

**BUILDER BUYER AGREEMENT**

This Agreement of sale is made on the .....**24**..... between Builder/Promoter/(**M/s Shail Infratech Ltd**). A Company incorporated under the Companies Act, 1956 having its registered Office at Flat No. G-103, Akash Greens, Opp. C.L. Gupta Eye Institute, Ramganga Vihar, Moradabad- 244001 (U.P) through its authorized representative Shri. .... S/o ..... R/o ..... (Who and the heirs, successors and assigns are unless the contrary appears, hereinafter called “the seller”) of the one part.

AND

**Mr./Mrs./Ms.** ..... aged about ..... years s/o, w/o **Mr.** ..... and having PAN No. .... residing at ..... (Who and his executors, administrators and legal representatives or assigns are, unless the contrary appears hereinafter called the “the Purchaser”) of the other part

OR

1. PARTNERSHIP FIRM: **N.A.**

M/s \_\_\_\_\_ a partnership firm under the Partnership Act 1932 having one of its places of business at \_\_\_\_\_ though its Partner Shri \_\_\_\_\_

OR

2. BODY CORPORATE: **N.A.**

M/s \_\_\_\_\_ a Company incorporated and registered under the Companies Act 1956, having its Corporate Identification No. \_\_\_\_\_ and registered office at \_\_\_\_\_ through its authorized signatory Shri \_\_\_\_\_ authorized vide Board Resolution dated \_\_\_\_\_

(Collectively referred to as “Parties” and singularly referred to as “Party”)

**WHEREAS** the Developer is a Company within the meaning of Companies Act, 1956 having its registered office at MIG A 138, Ramganga Vihar Phase-I, Sonakpur Stadium Road, Moradabad- 244001 U.P

**AND WHEREAS** the Developer is developing the plot opposite **C.L. Gupta Eye Institute, Harthala Etmali, Moradabad** by constructing thereon a residential housing society under Builders Residential Scheme sanctioned by Moradabad Development Authority known as “**AKASH SAPPHIRE**” situated at **C.L. Gupta Eye Institute, Harthala Etmali, Moradabad -244001(U.P)** herein after referred as “Project” in accordance with the sanctioned building plans and necessary permissions from the concerned authorities.

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**AND WHEREAS** the Buyer has agreed to the terms and conditions as set out in this Agreement for the allotments of a Residential Apartment details of which are given in Annexure I annexed to this Agreement ("Apartment").

**AND WHEREAS** the Buyer has represented that he has applied for the allotment of the Apartment with the knowledge of all laws/ notifications and rules applicable to the area in general and arrangements pertaining to the Project.

**AND WHEREAS** the Buyer has inspected the Project land, the sanctioned Building Plans, the ownership records and owners documents relating to the title of the Developer and is satisfied in all respects.

**AND WHEREAS** the Buyer has also seen and understood the tentative plans, designs and specifications of the Apartment and the said Complex, including the details of the Common Areas and facilities, nature of fixtures fittings and amenities given or proposed to be given and has clearly understood his right, duties, responsibilities obligations under each and every clause of this Agreement and the Buyer hereby accepts and agrees to abide by the terms and conditions of this Agreement.

**AND WHEREAS** the Buyer has represented and warranted to the Developer that it has the power and authority to enter into and perform this Agreement and the Developer, based on the assurances of the Buyer has agreed to enter into this Agreement with the Buyer on the terms and conditions appearing herein after,

**NOW, THEREFORE, THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

**1- Definitions:**

'Act' means THE UTTAR PRADESH APARTMENT (PROMOTION OF CONSTRUCTION, OWNERSHIP AND MAINTENANCE) ACT, 2010, as amended from time to time including any replacement thereof.

'Association' means refers to the Association of Apartment Owners formed under the Act and shall included buyers/ owners of the apartments herein, acting as a group in accordance with the bye-laws adopted by them and prescribed by the Government, for the administration of the affairs in relation to the apartments and property pertaining thereto and for the management/ maintenance of the Common Areas and facilities,

'Authority' means any government department, body, instrumentality or other relevant public authority, which has jurisdiction in respect of the prosecution/execution of the works at the Project Land/Project/Project Complex and shall mean and include the Moradabad Development Authority (also referred to during the course of this Agreement as the "Moradabad Development Authority")

'Application Form' means application form dated ..... given by the Buyer for allotment of an apartment in the project.

'Earnest Money' means 20% of the Total Sale Price paid/payable by the Buyer for the Apartment.

'Force Majeure' means any event or combination of events or circumstances beyond the control of the developer which cannot, either by exercise of reasonable diligence, or despite the exercise of reasonable

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diligence and adoption of reasonable precaution and/or alternative measures, be prevented or caused to be prevented and which adversely affects the Developer's ability to perform its obligations under this Agreement, and shall include but not be limited to:

- i. Act of God, i.e. fire, drought, flood earthquake epidemics, natural disasters;
- ii. Explosions or accidents, air crashes and shipwrecks, act of terrorism
- iii. Strikes, lockouts and industrial disputes
- iv. Non-availability of electricity, water cement, steel or other construction material due to any reason whatsoever, including without limitation, strikes of manufacturers, suppliers, transporters or other intermediaries or due to any reason whatsoever, War and hostilities of war, riots, bandhs/hartals, acts of terrorism or civil commotion
  
- v. The promulgation of, or amendment in any law, rules or regulations or the issue of any Injunction, court order or direction from any governmental authority that prevents or restricts the Developer from Complying with any or all the terms and conditions as agreed in this Agreement
  
- vi. Any legislation, order or rule or regulation made or issued by the Govt. or any other authority or if any competent authority refuses/delays/withholds the grant of necessary approvals for the Project or if any matters, issues relating to such approvals, permissions, notices, notifications by the competent authority become the subject matter of any suit/writ before a competent court or for any other reason whatsoever.

