims, right, title or interest of any nature whatsoever in Said Property;
- 9.1.11 The Promoter alone is in actual, quiet, vacant, legal, physical possession, use, occupation and enjoyment of the Said Property and there are no trespasser or encroacher or any thoroughfare on the Said Property or any part thereof;
- 9.1.12 Subject to the terms of the Earlier Lease Deeds and the Sub Lease Deed, the Promoter has not created any third party interest other than the charge of Debenture Trustee, in the said Property and /or entered/agreed to entered into any kind of agreement, memorandum of understanding and/or writings or any other arrangements with any person in respect of sale, transfer of development right or otherwise for disposing the Said Property or any part thereof;
- 9.1.13 Save and except the charge created in favour Debenture Trustee, The Promoter has not given any guarantee or security which, if invoked, would affect or restrict the Promoter from dealing with the Said Property or any part thereof;
- 9.1.14 There is no attachment or prohibitory order issued by any court/tribunal or authorities including but not limited to Reserve Bank of India or any taxation and/or revenue authority prohibiting the Promoter from dealing with the Said Property or any part thereof;
- 9.1.15 There is no easementary right over any part of the Said Property;
- 9.1.16 The Promoter has paid till date all property taxes, rates, cesses, assessment, water charges, electricity charges or any other amount due and payable to any Authority in respect of Said Property;
- 9.1.17 There are no dues pending from contractors, architects, consultants, suppliers, vendors or any person in relation to Said Property;
- 9.1.18 The Development Manager hereby represents and warrants to the Promoter that as of the Execution Date:
- 9.1.19 i. The Development Manager has full power and authority to enter into this Agreement and to perform and observe the terms and conditions hereof including association of the Brand Name with the Project and there are no litigations, notices, claims before any Governmental Authority or any judgements or injunction granted by a Governmental Authority and any agreement/document of any nature whatsoever or any other right of any other



persons, limitation of any nature whatsoever, including any arrangement or any agreement, whether conditional or otherwise that restricts the Development Manager from entering into this Agreement.

ii. This Agreement has been duly executed and delivered by the duly authorised representatives of the Development Manager and constitutes a legal, valid and binding obligation of the Development Manager.

iii. The execution, delivery and performance of this Agreement and all instruments or agreements required hereunder do not contravene any arrangement with any third party.

iv. The execution, delivery and performance of this Agreement and all instruments or agreements required hereunder do not require any third party consents.

v. All information supplied by the Development Manager to in this Agreement either directly or through its representatives is true, complete, and correct; and

vi. The Development Manager has a right to use the Brand Name and permit the association of the Brand Name with the Project including in relation to all Marketing materials and permitted to the usage of the same as envisaged under this Agreement

10 COVENANTS AND ADDITIONAL RIGHTS OF THE PROMOTER

10.1 Covenants Of The Promoter: The Promoter hereby covenants and undertakes as under:

10.1.1 The Promoter shall comply with all the terms and conditions of the Earlier Lease Deeds and Sub Lease Deed. The Promoter shall cause the development of the amenities and infrastructure to be provided under the Scheme 2014-15 (Sports City) for Development of Sports City in Sector-150, Noida.

10.1.2 The Promoter shall comply with all the terms and conditions of the Approvals and shall also undertake the Development of the Project in accordance with Applicable Laws;

10.1.3 The Promoter shall strictly abide by rules, regulations and laws related to foreign direct investments and the Reserve Bank of India;

10.1.4 The Promoter shall ensure that any issue pertaining to the same is settled without adversely impacting the development of the Project;

10.1.5 Upon the satisfaction of the charge of Debenture Trustee, within a period of 7 days thereof, the Promoter shall deposit all the title documents pertaining to the Said Property with any escrow agent jointly appointed by all the Parties against accountable receipt or a joint locker. Such title documents shall be



released in favour of the lending bank/financial institution/third party for the construction finance obtained by the Promoter or to the common organization of purchasers of the Premises upon Completion of the Project, as the case may be;

- 10.1.6 The Promoter will obtain and maintain all Approvals and amendments thereto in relation to the Project in accordance with Applicable Laws and the Business Plan, including but not limited to land clearances, commencement certificate, open space deficiency, staircase lift and lobby, enclosed balcony, infrastructure development, development license, high-rise approval, civil aviation, Project layout plan, basement, sewerage, completion certificate, occupation certificate, change of land use, if any, and such other Approvals as may be required to be obtained from any Government Authority. It is clarified that such Approvals shall be based upon IGBC/GRIHA certified building plans. The Promoter shall within 7 days of obtaining the Approvals send a copy of the same to the Development Manager;
- 10.1.7 The Promoter shall ensure that none of the deeds and documents or writings, applications related to design/ construction /approvals shall carry the name of the Development Manager;
- 10.1.8 The Promoter shall bear all the Development Cost (defined herein) of the Project, out of the Gross Sales Proceeds and the Sold Area Proceeds and in the event of the same is insufficient to meet the Development Cost then the Promoter's Funding Amount shall be used;
- 10.1.9 The Promoter shall fully co-operate with the Development Manager in the entire Development process and shall provide site office space and space for marketing office along with the necessary facilities including the required support staff and basic amenities as may be reasonably required by the Development Manager and contemplated under the Business Plan, at the Promoter's cost;
- 10.1.10 The Promoter and the Development Manager shall mutually agree on the required staff (other than the DM employees) as per the Business Plan. The Promoter shall appoint the staff mutually agreed. However, the staff so appointed by the Promoter shall always be under the supervision and guidance of the Development Manager for operation ease of the Project;
- 10.1.11 The Promoter shall handover possession of the respective Premises to the Purchasers;
- 10.1.12 The Promoter shall:
- (i) obtain such facilities as may be required for the purposes of the Project including but not limited to providing and facilitating adequate electricity connection, water and other basic requirements in order to facilitate construction;



