

**Form of agreement to be entered into between Promoter and purchaser of flat**

This Agreement made at \_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2000 \_\_\_\_\_\_\_\_\_ between \_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as the Promoter ( \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ) of the One Part and ( \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ) hereinafter referred to as the Flat Purchaser ( \_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ) of the Other Part.

Whereas the Promoter has by an Agreement / Conveyance dated \_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2000 and executed between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the One Part (hereinafter referred as the Vendor) and the Promoter of the Other Part, the Vendor has agreed with the Promoter for the absolute sale to the Promoter / sold absolutely to the Promoter an immovable property being piece or parcel of freehold land lying and being at \_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the Registration Sub-District of \_\_\_\_\_\_\_\_\_\_\_\_\_ admeasuring \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ sq. mts. or thereabouts more particularly described in the First Schedule hereunder written (hereinafter referred to as the said land).

And Whereas by and under a lease / an agreement for Lease dated the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2000 made between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the One Part (hereinafter referred to as the Lessor) and the Promoter of the Other Part, the Lessor agreed to grant unto the Promoter a lease in perpetuity / for a term of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ years in respect of an immovable property being piece or parcel of leasehold land being at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the Registration Sub-District of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ admeasuring \_\_\_\_\_\_\_\_\_ sq. mts. or thereabouts more particularly described in the First Schedule hereunder written (hereinafter referred to as the said land) at a rent of Rs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ per annum / month and on the terms and conditions contained in the said Lease / Agreement for Lease.

And Whereas, the Lease / Agreement for Lease is with the benefit and right to construct any new building/s, if so permitted by the concerned local authority.

And Whereas by an agreement dated \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2000 Power of Attorney, dated \_\_\_\_\_\_\_\_\_\_\_\_ executed between Shri \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereunder referred to as the Original Owner) of the One Part and the Promoter of the Other Part (hereinafter referred to as the Development Agreement) the Original Owner has appointed the Promoter as his agent to develop the piece or parcel of freehold land lying and being at \_\_\_\_\_\_\_\_\_\_\_ in the Registration Sub-District of \_\_\_\_\_\_\_\_\_\_\_\_\_ admeasuring \_\_\_\_\_\_\_\_\_\_\_\_\_\_ sq. mts. or thereabouts more particularly described in the First Schedule therein as well as in the First Schedule hereunder written (hereinafter referred to as the said land) and to construct thereon building/s in accordance with the terms and conditions contained in the Development Agreement / Power of Attorney:

And Whereas as a result of the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as The Ceiling Act) which came into force in the State of \_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_\_\_\_\_. Vendor / Lessor / Original Owner / Promoter were not entitled to hold any vacant land in excess of the ceiling limit except as otherwise provided in the Ceiling Act.

And Whereas the Vendor/Lessor/Original Owner/Promoter having been shown to be the owner of the said land in the Government and revenue records, the Vendor/ Lessor/Original Owner/Promoter submitted to the Government of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as "the Government") in the name of the Vendor/Lessor/Original Owner and or promoter an application under section \_\_\_\_\_\_\_ of the Ceiling Act for exempting the said land from the provisions of the Ceiling Act.

And Whereas by an Order \_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_ (hereinafter referred to as "the said Order") the Government exempted, subject to the conditions stated in the said Order, the said land from the provisions of the Ceiling Act.

And Whereas as per the said Order and as a result of the Development Agreement the Promoter is entitled and enjoined upon to construct buildings on the said land in accordance with the said order.

And Whereas the Vendor/Lessor/Original Owner/Promoter having been shown to be the owner of the said land in the Government and Revenue records, the Vendor/ Lessor/Original Owner/Promoter submitted to the Government of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as "the Government") in the name of the Vendor/lessor/Original Owner and Promoter an application under section \_\_\_\_\_\_\_of the Ceiling Act and the guidelines framed by the Government in respect of section \_\_\_\_ of the Ceiling Act for the purpose of developing the said land as stated in the application in accordance with the provisions of the Ceiling Act.

And Whereas by Order No. \_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as "the said Order"), the Competent Authority under the Ceiling Act permitted the Vendor/Lessor/Original Owner and/or Promoter to continue to hold the said land for the construction of houses for weaker sections of the society through the Promoter subject to the terms and conditions therein contained.

And Whereas the Vendor/Lessor/Original Owner/Promoter being in possession of the said land and building thereon will be demolishing/have demolished the old buildings and structures and constructing/has constructed instead new multi-storied building thereon.