**'Non-Refundable Amount'** means Interest paid by the Buyer to Developer on the delayed payments.

**'Maintenance Charges'** means the charges payable by the Buyer for the maintenance and upkeep of the Project complex, (including the areas appurtenant to the Apartment), as per the Payment Plan, to the Developer or to the Association @ **Rs. ....../- per sq.ft.** of the Super Area of the Flat, on a monthly basis or at such other rate which may be fixed by the Developer /Association from time to time.

**'Project/Project complex/Complex'** means the Residential Complex under Builders Residential Scheme Akash Sapphire sanctioned by Moradabad Development Authority known as **"AKASH SAPPHIRE"**

**'Payment Plan'** the plan which the Buyer has opted for the payment of the Apartment and described in Annexure I

**'Super Area'** means the covered area of the Apartment including the entire area enclosed by its periphery walls, including area under walls, columns, balconies, lifts and lofts etc. and half the area of common walls with other premises/ Apartment(s) which form the integral part of the Apartment and proportionate Common Areas.

**'Sale Price/Total Price'** means the amounts amongst others, payable for the Apartment which includes Basic sale Price, PLC (if the Apartment is preferentially located) and includes the price of all such features, facilities etc and charges as described in Annexure I and shall not include stamp duty, registration charges and other dues payable to the government or any other Authorities

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**2. Allotment of Apartment:**

The Developer hereby agrees to sell and the Buyer agrees to buy the Apartment.

**3. Earnest Money and Sale Price:**

3.1 The Buyer hereby agrees to pay to the Developer the Sale Price and other development/ preferential charges and additional charges as per the Payment Plan opted by the Buyer and described in Annexure I to this Agreement.

3.2 The Buyer has paid to the Developer a sum of **Rs. ....../-** by **Cheque/DD/RTGS.....** towards booking of the Apartment **Dated .....**, the receipt of which sum the Developer do hereby acknowledge.

3.3 The Buyer hereby agrees that the Earnest Money shall remain liable to be forfeited on occurrence of any event of default mentioned in Agreement, till the execution and registration of the sale deed for the Apartment, provided that a reasonable opportunity shall be given to the Buyer to rectify the said event of default and if the Buyer fails to rectify such default within a period of 30 days from the date of the Developer's letter intimating the event of default then, in that case the Earnest Money shall be forfeited.

3.4 The Buyer agrees to pay the remaining sale price mentioned and in the manner as opted for in the Payment Plan described in Annexure I to this Agreement

3.5 The Buyer agrees that the Super Area given in the Agreement is tentative and subject to change upon approval of building plan and/ or completion of construction of the said Complex/Project and the buyer agrees that no claim, monetary or otherwise shall be raised in case of such a change.

3.6 The Buyer further understands and agrees that the area of the Apartment is tentative and subject to change as per the direction of the Moradabad Development Authority or Architect or Structural Engineers of the Developer which may result in change (increase/ decrease) in the area of the Apartment, change to the dimensions, size, location, number, boundaries etc. In case of variation in the area due to such reason to the extent of  $\pm 3\%$ , there shall be no adjustment in the price of the Apartment. However, in case the variation in the Apartment area is more than  $\pm 3\%$  and subject to a maximum limit of  $\pm 10\%$ , the Buyer agrees to pay towards the increased area at the booking rate. In case of decrease of the allotted area of the Apartment, beyond the permissible variation, the amount received in excess over and above the total cost of the Apartment based on the changed area, shall be refunded/adjusted (as the case may be) by the Developer to the buyer without any interest. However, in any case where the variation in the Super Area is more than 10% the Buyer shall have the option to withdraw from this Agreement and in such an eventuality the Buyer shall be entitled only to refund of his money advance without payment of interest or any other charges or damaged.

3.7 The Buyer agrees that the timely payment of the installments as set out in Payment Plan (Annexure I) other allied charges indicated herein is the essence of this Agreement. It shall be incumbent on the buyer to comply with the terms of payment and the Buyer agrees that the Developer is under no obligation to send reminders for payments. If payment is not received within the period as specified in the Payment Plan opted by the Buyer and/ or other charges mentioned

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herein then the Developer reserves the right to cancel the allotment of the Apartment. However, in exceptional circumstances, Developer may, in absolute discretion condone the delay in payment by charging penal interest @ 8 % p.a. on the amount outstanding for the first 15 days, thereafter @ 15% p.a, for next 3 months and thereafter @ 24% p.a.

3.8 In the event the buyer is desirous of surrendering the allotment of Apartment made as per this Agreement, it shall inform the Developer of the same 90 days in advance and shall execute such agreements as may be required by the Developer before surrendering the allotment.

