Performa Agreement

This Agreement made and executed this..... day of ..... in the year .....at ..... , Taluka ..... , District ....

By and Between

Name: Sanjay Tulshan
Age about 50 years, occupation: Business
Residing at Tulshan house, Akoli Road, Gita Nagar, Akola(Rural) - 444002, Tahsil and District – Akola
PAN.....

Hereinafter referred to as the "OWNERS/DEVELOPERS/PROMOTERS", (Which expression shall unless it be repugnant to the context or meaning thereof shall mean and include their legal heirs, executors, administrators, business assigns, trustees, transferees etc.).
. . . . . Of the First part
AND

Name : .....
Age about ..... years, occupation : ..... .
Residing at ..... ,
PAN ....
[Hereinafter for the sake of brevity referred to as THE PURCHASER/S, OR ALLOTTEE/S which expression shall, unless repugnant to the context be deemed to include his/ her heirs, executors, administrators and assignees.]
.....Of the Second Part

WHEREAS:

A. DESCRIPTION OF THE LAND & PROPERTY :-

(Give Complete Recital of the Title Tal, Block No./S.N .. .. , Village!fown of the Promoter to the plot on which promoter proposes to develop the Plotting project)
AND
(Also specify)

i. Any covenants affecting the said property.
ii. Any impediments attached to the said property.
iii. Any permission (if any) required from any Government or Authority which affects the title to the property and details of all such required permissions obtained.
iv. Details of mortgage or lien or charge on the said property.)

B. **TITLE CERTIFICATE :** The title of the owner/ promoter/ developer is duly verified through their advocate ..... and has certified that the title of the present owner/developer/promoter is clean clear and free from all encumbrance, with ample right of development of the said property, construction thereon, and sale of the constructed Plots, as well as the entire subject matter property or any part thereof; The said title Certificate is filed herewith as Annexure .....

C. **EXCLUSIVE RIGHT TO SELL AND DEVELOP:** In the circumstances, the Owner/Developer/Promoter has the exclusive right of plotting of the said land or to develop the said Land by plotting of the said land into various plots and other permitted structures thereon, as per the approved layout of plots, and to enter into Agreements for Sale of such plots etc. with prospective purchasers thereof under the provisions of the Transfer of Property Act. The Owner/ Developer Promoter has applied for, and is granted due registration under the provisions of the Real Estat [Regulation and Development] Act, 2017, and the same is attached hereto as Annexure.....

D. **PURCHASER AGREES TO ACQUIRE :** The Purchaser, after satisfying himself as regards the title of the Owner/Developer/Promoter to the said property, and after inspection of the entire documents of title as specified in the above referred Title opinion Annexure ..... and the approved layout of plots, and after inspecting the site and satisfying himself/herself as to the completion of the various phases of work, and has now agreed to purchase the open Plot No ..... as specified in Schedule A written hereinafter [hereinafter for the sake of brevity referred to as the "said Plot']. The Purchaser/s has/ have agreed to acquire Plot No ..... , admeasuring about ..... Hectare, at or for the consideration and on the terms and conditions set out hereinafter; the said Plot No. ..... is hereinafter referred to for the sake of convenience and brevity as ·~he said Plor' and is more particularly described in the SCHEDULE….. hereunder written and marked in Red on the Plan Schedule 'B'.

E. **INSPECTION OF TITLE DOCUMENTS/PLANS/LAYOUTS:** The Purchaser/s has/ have demanded from the owner/Developer/Promoter and the owner/Developer/Promoter have given inspection to the Purchaser/s of all the documents of title relating to the said Land, N.A. Assessment or the approved layouts, in respect of the said Plot, and the common areas, amenities and the specific rights therein, as hereby agreed to be sold.

F. **INDEPENDENT VERIFICATION OF TITLE BY PURCHASER:** The Purchaser/s has/have, before the execution hereof, had the title of the Owner/Developer/Promoter thereto independently verified through the Legal Counsel/ Advocate of the Purchaser/s and the Purchaser/s has/have satisfied himself/ herself/themselves that the same is free from all encumbrances, and is clear and marketable.

G. **CONSIDERATION:** After being satisfied with the Title as above, the Purchaser herein made an offer to the Promoter herein to purchase the said Plot in accordance with the approved layout of plots, and with the said intention deposited a sum of As ..... (Rupees ..... Only) *vide* Cheque No ..... dated ..... drawn on ..... Bank, ... Branch being the part payment out of the lump sum total Sale-price of Rs. .... [Rupees ..... Only] against and in consideration of the said Plot agreed to be sold by the Owner/Developer/Promoter to the Purchaser, as an advance payment, the payment and receipt of which advance amount the Owner/Developer/Promoter hereby admit and acknowledge. The Purchaser has agreed to pay to the Owner/Developer/Promoter, in such name and as per their directions, the entire balance of the sale-price in the manner as mentioned in the Schedule E hereunder written, and which payment is deemed to be the essence of these presents;