- (ii) pay any and all amounts required to be paid to any Government Authority in respect of the Project and/or the Said Property; and
- (iii) pay all amounts in accordance with this Agreement and endeavour to undertake all actions for obtaining any future additional FAR/FSI that is required for the Project.
- 10.1.13 Within 30 (thirty) days from receipt of the amended final plans from the Architect, in a form acceptable to the Promoter and in compliance with Applicable Laws, the Promoter shall submit the same to the relevant Authorities for obtaining necessary Approvals based on the final plans for construction/Development of the Project
- 10.1.14 The Promoter shall in accordance with the Main Contract and all other contracts entered into between the Promoter and the Main Contractor/ Contractors/Suppliers, make payments within the time that such payments are due under such contracts. The Promoter shall solely bear any liabilities that may arise in case of delay in any such payments, including delay in Completion of the Project as a consequence of the same, except in the event such delay is on account of delay by the Development Manager in certifying and approving the relevant invoices;
- 10.1.15 The Promoter shall share all communications/information received by them on the status of any Approvals (till such time that they are not obtained) within 7 (seven) days from receipt of any such communication/information and shall keep the Development Manager informed in this regard;
- 10.1.16 The Promoter shall appoint a maintenance agency to upkeep the complex till handover of the affairs of the constructed complex to the association of purchasers of Premises and bear the relevant costs as a Development Cost;
- 10.1.17 The Promoter shall sign any and all agreements required to be executed with purchasers of any Premises, in a form satisfactory to the Development Manager and the Promoter and clearly stating that all payments in respect of acquisition of the Premises shall be made only into the Master Account;
- 10.1.18 The Promoter shall not enter into any agreements, contracts, arrangements, understanding with any Person with respect to the construction, Development or execution of the Project save and except in accordance with the terms of this Agreement;
- 10.1.19 Inter se the purchaser/lessees/licensees and the Promoter, the Promoter will be solely responsible for all obligations to purchasers/ lessees/ licensees of the Premises under the purchaser documents (agreement for sale/lease allotment letters, sale deeds, sub/lease deeds, etc.), without prejudice to the rights of the Promoter against the Development Manager in the event that any liability/obligation arises on account of an breach of the Development Manager, provided the overall liability of the Development Manager shall not exceed the liability specified in Clause 28 (Indemnity). The Promoter shall supply the Development Manager, in such time as may be reasonable



having regard to the nature of any request, all necessary and relevant information, Approvals and Construction Data in possession of the Promoter required by the Development Manager to perform the Management Services;

- 10.1.20 The Promoter shall be solely responsible for resolving any disputes that may arise from or in connection with the construction and Development of the Project
- 10.1.21 The Promoter shall solely bear all past and existing liabilities in respect of the Project and/or the Said Property, including towards any Authorities, tax related claims or any other Person claiming interest of any nature whatsoever in or over the Said Property and/or the Project;
- 10.1.22 The Promoter shall be liable for ensuring that their business and operations are carried on in accordance with Applicable Laws and this Agreement, so as to ensure that no claims arise against the Said Property, the Receivables, the Master Account and the Project Account and/or the Project due to any default, in this regard;
- 10.1.23 The Promoter shall not sell any Premises on its own except through the marketing office of the Development Manager save and except as contemplated in Clause 10.2.6
- 10.1.24 Once all the Approvals in connection with the Project have been obtained, the Promoter shall not, for any reason (except a Force Majeure Event or the Development Manager not providing the requisite Management Services), delay the Launch of the Project, which Launch shall be in accordance with the approved Business Plan;
- 10.1.25 The Promoter shall provide on a timely basis and as and when requested by the Development Manager, all consents, letters/writings and permissions that are to be issued by the Promoter for enabling the Development Manager to provide the Management Services and fulfill its obligations under this Agreement;
- 10.1.26 The Promoter will execute all agreements, deeds, documents and take all other actions as may be necessary for the execution and Completion of the Project in accordance with the terms of this Agreement;
- 10.1.27 The Promoter shall comply with its obligations under this Agreement to make timely payment of the Development Costs, Development Management Fees, Sold Area Fees and Over Head Charges, Expenses payable by the Promoter to the Development Manager (subject to the terms of this Agreement and the subject to the Development Manager certifying the invoice and operating the Project Account on time), time being essence of the contract;



10.1.28 The Promoter shall ensure that its rights to develop the Project is free and clear and marketable and shall continue to remain as such, other than pursuant to (i) creation of any rights in favour of purchasers/sub lessee of the premises; (ii) any financing raised in relation to the Project; (iii) any statutory or Governmental actions/omissions which affects the rights of the Promoter; (iv) any actions/omissions of the Development Manager which affects the rights of the Promoter; and (v) any Force Majeure Events;