3.9 The Buyer agrees that in case of cancellation or surrender of the allotment of Apartment as mentioned above, the entire Earnest Money along with Non-Refundable Amount shall be forfeited. Upon cancellation the Buyer shall be left with no right, title interest or lien on the Apartment and the Buyer shall also be liable to reimburse to the Developer the amount of Brokerage/commission paid if any by the Developer towards the booking/allotment of the Apartment. In the event of the allotment being terminated/cancelled as aforesaid the Developer would be free to allot the Apartment to a new buyer on the terms and conditions as deemed fit by the Developer

3.10 In the event of death of the Buyer of anyone of the joint Buyers, the remaining buyer and / or legal heir of the deceased Buyer shall be entitled to perform the obligations of the Buyer under this Agreement.

3.11 The Buyer agrees that if at any time hereafter, either by statutory requirement, it become necessary to provide for any further equipment/facilities etc. or there be any demands or levies by any Authorities the cost of such additional provisions, installations, demands of levies, taxes like service tax, sales tax , VAT or other taxes imposed by Central and/or State government or any authorities shall be borne and paid by the Buyer and shall be charged additionally on Sale Price, proportionate to the area of the Apartment, as and when demanded by the Developer.

3.12 The Buyer may obtain finance from any financial institution/bank or any other source but the buyer obligation to purchase the Apartment pursuant to this Agreement shall not be contingent on the buyer ability or competency to obtain such financing and the Buyer shall remain bound under this agreement whether or not it has been able to obtain financing for the purchase of the Apartment. The Buyer also agrees that its obligations arising under this Agreement including that of making timely payments shall not be affected by any delay in the issuance/disbursement of payments by any financial institution/banks. However, in case the Buyer has obtained loan from any Bank/financial institution, the conveyance of the apartment by Sale Deed in Favour of the Buyer shall be executed only upon the Developer receiving 'No Objection Certificate' from such Bank/Financial Institution and the Sale Deed so executed shall be handed over to the lending institution, if so required by them. For sake of clarification, it is stated that the developer shall have the first charge on the Apartment towards the payment of all its dues.

**4. Completion Building, Delay and Penalty:**

4.1 Construction of the residential units in the Complex is likely to be completed within a period of 3 years from the date of Agreement subject to force majeure and circumstances beyond the control of the Developer and any restraints/restrictions from any courts/authorities.

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4.2 In case possession of the residential unit is not offered to the Buyer within a period of 5 years from the date of this Agreement or up to an extended period of Seven Days, subject to force majeure and circumstances as mentioned in this Agreement the Buyer shall be entitled to receive from the Developer a compensation @ Rs. 1/- per sq.ft. of the super area of the unit per month for the period of delay after extended period as stated above, and to no other compensation of any kind.

4.3 The Developer on completion of construction shall issue a final call notice to the Buyer who shall clear all dues within 15 days thereof and take possession of the Apartment.

4.4 The Developer is authorized to raise loan by creating mortgage of the Complex/Project land from any bank/financial institution/agency and the buyer shall have no objection in this regard. However such mortgage created shall be got vacated and redeemed before handing over the possession of the Apartment to the Buyer.

4.5 Developer shall not be liable for any delay in delivery of possession of the Apartment to the Buyer if no delay is caused due to carrying out any alternate/additional work demanded by the Buyer in the Apartment at any point of time during the construction of the Apartment.

4.6 The Developer agrees and acknowledges that the Basic Sale price of the Apartment as stated in the Agreement shall not be changed save for increases which the Buyer hereby agrees to pay on account of any exorbitant increase in the factors such as super area, charges, Lease Rent, EDC, IDC, Government rates, taxes, cesses levies etc. and / or any other charges which may be levied or imposed by the Authorities from time to time. If the Developer is directed by the Authority/and/or required by law to provide pollution control devices, effluent treatment plant etc. at the Project, then the cost of such additional devices/equipments etc. shall be borne and paid by the Buyer on pro rata (the ratio between the Super Area of the Flat to the total super area of all the Units of the Project as declared by the Developer) as and when demanded by the Developer.

4.7 The Buyer agrees that the Developer shall be responsible for all internal development within the Project complex including a) laying of roads, b) laying of water lines, c) laying of sewer lines, d) laying of electrical lines. However, it is understood that the external or peripheral services such as trunk water and sewer lines storm water drains roads electricity horticulture etc. are to be provided by the concerned Government authorities up to the periphery of the Project complex.

4.8 The buyer agrees and acknowledges that water mains, drains, sewers or electrical wires may be laid under or above the **"AKASH SAPPHIRE"** by the Authority if it deems the same to do necessary for developing the area around the Project complex and waives its right to object to the same at any time hereafter.

4.9 The buyer agrees that the specifications shown in the brochure /pamphlet/advertisings etc are indicative only.

4.10 The Buyer agrees that the Developer shall not be liable to perform any or all of its obligations during Subsistence of the Force Majeure conditions and the time period required for performance of

its obligation shall stand extended in proportion to the period of Force Majeure. If the Force Majeure condition, continued for a considerable time, the Developer may at its sole discretion put the construction of the apartment in abeyance and terminate/alter/vary the terms of this Agreement or abandon the Project.

