

TRIPARTITE AGREEMENT (SECOND CHARGE)

This Agreement is executed on this _____ day of _____ Two thousand _____
Between Shri/Smt/Ms _____ son of/
wife of/ daughter of Shri _____ resident of
_____ and
Shri/Smt/Ms _____ son of/ wife of/daughter of Shri
_____ resident of _____
_____ hereinafter referred to as the "Borrower (s)",
which terms shall unless repugnant to the context shall mean and include his/her heirs,
representatives, successors, executors, attorneys, administrators and assigns, of the party at
the '**First Part**'.

AND

Army Welfare Housing Organisation a Society registered with the Registrar of Societies,
Delhi under the Societies Registration Act XXI of 1860 having its registered office at South
Hutments, Kashmir House, Rajaji Marg, New Delhi-110011 (hereinafter called 'The AWHO'
through its Managing Director or any other officer authorized by him in his behalf which
expression shall unless repugnant to the subject or context or meaning thereof be deemed to
include its successors or assigns) as party of the '**Second Part**'.

AND

_____ (Name of Bank/Loaning Agency), a body corporate, constituted under
the _____ (Bank Act), having amongst others one of its Branch Office at
_____ (Name and address of Branch),
hereinafter referred as the '_____' (Name of Bank), which terms shall unless
repugnant to the context shall mean and include its representatives, successors,
administrators and assigns, of the party at the '**Third Part**'.

Whereas, the 'Builder/Developer/Promoter' is the absolute owner and is peaceful possession
of the residential property bearing Flat/Plot No _____ situated at
_____ and
whereas _____ (Name of the development authority) has
sanctioned building plan vide _____ to construct a residential Flat/Plot on the
said property. Whereas 'Builder' has taken up construction of residential Flat/Plot known as
_____ on the said property.

OR

Whereas, the 'Builder/Developer/Promoter' has been allotted the Flat/Plot No _____ situated
at _____ by the
_____ (Name of Development Authority)
hereinafter referred to as the 'Authority', for the construction of _____ (Number)
residential Flats/Plots. The Party at the Second Part has already received the possession of
the above said Flat/Plot. The building plans have already been approved by the
_____ (Name of the building plans sanctioning authority) vide
_____.

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Whereas 'Builder/Developer/Promoter' has taken up construction of residential Flats/Plots known as _____ on the said property and whereas the Party at the Second Part has already paid the entire consideration amount and the Sale Deed/ Lease Deed/ Conveyance Deed has already been executed in its favour and the title of the Party at the Second Part is clear and marketable.

OR

Whereas, the builder/developer/promoter has been granted Power of Attorney registered as document No _____ at the Sub-Registrar Office _____ by _____ the owner of the land/plot bearing Survey No _____ situated at _____ and whereby, the builder/developer/promoter is authorised to develop the property and sell the undivided share in the land to the prospective purchasers. The builder/developer/ promoter has also been further authorised to execute agreement for sale, receive sale consideration and execute sale deed in favour of the purchasers. Having received possession of the property from the owner, the builder has taken up construction of Flats/Plots in the land and obtained sanctioned building plan vide _____ from the competent authority. The builder/developer/promoter has executed a construction agreement dated _____ with the borrower for construction of Flat/Plot on the land (Strike-out the clause whichever is not applicable).

Whereas, the Party at the Second Part has registered the said real estate project namely _____ (hereinafter referred to as the Project) with Real Estate Regulatory Authority (RERA)/ _____ (Name of Regulatory Authority in the state) of _____ and been granted registration number _____ which is valid and subsisting as on date.

Whereas, the Party at the Second Part shall complete the construction of the Flats/Plots by _____ (Date) and is booking the sale of the Unit/Apartment. The proposed buyer has to make the payment of the Sale Consideration and other charges, if any, by _____ (Date) and on the payment of the entire consideration, the Party at the Second Part shall hand over the possession of the Flat/Plot to the said proposed buyer.

Whereas, the party at the First part has booked a Flat/Plot bearing No _____ measuring super area/build-up area _____ sq ft/ sq mtr, (hereinafter referred to as the said flat/plot) in the building which the party at the Second Part shall construct on the above said land and the Party at the First Part has to pay the entire consideration amount by _____ (Date).

WHEREAS the Borrower has already deposited with the AWHO a sum of Rs. _____ (Rupees _____ only) as part payment towards the purchase of a flat under the Scheme.