10.1.29 The Promoter hereby further covenants and undertakes to the Development Manager that:

- (i) The Promoter shall not, without the written consent of the Development Manager, use the Suid Property or allow the use of the Suid Property or any part thereof for any purpose other than execution and Development of the Project;
- (ii) The Development Manager and its officers, employees, servants and agents shall, during the Term, have full and complete and unobstructed access to the Said Property at all hours of the day and on all days, including Sundays and public holidays, without any limitation or restriction; The Promoter shall not submit to the Authorities any documents (statutory or otherwise) related to design/ construction/Approvals which will carry the name of Development Manager as the Development Manager unless the same is required under Applicable Laws, however the Promoter shall intimate the Development Manager, 15 days prior to such submission or such shorter period as provided for submission of such information by the Authority.
- (iii) It is intended that the Development Manager is not to be considered as or construed to be a promoter under the provisions of any Applicable Laws, including the Uttar Pradesh Apartment (Promotion Of Construction, Ownership And Maintenance) Act, 2010, Real Estate (Regulation and Development) Act, 2016 ("RERA") as may be amended, modified or supplemented from time to time and that the Promoter shall be exclusively liable for and shall bear all claims and liabilities that may arise in this regard and the same shall be reflected in all documents executed with purchasers for sale of any of the Premises; Provided that in the event the Development Manager is construed as a Promoter by virtue of the existing arrangement, then the Parties shall suitably modify this Agreement to ensure that the Development Manager is not construed as a Promoter under any Applicable Law. Provided further that in the event that the Development Manager would be deemed a 'promoter' under RERA irrespective of any amendments, then the Parties shall in good faith mutually discuss and agree on the necessary amendments that may be required in order to comply with the RERA. This arrangement will be made known to all the purchasers of Premises /contractors and the same shall be suitably included in all the agreements / documents /



writings to be executed with such purchasers of Premises / contractors;

- (iv) The Promoter will, at its own cost, clear any and all defects in title of the Promoter to the Said Property and / or the Project and its rights thereon. In the event any claim is raised in respect of the title of the Promoter to the said Property and / or the Project including arising out any antecedent title deed/s, the same shall be settled by the Promoter expeditiously at its own costs and expenses, without any recourse to the Development Manager;
 - (v) In the event, the Development Manager suffers any loss or damage on account of non-disclosure or suppression of any material fact by the Promoter in relation to the title of the Said Property, then in such event, the Promoter shall keep the Development Manager protected and indemnified for the actual loss and damage (and not indirect and consequential losses) suffered by the Development Manager on account of such non-disclosure or suppression
 - (vi) The Promoter shall not create or permit the creation of any Encumbrance over the Said Property, Premises and/or Receivables, other than for obtaining financing for the Project, in compliance with the terms and conditions in this Agreement or the Encumbrances in favour of NOIDA and Debenture Trustee. The Promoter shall notify the Development Manager of the creation of any such Encumbrance;
 - (vii) The Promoter shall, at all times, be fully responsible to appoint security agencies as recommended by the Development Manager for security in and around the Said Property and/or the Project;
- 10.1.30 The Promoter shall forthwith provide the Development Manager notice of any Action in connection with the Said Property and / or the Project of which the Promoter is made aware of.
- 10.1.31 The Promoter shall not permit or allow any Person to enter upon the Said Property and / or the Project except the Development Manager and its officers, employees, servants and agents and such other persons as may be required for the purposes of the Project;
- 10.1.32 The Promoter shall have the absolute right to operate the ERP and retain all the Construction Data and all rights in relation thereto, on completion of the Project. The Development Manager or their authorised representative shall have also view access to the ERP records from time to time and for such period as may be mutually agreed with the Development Manager;
- 10.1.33 In case there is any action in respect of any Taxes or any claim or demand from the Income Tax authorities on the Promoter, whether past, present or future (including any increases, levies, etc.), the liability in respect thereof shall vest solely with the Promoter.



- 10.1.34 The Promoter shall give and shall procure that its agents, servants, and other consultants and contractors give, such assistance as shall reasonably be required by the Development Manager in the performance of the Management Services.
- 10.1.35 The Promoter shall designate a Promoter Representative who shall be deemed to have authority to make decisions on behalf of the Promoter under the Agreement. The Promoter shall notify the Development Manager immediately if the Promoter's Representative is replaced.
- 10.1.36 The Development Manager shall have the right to take inspection of all financial statements and supporting documents to the financial statements of the Project with prior notice of 7 days to the Promoter.

10.2 Additional Rights Of The Promoter

- 10.2.1 During the execution of the Project, the Promoter shall have right to visit the Project and take the inspection of the Project by providing 24 hours' notice. The Promoter shall also have right to take inspection of all records maintained at site/marketing office in respect to the Project with prior notice of 3 days.
- 10.2.2 The Promoter shall be entitled to such MIS on a six monthly basis for periodic reporting of the progress of the Project.
- 10.2.3 The Promoter shall have the rights to pre-approve the Business Plan.
- 10.2.4 Any marketing plans, third party contracts, travelling/boarding/lodging costs of the Development Manager personnel not approved in the Business Plan will have to be pre-approved by the Promoter.
- 10.2.5 The Promoter shall appoint from amongst top reputed auditors, a statutory auditor, in compliance with Applicable Laws.
- 10.2.6 Notwithstanding anything to the contrary contained herein, the Parties agree that (i) if the Development Manager is unable to sell 50% of the sales agreed as per Business Plan for a continuous period of twelve months, then the Promoter and the Development Manager shall in good faith mutually discuss and agree on remedial measures, including deputation of the Promoter's sales representatives to the Development Manager's sales team to undertake Marketing and sale of the remainder portions of the such phase/sub-phase with such sales representatives reporting to the Marketing Head of the Project and the Development Manager shall be entitled to the Development Management Fees on such sold premises by the sales representatives of the Promoter.

11 LIABILITIES & INSURANCE



- 11.1 The Development Manager is acting in a capacity of an independent service provider and accordingly (i) any breach of Applicable Law in providing Services and/or (ii) any fines, damages, penalties, interest, sums, costs, that may arise, from third party claims attributable to the Service of the Development Manager, shall be the sole obligation of the Development Manager.
- 11.2 It shall be stated in each contract with any Contractors, that all and any defect liability in the construction of the Project shall be solely to the account of the respective Contractors, and that the Development Manager and the Promoter shall not have any liability in this respect.
- 11.3 All fines, damages, penalties, interest, sums, costs in relation to the Project/Said Property, arising from any breach of Applicable Law and any fines, damages, penalties, interest, sums, costs, that may arise, from third party claims, other than as covered under Clause 11.1, shall be the sole obligation of the Promoter.
- 11.4 It is clarified that no Party ("**Non-Defaulting Party**") shall be liable for the liabilities under Clause 11.2 or 11.3 that may arise in relation to the Project/Said Property due to any acts or omissions of the other Party ("**Defaulting Party**"), which act or omission of the Defaulting Party result in a) a breach of this Agreement by the Defaulting Party; or b) a breach of Applicable Laws.

