

भारतीय गैर न्यायिक

पचास  
रुपये  
रु. 50



FIFTY  
RUPEES  
Rs. 50

INDIA NON JUDICIAL

पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

AH 526918

**AGREEMENT**

1. **Date:** 28<sup>th</sup> September, 2023
2. **Place:** Kolkata
3. **Parties:**

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- 3.1 **Usha Projects Private Limited**, a company within the meaning of the Companies Act, 2013, having its registered office at 9/1, Syed Amir Ali Avenue, 2<sup>nd</sup> Floor, Bharat Chambers, Kolkata 700017, Post Office Jhowtolla, Police Station Beniapukur, District Kolkata, West Bengal (**PAN AAACU7929H**), represented by its Director/Authorised Signatory, **Mr. Sanjay Gupta**, son of Late Dasrath Kumar Gupta, by faith Hindu, by nationality Indian, by occupation Business, residing at Flat No. 4W, 25B Ballygunge Park, Kolkata 700019, Post Office Ballygunge, Police Station Ballygunge, District South 24 Parganas, West Bengal (**PAN AEEPG0194H**).

(**Developer**, includes, successors-in-interest and/or assigns).

AND

- 3.2 **Argent Infrabuild Private Limited**, a company incorporated under the Companies Act, 1956 and deemed existing under the Companies Act, 2013 (**CIN U70109WB2021PTC247004**) (**PAN AAVCA5978K**), having its registered office at 4 Azimganj House, 1st Floor, 7, Camac Street, Kolkata-700017, represented by its authorized Director, **Mr. Rajat Pasari**, son of Raj Gopal Pasari, of 25B, Ballygunge Park, Kolkata-700019, Post Office Ballygunge, Police Station Karaya, District South 24 Parganas, West Bengal (**PAN BDKPP7331M**).

(**Development Manager**, includes, successors-in-interest and/or assigns).

Developer and Development Manager collectively **Parties** and individually **Party**.

#### 4. **Background:**

- 4.1 By virtue of the (1) Development Agreement dated 7<sup>th</sup> January, 2023, registered in the Office of the Additional Registrar of Assurances IV, Kolkata and recorded in Book No. 1, Volume No. 1904-2023, Pages from 250595 to 250633, being Deed No. 190404945 for the year 2023, made between Mangalam Education Society & St. Paul's Educational Foundation (collectively **First Owners**) and the Developer (2) Development Agreement dated 28<sup>th</sup> June, 2023, registered in the Office of the Additional Registrar of Assurances IV, Kolkata and recorded in Book No. 1, Volume No. 1904-2023, Pages from 433483 to 433522, being Deed No. 190408840 for the year 2023, made between Vedansh Traders Private Limited (**Second Owner**) and the Developer and (3) Supplementary Development Agreement dated 26<sup>th</sup> September, 2023, registered in the Office of the Additional Registrar of Assurances IV, Kolkata and recorded in Book No. 1, Volume No. 1904-2023, Pages from 881673 to 881694, being No. 190415359 for the year 2023, made between the First Owners, the Second Owner (collectively **Owners**) and the Developer (all the aforesaid Development Agreements hereinafter collectively referred to as the **Said Development Agreements**), the Developer acquired development rights in respect of land measuring approximately 78.889 (seventy eight point eight eight nine) *cottahs*, more or less, equivalent to 56800.08 (fifty six thousand eight hundred point zero eight) square feet and further equivalent to 5276.90 (fifty thousand two hundred seventy six point nine zero) square meter together with structures erected thereon, situate, lying at and being Municipal Premises No.160, Grand Trunk Road, Howrah 711102, Police Station Shibpur, within Ward No. 36 of the Howrah Municipal Corporation, Mouza - Baze Shibpur, District Howrah (Zone Sandhyabazar to Rajnarayan Roychoudhury Ghat Road), delineated on **Plan A** annexed hereto and bordered in colour **Red** thereon and more fully described in the **Schedule** below (**Said Property**).

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- 4.2 Under the Said Development Agreements, the Owners and the Developer have decided to proceed with the development of the Said Property by constructing thereon *inter-alia* residential and/or residential cum commercial buildings with car parking spaces, specified areas, amenities and facilities to be enjoyed in common (collectively **Complex**) and commercial exploitation of the Said Complex (such development and commercial exploitation collectively **Project**) by selling the independent saleable spaces and amenities in the Said Complex (**Units**) to prospective buyers (collectively **Transferees**).
- 4.3 There is already a sanctioned building plan bearing Building Permit No. 24/1576 dated 07/05/2015 (**Building Plans**) for the construction of the Said Complex.
- 4.4 The Development Manager is a leading and reputed company involved in the business of Real Estate Development as well as Project Management of Real Estate Development and has considerable expertise in the arena.
- 4.5 The Developer, being desirous of appointing the Development Manager to manage and oversee the execution of the Project *inter alia* by facilitating, assisting and supervising, through contractors or otherwise, the construction and development of the Project/Complex and providing its skill and expertise in the business of planning, marketing and sales of real estate development projects (collectively **Management Services**), held discussions with the Developer in this regard and pursuant to such discussion the Developer has agreed to appoint the Development Manager and the Development Manager has agreed to provide its development and management services, in accordance with the terms contained in this Agreement..
- 4.6 In furtherance of the above, the Parties are entering into this Agreement to comprehensively record all the terms and conditions agreed between them with regard to the above.

