

UNDERTAKING-CUM-INDEMNITY
(to be stamped for Rs.600/- & Notarized)

This **UNDERTAKING-CUM-INDEMNITY** ("Undertaking") is signed and executed on this _____ day of _____, 20__ by:

The **PROMOTER**, the details whereof are given in **Annexure I** hereto (hereinafter referred to as "**the PROMOTER**") of the First Part;

The expression **PROMOTER** shall, unless repugnant to the context or meaning thereof, is deemed to mean and include:

- (i) in case the Promoter is an individual or HUF of a sole proprietorship, his/ her heirs, administrators and executors and legal representatives;
- (ii) in case the Promoter is a partnership firm formed under the Partnership Act, 1932, the partners for the time being and from time to time and their respective legal heirs, executors and administrators of last such surviving partner; and
- (iii) in case the Promoter is a company incorporated under the Companies Act, its successors and permitted assigns.
- (iv) in case the Promoter is the governing body of a Society, respective successors of the members of the governing body and any new members elected, appointed or co-opted

IN FAVOUR OF:

SVC Cooperative Bank Limited, a Multi-State Co-operative Bank deemed to be registered under The Multi-State Co-operative Societies Act, 2002 having its registered office at SVC Tower, Nehru Road, Vakola, Santacruz (East), Mumbai - 400 055 (hereinafter referred to as the "**Bank**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns);

WHEREAS:

- A. The Promoter is in the business of construction and development of properties for commercial and residential purposes and is required to register its real estate projects under The Real Estate Regulation And Development Act, 2016, ("**Act**") and the Act also requires the Promoter to deposit the Specified Percentage (as defined hereinafter) of the realized collection from the allottees in respect of the sale of the flats / shops / offices / commercial premises / row houses / bungalows / rooms / godowns / garages / units constructed and forming part of the Project (as defined at Annexure I hereto), from time to time, in a special account ("**RERA Account**", more specifically defined at Annexure hereto) to cover the cost of construction and the land cost and shall be used only for that purpose and in relation to that specific Project:
- B. The Promoter has therefore approached the Bank and has requested the Bank for opening of an RERA Account with the Bank and for appointment of the Bank as an account bank in respect of the said Project and basis the representations of the Promoter and in lieu of this Undertaking, Bank has agreed to open and maintain the RERA Account and to thereafter allow the Promoter(s) to withdraw the balance amount remaining in the said RERA Account in accordance with the Act and the Rules made thereunder (as defined hereinafter) and in the manner hereinafter provided.

AND IN CONSIDERATION OF THE ABOVE, the Promoter hereby irrevocably agrees, confirms and undertakes with the Bank and these presents witnesseth as follows:

1. The Promoter understands, agrees and confirms as under:

- a. That it shall complete, execute and deliver to Bank all such forms, documents and writings required by Bank in respect of the RERA Account.
- b. That Bank shall keep a debit and credit freeze on the RERA Account till the Promoter submits documents to Bank as per Annexure 2 hereto and that if the Promoter does not furnish the Project registration certification from the Real Estate Regulatory Authority as defined under section 2(i) of the Act ("**Authority**") within **45 days** of the opening of the RERA Account, the RERA Account shall be automatically closed.
- c. That the title of the RERA Account may be changed or modified basis the receipt of the final Project registration certification from the Authority.
- d. That it shall comply with all the applicable laws including but not limited to the Act and the relevant RERA rules passed by the states across India ("**Rules**"). No cheques, demand drafts or other payment or delivery instruments shall be issued in respect of the RERA Account. Provided that this shall not prevent the Bank from issuing such pay orders or electronic instructions for transfer of funds for payment of the amounts in accordance with the terms of this Undertaking.
- e. That the RERA Account shall be opened and operated only in accordance with this Undertaking, Act and the Rules.
- f. That Bank only acts as an agent of the Promoter for carrying the instructions furnished by the Promoter as contemplated hereunder.
- g. That the RERA Account shall be operated as under:
 - i. Any deposit made into the RERA Account shall be irrevocable and shall be withdrawn only in accordance with this Undertaking.
 - ii. Bank shall not be responsible or liable or be obliged in any manner whatsoever to ensure the deposit of any funds into the RERA Account and shall also not be liable to check or verify whether the stipulated percentage of the amounts deposited in the RERA Account from time to time for the Project out of the amounts realised in respect of the Project from the allottees, as mandated by the Act ("**Specified Percentage**") or not.
 - iii. The Promoter shall submit the following three certificates along with a covering letter in the format set out at Annexure 3 herein below, to Bank for each instance of withdrawal of any amounts from the RERA Account till the occupancy certificate in respect of the Project is obtained:
 - First, from the project architect certifying the percentage of completion of construction work of the Project;
 - Second, a certificate from the engineer for the actual cost or the balance cost, as the case may be to be incurred on the construction work of the Project; and
 - Third, a certificate from a practicing chartered accountant, for the final computation of the funds that can be withdrawn from the RERA Account of the Project as specified by RERA authority and considering what has already been withdrawn. .
 - iv. The Promoter shall follow the aforesaid procedure at the time of every withdrawal from the RERA Account till occupancy certificate in respect of the Project is obtained. On the receipt of the completion certificate in respect of the Project, the project architect, engineer and chartered accountant shall issue communication with regard to the completion of the Project in terms of a joint written notice supported with a copy of the said occupancy certificate for the full Project and the entire balance amount lying in the RERA Account can then be withdrawn by the Promoter. Thereafter upon the withdrawal of all the amounts in the RERA Account, the RERA Account shall be automatically closed.
 - v. Bank shall freeze all withdrawals out of the RERA Account upon the lapse of the Project certification by the Authority and the Promoter shall have to furnish the same to Bank for the re-commencement of the withdrawals from the RERA Account as per sub-clause nos. iii and iv hereinabove.