12 PROJECT ACCOUNTS AND ITS OPERATION MECHANISM

- 12.1 It is agreed between the Parties that all Receivables and Sold Area Receivables from the prospective purchasers of Premises with respect to the Premises (including the Sold Area) shall be deposited in designated accounts being the "Receivables Master Account" and the "Sold Area Receivables Master Account" (together the "**Master Accounts**").
- 12.2 The Master Accounts shall be opened in the name of the Promoter and be operated jointly by the Promoter, Development Manager and the Debenture Trustee (till such time that the Debenture Trustee continues to have a charge on the Said Property and thereafter jointly by the Development Manager and Promoter). The Master Accounts shall have a standing instruction, (which will be pre agreed between the Parties and any changes in the standing instruction shall be approved jointly between the Parties) for transfer of monies as under:
- Disbursement of Pass Through Amounts and the Sold Area Pass Through Amounts in accordance with Clause 12.3 below;
 - 11.5 % of the remainder (i.e. after payment as per (a) above) in the Receivables Master Account (being the Gross Sale Proceeds) and 6% of the remainder in the Sold Area Receivables Master Account (being the Sold Area Proceeds), to be transferred to the Project Account, for onwards



payment of the Development Management Fees to the Development Manager;

- c) 6.5 % of the remainder (i.e. after payment as per (a) above) in the Receivables Master Account and the Sold Area Receivables Master Account, to be transferred to the Project Account, for onwards payment of the Promoter Corporate Expenses in accordance with Clause 8.2.2;
- d) All of the remainder monies (i.e. after payment as per (a), (b) and (c) above) lying in the Receivables Master Account and the Sold Area Receivables Master Account to be transferred to the Project Account, only to the extent of and till such amounts equal the budgeted Development Cost for the succeeding 6 months period as per the extant Business Plan, including provisions for (i) repayment of construction loan (interest and principle due as on such date) and (ii) payment of lease premium for the Said Property as per schedule of payment under the Sub-Lease Deed; and
- e) During the currency of Phase- II of the Project, upon sale of 50% of the saleable area of Phase II and every quarter thereafter till the completion of Phase II, post transfer of monies in accordance with (a) through (d) (both inclusive) above, 50 % (fifty percent) of the surplus (based on the sold area) in the Receivables Master Account shall be released from the Receivables Master Account, to the Promoter, into such account as designated by the Promoter.
- f) Similarly, during the currency of Phase- III of the Project, upon sale of 50% of the saleable area of Phase III and every quarter thereafter till the completion of Phase III, post transfer of monies in accordance with (a) through (d) (both inclusive) above, 50 % of the surplus (based on the sold area) in the Receivables Master Account shall be released from the Receivables Master Account, to the Promoter, into such account as designated by the Promoter.
- g) The Parties shall reconcile the accounts annually on the basis of the audited accounts to determine the profit margin available under Phase II and Phase III and if the transfer of monies to the Promoter as per 12.2 (e) and (f) above, is in excess/short of the profit margin available under such phase, appropriate adjustment shall be made in the succeeding quarter accordingly.
- h) Notwithstanding, what is provided in this clause 12.2, in the event there is sufficient surplus after transfer of monies to the Promoter as per 12.2 (e) and (f) above, the Chairman of the Promoter and the MD & CFO of the Development Manager shall discuss and agree for any additional transfer of monies to the Promoter.
- i) In the event of there being any cash shortfall in Phase II or Phase III of the Project, on account of transfer of monies to Promoter as provided in this Clause 12.2(e) and 12.2(f) above, the Promoter shall arrange, through



construction funding or otherwise, funds to meet such shortfall amount at the earliest and not later than 30 days from the date of intimation by the Development Manager.

- j) The amount to be paid to the Promoter towards Promoter Corporate Expenses (till such time that the Debenture Trustee continues to have a charge on the said Property) shall be transferred to the Account Lotus Greens Constructions Pvt. Ltd.- Debt Service Account bearing Bank account no. 914020052763740 with Axis Bank, Swasthya Vihar Branch having IFSC Code No. UTIB0000055.

12.3 During the tenure of the Project on the first working day of every month, all amounts collected as Pass Through Amounts and Sold Area Pass Through Amounts in the preceding month shall be transferred from the Master Account to a designated account ("Pass Through Account"). The Pass Through Account shall be jointly operated by the Promoter and the Development Manager, for making payments towards the Pass Through Amounts and the Sold Area Pass Through Amounts to the relevant recipients;

12.4 Project Account Operations -

12.4.1 All amounts received in the Project Account shall be disbursed in the following manner:

- (a) Payments to Project lenders for the purpose of construction finance only
- (b) Repayment/servicing of the loans/facilities that are availed by the Promoter in relation to the Project construction and any interest thereon;
- (c) Payment of Development Management Fees, Sold Area Fees, Promoter Corporate Expenses, salaries to be paid to the DM Employees and Overhead Charges, in accordance with this Agreement.
- (d) Project related Payments: After making the payments as enumerated under point (a), (b) and (c) above, the balance amount in the Project Account shall be used towards meeting the Development Cost, except the lease premium on the Said Property, payable to NOIDA.
- (e) Lease premium of the Said Property payable to NOIDA.

