

39.2 If the Apartment Allottee fails to execute and deliver to the Company this Agreement within 30 (thirty) days from the date of its receipt by the Apartment Allottee, then the Company shall serve a notice to the Apartment Allottee for rectifying the default, which if not rectified within 30 (thirty) days from the date of its receipt by the Apartment Allottee, application of the Apartment Allottee shall be treated as cancelled and all sums deposited by the Apartment Allottee in connection therewith including the Earnest Money shall be returned to the Apartment Allottee without any interest or compensation whatsoever.

39.3 The counter-part of this Agreement shall be executed by the Company and dispatched to the Apartment Allottee within 30 (thirty) days from the date of its receipt from the Apartment Allottee.

40. AGREEMENT NOT ASSIGNABLE

The Apartment Allottee shall have the option to assign, transfer, nominate, convey its right in the Apartment along with the pro rata share in the Common Areas and Facilities in any manner. The Company undertakes to facilitate in giving effect to such assignment, transfer, nomination and conveyance by the Apartment Allottee.

41. ENTIRE AGREEMENT

This Agreement, along with its Annexure(s), constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes any and all understandings, any other agreements, correspondences, arrangements whether written or oral, if any, between the Parties.

42. RIGHT TO AMEND ANNEXURE(S)

All Annexure(s) to this Agreement are an integral part of the Agreement and may only be amended through written consent of the Parties.

43. APPLICABILITY ON APARTMENT ALLOTTEE / SUBSEQUENT PURCHASERS

It is clearly understood and so agreed by and between the Parties hereto that all the provisions contained herein and the obligations arising hereunder in respect of the Project shall equally be applicable to and enforceable against any subsequent purchasers of the Apartment, as the said obligations go along with the Apartment for all intents and purposes.

44. WAIVER NOT A LIMITATION TO ENFORCE

44.1 The Company may, at its sole option and discretion, without prejudice to its rights as set out in this Agreement, waive the breach by the Apartment Allottee in not making payments as per the schedule of payments given in Annexure IV but on the condition that the Apartment Allottee shall pay to the Company interest @6% per annum. It is made clear and so agreed by the Apartment Allottee that exercise of discretion by the Company in the case of one apartment allottee shall not be construed to be a precedent and /or binding on the Company to exercise such discretion in the case of other apartment allottees.

44.2 Failure on the part of the Company to enforce at any time or for any period of time the provisions hereof shall not be construed to be a waiver of any provisions or of the right thereafter to enforce each and every provision.

45. SEVERABILITY

If any provision of this Agreement shall be determined to be void or unenforceable under applicable

law, such provisions shall be deemed amended or deleted in so far as reasonably inconsistent with the purpose of this Agreement and to the extent necessary to conform to applicable law and the remaining provisions of this Agreement shall remain valid and enforceable as applicable at the time of execution of this Agreement.

46. CAPTIONS/HEADINGS

The captions/headings in this Agreement are for easy reading and convenience and are of indicative nature only and in no way define, limit or describe the scope of this Agreement or the intent of any provision hereof. The true interpretation of any matter/clauses in this Agreement shall be done by reading the various clauses in this Agreement as a whole and not in isolation or in parts or in terms of captions provided.

47. METHOD OF CALCULATION OF PROPORTIONATE SHARE

Wherever in this Agreement it is stipulated that the Apartment Allottee has to make any payment, in common with other apartment allottee(s) in the Project, the same shall be the proportion which the Super Built Area of the Apartment bears to the total Super Built Area of all the Apartments in the Project, as the context may require.

48. FORCE MAJEURE

Force Majeure shall mean any event or combination of events or circumstances beyond the control of the Company which cannot (a) by the exercise of reasonable diligence, or (b) despite the adoption of reasonable precaution and/or alternative measures, be prevented, or caused to be prevented, and which adversely affects the Company's ability to perform its obligations under this Agreement, which shall include:

- (a) acts of God. i.e. fire, drought, flood, earthquake, epidemics, natural disasters;
- (b) explosions or accidents, air crashes and shipwrecks, acts of terrorism;
- (c) strikes or lock outs, dispute;
- (d) non-availability of cement, steel or other construction/ development material due to strikes of manufacturers, suppliers, transporters or other intermediaries or due to any reason whatsoever;
- (e) war and hostilities of war, riots, civil commotion;
- (f) the promulgation of or amendment in any law, rule or regulation or the issue of any injunction, court order or direction from any governmental authority that prevents or restricts a party from complying with any or all the terms and conditions as agreed in this Agreement;
- (g) any legislation, order or rule or regulation made or issued by the Govt. or any other authority or; if any competent authority (ies) refuses, delays, withholds, denies the grant of necessary approvals including but not limited to grant of environmental clearances for the Apartment/ Project or; if any matters, issues relating to such approvals, permissions, notices, notifications by the competent authority (ies) become subject matter of any suit/ writ before a competent court or for any reason whatsoever.
- (h) delay in providing of the services including but not limited to sector roads, trunk sewage, storm water drainage, power supply etc. by Government or any other authority.
- (i) any event or circumstances analogous to the foregoing.