- vi. The Authority upon the revocation of the Project certification shall direct the Bank to freeze the RERA Account and thereafter issue further necessary directions to Bank, including but not limited to de-freezing of the RERA Account.
 - vii. The Promoter has appointed a project architect, engineer and practicing architect for the Project in order to ensure compliance with the requirements of the Act and shall furnish all the details/information/documents as required by Bank in respect thereof. Any changes in the details of the project architect, engineer and practicing architect for the Project along with their supporting documents shall be immediately furnished to Bank.
 - viii. Bank shall strictly rely on the certificates issued by the project architect, engineer and chartered accountant and that the Promoter shall not raise any dispute in regard to the transfers made pursuant to the terms of this Undertaking.
 - ix. Any payment by Bank shall be made without any deduction or withholding for or on account of any tax unless such deduction or withholding is required to be made by Bank in its capacity as an Account Bank under applicable laws.
- h. That Bank can call for further information and / or documents necessary for the operation of the RERA Account and/or as per the legal and/or regulatory requirements and that Bank shall not be obliged to make any transfers from the RERA Account if the necessary documents and / or information sought by it are not furnished to it.
- i. That Bank shall release or transfer from the RERA Account the amounts lying therein, without incurring any liability or responsibility pursuant to an order, judgment or decree or any direction from the Authority ordering such release or such transfer and Bank shall intimate the Promoter regarding such release or such transfer, if the same is legally permissible.
- j. That Bank shall not be obliged to make any payment or otherwise to act on any notice received by it, if it is unable to verify any signature on the notice against the specimen signature provided by project architect, engineer and chartered accountant and/ or its relevant authorised representative or any notice is illegible, unclear, incomplete, garbled, erroneous, ambiguous or contradictory to the terms hereof. In the event of any such ambiguity in the notice so received, Bank may inform the concerned party who has issued the notice and seek further advice on the issue, if any.
- k. That Bank may, in good faith, accept and rely on any notice, instruction or other document received by it under this Undertaking as conclusive evidence of the facts and of the validity of the instructions stated in it and as having been duly authorised, executed and delivered and need not make any further enquiry in relation to it. Bank shall be entitled to rely upon any order, certification, demand, notice, or other written instrument delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or validity of service thereof. Bank shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document.
- l. That Bank shall not be liable to any person or entity for any loss, liability, claim, action, damages or expenses arising out of or in connection with the operation of the RERA Account save and except for its own gross negligence or wilful default. Under no circumstances will Bank be liable to any party for any indirect, punitive or consequential loss or damages, even if advised of the possibility of such losses or damages.
- m. That Bank shall not be liable or responsible for obtaining any regulatory or governmental or other approval in connection with or in relation to the transactions contemplated herein.