12.4.2 Notwithstanding the priority of disbursement mentioned at 12.2 and 12.4.1:

- (a) at the end of Phase-I of the Project i.e upon the offer of possession of Phase I, an amount equivalent to 50% (Fifty Percent) of all the Receivables for Phase-I less all the cash outflows in respect of Phase -I (being the "Phase-I Surplus Amount") shall be released from the Receivables Master Account and the Sold Area Receivables Master Account and the Project Account to the Promoter, into such account as designated by the Promoter, provided that the difference between Receivables and cash outflows is a positive number.



- (b) at the end of Phase- II of the Project, i.e. upon hand over of possession of sold Premises in Phase II, the parties shall reconcile the accounts for the entire phase and post such reconciliation, an amount equivalent to 50% of "Phase-II Surplus Amount" i.e. all the Receivables for Phase -II less all the cash outflows in respect of Phase -II", shall be released from the Receivables Master Account and the Project Account to the Promoter, into such account as designated by the Promoter. Provided that the amount to be so transferred to the Promoter out of the total available Phase II Surplus Amount shall not exceed the 50% of the total profit margin available in respect of Phase II.
- (c) at the end of Phase III of the Project i.e. upon hand over of possession of sold Premises in Phase III, the entire "Project Surplus Amount" (i.e. all the Receivables for the Project less all the cash outflows in respect of Project including the repayment of the construction loan, if any, and the payment of the lease premium in respect of the said Property in full) shall be released from Receivables Master Account and the Project Account to the Promoter, into such account as designated by the Promoter.

- 12.4.3 The budgeted Development Cost for the succeeding 6 (six) months shall be reconciled on monthly rolling basis of the approved Business Plan at that time. The period of reconciliation shall change as per the Business Plan.
- 12.4.4 It is agreed between the Parties that in the event of any shortfall of money in the Project Account for meeting any Development Cost (including Development Management Fees), the Promoter Funding Amount shall be utilized in accordance with this Agreement.
- 12.4.5 The authorized signatory of the Development Manager shall have the right to singly operate the Project Account up to Rs.7,00,00,000/- (Rupees Seven Crore Only) (which shall be over and above the salaries of the Project employees and contractual workers) per annum. The Development Manager shall at all times ensure that any disbursement out of the aforementioned Rs.7,00,00,000/- are signed by two signatories of the Development Manager. Beyond the aforesaid amount, the Project Account shall be operated only in accordance with joint instructions of the Promoter and the Development Manager.
- 12.4.6 It is mutually agreed between the Parties that the Gross Sale Proceeds and the Sold Area Proceeds at the end of each year shall be certified by the statutory auditors of the Promoter and such certification shall be final and binding on the Parties, including for the purposes of reconciliations in accordance with this Agreement.
- 12.4.7 It is agreed between the Parties that if any treasury investment is required to be made from the Receivables, then such investments shall be made only from the Project Account.
- 12.4.8 The interest earned on any treasury investments shall belong to the Promoter.



- 12.4.9 Save and except payments that will be made by the purchasers of Premises towards Pass Through Amounts, all payments to NOIDA pertaining to the Said Property shall be borne by the Promoter.
- 12.4.10 At the end of each six months the Parties shall reconcile the accounts to determine the Gross Sale Proceeds and the Sold Area Proceeds for such six months and upon such reconciliation any deficit or excess paid to either the Development Manager towards Development Management Fees etc., or the Promoter (including excesses determined on account of cancellations and refunds) shall be repaid by the respective Parties.
- 12.4.11 At the end of each phase and also at the end of the Project, the Parties shall do a final reconciliation of the accounts so as to calculate the actual Gross Sale Proceeds and the Sold Area Proceeds of the Project and any deficit or excess paid to either Party shall be adjusted accordingly.
- 12.4.12 That each phase of the Project shall have separate Master Account and Project Account and will be operated in the same manner to give effect as provided in this Clause 12.

13 SUSPENSION

- 13.1 Upon occurrence of a Force Majeure Event, the Development Manager may suspend the performance of its Management Services for the Project or any part thereof, for such time and in the manner that the Development Manager may consider necessary ("**Suspension Period**").
- 13.2 It is agreed, that during the Suspension Period (i) neither the Promoter nor the Development Manager shall be liable for any failure or delay in performing its obligations under or pursuant to this Agreement during the existence of a Force Majeure Event and (ii) any performance deadline that the Development Manager or the Promoter is obligated to meet under this Agreement shall be extended; and (iii) the Development Manager and Promoter shall not be liable for any loss that may be caused.
- 13.3 In the event that the Suspension Period exceeds a continuous period of 12 (Twelve) months, then the Parties shall mutually agree and decide on the way forward.

14 TERMINATION AND CONSEQUENCES OF TERMINATION

14.1 Termination

- 14.1.1 Either Parties i.e. the Non-Defaulting Party shall at its option be entitled to terminate this Agreement, by giving a 90 (Ninety) days prior written notice from the expiry of the cure period of 60 (Sixty) days from the date of either Party notifying the other Party of occurrence of any of the following events which result in the



Development and/or sale of the Project being stalled for a continuous period of 365 days:

- (i) If any Approval obtained in terms of this Agreement is modified or revoked which results in stoppage of such construction and Development for a continuous period of 365 days or more;
- (ii) If an insolvency notice is served on the Defaulting Party or the Defaulting Party files for bankruptcy or become or are declared insolvent or have a receiver or liquidator appointed over all or on substantially all of its assets;
- (iii) The Defaulting Party is engaged in fraud, bad faith or wilful misconduct in connection with this Agreement or the Project, including any of the following: (i) the Defaulting Party mingles any funds intended to be used for the Project with any funds of the Defaulting Party, or use funds intended to be used for the Project for purposes unrelated to the Project; or (ii) The Defaulting Party commits an act of theft or embezzlement (including, without limitation, against Non-Defaulting Party and/or any purchasers of Premises);
- (iv) Any material breach of the obligations/covenants under this Agreement by a Defaulting Party, which results in stoppage of work for a continuous period of of 365 days or more. Provided that notwithstanding anything contained to the contrary any right of termination under this Clause 14.1.1 (iv) can only be exercised by the terminating Party only in respect of the unsold and un-launched portions of the Project. It is clarified that notwithstanding anything contrary in this Agreement, neither Party shall have any right of termination in respect of any launched phase of the Project and/or any sold Premises, in respect of which the obligations of the Parties shall continue as is and this Agreement shall subsists in totality. It clarified between the Parties that in the event of termination as aforesaid the Parties shall ensure that the rights of the purchasers of the sold/launched Premises are not adversely affected in any manner whatsoever and further the Parties shall continue to adhere to comply with the terms of the apartment buyers/contractor agreements.

14.1.2 In addition to what is stated in Clause 14.1.1 hereinabove, either Party shall be entitled to terminate the Agreement, if the other Party commits a breach of the RERA, and which breach is not rectified within the cure period specified under the RERA.

14.1.3 Non-payment of any amount due to the Development Manager under this Agreement, other than on account of any breach or failure by the Development Manager, for a continuous period of 3 (Three) months, such default not exceeding more than once in one financial year.



14.2 Consequences Of Termination

14.2.1 Upon the termination due to the conditions stated in Clause 14.1.1 or expiry of Term of this Agreement by efflux of time upon Completion of the Project, (a) the Promoter and the Development Manager shall (i) complete all asserted obligations as set out hereinabove; b) The Promoter shall discontinue and forbear from any use and application whatsoever of the Brand Name of the Development Manager in relation to the Project, Marketing, or otherwise and not issue any further materials which bears the Brand Name of Development Manager in any manner whatsoever, except to the extent expressly provided under this Agreement in Clause 7.4; (c) The Promoter shall return to the Development Manager any Confidential Information relating to the Development Manager and its shareholders, as may have been received by the Promoter and/or its representatives (or deemed to be received by either of them) during the subsistence of this Agreement whether in writing or in any other form or medium including any documents, reports etc., containing all or any such Confidential Information, similarly the Development Manager shall return to the Promoter any Confidential Information relating to the Promoter in respect of this Project, its shareholders or the Project (including the Construction Data) as may have been received by the Development Manager and/or its representatives (or deemed to be received by either of them) during the subsistence of this Agreement. The provisions of this Clause shall survive the termination or expiration of this Agreement.

It is clarified that post the Term of this Agreement, the Promoter shall continue to be entitled to make factual representation with regard to the Development Manager's association to the Project and/or refer to the Project with the Project Name, as existing at the point in time being referred to such representation shall be for the sole purpose of this Project.

14.2.2 The Promoter shall not (i) use or exploit (directly or indirectly) its previous connection with the Development Manager or (ii) make any further use of or reproduce or exploit any of the rights granted under this Agreement or Brand Name and/or trade names or logos, catch lines, slogans or other intellectual properties of Development Manager or make any representation or use thereof that may be confusingly similar. Similarly, the Development Manager shall not (i) use or exploit (directly or indirectly) its previous connection with the Promoter or (ii) make any further use of or reproduce or exploit any of the rights granted under this Agreement or other



intellectual properties of the Promoter (including specifically the Construction Data) or make any representation or use thereof that may be confusingly similar.

- 14.2.3 The Parties shall refrain from any acts, indications, publicity or advertisements which may mislead any third party into the belief that the Parties hereto still maintain business relationships with each other and neither Party hereto shall commit any act detrimental to the business or reputation of the other or of the Project.
- 14.2.4 Additionally, upon the termination of this Agreement in addition to the Development Managers entitlement in terms of Clause 7.4 (95% exit Fees), the Development Manager shall be entitled for the accrued Development Management Fees and the Sold Area Fees.
- 14.2.5 The Promoter shall be responsible for all payments towards costs, fees, charges and other expenses required to be made to the Main Contractor, and/or suppliers and/or contractors and/or other Third parties appointed by the Promoter and the Development Manager shall in no manner be liable for the same.
- 14.2.6 The Promoter, at its cost and expense, shall on such termination or the expiry of this Agreement remove any and all references to the Brand Name of the Development Manager on any website or other form of internet used by the Promoter in connection with the Project.
- 14.2.7 The Promoter shall within a maximum period of 30 (thirty) days from the date of termination or expiry of this Agreement, cease the usage of the Brand Name of the Development Manager in all items, articles, documents or things containing the Brand Name including (but not limited to bill books, ledgers, prescriptions, files, papers, promotional material, boardings, billboards, advertisements, brochures, diaries, communication materials and all documents and/or material used in relation to Marketing, whatsoever relating to the Project and shall not use and/or apply the Brand Name of the Development Manager or any variation thereof in any manner whatsoever.
- 14.2.8 Neither Party shall have the right to terminate this Agreement except as provided in Clause 14 hereinafove.



15 SHAREHOLDING

- 15.1 The Promoter has furnished to the Development Manager, a list of its shareholders and covenants that the Promoter shall not change the Controlling shareholding of the Promoter till the management of the new building/s/Project and the common areas and amenities is handed over to the association of purchasers of Premises without the prior written consent of the Development Manager.