**NOW THIS AGREEMENT WITNESSES RECORDS BINDS AND GOVERNS THE CONTACTUAL RELATIONSHIP BETWEEN THE PARTIES AS FOLLOWS:**

**5. Appointment, Commencement, Tenure, Management Services etc.:**

- 5.1 **Appointment:** The Developer hereby appoints the Development Manager as the manager of the Project to provide the Management Services in relation to the Project and the Development Manager hereby accepts such appointment. The Developer shall, simultaneously with the execution of this Agreement, provide possession of the Said Property to the Development Manager as an authorised licensee only for the limited purposes of providing the Management Services.
- 5.2 **Commencement Date:** The aforesaid appointment shall commence and be deemed to have commenced from the date of this Agreement (**Commencement Date**).
- 5.3 **Tenure:** This Agreement (and the concomitant obligations and responsibilities) shall remain valid and binding till expressly discharged.

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**6. Agreed Terms:**

- 6.1 **Contract Documents:** The Development Manager shall carry out its functions and obligations in accordance with this Agreement and also in accordance with the Management Services.
- 6.2 **Interaction with Architect:** The Consultant shall carry out the Management Services under instructions of and in coordination with the architect of the Project (**Architect**).
- 6.3 **Supervision of Contractor:** In the course of carrying out the Management Services of the Development Manager, the Development Manager shall supervise the work of contractors and service providers engaged by the Developer for the Project.
- 6.4 **Development Cost:** The Developer shall bear all the development cost, expenses, charges, taxes etc. attributable to the Project (collectively **Development Cost**).
- 6.5 **Contractors, Suppliers and Consultants:** The Developer shall appoint contractors, consultants, suppliers, etc. relating to the execution of the Project and all related and incidental activities thereto, as approved by, the Development Manager.

**6.6 Fees and Terms of Payment:**

- 6.6.1 **Development Management Fees:** In consideration of the Development Manager providing the Management Services, the Development Manager shall be entitled to receive from the Developer, Development Management Fees which shall be equal to 10% of the gross sale proceeds arising from the sale of all Units/Parking Spaces comprised in the Project/Complex (**Development Manager Fees**). The applicable GST on the Development Manager Fees shall be paid additionally by the Developer.

For the purposes of this Agreement, "*gross sale proceeds*" shall mean and refer to all amounts received by the Developer from a Transferee of any Unit and Parking Spaces in the Complex/Project, without any limitation but excluding taxes/GST.

**6.6.2 Accrual/Payment of the DM Fees:**

- (a) As and when a prospective Transferee is called upon to pay the consideration for purchase of the prospective Transferee's Unit, the Development Manager Fees, based on the collection of gross sale proceeds from the Transferee, shall accrue to the Development Manager.
- (b) However, the Development Manager will be paid on a monthly basis the Development Management Fees on the actual receipt and collection of the sale proceeds from the Transferees.
- (c) All invoices raised by the Development Manager in respect of Development Manager Fees shall be paid within 7 (seven) days from the date of the invoices.

- 6.6.3 **Deemed Sale of Units:** In case the Developer decides not to sell certain Units/Parking Spaces or to retain them for the purpose of their sale at a future date, then such Units/ Parking Spaces shall be deemed to be sold for the purpose of calculating the Development Manager Fees and the Development Manager shall be entitled to

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receive forthwith the appropriate Development Management Fees payable on such deemed sale of the Units/ Parking Spaces. The Development Management Fees payable to the Development Manager in respect of such retained Units/ Parking Spaces shall be calculated and ascertained on the basis of the prevailing market value of the retained Units/ Parking Spaces.