- n. That all acts to be done by Bank shall be required to be done only on a Business Day and during usual banking business hours. In the event that any day on which Bank is required to do an act under this Undertaking, is not a Business Day or is a day on which banking business cannot, for any reason beyond the control of Bank, be conducted, then Bank shall be entitled to do those acts on the next succeeding Business Day. For the purposes of this Undertaking, the term “**Business day**” shall mean any day, other than, Saturday and Sunday and any days declared as “Public Holidays” in accordance with Section 25 of the Negotiable Instruments Act, 1881, on which banks are open for business during banking business hours;
 - o. That the Promoter shall fully comply with its duties and obligations under the Act including but not limited to determining the amount to be deposited in the RERA Account and that Bank is under no obligation to look into the correctness of the amounts so deposited in the RERA Account to ascertain that the amounts so deposited are in accordance with the Act and the Rules made thereunder.
 - p. That Bank is deemed not to have any knowledge or notice of any fact or circumstance not specifically set forth in this Agreement and shall have no other obligations or duties other than those expressly set out in this Undertaking.
 - q. That Bank may, at any time, discontinue this arrangement by giving written notice to such effect to the other Parties. On receipt of a notice from Bank, the Promoter shall intimate the Authority of such resignation with a copy of this communication simultaneously marked to Bank. The Promoter shall also furnish to Bank, the written confirmation from the Authority acknowledging the receipt of the Promoter’s communication in respect of Bank’ notice for discontinuance of this arrangement. The Promoter shall appoint a successor Account Bank as soon as reasonably possible and in any event within thirty (30) days of receipt of the aforesaid notice and shall inform the details of the successor account bank to the Authority and Bank. The Promoter shall also furnish to Bank, the written confirmation from the Authority acknowledging the receipt of the Promoter’s communication in respect of the appointment of the successor account bank. The arrangement shall be deemed to be discontinued upon expiry of 30 days after the date of receipt of the notice and subject to the Promoter furnishing the abovementioned communications to Bank, Bank shall transfer the funds lying in the RERA Account to a RERA account opened with the successor account bank and thereafter Bank shall be discharged of all its obligations hereunder.
2. The Promoter hereby indemnifies and keeps Bank (and, without limitation, its directors, officers, agents and employees) (each an Indemnified Party), indemnified and hold each of them harmless from and against any and all losses, liabilities, claims, actions, damages, fees and expenses claimed (including lawyers' fees and disbursements), arising out of or in connection with this Undertaking or the RERA Account, save as are caused by the Indemnified Party’s own gross negligence or wilful default. This clause shall survive the termination of this Undertaking and/or the discontinuance of this arrangement by Bank.
 3. This Undertaking shall be governed by the laws of the Republic of India and be subject to the exclusive jurisdiction of the courts of Mumbai.

This Undertaking is signed by Company, at Mumbai on the day, month and year mentioned above.

SIGNED AND DELIVERED

by Mr/Mrs. _____

as an authorised signatory of

in the presence of

Annexure 1

DETAILS OF THE PROMOTERS AND PROJECT

Name of the Promoter(s)	
Registered Address of the Promoter	
Name of RERA Account (“ RERA Account ” shall mean the non-interest current account opened and maintained by the Promoter with the Account Bank)	
Name of the Project as specified in RERA application / Certificate (“ Project ” shall mean the new or the ongoing project including but not limited to phases of a project consisting of a building or a wing of the building in case of building with multiple wings or defined number of floors in a multi-storeyed building/wing, for which registration has /shall be done with the Authority as per section 3 of the Act)	
Address of the Project as specified in RERA application / Certificate	

Annexure 2
FORMAT OF INTIMATION TO THE BANK

To,
Manager,
SVC Cooperative Bank Ltd.
_____, Branch

Subject: RERA A/c No.

Dear Sirs,

We refer to the Undertaking cum Indemnity dated_____.

We would like to intimate you of the following details of the Project (Please tick appropriate Option):

- ☐ 1. **New Registration** of the Project with the RERA Authority. The certificate is valid till_____. Please find attached the RERA Registration Certification along with Letter of Appointment from the Architect, Engineer and Chartered Accountant for the project. Request you to please activate the RERA Account.
- ☐ 2. **Change in Project Architect/Engineer/Chartered Accountant.** There has been a Change of the designated Architect / Engineer / Chartered Accountant for the Project. Please find attached the letter of appointment of newly appointed Architect / Engineer / Chartered Accountant for the Project for your information and records.
- ☐ 3. **Extension of Validity of RERA Certificate.** The validity of the RERA Registration certificate has been extended by the RERA Authority. The new expiry date of the certificate is . Please find the revised certificate issued by the Authority for your information and records.
- ☐ 4. **Project Completion.** The Project has been completed. Please find a copy of the Occupation Certificate of the Project along with Final Certificates from the Architect, Engineer and Chartered Accountant for the Project for your information and records. Please close the RERA account after transferring all the funds from the RERA Account as follows:

Sr. No.	Particulars
1	Account Name
2	Account Number
3	Bank Name
4	Branch
5	IFSC Code
6	Amount

Yours truly,

Authorised Signatory(s)

Annexure 3
LETTER FOR WITHDRAWAL OF FUNDS FROM RERA ACCOUNT

To,
 Manager,
 SVC Cooperative Bank Ltd.
 _____Branch.

Subject: RERA A/c No _____

Dear Sir/Madam,

We refer to the Undertaking cum Indemnity dated_____.

Enclosed herewith are following documents for withdrawal of the funds from the RERA Account:

1. Certificate from the Project Architect certifying the percentage of completion of construction work of the Project;
2. Certificate from the Project Engineer for the actual cost and balance cost to be incurred on the construction work of the project; and
3. Certificate from a Practicing Chartered Accountant, for the final computation of the funds that can be withdrawn from the RERA Account of the project as per guidelines drawn by RERA authority and considering what has already been withdrawn.

We hereby instruct you to release an amount of Rs._____.
 (Rupees_____only) from the RERA Account and transfer to the account as detailed below:

Sr. No.	Particulars
1	Account Name
2	Account Number
3	Bank Name
4	Branch
5	IFSC Code
6	Amount

Yours truly,

 Authorised Signatory(s)