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WHEREAS the Borrower has already been sanctioned home loan to the tune of Rs. _____ (Rupees _____ only) by _____ having its First Charge on the said allotted flat/property vide NOC No B/03015/AWHO/NOC/OA dated _____ issued by AWHO.

WHEREAS under the provisions of the Self Finance Scheme framed by the Party of the Second Part, the borrower has now again applied to the Bank for additional loan on second Charge to the tune of Rs. _____ (Rupees _____ only) for making payment towards cost of a flat under the Scheme and the Bank has agreed to sanction a loan of ` _____ (Rupees _____ only) to Borrower (Hereinafter referred to as the Housing Loans for making payment towards cost of a flat) subject to the usual terms and conditions applicable to the same Scheme such as mortgage of the flat/dwelling unit, rate of interest of loan, repayment term, payment of additional interest in case of default, assignment of the flat to the Bank as security on Second Charge etc.

Now therefore it is hereby agreed by and between the parties that :-

1. The _____ (Name of Bank/Loaning Agency) has and shall have the first lien over the said flat/plot for the due repayment of the loan which _____ (Name of Bank/Loaning Agency) has granted to the Borrower. The Builder/Developer/Promoter shall note in its records the charge and lien of _____ (Name of Bank/Loaning Agency) over the said flat/plot. The Builder/Developer/Promoter shall not transfer the said flat/plot to any other person without the prior written consent the _____ (Name of Bank/Loaning Agency).

2. The Builder/Developer/Promoter agrees that it has no objection to the Borrower(s) mortgaging the said flat/plot with proportionate share in land to the _____ (Name of Bank/Loaning Agency) as security for the said loan agreed to be advanced by the _____ (Name of Bank/Loaning Agency) for the purpose of purchase/ construction of the said flat/plot. In the event of default in the repayment of loan and/ or the Borrower(s) committing any other default which makes the Borrower(s) liable for the repayment of the entire amount outstanding in the said loan as per the terms of the Loaning Agreement executed between the Borrower(s) and the _____ (Name of Bank/Loaning Agency), the Builder/Developer/Promoter shall at the request of _____ (Name of Bank/Loaning Agency), be under obligation to not deliver possession to the Borrower and/or to cancel the booking. Further, Builder/Developer/Promoter shall pay all amounts received by the Builder/Developer/Promoter from _____ (Name of Bank/Loaning Agency) on behalf of the Borrower(s) alongwith accrued interest on home loan account or amount received on behalf of the Borrower(s) including also any amount paid by the Borrower to the builder/Developer/promoter whichever is lower within the period of 90 days from the effective date of request by _____ (Name of Bank/Loaning Agency). However, in case the Builder/Developer/Promoter fails to refund the amount, the Builder/Developer/Promoter shall be liable to pay the total amount

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alongwith interest @ EBLR of _____ (name of Bank/Loaning Agency) plus 2% over the said amount. Upon payment of the amounts by the Builder/Developer/Promoter to _____ (Name of Bank/Loaning Agency) as aforesaid, the _____ (Name of Bank/Loaning Agency) and the Borrower will not have any claim, charge, lien, mortgage, right, title and interest etc. whatsoever, over the said flat/plot. _____ (Name of Bank/Loaning Agency) shall issue a certificate to release any mortgage/charge/lien created on the said flat/plot. Borrower hereby expressly agrees that in the event of default in either repayment of the loan or any other default by the Borrower, _____(Name of Bank/Loaning Agency) shall be entitled to request the Builder/Developer/Promoter to cancel the booking and return the amounts received by the Builder/Developer/Promoter and the Borrower agrees and acknowledges that any such request by SBI and payment made by the Builder/Developer/Promoter under this clause to _____ (Name of Bank/Loaning Agency) shall be binding upon the Borrower.

3. That if for any reason there is any increase/escalation in the cost of the said flat/plot, the increase shall be paid and borne by the Borrower(s) without any reference to the _____ (Name of Bank/Loaning Agency) and until such payment is made, the _____ (Name of Bank/Loaning Agency) shall have the right to suspend further disbursement of the said loan.

4. That the agreement for sale is already entered into by the borrower and the Builder/Developer/Promoter and duly registered or shall be entered into by the borrower and Builder/Developer/Promoter and duly registered as per standard format of _____ (state RERA rules to be mentioned of the state where the project is under progress). The said registered agreement for sale is/shall be delivered to the bank.

