

TRIPARTITE AGREEMENT
(BUILDER SUBVENTION FACILITIES)

This Agreement is made and executed at on this ... day of 20.....

BETWEEN

Shri/Smt Son /daughter/wife of Shri/Smt

R/o

(hereinafter called the "**Borrower**" which term so far as the context admits shall mean and include his/her heirs, executors, successors, administrators and legal representatives of the First Part.

AND

....., a company within the meaning and provisions of the Companies Act, 2013 and having its Registered Office at

hereinafter referred to as the "BUILDER" (which expression shall unless the context otherwise requires, include its successors and permitted assigns) of the Second part

AND

INDIABULLS HOUSING FINANCE LIMITED, a Company within the meaning and provisions of the Companies Act, 2013, and having its registered Office at "M – 62 & 63, First Floor, Connaught Place, New Delhi- 110001 [hereinafter called the "IHFL" which expression shall unless repugnant to the context shall include its successors or assigns] of the Third Part.

WHEREAS, as part of its business activity, builder has been developing the project being "....." situated at (hereinafter referred to as the "**Project**").

AND WHEREAS the Builder has invited applications for allotment by sale of residential unit in the said project for which various payment options have been offered to the customers;

AND WHEREAS the Builder herein confirms that all approvals, permissions and clearances pertaining to the said Project, its operation and land underneath have been duly obtained as per applicable laws from the respective authorities.

AND WHEREAS the Builder and the Borrower have entered into an agreement dated for the purchase of unit no in the said Project of the Builder;

AND WHEREAS the Borrower under the Subvention Scheme has approached IHFL for a Loan of Rs towards payment of the sale / purchase consideration of the residential unit in the Project;

AND WHEREAS the Borrower has represented that the Builder is of his choice and that he has satisfied himself with regard to integrity, capability for quality construction of the Builder and the Builder's ability for timely completion and on time delivery of the Project;

AND WHEREAS the Borrower has agreed to secure with IHFL the said residential unit under finance as and by way of mortgage of all the rights, title, benefits that would accrue from the said residential unit till the currency and term of the said loan advanced / to be advanced. The Builder

also agrees and confirms that they shall take note of the said mortgage/ charge created by the Borrower and undertake not to create any third party rights or security interest of any sort whatsoever on the said residential unit without the prior written consent of IHFL;

(Applicable only in case where the Builder has taken a project loan) AND WHEREAS the Builder hereby declares that they have taken a project loan from (Insert name of the project lender as applicable) _____ on this Project. The Builder undertakes to provide necessary NOC from (Insert name of the project lender) _____ before disbursement of loan and thereafter the said flat will be and remain free from all encumbrance(s) charge or liability of any kind whatsoever.

OR

(Applicable only in case where the Builder has not taken any project loan as on date) AND WHEREAS the Builder assures that at present the said residential unit is not subject to any encumbrance, charge or liability of any kind whatsoever and the property is free and marketable. In case, the Builder avails project loan from any financial institution in future, the Builder shall give prior written intimation to IHFL in this regard forthwith and provide NOC with respect to the said flat/ residential unit funded by IHFL from that financial institution in favor of IHFL acknowledging the first charge/ lien/ mortgage of IHFL.

AND WHEREAS based on several representations made by the Borrower, the Lender granted a loan of Rs./- (Rupees only) to the Borrower, in terms of the Loan Agreement dated (hereinafter referred to as the "Loan Agreement") duly executed by the Borrower;

AND WHEREAS IHFL based on such requests and representation and at its sole discretion, shall make disbursements under the Loan, which factor is hereby confirmed and acknowledged by the Borrower herein;

AND WHEREAS IHFL has considered the said request with a clear understanding and an irrevocable undertaking by the Borrower that subsequent to the disbursement, if any, as requested by the Borrower, there would be no repayment default for any reason whatsoever including but not limited to any concern/issues by and between the Borrower and the Builder;

AND WHEREAS the Borrower has represented, and such representation being a continuing representation, that Borrower's obligation to repay the Loan shall be a distinct and independent obligation more particularly independent of any issues/concern/dispute of whatsoever nature between the Borrower and Builder;