16 ASSIGNMENT

- 16.1 The Development Manager shall be entitled, in its sole and absolute discretion to assign and/or transfer by way of novation or otherwise: (i) the entire rights and/or benefits granted to it herein or (ii) a part of the rights and/or benefits granted herein, to any of its subsidiaries that is owned and Controlled by the Development Manager or Affiliates (provided the Affiliate has the capability to undertake the obligations mentioned in this Agreement to the satisfaction of the Promoter) upon such terms and conditions and for such consideration and/or other benefits as the Development Manager may deem fit and proper, subject to the usage of the Brand Name as contemplated under this Agreement, not being adversely affected and the transferee(s) having the capability to provide the Services
- 16.2 In such case(s), the Promoter shall be bound and liable to recognize such assignee(s) and transferee(s), and such assignee(s) and transferee(s) of the Development Manager shall likewise be bound by the terms, conditions and provisions of this Agreement and all documents related and incidental to the same. Provided that in the event that such assignee/ transferee ceases to be a subsidiary or affiliate of the Development Manager then: (i) the entire rights and/or benefits granted to the assignee/ transferee or (ii) any part of the rights and/or benefits granted herein to the assignee/ transferee shall stand re-assigned/ re-transferred to the Development Manager and all obligations hereunder shall once again become solely of the Development Manager.
- 16.3 The Promoter shall not be entitled to assign its rights in relation to this Agreement to any third party without the prior written consent of the Development Manager.

17 RIGHT OF FIRST REFUSAL

In the event Promoter is desirous of developing and / or transferring the development management rights and/or such other right of the balance area of the Said Larger Property or any part thereof ("**Balance Area**") then they shall deliver a written offer to Development Manager to participate or provide its management services in the development of the Balance Area (such offer, an "**Project Offer Notice**"). The Development Manager shall have a period of 60 (sixty) days after receiving the Project Offer Notice to indicate preliminarily,



by delivery of written notice to the Promoter (a "Preliminary Approval Notice"), whether it is interested in participating or providing its management services in the development of the Balance Area. If the Development Manager does not deliver its Preliminary Approval Notice within such time period, then Promoter shall be permitted to develop the Balance Area or offer the opportunity to invest/participate in the development of Balance Area to any other Person.

18 CONFIDENTIALITY

18.1 Each Party ("Recipient") undertakes to the other Party ("Discloser") to:

- (i) hold all Confidential Information of the Discloser which it obtains in relation to this Agreement, in strict confidence and confidentiality;
- (ii) not disclose, or authorise the disclosure of, the other Party's Confidential Information to any Third Party other than as provided in this Agreement;
- (iii) not use, or authorise anyone to use, the other Party's Confidential Information for any purpose other than the performance or undertaking the Party's obligations or the exercise of its rights or the receipt of any benefits pursuant to this Agreement; and
- (iv) promptly notify the other Party of any suspected or actual unauthorised use or disclosure of the other Party's Confidential Information of which the undertaking Party becomes aware and promptly take all reasonable steps that the other Party may require in order to prevent, stop or remedy the un-authorised use or disclosure.

18.2 Each Party may disclose the other Party's Confidential Information to its Affiliates and their respective officers, directors, employees, contractors, advisors and auditors, but only to the extent, and provided, that such Persons:

- (i) need to know the Confidential Information disclosed to them;
- (ii) have been informed in writing of the confidential nature of the Confidential Information and the purpose for which it may be lawfully used; and
- (iii) comply with the terms of this Agreement in respect of the Confidential Information disclosed to them.

18.3 Each Party may disclose the other Party's Confidential Information if, and to the extent that, it is required to do so by or under any Applicable Laws.



19 **DISPUTE RESOLUTION AND ARBITRATION**

19.1 Save where expressly stated to the contrary in the Agreement, any disputes or differences arising between the Parties as to the performance or non-performance or terms of performance or interpretation of any of the terms of the Agreement and/or the breach thereof or validity or termination or abandonment or cancellation of the Agreement and all other ancillary and incidental questions thereto, howsoever arising under, out of or in relation to the Agreement ("**Dispute**") shall in the first instance be attempted to be resolved amicably.

19.2 **ARBITRATION**

19.2.1 Any Dispute which is not resolved amicably in the manner aforesaid shall be, referred to arbitration, by either Party, under the provisions of the Arbitration and Conciliation Act, 1996, or any modification or re-enactment thereof for the time being in force ("**Arbitration Act**").

19.2.2 The reference shall be made to a sole arbitrator within 15 days if the parties agree upon such appointment, failing which, each Party shall appoint one arbitrator, and the two Arbitrators so appointed shall appoint a third presiding arbitrator within 15 days from the last of their appointment, failing which the presiding arbitrator shall be appointed in accordance with the Arbitration Act. The venue and seat of arbitration shall be at New Delhi and the Delhi High Court shall have exclusive jurisdiction over any appeal from arbitration proceedings.

19.2.3 The arbitration proceedings shall take place in English.

19.2.4 The Parties shall take all necessary actions and request the arbitrator to complete the proceedings within a period of six months from the date of reference. The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provision of the Arbitration Act

19.2.5 Notwithstanding the pendency of any dispute or other differences between the Parties hereto and/or any arbitration proceedings, both the Parties shall continue to be fully entitled and at liberty to continue and complete the Project and exercise all its rights, powers, privileges, discretions and authorities contained in this Agreement and all documents related or incidental hereto. The Project shall continue even during arbitration and arbitration to be concluded in the timely bound manner.



20 INTEREST AND RIGHT OF SET-OFF

- 20.1 Any sum which becomes payable under any of the provisions of the Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at 18% (eighteen percent) per annum from the due date for payment thereof until the same is paid to or otherwise realised by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under the Agreement or otherwise under any Applicable Laws, the Party entitled to receive such amount shall also have the right of set off.
- 20.2 Provided the stipulation regarding interest for delayed payments contained in this clause shall neither be deemed nor construed to authorise any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

21 FURTHER ASSURANCES

Each Party covenants and agrees that, subsequent to the execution and delivery of this Agreement and without any additional consideration, each Party shall execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Agreement.