In the event of termination or abandoning of the Project on account of force Majeure the buyer shall be entitled to get the refund of the amount deposited by him with the Developer without interest and in case such amount is not refunded within 30 days of termination or abandoning, the Developer shall be liable to refund such amount with simple interest @ 6% p.a. from the date of termination/abandoning the Project after compliance with certain formalities by the buyer. The buyer shall not be entitled to any other claim.

4.11 The buyer understands that if for any reasons, the Developer is not in a position to finally allot the possession of the Apartment by the date of completion, the Developer shall refund the amounts deposited by buyer with simple interest @ 8% p.a. calculated for the period such amounts have been lying with the Developer for which the Buyer will give notice to the Developer. The Developer shall refund such amount within 30 days of receipt of such demand notice from the Allottee. The Allottee understands that the Developer has no other liability of any kind except to refund this amount.

**5. Delivery of possession:**

5.1 The Developer shall execute the sale deed in respect to the Apartment for transfer of title of the Apartment completion and on receipt of full consideration towards sale of the Apartment. All expenses in respect execution and registration of Sale deed including the stamp duty, registration fee transfer charges processing fee etc. shall be borne by the Buyer.

5.2 The Developer on completion of construction shall issue a final call notice to the Buyer who shall all dues within 15 days thereof and take possession of the Apartment. In case the Buyer fails to clear the accounts and take possession of the Apartment within 15 days of offer, the buyer shall be liable to pay to Developer holding charges @ Rs. 2 per sq. ft. of the super area of the Apartment per month.

5.3 The Developer reserves the right to complete the Project in whole, or in parts. The buyer hereby agrees that the Apartment shall be deemed to have been completed and fit for habitation if temporary occupancy completion certificate or architect certificate is issued for the Complex irrespective of the fact that the other Apartments in the Complex / Project complex have been completed or not. The Buyer further agrees to accept possession without demur and waives its rights to raise any objection whatsoever, including without limitation, the right to raise objection regarding any construction activity which the Developer may be carrying out at the unfinished portions of the Project. The Developer reserves the rights to provide such passageways and service lines, including without limitation drain pipes, electric cable lines, sewerage pipes, lines through the Project as it solely deems fit in the best interests of all the persons who purchase residential apartments there, and the Buyer waives its rights to raise any objection in respect of the same.

5.4 Subject to the terms and conditions of this Agreement on and after payment of the Sale Price and other charges and dues the Buyer shall have a) the exclusive ownership and possession of the Apartment, b) the specified percentage of undivided interest in the Common Area and Facilities, c)

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undivided proportionate interest in the land underneath the Apartments Complex calculated in the ratio of the Super Area of the Apartment to the total super area of all the apartments in the said Complex.

5.5 The Buyer agrees and acknowledges that the FSI/FAR (Floor Space Index/Floor Area Ratio) for the Project may be enhanced in the future or it may be entitled to the benefit of the Transfer of Development Rights (TDR) at the Project, If the FSA/FAR is increased or it becomes entitled to the benefit of the Transfer of Development Rights (TDR) of the Project, the Developer shall subject to approval of Plans by the Authority have the right to make further constructions at the Project which shall include, without limitation addition of residential units/Apartment, addition of infrastructure facilities such as club houses, community centre, commercial complex and other premises that may be solely commercially exploited by the Developer. The Buyer waives its right to raise any objections regarding such construction activity for any reasons whatsoever, including changes in the layout plan and increase in FSI/FAR.

**6. Maintenance:**

6.1 In order to provide necessary maintenance services, the maintenance of the Project including the Apartment, the Developer, upon handing over possession to the Buyer, will keep the complex/project with him for maintenance. The builder can appoint any agency for such maintenance of the residential complex.

The builder company or its appointed agency shall look after the maintenance, upkeep repairs, lighting security etc. of the Complex / Project complex including other Common Areas and facilities landscaping and common lawns, water bodies of the Project complex. The builder/agency shall be governed by its own rules and regulations with regards to its working, charging of maintenance fees etc. subject to any rule regulations, bye laws framed by Government for the specific purpose.

6.2 It is clarified that the Developer shall be responsible for the maintenance of the Common Area and facilities till the offer of possession is issued to the buyers and after that the builder company/appointed agency shall be entitled to levy proportionate maintenance charges as specified.

6.3 The Developer or the appointed agency as the case may be and their representatives employees etc. shall be permitted at all reasonable times to enter into and upon the Apartment for carrying out repairs, alterations cleaning etc. or for any other purpose in connection with the obligations and rights under this Agreement of later maintenance agreement including for connections/disconnections of electricity and water and / or for repairing, changing wires, gutters, pipes drains, part structure etc. However in case of urgency or exigent situation, the buyer hereby authorizes the Developer or the appointed agencies and their representatives employees etc. to break the lock, door, windows etc of the Apartment in order to enter the Apartment and prevent damage/loss to life or property in the Apartment / Complex / Project Complex and the Buyer hereby agrees not to raise any objection to the said action of the Developer / appointed agency and their representatives, employees etc.

6.4 The Terrace rights of the Apartment shall remain with the Developer unless allotted to the Buyer against appropriate consideration. The Buyer shall have no objection if the Developer gives on lease

or hire any part of the roof/ terraces above the top floor for the installation and operation of antenna, satellite dishes, communication towers etc. put to any other use which results in the violation of the law in force at that point of time.