(Wherever registration of agreement for sale is not mandatory under Registration Act as applicable in the State/ RERA provisions, the clause will not be applicable. In case registration is not mandatory, the un-registered sale agreement shall be delivered to the Bank/Loaning Agency).

5. That the Builder/Developer/Promoter and borrower agree that they shall comply with the provisions of Real Estate Regulation & Development Act, 2016 and _____ (state RERA rules to be mentioned of the state where the project is under progress). The Builder/Developer/Promoter and borrower agree that they shall inform the Bank immediately upon suspension or revocation of registration of the project under the said Act. In the event of the borrower claiming any amount including but not limited to refund of amount paid with interest or compensation or interest for delay from the Builder/Developer/Promoter under the above Act for any reason, the Builder/Developer/Promoter shall make payment of such amount direction to the Bank/Loaning Agency and the borrower agrees that such payment to the Bank/Loaning Agency shall be binding on him and deemed to be discharge of his liability to the extent of the money so paid to the bank/Loaning Agency. Further, the borrower shall be liable for interest, if any, payable to the Builder/Developer/Promoter under the above Act for any reason whatsoever.

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6. That in the event of the Builder/Developer/promoter cancelling the said booking for any default committed by the Borrower(s) or the project is shelved by the Builder or for any other reason whatsoever, the Builder/Developer/Promoter shall pay, all amounts received by the Builder/Developer/Promoter from _____ (Name of Bank/Loaning Agency) on behalf of the Borrower(s) along with accrued interest on home loan account OR, any amount received on behalf of the Borrower(s) from the _____ (Name of Bank/Loaning Agency) including the amount paid by the Borrower directly to the Builder/Developer/Promoter, whichever is lower, within the period of 90 days from the effective date of request by _____ (Name of Bank/Loaning Agency). However, the builder/developer/promoter shall be entitled to recover cancellation and/or any other charges, if any payable by the Borrower under the terms of application form for purchase of the said flat/plot and/or agreement to sell/construction out of the surplus available if any after full recover of bank's dues only in the instance where the Borrower has cancelled the booking of the flat/plot or has committed any default.

7. That on the receipt of the entire consideration amount and other dues payable by the borrower/purchase as per Agreement for sale/allotment letter by Builder/Developer/ Promoter shall execute a proper Conveyance Deed/Sale Deed/Lease Deed in favour of the Borrower. The Builder undertakes to deliver the same alongwith original registration fee receipt directly to the _____ (Name of Bank/Loaning Agency) and not to the Borrower(s). Before the execution of the Sale Deed/ Conveyance Deed/ Leas Deed, the builder shall inform the _____ (Name of Bank/Loaning Agency) about the same on the completion of the project.

8. That the builder agrees that the loan amount may be credited to the loan account number _____ with _____ (Name of Bank/Loaning Agency & Branch), from where the builder have availed financing facility for the project. [Wherever applicable] or Current account number _____ (RERA/Escrow Account as available in RERA records).

9. That the Borrower(s) shall also keep informed the _____ (Name of Bank/Loaning Agency) about the development in the project. The Borrower shall notify the _____ (Name of Bank/Loaning Agency) the date of taking over the possession of the said flat/plot. In case the Borrower(s) comes into possession of the Leas Deed/ Conveyance Deed/ Sale Deed, he/she shall immediately deliver the same to the _____ (Name of Bank/Loaning Agency).

10. That the Borrower(s) assures that he/she will not avail finance from any other bank or Financial Institution in respect of the aforesaid flat/plot and/or will not create further mortgage/charge over the said flat/plot (allotted to the borrower) in any manner whatsoever.

11. That the Borrower(s) shall pay all charges, duties, taxes in respect of the said flat/plot imposed or payable to the Builder/Developer/Promoter and or to Corporation or any other Government Development/Authority in respect of the said flat/plot and the _____ (Name of Bank/Loaning Agency) shall not be liable or responsible in any manner whatsoever or howsoever for the same.