49. RIGHT TO JOIN AS AFFECTED PARTY

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

50. BROKERAGE

In case the Apartment Allottee has to pay any commission or brokerage to any person for services rendered by such person to the Apartment Allottee whether in or outside India for acquiring the Apartment for the Apartment Allottee, the Company shall in no way whatsoever be responsible or liable thereof and no such commission or brokerage shall be deductible from the amount of sale price agreed to be payable to the Company for the Apartment. Further, the Apartment Allottee undertakes to indemnify and hold the Company free and harmless from and against any or all liabilities and expenses in this connection.

51. FURTHER ASSURANCES

Both Parties agree that they shall execute, acknowledge and deliver to the other such instruments and take such other actions, in additions to the instruments and actions specifically provided for herein, as may be reasonably required in order to effectuate the provisions of this Agreement or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

52. COPIES OF THE AGREEMENT

Three copies of this Agreement shall be executed and the Company shall retain the original and a copy of this Agreement and send the third executed copy to the Apartment Allottee for his/her reference and record.

53. PLACE OF EXECUTION

The execution of this Agreement will be complete only upon its execution by the Company through its authorized signatory at the Company's head office in [Delhi] after the copies duly executed by the Apartment Allottee are received by the Company. Hence this Agreement shall be deemed to have been executed at [A-3 Pamposh Enclave Greater Kailash-I, New Delhi] even if the Apartment Allottee has prior thereto executed this Agreement at any place (s) other than [_____].

54. NOTICES

All notices under this Agreement shall be written in English and shall be sent by hand or by courier or by facsimile to the applicable Party at the contact details indicated below or to such other address or facsimile number as a Party shall designate by similarly giving notice to the other Parties:

If to the Company, at:

Address: [A-3 Pamposh Enclave, Greater Kailash-I, New Delhi-110048]

Fax number: [011-40765529]

Attention: [Mr. Gautam Thapar]

If to Apartment Allottee, at:

Address: [_____]
Fax number: [_____]
Attention: [_____]

55. JOINT ALLOTTEES

That in case there are joint allottees all communications shall be sent by the Company to the Apartment Allottee whose name appears first and at the address given by him/her which shall for all intents and purposes to considered as properly served on the joint allottees.

56. CERTAIN REFERENCES

Any reference in this Agreement to any one gender, masculine, feminine or neuter includes the other two and the singular includes the plural and vice versa, unless the context otherwise requires. The terms "herein", "hereto", "hereunder", "hereof" or "thereof" or similar terms used in this Agreement refer to this entire Agreement and not to the particular provision in which the term is used unless the context otherwise requires. Unless otherwise stated all references herein to clauses, sections or other provisions are references to clauses, sections or other provisions of this Agreement.

57. RIGHT TO TRANSFER OWNERSHIP

The Company reserves the right, during the period of construction of the Project, to transfer ownership of the Project in whole or in parts to any other entity such as partnership firm, body corporate(s) whether incorporated or not, association or agency by way of sale/ disposal / or any other arrangement as may be decided by the Company. The Company, however, shall take an undertaking from the Transferee assuring the Apartment Allottee that the Transferee shall abide by and conform to the terms and conditions laid out in this Agreement and obligations arising therefrom.

58. LAWS OF INDIA

That the rights and obligations of the parties under or arising out of this Agreement shall be construed and enforced in accordance with the laws of India.

59 PRE ARBITRATION / DISPUTE RESOLUTION MECHANISM

- (A) This mechanism has been incorporated to assist and help Apartment Allottee(s) in relation to any issue regarding
(i) Interpretation of Clause of the present Agreement.
(ii) Seeking Clarification about the Clause of agreement and / or any other activity of the Company relating to the Project concerning the Apartment Allottee(s).
(iii) Any grievance(s) of the Apartment Allottee(s) relating to the Project.
(iv) Any clause in the Agreement where this mechanism has been specifically referred to.
(v) Any other issue / subject not covered herein above but "relevant", "important" and "in the interest of the Apartment Allottee(s)"

For the purposes of the determining "relevant", "important" and "in the interest of the Apartment Allottee(s)", the decision of Company will be final and binding.