And Whereas permission contemplated by section \_\_\_\_\_ of the Ceiling Act for Development has been obtained by the Vendor/Lessor/Original Owner/Promoter.

And Whereas the Promoter has proposed to construct on the said land \_\_\_\_\_\_\_\_\_\_ new multi-storied buildings of ground floor at stilt level and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ or more upper floors. (hereinafter referred to as "the said building/s").

And Whereas the promoter has entered into a standard agreement with an Architect registered with the Council of Architects and such agreement is as per the agreement prescribed by the Council of Architects; whereas the promoter has appointed a 'structural Engineer for the preparation of the structural design and drawings of the buildings and the promoter accepts the professional supervision of the Architect and the structural Engineer till the completion of the building/buildings.

And Whereas by virtue of the Development Agreement/Power of Attorney, the Promoter alone has the sole and inclusive right to sell the flats in the said building/s to be constructed by the Promoter on the said land and to enter into agreement/s with the purchaser/s of the flats and to receive the sale price in respect thereof.

And Whereas the Flat Purchaser demanded from the Promoter and the Promoter has given inspection to the Flat Purchaser of all the documents of title relating to the said land, the said Order, the Development Agreement and the plans, designs and specifications prepared by the Promoters Architects Messrs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and of such other documents as are specified under the \_\_\_\_\_\_\_\_\_\_\_\_\_ Ownership Flats (Regulation of the Promotion of Construction, Sale, management and Transfer) Act, (hereinafter referred to as the said Act) and the rules made thereunder.

And Whereas the copies of Certificate of Title issued by the attorney-at-law or advocate of the Promoter, copies of Property card or extract of Village Forms \_\_\_\_\_\_\_\_\_\_ or any other relevant revenue record showing the nature of the title of the Promoter to the said land on which the flats are constructed or are to be purchased by the Flat Purchaser approved by the concerned local authority have been annexed thereto and marked Annexures A B and C respectively.

And Whereas the Promoter has got approved from the concerned local authority the plans, the specifications, elevations, sections and details of the said buildings.

And Whereas while sanctioning the said plans concerned local authority and/or Government has laid down certain terms, conditions, stipulations and restrictions which are to be observed and performed by the Promoter while developing the said land and the said building/s and upon due observance and performance of which only the completion and occupation certificates in respect of the said building/s shall be granted by the concerned local authority.

And Whereas the Promoter has accordingly commenced construction of the said building/s in accordance with the said plans.

And Whereas the Flat Purchaser applied to the Promoter for allotment to the Flat Purchaser Flat No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_ floor in building no. \_\_\_\_\_\_\_\_\_ situated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

And Whereas prior to making application as aforesaid, as required by the provisions of \_\_\_\_\_\_\_\_\_\_\_\_\_ Co-operative Societies Act, the Flat Purchaser has made a declaration to the effect firstly, that neither that Flat Purchaser not the members of the family [Family as defined under the Urban Land (Ceiling and Registration) Act of 1976] of Flat Purchaser own a tenements, house or building within the limits of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Name of town in which flat applied for is located.)

And Whereas relying upon the said application, declaration and agreement, the promoter agreed to sell to the Flat Purchaser a flat at the price and on the terms and conditions hereinafter appearing.

And Whereas prior to the execution of these presents, the Flat purchaser has paid to the Promoter a sum of Rs. \_\_\_\_\_\_\_\_\_\_\_\_ (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ) only, being part payment of the sale price of the flat agreed to be sold by the promoter to the Flat purchaser as advance payment or deposit (the payment and receipt whereof the promoter both hereby admit and acknowledge) which shall in no event exceed fifteen per cent of the sale price of the flat agreed to be sold to the Flat Purchaser and the Flat Purchaser has agreed to pay to the promoter balance of the sale price in the manner hereinafter appearing.

And Whereas under section \_\_\_ of the said Act the Promoter is required to execute a written agreement for sale of said flat to the Flat Purchaser being in fact these presents and also to register said agreement under the Registration Act.

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

1. The Promoter shall construct the said building/s consisting of ground and ............ upper floors on the said land in accordance with the plans, designs, specifications approved by the concerned local authority and which have been seen and approved by the Flat Purchaser with only such variations and modifications as the Promoter may consider necessary or as may be required by the concerned local authority/the Government to be made in them or any of them:

Provided that the Promoter shall have to obtain prior consent in writing of the flat purchaser in respect of such variations or modifications which may adversely affect the flat of the purchaser.