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12. That the Borrower(s) agrees and acknowledges to keep the _____ (Name of Bank/Loaning Agency) indemnified against any loss or damage incurred by it in the event of failure of the Borrower(s) to honour or to meet any of its obligations under this Agreement in connection with the sanctioning of the loan in respect of the said flat/plot

13. That during the currency of the loan, the Borrower(s) shall not transfer the said flat/plot to any other person, without the prior written consent of the _____ (Name of Bank/Loaning Agency). The Builder/Developer/Promoter shall not issue the duplicate allotment letter/possession letter to the Borrower(s) without the prior written consent of the _____ (Name of Bank/Loaning Agency).

14. It is understood that the term 'loan' mentioned herein shall include interest, penal interest and all other sums payable by the borrower(s) to the _____ (Name of Bank/Loaning Agency).

15. That in the event of any default by the Borrower(s) and on occurrence of such an event if Builder/Developer/Promoter fails to return the amount paid by _____ (Name of Bank/Loaning Agency) to the Builder/Developer/Promoter, _____ (Name of Bank/Loaning Agency) may at its discretion enforce the security by the sale and the Builder/Owner(s) shall accept the Purchase of the said flat/plot in place of Borrower(s), after the Purchaser complies with the necessary requirements and fulfils all the obligations of the Builder/Developer/Promoter in this respect in the place and stead of the Borrower(s). That any payment of the consideration amount, which shall accrue as outstanding dues alongwith accrued interest on home loan account during such transition period, till the next Borrower/Purchaser is confirmed for purchase of the flat/plot shall be made good by the borrower or the subsequent borrower/purchaser who shall be stepping into the footsteps of the previous borrower.

16. In the event of default of repayment of the loan and/ or the borrower(s) committing any other default which make the borrower liable for the repayment of the entire amount outstanding in the said loan as per the terms of the loan agreement executed between the borrower and the bank, or if the borrower withdraws from his agreement or builder cancels the booking of the borrower, or in the event of failure of the builder to complete the project, or in the event of death of the borrower, or in any event where the title to the scheduled flat/plot is not/ not being passed on to the borrower or in any other eventualities of the nature by which the loan advanced by the bank is not utilized for the purpose for which it was so advanced or breach of any of the terms and conditions contained in this agreement, the entire amount advanced by the bank on account of the borrower alongwith up to date interest shall be refunded by the builder to the bank. If the entire amount refunded by the builder is insufficient to close the loan account, borrower shall make immediate arrangements for payment of such deficit amount as may be required to close the loan account. If the builder fails to repay the amount as stated under this clause, the borrower shall repay the entire loan amount with interest, expenses, penal charge, etc., in terms of the loan agreement executed by the borrower(s).

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17. That the Builder assures the _____ (Name of Bank/Loaning Agency) that the construction shall be completed as per schedule and as per the sanctioned plans and on completion of construction, the title of the flat/plot with proportionate undivided share in the land shall be conveyed in the name of the Borrower(s). Any modification from original sanction plan will be carried out by the builder after obtaining approval from competent authority and the same will be binding upon the borrower. Bank in no way will be responsible for any such modifications.

18. That it is further made clear and understood by all the parties that the noncompletion of the project or the happening of any event shall not affect the obligations of the Borrower(s) to repay the loan availed from _____ (Name of Bank/Loaning Agency).

19. That the said flat/plot is free from all encumbrances, charges, lien, attachemtn, prior agreements, whatsoever or howsoever. The party at first part and second party will not do any act or deed which will affect the security of the flat/plot / or charge created in favour of _____ (Name of Bank/Loaning Agency) in any manner whatsoever. Further, if the Builder/Owner creates any encumbrance or raises any loan from any bank or financial institution for funding the construction of the project, then under such circumstances it shall be the responsibility of the Builder/Owner to provide necessary NOC to the bank before disbursement of home loan to the borrower.

20. That there is no order of attachment by the Income Tax Authorities or any other authority under any law for the time being in force nor any notice of acquisition or requisition has been received in respect of the said property.

21. That this Agreement shall not affect in any manner whatsoever the duties and obligations of the Borrower(s) and the terms and conditions agreed to by the Borrower(s) in the Loan Agreement and other documents executed in favour of _____ (Name of Bank/Loaning Agency) shall remain binding upon the Borrower(s).

22. That in case acquisition, forfeiture/resumption of the said property, _____ (Name of Bank/Loaning Agency) shall be entitled to get the compensation settled in respect of the said flat/plot and to appear and act before the Collector/ Revenue Officer/ Estate Officer or any other concerned authorities, to sign any form, to give any statement, affidavit, application on Borrower's behalf, to receive the compensation in its own name and on the Borrower's behalf, to file appeal in any court for the enhancement of the compensation amount, to get the compensation amount enhanced and to receive the same.