6.5 The Buyer shall not raise any objections in all matters, including without limitation, booking, allotment and finalization of sale of any area such as a shop, commercial premises, buildings, community centers clubs etc. constructed in accordance with sanctioned plans or in the operation and management including but not limited to creation of further rights in favour of any third party by way of sale, transfer, lease collaboration, joint venture, operation and management or any other mode including transfer to government, semi-government, any other authority, body, any person, institutions, trust and/or any local bodies which the Developer may deem fit, in its sole discretion.

**7. Rights/Obligations/Duties of Buyer:**

7.1 So long as the Sale Deed of the Apartment is not executed and registered in favour of the buyer, the Developer shall continue to be the owner in possession and in control of the Apartment. The Buyer shall, however, be entitled to get his name substituted by another person, provided the same is permissible by law, with the prior consent in writing of the Developer which shall be granted subject to rectification of breaches if any, of the terms and conditions of this Agreement, payment of any outstanding dues and payment of administrative charges as prescribed by the concerned authority from time to time. Any change in name of the Buyer (including addition/ deletion) as registered with the Developer shall be deemed as assignment for this purpose. Claims, liabilities, if .Any, between Assignor and Assignee relating to the assignment will be settled between Assignor and Assignee themselves and the Developer will not be a party to, or be responsible for the same. The Assignee shall be bound by the terms of this Agreement.

7.2 The Buyer shall be liable to pay a transfer fee of **Rs. ....../-** after the expiry of 8 months from the date of booking up to the expiry of 12 months, Rs. ....../- after the expiry of 12 month to 18 months, and Rs. ....../- after the expiry of 18 months from the date of booking till possession of the unit. However, the builder company reserves the right to change the rates of transfer charges and the duration for such charges and it is also important to mention that the builder company can for go or can charge such transfer charges in particular cases. The buyer/transferee shall have no right to object in any matter in such particular cases where the charges are decreased or increased.

The builder company shall have right to issue new guidelines as regard to transfer charges and such guidelines shall be applicable from time to time and binding on the buyer.

7.3 The Buyer, if resident outside India, shall be solely responsible to comply with the necessary formalities as laid down in the Foreign Exchange Management Act and other applicable laws including that of remittance or payment(s) and obtaining permission as prescribed by law for acquisition of the Unit. The Developer shall not be responsible or liable for any concealments or violations in this respect by the Buyer.

7.4 The Buyer agrees that, unless stated otherwise, all payments/ taxes/ charges liable to be paid by the Buyer shall be paid by him on demand by the Developer. In the event the Developer makes the

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said payment, the Developer shall have the right to be indemnified for the same within 30 days from the date of bringing the said fact to the notice of the Buyer.

7.5 The Buyer agrees to use the Apartment only for the purpose for which it has been allotted. Any change in the specified use, which is not in consonance with the theme of the Project complex or is detrimental to the public interest shall be treated as a breach of the terms of the Agreement entitling the Developer to cancel the Agreement and to forfeit the entire amount deposited by the Buyer. Thereafter, the Buyer shall have no right, title, interest in the Apartment.

7.6 The Buyer shall not at any time demolish the Apartment or any part thereof nor will at any time makes or cause to be made any additions or alterations of whatever nature to the Apartment or any part thereof which may affect the other Apartment or Common Areas and the Structure of the Complex. The Buyer shall not change the color scheme of the outer walls or painting of the exterior side of the doors and windows etc., or carry out any change in the exterior elevation or design.

7.7 The price of the Apartment is inclusive of the cost of providing electric Wiring, switches, in all the rooms, toilets and kitchen, ceiling light fitting in common passages balconies in each apartment and fire fighting equipments only as prescribed in the existing fire fighting code/regulations. In addition to that for common areas and services price of the Apartment does not include the cost of prepaid electric meter which shall be got installed by the Buyer at his/her own cost, through the Developer. If however, due to any subsequent legislation/government order or directives or guidelines or if deemed necessary by the Developer, additional fire measures or equipments are necessitated for installation then the applicant agrees to pay for the additional expenditure incurred thereon on pro-rata basis along with other apartment buyers as determined by the Developer in its absolute discretion.

7.8 All the equipments/appliances provided in the Apartment /Complex are only indicative and subject to change. The Buyer further agrees and understands that the Developer shall have the option to choose the brand of equipments/appliances to be installed and the Buyer shall have no right to raise any dispute or claim with regard to the brand installed by the Developer in the Apartment.

7.9 The Buyer agrees that warranty/ guarantee of all equipments/ appliances in the Apartment is of the manufacturer/ supplier of the equipments/ appliances as per the terms and conditions mentioned in the warranty/ guarantee issued by the manufacturer/ supplier. The Buyer agrees to absolve the Developer of all/ its responsibilities and liabilities with regard to the functioning, manufacturing, operation, maintenance of the equipments/ appliances/Appliance and the Developer shall not in any way be responsible for any defect, mishap, accident which may occur due to the defect in functioning, manufacturing, operation of the equipment appliances or responsible for maintenance of the equipments/ appliances.