NOW THESE PRESENTS WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:-

1. **PURCHASE AND SALE OF THE PLOT** :
   - **1.1.** The Purchaser Is has/have agreed to acquire and Owner/Developer/Promoter has agreed to sell the said Open Plot No ....., admeasuring..... sq.mtr, and the right to construct thereon, as per sanction plans to the Purchaser, for the lump sum consideration and on the terms and conditions set out hereinafter,

and which Plot is more particularly described in the *Schedule A* and specified in Plan *Schedule B* hereunder written;

1.2. The said Plot agreed to be acquired by the Purchaser/s herein shall be provided only and only with the common amenities and facilities as per the specifications, which are set out in the Annexure ..... hereunder written;

2. CONSIDERATION :

2.1. LUMP SUM CONSIDERATION AND EXCLUSIONS: As mentioned above, the Owner/Developer/Promoter herein agreed to sell to the Purchaser/s and the Purchaser/s has/have agreed to purchase from the Owner/Developer/Promoter the said open Plot inclusive the specifications mentioned in the Annexure ..... at or for the mutually agreed lump sum consideration of Rs ..... only) and the Purchaser shall make the payment of the same in the name of" ..... " or such other name as may be specified from time to time by the Owner/Developer/Purchaser; and the said consideration amount is excluding expenses for stamp duty and registration fees, GST and ALL other taxes, expenses, etc., and also all the other outgoings as mentioned herein below which will be paid by the Purchaser/s separately as agreed and specified.

2.2. TIME PERIOD FOR POSSESSION: The possession of the said Plot agreed to be purchased by the Purchaser/s shall be handed over to the Purchaser *Is* by the Owner/Developer/Promoter before ... . on receipt of the entire amount of the purchase price of the said Plot and other charges as agreed. The Purchaser/s shall take possession of the said open Plot within [fifteen days] two months [u/s 19(1 0)] of the Owner/Developer/ Promoter giving written notice to the Purchaser/s intimating the same and after complying with all necessary legal formalities, and effecting necessary payment as per agreed schedule.

2.3. DELAY IN HANDING OVER POSSESSION BY OWNER /DEVELOPER /PROMOTER/CONSENTING PARTY: It is agreed between the parties hereto that if the Owner/Developer/Promoter fails to give possession of the said Plot in accordance with the terms of this Agreement within the stipulated period as mentioned in clause 2.2 ..... hereinabove or within further mutually

agreed period [and a period of three months thereafter,] or if, the Owner /Developer/Promoter and/or its Agents for reasons beyond its control, are unable to give possession of the said Plot by the said date and after a period of two months if those reasons still exist, then in such case, Owner/Developer/ Promoter shall, without prejudice to its rights reserved hereunder, be liable on demand of the Purchaser/s to refund the amounts already received by it in respect of the said Plot from the Purchaser/s with simple interest thereon at such rate of interest as prescribed under the provisions of the RERA Act. 2017, and the Rules made thereunder, per annum, from the date it received the same till the date the amounts and interest thereon is refunded to the Purchaser/s.

3. MAINTENANCE OF THE PLOT/LAYOUT: Commencing the week after Notice in writing is given by the Owner/Developer/Promoter to the Purchaser/s that the said Plot is ready for use and occupation and intimation of the same is received by the Purchaser/s from the Owner/Developer/Promoter, the Purchaser/s hereby agree/sand bind/s himself/ herself/themselves to pay to the owner /Developer /Promoter, changes for common service if any.

4. FORMATION OF FINAL BODY OF PURCHASERS: The Owner /Developer /Promoter shall on execution of registered agreement for sale by 51% purchasers form within the period of 3 months from handing over possession of the last unsold Plot to the concerned Purchaser, in of the said Complex, shall form a Co operative Housing Society governed by the provisions of the Maharashtra Co operative Societies Act. 1960 or such other body as may be deemed fit by the owners/promoters and Owner/Developer/Promoter of which all the purchasers of Plots shall be bound to become and be admitted as members.

5. NO RIGHTS TO DEMAND SUB-DIVISION: The Purchaser/s of the Plot/Plots agreed to be sold hereunder and all the other purchasers of Plots in the said Land shall not have any right to make sub-division of the Plot and always subject to the applicable rules, regulations and bye-laws. Purchasers shall not have individual right, title, claim or interest in respect of the amenity spaces, open spaces and the said entire Land and the rights of the Purchaser/s are confined only to the Plot/Plots hereby agreed to be sold, it being expressly agreed subject to the applicable rules, regulations and bye-laws.

6. **UNSOLD PLOTS** : In case the Conveyance is executed in favour of the Ultimate Body before the disposal by the Owner/Developer/Promoter of all the plots on the said Land, then in such case, the Owner/Developer/ Promoter shall join in the Ultimate Body as members holding such unsold plots and as and when such Plots are sold to third party at the discretion of the Owner/Developer/Promoter, the Ultimate Body shall admit as members the Purchasers of such plots without charging any premium, transfer fees, or any other extra payment.