23. That the bank or its officials will not be responsible for merits of the project, such as facilities, amenities, completion period, cost, regulatory and statutory approvals, quality of construction etc., or any attribution to the builders from these projects and expressly disclaim any liability in this regard. Further, the Bank shall under no circumstances be held responsible for any dispute between the Borrower/Builder/Third party arising out of such involvement/ investment/ purchase of units in the project.

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24. The responsibilities of the builders under this tripartite agreement will be extinguished only after delivering the duly registered Conveyance Deed/ Sale Deed/ Lease Deed directly to the bank and handing over the possession of the residential unit to the borrower(s) and thereafter the validity of the Tripartite Agreement will come to an end.

25. It is agreed that in case of cancellation of the allotment of the flat/ plot by AWHO in terms of its rules of allotment, AWHO reserves its right of re-entry and re-possession of the flat/ plot. Such right shall not be enforced by AWHO unless a Notice in writing of not less than 06 (six) month is served on the Bank setting out the precise breach for which the right is purported to be exercised, and an opportunity is given to the Bank to rectify or to get rectified the breach. No right of re-entry shall be exercised if within the aforesaid period of 06 (Six) month the Bank or the Borrower has rectified the breach to the satisfaction of the AWHO. Right to enforce re-entry and re-entry shall continue to be available to AWHO even after the expiry of 06 (Six) month. Subject to the provisions as contained in Clauses 26 & 27 below the Bank shall be entitled to enforce forthwith it's lien to the flat/ plot/dwelling unit and recover it's dues out of the sale proceeds thereof and there after AWHO shall be entitled to deal with the balance of the sale proceeds in accordance with the provisions of the Scheme.

26. It is agreed and understood in an eventuality of the allottee/loanee causing any breach of the provisions of allotment of AWHO and/or terms of re-payment of the housing loan, even after taking over physical possession/registration of the flat/ plot, the Bank may initiate any legal action in accordance with the existing laws of the land to recover the outstanding amounts/dues including the principle loan amount, interest, any other administrative and legal expenses from the allottee/loanee, including by way of sale of the mortgaged flat/ plot. However, in such eventuality, the Bank shall without fail, offer to AWHO the first right to take over the mortgaged flat/ plot after clearing outstanding dues. Only after refusal of AWHO in writing to take over the said mortgaged flat/ plot, shall the Bank be entitled to take further course of action as permissible in law, however keeping AWHO informed in writing well in advance and also make available all such Legal/Public Notices/Notifications served to the allottee/loanee or published in News Papers/Public Forums from time to time. Further, the Bank while taking legal course to dispose off the flat/ plot by way of public auction, shall ensure that the auction purchaser strictly comply with the eligibility conditions as well as disposal conditions of Property as laid down in Rules 12 and 80 of AWHO Master Brochure July'87 (As Amended upto 01st Jun 2019) or any subsequent amendments which may be deemed necessary and come into force from time to time shall also be binding on the Bank. In no circumstances, shall the Bank deviate from the above laid down rules of the AWHO for the sale of the mortgaged property to recover the unpaid loan amount from the allottee/loanee.

27. It is also agreed that the Bank shall be responsible to ensure that the higher bidder emerged in accordance with Clause 26 above, shall execute/submit all legal documents and pay Transfer/Applications fees as applicable to AWHO for allocation of an unique Registration Number.

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IN WITNESS WHEREOF the parties hereto have signed this Agreement on the day, month and year first herein above written.

Signed and delivered by the :-

- i) Shri/Smt/Ms _____
- ii) Shri/Smt/Ms _____
- iii) Shri/Smt/Ms _____

(Signature of the Borrower/Allottee)

WITNESSES

- 1. Name, address & occupation
- 2. Name, Address & Occupation

(Signature on behalf of the AWHO)

WITNESSES

- 1. Name, Address & Occupation
- 2. Name, Address & Occupation

(Signature on behalf of Housing Loan Agency)

WITNESSES

- 1. Name, Address & Occupation
- 2. Name, Address & Occupation

SCHEDULE OF PROPERTY

Flat/ Plot No_____ Category _____ Name of Colony & Block _____ AWHO
allotment letter No _____dated _____loan
sanctioned _____Period of loan_____.

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