2. The Flat Purchaser hereby agrees to purchase from the Promoter and the Promoter hereby agrees to sell to the Flat Purchaser one flat No. ..................... of the Type ............................ of carpet area admeasuring ................... sq. metres. (Which is inclusive of the area of balconies) on ................... Floor as shown in the floor plan thereof hereto annexed and marked Annexure D/Shop No. ................... /covered/open Garage No. .................. in the .................... Building (hereinafter referred to as "the Flat") for the price of Rs. .................. including Rs. ............... being the proportionate price of the common areas and facilities appurtenant to the premises, the nature, extent and description of the common/limited common areas and facilities/limited common areas and facilities which are more particularly described in the Second Schedule hereunder written. The Flat Purchaser hereby agrees to pay to that promoter balance amount of purchase price of Rs. .................................. (Rupees ......... .......... ) having been paid to the Promoter on or before the execution of this agreement in the following manner: 

(i) 10 per cent Plinth,

(ii) 20 per cent Slab,

(iii) 7 per cent Walling,

(iv) 1 0 per cent Doors and Windows,

(v) 7 per cent Flooring, 

(vi) 7 per cent Plaster (internal and External),

(vii) 1 0 per cent Sanitary Fittings and Plumbing,

(viii) 14 per cent or remaining at time of occupation.

3. The Promoter hereby agrees to observe, perform and comply with all the terms, conditions, stipulations and restrictions, if any which may have been imposed by the concerned local authority at the time of sanctioning the said plans or thereafter and shall, before handing over possession of the Flat to the Flat Purchaser, obtain from the concerned local authority occupation and/or completion certificates in respect of the Flat.

4. The Promoter hereby declares that the Floor Space Index available in respect of the said land is ............ square metres only and that no part of the said floor space index has been utilised by the Promoter elsewhere for any purpose whatsoever. In case the said floor space index has been utilised by the Promoter elsewhere, then the Promoter shall furnish to the Flat Purchaser all the detailed particulars in respect of such utilisation of the said floor space index by him. In case while developing the said land, the Promoter has utilised any floor space index of any other land or property by way of floating floor space index, then the particulars of such floor space index shall be disclosed by the Promoter to the Flat Purchaser. The residual F.A.R. (F.S.I) in the plot or the layout not consumed will be available to the promoters till the registration of the society. Whereas after the registration of the Society the residual F.A.R. (F.S.I), shall be available to the Society.

5. In case the Promoter is acting as an agent of the Vendor/Lessor/Original Owner of the said land, then, the Promoter hereby agrees that he shall, before handing over possession of the Flat to the Flat Purchaser and in any event before execution of a conveyance/assignment of lease of the said land in favour of corporate body to be formed by the purchasers of flats/shops/garages in the building to be constructed on the said land (hereinafter referred to as "the Society"/"the limited Company" make full and true disclosure of the nature of his title to the said land as well as encumbrances, if any, including any right, title, interest or claim of any party in or over the said land, and shall, as far as practicable, ensure that the said land is free from ail encumbrances and that the Vendor/lessor/Original Owner/the Promoter has/have absolute, clear and marketable title to the said land so as to enable him to convey to the said Society/Limited Company such absolute, clear and marketable title on the execution of a conveyance/assignment' of lease of the said land by the Promoter in favour of the said Society/limited Company. 

6. The Flat Purchaser agrees to pay to the promoter interest at nine per cent per annum on ail the amounts which become due and payable by the Flat Purchaser to the promoter under the terms of this agreement from the date the said amount is payable by the Flat Purchaser to the Promoter.

7. On the Flat Purchaser committing default in payment on due date of any amount due and payable by the Flat Purchaser to the promoter under this Agreement (including his/her proportionate share of taxes levied by concerned local authority and other outgoing) and on the Flat Purchaser committing breach of any of the terms and conditions herein contained, the promoter shall be entitled at his own option to terminate his agreement:

Provided always that the power of termination hereinbefore contained shall not be exercised by the promoter, unless and until the promoter shall have given to the Flat Purchaser fifteen days prior notice in writing of his intention to terminate this agreement and of the specific breach or breaches of terms and conditions in respect of which it is intended to terminate the agreement and default shall have been made by the Flat Purchaser in remedying such breach or breaches within a reasonable time after the giving of such notice:

Provided further that upon termination of this agreement as aforesaid, the promoter shall refund to the Flat Purchaser the instalments of sale price of the Flat, which may till then have been paid by the Flat Purchaser to the Promoter but the promoter shall not be liable to pay to the Flat Purchaser any interest on the amount so refunded and upon termination of this agreement and refund of aforesaid amount by the Promoter, the Promoter, shall be at liberty to dispose of and sell the Flat to such person and at such price as the Promoter may in his absolute discretion think fit.