7.10 The Buyer shall not make noise pollution by use of loudspeaker or otherwise and/or throw or accumulate rubbish, dust, rags, garbage or refuse etc., anywhere in the Complex; save and except at areas/places specifically earmarked for these purposes in the Complex.

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7.11 That it is clearly specified that the visitors/guests/relatives/staff of the Buyer shall park their vehicles outside the Complex or at the space earmarked by the Developer to avoid any inconvenience to the occupants of other Apartments and it shall be the duty of the Buyer to ensure the same.

7.12 The Buyer shall not fix/install air conditioners/ air coolers or any like equipment: at any place other than the spaces earmarked by the Developer to avoid inconvenience to occupants of other apartments:

7.13 Without the consent of the Developer in writing; the Buyer shall

- a) Not remove any wall at the **“AKASH SAPPHIRE”** including any load bearing wall of the flat.
- b) Plan and distribute its electrical load in conformity with the electrical systems installed by the Developer.
- c) Not store any hazardous or combustible goods or any obstructive material in the Flat or in the common passages or staircase of the **“AKASH SAPPHIRE”**.
- d) Not do or cause to be done any construction/modification at the Flat or to the roof/ terrace of the Flat or at any other part of the Project complex.

7.14 The Buyer agrees and acknowledges that in the event it does not comply with its obligations as set out in this section, the Developer or builder appointed agency, as the case may be, shall have the right to enter the Apartment and remove all non-conforming constructions/fittings and fixtures at the Apartment and the Buyer shall be responsible for any loss or damages, including the cost and expense arising out of breach of any of the aforesaid conditions.

7.15 The Buyer shall pay charges for consumption of water, electricity, gas supply etc inside the Apartment payable on the basis of actual consumption as per bills, raised monthly by the Developer or the concerned authority.

7.17 This allotment of Apartment is subject to the terms and conditions of the sanction of layout plan and/or licenses issued by the concerned department of Moradabad development Authority, Government or any authorities in respect of the said Project Land/Project and the Buyer hereby accepts and agrees to abide by and to be bound by the same.

7.18 The Buyer has represented that it has read and understood his rights and obligations under the Act, rules and byelaws made there under, and hereby undertakes to abide by the same.

7.19 The Buyer agrees and understands that in order to provide necessary maintenance services, the maintenance of the Said Complex/Said Building may be handed over to the Maintenance Agency which will be appointed by the developer only and the residents of the complex shall have no right to interfere in any working of such maintenance company. The builder company shall have right to administrator such maintenance companies and the residents shall not be allowed to form any

association for the welfare of the society. If, the residents go for such formation of resident welfare society/association, it will be illegal.

The Buyer agrees to enter into a maintenance agreement with the Developer or the Maintenance Agency appointed by the Developer for maintenance and upkeep of the Said Complex (including common areas & facilities) and undertakes to pay the maintenance bills/charges thereof. The Developer reserves the right to change, modify, amend and impose additional conditions in the maintenance agreement at the time of its final execution. The maintenance charges shall become applicable/payable after thirty days from the date of issue of notice of possession, irrespective of whether physical possession has been taken or not.

The Buyer shall pay and clear all dues at the time of offer of possession. Further the general monthly maintenance charges of **Rs. .... per sq. ft.** shall be payable by the Applicant to the Developer/ Maintenance Agency every month. The maintenance charges have been fixed in the context of the prices prevailing as on date and the same shall be enhanced @ 15% every year.

**8. Rights/Obligations/Duties of Developer**

8.1 The Buyer agrees that in case during the course of construction or Subsequently, further construction of any portion of building or on the terrace becomes permissible, the Developer shall have the exclusive right to take up or complete such further construction as belonging to the Developer notwithstanding the allotment of any Common Areas. It is agreed that in such a situation the proportionate share of the Buyer in the Common Areas and Facilities shall stand varied accordingly without any claim from the Buyer.

8.2 The Buyer shall after taking possession of the Apartment, as the case may be, or at any time thereafter have no objection to the Developer developing or continuing with the development of other Apartments adjoining the Apartment sold to the Buyer.

8.3 The Developer shall be liable to pay all local taxes including house tax, water tax, sewer tax, assessee or imposed by municipal or other authorities, whether levied presently or in future, in respect of the Apartment until the Sale Deed has been executed in favor of the Buyer.

8.4 The Common Areas and facilities shall remain under the control of the Developer whose responsibility will be to maintain and upkeep the said places, sites until the same are transferred/assigned to the Association.