- 6.6.4 **DM Fees for Unsold Units:** If any Units/Parking Spaces remains unsold even at the end of the completion of the Project, the Developer shall pay the Development Manager Fees to the Development Manager in respect of such unsold Units//Parking Spaces and simultaneously upon such payment, Development Manger shall handover possession of such unsold Units/Parking Spaces to the Developer. The Development Management Fees payable to the Development Manager in respect of such unsold Units/ Parking Spaces shall be calculated and ascertained on the basis of the prevailing market value of the unsold Units/ Parking Spaces.
- 6.7 **Project Account:** Subject to applicable law and rules under the Real Estate (Regulation and Development) Act 2016, it is agreed between the Parties that the gross sale proceeds arising from the sale of the Units of the Project shall be deposited in a separate project collection account, which shall be operated as mutually decided by the Parties (**Project Account**). No other bank account shall be used for deposit of the sale considerations from the Project.
- 6.8 **Sale of Project:** The Development Manager shall facilitate the sales of the Units/Parking Spaces in the Project and shall provide the relevant Management Services.
7. **RERA Compliance:** The Developer shall strictly comply with all the provisions of the Real Estate (Regulation and Development) Act (**the Act**) and shall be responsible and liable for any violation of the Act. The Development Manager shall not be considered as or construed to be a promoter under the provisions of any applicable laws, including the Act as may be amended from time to time.
8. **Relation Between Parties:** Nothing herein shall be construed to either constitute a partnership or agency between the Parties.
9. **Termination**
- 9.1 Save and except in the circumstances expressly mentioned in Clause 9.2, the Parties shall not be entitled to terminate this Agreement without recourse to Arbitration.
- 9.2 If as a consequence of (a) any delay or default on the part of the Developer in complying with its obligations under this Agreement which obstructs the Development Manager in the course of managing the development of the Complex/Project (b) hindrance, interference, or obstruction, suffered by the Development Manager, on account of the Owners or any persons claiming under them and/or (c) any claim, dispute, or litigation in respect of the Owners' title to the Said Property, the performance by the Development Manager under this Agreement is be prevented for a period longer than 3 (three) months, then the Development Manager shall have the right to terminate this Agreement with a month's notice. The terms of termination under this condition will be with no liabilities or penalties.

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- 9.3 In the event the Agreement is terminated in the circumstances mentioned in Clause 11.2 above, the liability of the Developer to (i) make payment of the Development Management Fees in terms of this Agreement and (ii) make payment of the Project Costs shall survive and remain unaffected. It is agreed in this regard that pending the payment of such amounts and/or mutual agreement (in writing) regarding payment terms of such pending amounts, the Developer shall not create any new thirty party rights in the Complex/Project.
10. **Arbitration:** Any dispute or difference between the Parties arising out of and/or relating to and/or concerning this Agreement or any term or condition herein contained and/or any breach thereof and/or relating to interpretation thereof shall be resolved by mutual discussions between the Parties amicably, failing which the same shall be referred to arbitration of a sole Arbitrator to be appointed in accordance with the Arbitration and Conciliation Act, 1996 as amended from time to time. The arbitration shall be held at Kolkata in accordance with the Arbitration and Conciliation Act, 1996 as amended from time to time.
11. **Jurisdiction:** In connection with the aforesaid arbitration proceedings, the Courts at Kolkata only shall have exclusive jurisdiction to receive, entertain, try and determine all actions and proceedings.

### Schedule

#### (Said Property)

Land measuring approximately 78.889 (seventy eight point eight eight nine) *cottahs*, more or less, equivalent to 56800.08 (fifty six thousand eight hundred point zero eight) square feet and further equivalent to 5276.90 (fifty thousand two hundred seventy six point nine zero) square meter together with structures erected thereon, situate, lying at and being Municipal Premises No.160, Grand Trunk Road, Howrah 711102, Police Station Shibpur, within Ward No. 36 of the Howrah Municipal Corporation, Mouza - Baze Shibpur, District Howrah (Zone Sandhyabazar to Rajnarayan Roychoudhury Ghat Road), delineated on the **Plan** attached hereto and bordered in colour **Red** thereon and butted and bounded as follows.

<b>On the North</b>	:	Partly Premises No. 159, G.T. Road, (South), Howrah and partly by other premises.
<b>On the East</b>	:	By G.T. Road, (South), Howrah
<b>On the South</b>	:	By remaining portion of the said premises.
<b>On the West</b>	:	Partly by Premises No. 17, P.M. Bustee 4th by-lane, Howrah and partly by other premises.

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12. Execution and Delivery:

12.1 In Witness Whereof the Parties have executed this Agreement on the date mentioned above.

USHA PROJECTS PVT. LTD.

*Sanjay Gupta*

AUTHORISED SIGNATORY / DIRECTOR

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**Usha Projects Private Limited**  
represented by its Director/Authorised Signatory  
**Mr. Sanjay Gupta**  
(Developer)

ARGENT INFRABUILD PVT. LTD.

*Rajat Pasari*

Authorised Signatory / Director

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**Argent Infrabuild Private Limited**  
represented by its authorized Director  
**Mr. Rajat Pasari**

(Development Manager)

**Witnesses:**

Signature Gagan Thakur

Name GAGAN THAKUR

Father's Name ABHIRAM THAKUR

Address SIMEHER ALI LANE  
KOLKATA - 700015

Signature Surendra Kumar Daga

Name SURENDRA KUMAR DAGA

Father's Name LATE MILAP CHAND DAGA

Address 69, CHOWRINGHEE ROAD  
KOLKATA - 700020