8. The fixture fittings and amenities to be provided by the Promoter in the said building and the Flat are those that are set out in Annexure 'E' annexed hereto.

9. The Promoter shall give possession of the flat to the Flat Purchaser on or before ......... ....... day of ................ 19 ........ if the Promoter fails or neglects to give possession of the Flat to the Flat Purchaser on account of reasons beyond his control and of his agents as per the Provisions of section 8 of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Ownership Flats Act, by the aforesaid date or the date or dates prescribed in section 8 of the said Act, then the Promoter shall be liable on demand to refund to interest at nine per cent per annum from received by him in respect of the flat with simple the date the promoter received the sum till the date the amounts and interest thereon is repaid, provided that by mutual consent it is agreed that dispute whether the stipulations specified in section 8 have been satisfied or not will be referred to the Competent Authority who will act as an Arbitrator. Till the entire amount and interest thereon is refunded by the promoter to the Flat Purchaser there shall, subject to prior encumbrances it any, be a charge on the said land as well as the construction or building in which the Flats are situated or were to be situated: 

Provided that the Promoter shall be entitled to reasonable extension of time for giving delivery of Flat on the aforesaid date, if the completion of building in which the Flat is to be situated is delayed on account of-

(i) non-availability of steel, cement, other building materials, water or electric supply;

(ii) war, civil commotion or act of God;

(iii) any notice, order, rule, notification of the Government and/or other public or competent authority.

10. The Flat Purchaser shall take possession of the Flat within ......... days of the Promoter giving written notice to the Flat Purchaser intimating that the said Flat is ready for use and occupation:

Provided that if within a period of three years from the date of handing over the Flat to the Flat Purchaser, the Flat Purchaser brings to the notice of the Promoter any defect in the Flat or the building in which the Flat is situated or the material used therein or any unauthorised change in the construction of the said building, then, wherever possible such defects or unauthorised changes shall be rectified by the Promoter at his own cost and in case it is not possible to rectify such defects or unauthorised changes, then the Flat Purchaser shall be entitled to receive from the Promoter reasonable compensation for such defect or change.

11. The Flat Purchaser shall use the Flat or any part thereof or permit the same to be used only for purpose of residence/office showroom/shop, godown for carrying on any industry or business. He shall use the garage or parking space only for purpose of keeping or parking the Flat Purchaser's own vehicle.

12. The Flat Purchaser along with other purchasers of flats in the building shall join in forming and registering the society or a Limited Company to be known by such name as the Flat Purchasers may decide and for this purpose also from time to time sign and execute the application for registration and/or membership and other papers and documents necessary for the formation and the registration of the Society or Limited Company and for becoming a member, including the bye-laws of the proposed Society and duly fill in, sign and return to the Promoter within .................... days of the same being forwarded by the Promoter to the Flat Purchaser, so as to enable Promoter to register the occupation of the Flat Purchaser under section 10 of the said Act within the time limit prescribed by rule 8 of the \_\_\_\_\_\_\_\_\_\_\_ Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Rules, 1964. No objection shall be taken by the Flat Purchaser if any changes or modifications are made in the draft bye-laws or the Memorandum and/or Articles of Association, as may be required by the Registrar of Co- operative Societies or the Registrar of Companies as the case may be or any other Competent Authority. 

13. Unless it is otherwise agreed to by and between the parties hereto, the promoter shall, within four months of registration of the Society or limited Company, as aforesaid cause to be transferred to the society or Limited Company all the rights, title and the interest of the Vendor/lessor/Original Owner/Promoter and/or the owners in the aliquot part o

Provided further that upon termination of this agreement as aforesaid, the promoter shall refund to the Flat Purchaser the instalments of sale price of the Flat, which may till then have been paid by the Flat Purchaser to the Promoter but the promoter shall not be liable to pay to the Flat Purchaser any interest on the amount so refunded and upon termination of this agreement and refund of aforesaid amount by the Promoter, the Promoter, shall be at liberty to dispose of and sell the Flat to such person and at such price as the Promoter may in his absolute discretion think fit.