**9. Events of Default:**

9.1 It is specifically being made clear to the Buyer that all defaults/ breaches and/ or non-compliance of any of the terms and conditions under this Agreement shall be deemed to be events of default liable for consequences including cancellation/ termination of the allotment of the Apartment and forfeiture of the Earnest Money or payment of damages, compensation or rectification of the default etc. Some of the indicative events of defaults are mentioned below which are merely illustrative and not exhaustive:

Signature of Allottee

Signature of Seller

- a) Failure to make payments within the time stipulated in the Payment Plan/ Annexure I and failure to pay stamp duty, legal charges, registration and any incidental charges, any increases in security deposited including but not limited to maintenance security deposit, any other charges, deposits, fee, taxes etc., as the case may be, notified by the Developer to the Buyer and all other defaults of similar nature.
- b) Failure to perform and/ or observe any of the obligations of the Buyer as contained in the Agreement if the Buyer fails to execute any other deed/document/ undertaking /indemnities etc., as may be warranted or called for or failure to perform any other obligation in relation to the said allotment of Apartment.
- c) Failure to take possession of the Apartment within the time stipulated by the Developer.
- d) Failure to pay on or before its due date the maintenance charges, or any increases in respect thereof as demanded by the Developer or its nominee or maintenance agency.
- e) Failure to execute the Maintenance Agreement with the Developer or its nominated Maintenance Agency.
- f) Failure to execute the Sale Deed/Conveyance Deed within the time stipulated by the Developer.
- g) Assignment of Apartment or any right, interest of the Buyer in the Apartment, before possession, without prior written consent of the Developer.
- h) Death of the Buyer or anyone of the joint Buyers
- i) Dishonor of any cheque given by the Buyer for any reason whatsoever.
- j) Sale/ transfer/ disposal of the parking space by the Buyer in any manner except with the Apartment. ,
- k) Any other acts, deeds or things which the Buyer may omit or fail to perform in terms of allotment under this Agreement, any undertaking, affidavit, indemnity, agreement etc. or as demanded by the Developer which in the opinion of the Developer amounts to an event of default and the Buyer agrees and confirms that the decision of the Developer in this regard shall be final and binding on the Buyer.

**10. REPRESENTATIONS AND WARRANTIES**

10.1 The Buyer acknowledges that the Developer has entered into this Agreement relying on the representations made by it, and warrants that all the representations made by it shall be true throughout the currency of this Agreement. For the avoidance of doubt, the Buyer represents that as on date it has the financial ability to ultimately purchase the Apartment by executing the Sale Deed and making timely payment of installments, whether by securing a loan and making its timely repayments or otherwise.

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Signature of Seller

10.2 The Developer hereby represents, undertakes and warrants as follows:-

- a) That it is a Company incorporated under the Companies Act, 1956 validly existing under the laws of India,
- b) That the authorized signatory has been vested with the necessary authority to execute this Agreement.

1 0.3 The Buyer hereby represents, undertakes and warrants as follows:-

- a) That the Buyer is an individual, he/she is a citizen of India and is competent to execute this Agreement as well as the Sale Deed.
- b) That the Buyer is a partnership firm, it is a registered/unregistered partnership firm validly existing under the laws of India.
- c) That the Buyer is a Company; it has been incorporated and registered under the Companies Act, 1956.
- d) That if it is a partnership firm, this Agreement would be signed by all the partners.
- e) That if it is a Company, the person executing this Agreement on its behalf has been vested with the necessary authority to execute this Agreement.
- f) That the execution of this Agreement does not cause the violation of any other agreement executed with any third party, nor adversely affect the performance/dischARGE of its obligations with any third party which may result in such third party proceeding against the Developer for any reason whatsoever.
- g) That the monies paid in pursuance of this Agreement and the Application Form is not the proceeds or crime such that the provisions of the Prevention of Money Laundering Act, 2002 become applicable here.
- h) That the execution of this Agreement does not violate any law in force or lead to the commission of any offence under any law in force.
- i) That the Apartment shall be used for residential purposes only.
- j) That it shall comply with all regulations, bye-laws, rules, directions and guidelines of the Moradabad development authority or any other government body/ Authority.
- k) That it shall comply with the rules/regulations of the Act

Signature of Allotee

Signature of Seller

- l) That it has not made any misrepresentation, misstatement and/or fraud or suppressed material facts at any point of time.

11. **Miscellaneous**

11.1 The Project/Complex shall always be known as "**AKASH SAPPHIRE**" and this name shall never be changed by the Buyer or anyone else.

11.2 The terms and conditions contained herein shall be binding on the Buyer, employees of the Buyer and tenants, or any other person who may, in any manner use the Apartment or any part thereof or such Common Area and Facilities, which the Buyer enjoys according to the terms of this Agreement, and default by the persons as mentioned herein above shall be treated as that of the Buyer, unless context requires otherwise. Further, it is clarified that the Buyer, employees of the Buyer and tenants, or any other person who may, in any manner use the Apartment or any part thereof, shall be subject to the provisions of the Act and Rules and Byelaws made thereunder.

11.3 Not with standing the fact that a portion of the Common Area has been included in this Agreement for the purpose of calculating the saleable Super Area of the Apartment, it is made clear that only the inside space in the Apartment has been agreed to be sold and the inclusion of common area in the computation does not give any right and title therein to the Buyer.

11.4 The delay or indulgence by the Developer in enforcing the terms of this Agreement or any forbearance or giving of time to the Buyer shall not be construed as a waiver on the part of the Developer of any breach or non-compliance of any terms and conditions of this Agreement by the Buyer nor shall the same in any manner prejudice the rights of the Developer.

11.5 The Buyer agrees/ covenants to observe and perform all the terms and conditions of this Agreement and in case of any loss or damage as a result of non performance of the said terms and conditions, the Buyer shall indemnify and hold harmless the Developer and its agents, representatives, estates and effects.