7. **REPRESENTATIONS AND WARRANTIES OF THE OWNER /DEVELOPER /PROMOTER:** The Promoter hereby represents and warrants to the Allottee/Purchaser as follows :-

   a) The Promoter has clear and marketable title with respect to the project land/Plot; as declared in the title report annexed to this agreement and has the requisite rights to carry out development upon the project land and also has actual, physical and legal possession of the project land for the implementation of the Project; The promoter has also obtained the necessary N.A. permission from competent authority;
   b) The Promoter has lawful rights and requisite approvals from the competent Authorities to carry out development of the Project and shall obtain requisite approvals from time to time to complete the development of the project;
   c) There are no encumbrances upon the project land or the Project except those disclosed in the title report;
   d) There are no litigations pending before any Court of law with respect to the project land or Project except those disclosed in the title report; there are no prohibitory order for transfer of the plot.
   e) All approvals, licenses and permits issued by the competent authorities with respect to the Project, project land and said building are valid and subsisting and have been obtained by following due process of law. Further, all approvals, licenses and permits to be issued by the competent authorities with respect to the Project, project land and said building/wing shall be obtained by following due process of law and the Promoter has been and shall, at all times, remain to be in compliance with all applicable laws in relation to the Project, project land, Building/s and common areas;

f) The Promoter has the right to enter into this Agreement and has not committed or omitted to perform any act or thing, whereby the right, title and interest of the Allottee created herein, may prejudicially be affected;
g) The Promoter has not entered into any agreement for sale and/or development agreement or any other agreement/arrangement with any person or party with respect to the project land, including the Project and the said Plot which will, in any manner, affect the rights of Allottee under this Agreement;
h) The Promoter confirms that the Promoter is not restricted in any manner whatsoever from selling the said Plot to the Allottee in the manner contemplated in this Agreement;
i) The Promoter has duly paid and shall continue to pay and discharge undisputed governmental dues, rates, charges and taxes and other monies. levies, impositions, premiums, damages and/or penalties and other outgoings, whatsoever, payable with respect to the said project to the competent Authorities;
j) No notice from the Government or any other local body or authority or any legislative enactment, government ordinance, order, notification (including any notice for acquisition or requisition of the said property) has been received or served upon the Promoter in respect of the project land and/or the Project except those disclosed in the title report.
k) The promoter shall obtain all such insurance as may be notified by the Government of Maharashtra :
l) Title of land as a part of real estate project.

8. PAYMENT OF STAMP DUTY/REGISTRATION FEES/ EXPENSES : It Is hereby expressly agreed that the Purchaser/s shall bear the Stamp Duty and Registration Charges payable on this Agreement and all documents executed by the Owner /Developer/Promoter pursuant hereto including but not restricted to the proportionate Stamp Duty payable on the Deed of Conveyance of the specified parts of the land and any building within the said Complex which may be executed by the Owner/Developer/Promoter or Consenting Party in favour of the Association/ condominium/ society of all Plot purchasers in the said project.

9. ENTIRE AGREEMENT : This Agreement, along with its schedules and annexures, constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes any and all understandings, any other agreements,

allotment letter, correspondences, arrangements whether written or oral, if any, between the Parties in regard to the said apartment/plot/building, as the case may be.

10. **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.

11. **ADDRESS FOR SERVICE**: That all notices to be served on the Allottee/Purchaser and the Promoter as contemplated by this Agreement shall be deemed to have been duly served if sent to the Allottee or the Promoter by Registered Post A.D and notified Emaii iD/Under Certificate of Posting at their respective addresses specified below :

Name of Allottee/Purchaser

(Allottee's Address)
Notified Email id : .....

M/s. Promoter Name
(Promoter Address)
Notified Email id: .....

It shall be the duty of the Allottee and the promoter to inform each other of any change in address subsequent to the execution of this Agreement in the above address by Registered Post failing which all communications and letters posted at the above address shall be deemed to have been received by the promoter or the Allottee, as the case may be.

12. **DISPUTE RESOLUTION:** Any dispute between parties shall be settled amicably by following conciliation proceedings. In case of failure to settle the dispute amicably. the same shall be decided as per the provisions of the Real Estate (Regulation and Development) Act, 2016, Rules and Regulations, thereunder.

13. GOVERNING LAW : 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 for the time being in force and the ..... courts Within whose local limits the property is situated will have the junsdiction for this Agreement.

Important Note.-Please insert any other terms and conditions as per the contractual understanding between the parties, however, please ensure that such additional terms and conditions are not in derogation of or inconsistent with the provisions of the said act and any other governing law for time being in force and the Rules and Regulations made thereunder.].

Note - Testimonial clause to be finalized in individual cases having regard to the constitution of the parties to the Agreement.

LIST OF ANNEXES

Annexure "A": Title Certificate.

Annexure "B": 7/12 Extracts.

Annexure "C": Approved Layout of Plots.

Annexure "D": Authenticated Copy of the approved layout showing the specific plot, subject matter *of these* presents.

Annexure "E": List of Common Areas, and Amenities to the provided under these presents.

Annexure "F": Registration Certificate of the Project granted by the Real Estate Regulatory Authority.