- (B) The Apartment Allottee(s) in relation to anything in Clause 59 (A) may address a communication / representation to the company as per details provided in Clause 54.
- (C) The Company, immediately on receipt of communication / representation as per 59 (B), shall endeavor to respond to the same with a period of 4 weeks from the receipt of the same.
- (D) In case the Company, after receipt of communication / representation as per 59 (B), is unable or for any reasons apprehends that the response may take longer than 4 weeks, shall inform the Apartment Allottee(s) within two weeks from the date of receipt of the communication / representation.
- (E) The communication / representation of the Apartment Allottee(s) and / or response from the company will be deemed to be served if the same has been duly served upon the party(s) upon the address as contained in Clause 54 of the Agreement.
- (G) Any change in the address of the Apartment Allottee(s) shall be intimated to the Company, and any omission in this regard by the Apartment Allottee(s) shall abrogate service in terms of the Clause 59 (E).
- (H) Any amendment / change in the address of the Apartment Allottee(s) duly recorded by the Company will be deemed address under Clause 54 of the Agreement.
- (I) In case the Apartment Allottee(s) is not satisfied by the response / reply from the Company under (C) & (D), He / She / They may seek a response from the Managing Director of the Company within 30 days of the receipt of the response / reply from the Company under Clause 59 (C) & (D) of the Agreement.
- (J) For the purposes of Clause 59 (H) the address is as under:
Managing Director,

- (K) In case the Apartment Allottee(s) has not exhausted the procedure prescribed herein above and has addressed communication / representation under (I), the Company shall treat such communication to be under Clause 59 (C) & (D) of the Agreement.
- (L) The Managing Director shall dispose of any communication / representation under (I) within a maximum period of 60 days of receipt of same.

The Managing Director may, for disposal of the communication / representation under Clause 59 (I) may, with the consent of the Apartment Allottee(s), call upon the Apartment Allottee(s) with relevant documents. For this, any delay attributable to Apartment Allottee(s), will not be included in the period specified in Clause 59 (L).

60 **DISPUTE RESOLUTION BY ARBITRATION**

- (A) Every endeavor will be made by the party(s) to amicably settle the issue and / or matter by invoking Clause 59 of the Agreement. However, in case the Apartment Allottee(s) is not satisfied with the result / decision of the company, may invoke this Clause for referring the issue for Arbitration.
- (B) In case the Company is aggrieved by any acts of commission or omission on part of the Apartment Allottee(s), a reference may be made to refer the Dispute for Arbitration.

- (C) The notice under Clause 60 (A) & (B) above will be sent by the AGGRIEVED PARTY to OPPOSITE PARTY on the address(s) given in Clause 54.
- (D) On receipt of the notice under Clause 60 (C) above the OPPOSITE PARTY shall either
- (i) refer the matter to the Sole Arbitrator in terms of Clause 60 (), or
 - (ii) dispute the same and furnish reasons / grounds for same.
- (E) On receipt of response under Clause 60 (D) (ii), the AGGRIEVED PARTY may, within a period of 30 days from receipt of the same, either,
- (i) refer the matter to the Sole Arbitrator in terms of Clause 60 (), or
 - (ii) being satisfied with response drop the invocation. It will assumed that the invocation has been dropped, if no reference is made under Clause 60 (E) (i) with a period of 30 days.
- (F) In order to avoid any ambiguity, The Sole Arbitrator has been named in Clause 60 (G) of the Agreement and issues / subjects concerning all or any disputes arising out or touching upon or in relation to the terms and conditions of this Agreement, including the interpretation and validity of the terms thereof and the respective rights and obligations of the Parties, including reference made under Clause 60 (D) (i) & 60 (D) (ii) of the Agreement will be referred to him.
- (G) Parties to the Agreement consent to the appointment to Sole Arbitrator

Mr. _____

- (H) The arbitration proceedings shall be governed by the Arbitration and Conciliation 1996, Act. The arbitration proceedings shall be held at New Delhi, venue and time being fixed by the sole arbitrator

In Witness Whereof, the Parties have entered into this Agreement on the day and year first above writte

SIGNED AND DELIVERED by [Gautam Thapar] the authorised signatory of [THAPAR BUILDERS PVT LTD], the within named Party of the First Part

SIGNED AND DELIVERED by [] the authorised signatory of [], the within named Party of the Second Part.