11.6 The Buyer agrees that the Developer shall have a right to join as an affected party in suit or complaint filed before any appropriate court by the Buyer, if the Developer's rights under the allotment/Agreement are likely to be affected or prejudiced in any manner by the decision of the court on such suit complaint. The Buyer agrees to keep the Developer informed at all times in this regard.

11.7 The Buyer shall not do any act or deed or thing to obstruct the construction and completion of the Apartment / Complex in any manner whatsoever.

11.8 If the Buyer has any commitment to pay any commission or brokerage to any person for services rendered to the Buyer for the allotment of the Apartment, the Developer shall in no way be responsible or liable therefore and no such commission or brokerage shall be deductible from the consideration amount agreed to be payable to the Developer for the allotment of the Apartment. Further, the Buyer undertakes to indemnify and hold harmless the Developer from and against any or all liabilities and expenses in this connection.

Signature of Allotee

Signature of Seller

11.9 The Developer shall not be held responsible or liable for not performing any of its obligations or undertakings provided for in this Agreement if such performance is prevented, delayed or hindered by the act of god, fire etc.

11.10 If at any stage this Agreement document requires to be registered under any law or necessity, the Buyer binds himself and agrees to have the same registered through the Developer in his favour at his cost and expenses and keep the Developer fully absolved and indemnified in this connection.

11.11 If any provision in this Agreement becomes invalid or not enforceable to any extent, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Any invalid or not enforceable provision of this Agreement shall be replaced with a provision, which is valid and enforceable and most nearly reflects the original intent of the invalid and not enforceable provision.

11.12 The Parties agree and acknowledge that for the purpose of any notice, demand or communication the addresses of the Developer in the Buyer shall be as stated below. Buyer shall inform the Developer in writing, by Registered Post only, of any change in the same, failing which all correspondence, letters, receipts, and/or notices issued by the Developer or any person authorized by it, and dispatched Under Certificate of Posting/Regd. AD/Speed Post/Courier Service to the address provided in this Agreement shall be deemed to have been received by the Buyer. In case of Joint Buyers, any communication sent to the first named Buyer in this Agreement shall be deemed as having been sent to all the Buyers and receipt. It of the same by the first Buyer shall be deemed receipt qua the other Buyers as well. Any notice, demand of communication shall be deemed to have been duly served on and received by the Buyer if in the case of registered post, that the notice or other document was contained in an envelope which was duly addressed and posted, or in the case of telefax that the telefax transmission was duly transmitted from the dispatching terminal as evidence by a transmission report generated by the transmitting equipment:

<b>Developer</b>	<b>M/s Shail Infratech Limited</b>
	No. G-103, Akash Greens, Ramganga Vihar Phase, Moradabad- 244001 (U.P)
	Attn : Mr. _____

11.13 The Buyer agrees that all and any disputes arising out of or touching upon or in relation to the terms of this Agreement including the interpretation and validity of the terms thereof and the respective rights and obligations of the Parties shall be settled amicably or through mutual discussion, failing which the same shall be settled through arbitration. The disputes shall be settled through sole arbitrator appointed by the Developer and Buyer, whose decision shall be final and binding upon the Parties. The arbitration proceedings shall be conducted in accordance with the Arbitration and conciliation Act 1996 and/ or any statutory amendments/ modifications .thereof for the time being in force. The arbitration proceedings shall be held at Moradabad only.

Signature of Allotee

Signature of Seller

11.14 Unless otherwise defined in this Agreement, the capitalized terms used in this Agreement shall have the meaning ascribed to them in the Agreement.

11.15 Words denoting the singular number shall include the plural and vice versa. Words importing the neuter gender shall include the masculine or the feminine gender as the context may require. Words denoting individuals may include firms or corporations and vice versa, as the context may require.

11.16 The section headings in this Agreement are for convenience only and shall not affect the interpretation of the terms used herein.

11.17 The recitals mentioned hereinabove shall constitute an integral part of this Agreement and are not repeated hereunder only for the sake of brevity and convenience and the same shall be deemed to be repeated in the operative part also as if the same were set out hereunder and reproduced verbatim.

11.18 The Parties agree acknowledge that this Agreement has been mutually drafted and in the event of any ambiguity herein, the rule of contra proferentem shall not be applied in its interpretation.

11.19 The Parties agree and acknowledge that this Agreement is in furtherance of the Application form being application form submitted by the buyer and supersedes those clauses therein, which are in direct conflict With the Provisions herein, without no vating that contract.

**IN WITNESS WHEREOF** the Parties hereto have set their respective hands and have signed this Agreement at this place and on the day, month and year first written herein above, and in the presence of the following witness.

SIGNED, SEALED & DELIVERED by

**Shri.....** (Name)  
(Authorized Signatory)

(Being authorized to do so on behalf of  
the party of the First Part)

SIGNED SEALED & DELIVERED BY

**Mr./Mrs./Ms.....**

(Being authorized to do so on behalf of  
the party of the Second Part)

WITNESS

1. Name :  
Address:

2. Name :  
Address:

**Annexure I**

A:

**COST OF FLAT**

Name -  
Tower/Flat No. -  
Area -  
North -  
East -  
South -  
West -

PARTICULARS	Amount (Rs.)
Cost of Flat	0.00
<b>Grand Total</b>	<b>0.00</b>

Signature of Allottee

Signature of Seller