22 WAIVER

- 22.1 Any term or condition of the Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of that Party waiving such term or condition.
- 22.2 No waiver by any Party of any term or condition of the Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of the Agreement on any future occasion.
- 22.3 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of the Agreement or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of the Agreement.
- 22.4 All remedies either under the Agreement or under any Applicable Laws or otherwise afforded, will be cumulative and not alternative.

23 SURVIVAL



- 23.1 Clauses 14 (*Termination and Consequences of Termination*), 18 (*Confidentiality*), 19 (*Dispute Resolution and Arbitration*), 23 (*Survival*) and 29 (*Jurisdiction and Governing Laws*) of the Agreement shall survive the termination of the Agreement.
- 23.2 Except as otherwise provided in any provision of the Agreement expressly limiting the liability of either Party, the termination of the Agreement shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

24 AMENDMENTS AND MODIFICATIONS

The Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by both the Parties hereto and evidenced in writing.

25 NOTICES

- 25.1 Unless otherwise stated, notices to be given under the Agreement including but not limited to a notice of waiver of any term, breach of any term of the Agreement and termination of the Agreement, shall be in writing and shall be given by hand delivery, recognised international/domestic courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

Promoter:

Registered Office and Corporate Office

Lotus Business Park, Plot No. 8, Tower B, Level 7,
Sector 127, Noida Expressway,
NOIDA, Uttar Pradesh.

Development Manager:

Tata Value Homes Limited,

Times Tower, 12th Floor, Kamala Mills Compound,
Senapati Bapat Marg,
Lower Parel (West),
Mumbai 400 013

Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognised international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any



communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

26 SEVERABILITY

Each and every obligation under the Agreement shall be treated as a separate obligation and shall be severally enforceable as such and in the event of any obligation or obligations being or becoming unenforceable in whole or in part. To the extent that any provision or provisions of the Agreement are unenforceable they shall be deemed to be deleted from the Agreement and any such deletion shall not affect the enforceability of the remainder of the Agreement not so deleted provided the fundamental terms of the Agreement are not altered. Any invalid or unenforceable provision of the Agreement shall be replaced with a provision which is valid and enforceable and most nearly reflects the original intent of the invalid and unenforceable provision.

27 STAMP DUTY AND REGISTRATION CHARGES

Stamp duty and Registration charges and other charges payable, if any, on this Agreement and all incidental documents executed pursuant to this Agreement shall be borne and paid by the Promoter (if applicable).

28 INDEMNITY

28.1 Each Party ("**Indemnifying Party**") agrees to indemnify the other Party ("**Indemnified Party**") and their officers, directors, agents and employees and against all costs, claims, liabilities and expenses (including the legal fees and other costs arising out any judicial or other proceedings) incurred and resulting from or connected with any claim brought against the Indemnified Party (whether alone or jointly with any other person) by any third party or any liability to any third party arising out of: a) a breach of their respective representations and warranties in this Agreement; and/or b) any non-compliance of Applicable Law by the Indemnifying Party in relation to the Project.

28.2 It is agreed between the Parties that, in the event of the Development Manager being liable to indemnify the Promoter for any loss as damages suffered by the Promoters then such liability shall not exceed 25% of the Development Management Fees received ("**DM Indemnity Cap**"), similarly in the event of the Promoters being liable to indemnify the Development Manager for any loss as damages suffered by the Development Manager then such liability shall also, shall not exceed 25% of the Development Management Fees ("**Promoter Indemnity Cap**").

28.3 The Parties hereby mutually agree that in the event either Party is indemnified by a third party for the loss suffered by any Party then such Party shall not be entitled to be indemnified by the other Party.

29 JURISDICTION AND GOVERNING LAWS



This Agreement shall be governed and construed in accordance with the laws of India and shall be subject to all Applicable Laws, regulations as may be in force from time to time. Subject to arbitration clause, the Court having jurisdiction in any and/or all matters arising out of or in relation to this Agreement shall entertain and dispose of the same.

30 RELATION BETWEEN THE PARTIES

Nothing herein shall be construed to either constitute a partnership or agency between the Parties or to authorize the Development Manager, save and except as provided herein or with the Promoter prior consent in writing, to making any representation or incur any liability for and/or behalf of the Promoter.

31 NON-SOLICITATION

During the term of this Agreement or sooner determination thereof, the Parties shall not, without the prior written consent of the other Party, either directly or indirectly, on the Parties own behalf or in the service or on behalf of others, solicit, employ, contract or attempt to solicit, employ, contract, divert or hire away any person employed by the other Party.

32 LANGUAGE

All notices required to be given under the Agreement and all communications, documentation and proceedings which are in any way relevant to the Agreement shall be in writing and in the English language.

IN WITNESS WHEREOF the Parties hereto have set and subscribed their respective hands to this writing on the day and year first hereinabove written.

Signed and delivered for and on behalf of
TATA Value Homes Limited

Signed and delivered for and on behalf of
Land Kart Builders Private Limited



(Khiroda Jena)
Authorized Signatory





(Achal Raine)
Authorized Signatory



Witnessed by:

1. 
AKHIL AGARWAL

2. 
A.M. Murzuz

SCHEDULE-I
(Description of the said Property)

ALL That piece and parcel of land admeasuring 83970 sq. mtr. equivalent to 20.74 acres bearing Plot No. SC-02/A1, Sector 150, NOIDA, District Gautambudh Nagar, Uttar Pradesh