AND WHEREAS one of the conditions for IHFL sanctioning the said Loan to the Borrower was that the understanding as stipulated in the recitals above shall be reduced and recorded in writing with an understanding and intent of making the same irrevocable, binding and enforceable by and between the Borrower and the Builder such time this formality is complied with to the satisfaction of the Lenders and documents in evidence thereof are delivered to the Lenders & there will be no disbursement pursuant to the Loan Agreement;

AND WHEREAS in consideration of IHFL agreeing to give loan to the Borrower, all the Parties have agreed as under.

NOW THEREFORE IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES THAT:

1. The foregoing recitals as mentioned above are incorporated herein by this reference and constitute an integral part of this Agreement.
2. The housing loan advanced to the borrower by IHFL shall be subject to the Borrower's repayment capacity as assessed by IHFL and shall be secured against the first and exclusive mortgage of the residential unit to be acquired in the Project in favour of IHFL.
3. The housing loan advanced to the Borrower by IHFL shall be repayable by the borrower by way of Equated Monthly Installments (EMI). The date of commencement of EMI shall be the first day of the month following the month in which the disbursement of the loan will have been completed and consequently the due date of payment of first EMI shall in such a case be the first day of the following month. Till the commencement of EMI the borrower shall pay Pre-EMII, which is the simple interest on the loan amount disbursed calculated at the rate of interest as mentioned in the respective loan agreement of the Borrower.
4. **The Borrower has informed IHFL about the scheme of arrangement between the Borrower and the Builder in terms whereof the Builder hereby assumes the liability on account of interest payable by the Borrower to IHFL during the period to be referred to as the "Liability Period" in terms of ... months, from the date of first disbursement of loan facility i.e. till 20.....,and/or any other period as agreed by and between the borrower and the Builder, more particularly referred under Schedule I annexed herein (the Liability period is referred to as "Assumed Liability for the Builder"). It is however agreed that during the liability period the payment of assumed liability is joint and several by and between the Borrower and the Builder. The assumption of liability by the Builder, in no manner whatsoever releases, relinquishes and/ or reduces the liability of the Borrower and that same shall not be affected in any manner on account of any difference and / or dispute between the Borrower and the Builder under the arrangement between them.**
5. That IHFL shall disburse the Loan as per the stage of construction of the Project may warrant as assessed by IHFL in its sole discretion and such decision being full and final.
6. That irrespective of the stage of construction of the Project and irrespective of the date of handing over the possession of the residential unit to the Borrower by the Builder, the Borrower shall be liable to pay to IHFL regularly each month the EMI as laid down in the Loan Agreement to be signed by and between IHFL and the Borrower, subsequent to completion of the Liability Period. The Borrower shall execute such other documents as may be required by IHFL in favor of IHFL in this regard.
7. The Borrower shall ensure to pay to the Builder his own contribution not less than % of the cost of the unit prior to availing of the disbursement from IHFL {hereinafter referred to as "Earnest money"}.
8. That IHFL shall, at the request of the Borrower, disburse the balance sale consideration to the Borrower by way of cheque drawn in favor of the Builder. Any balance payment or any payment towards escalation towards the cost of the residential unit shall be made by the Borrower himself to the Builder.
9. That the Builder shall not hand over the actual and physical possession of the said unit/residential apartment to the Borrower before execution and registration of the Sale Deed and the original registered Sale Deed shall be submitted to IHFL directly by the Builder to be kept by IHFL towards security for the said loan without recourse to the borrower, to which the borrower hereby expressly consents and also authorizes the builder to deposit the documents on his/her behalf.

10. That if the Borrower fails to pay the balance amount representing the difference between the loan sanctioned by IHFL and the actual purchase price of the unit/residential apartment, or in the event of death of the Borrower or in the event of cancellation of the residential unit for any reason whatsoever, the parties hereto agree that the total amount received by the Builder (prior to execution of sale deed) on account of the residential unit shall be applied and utilized as specified in clause no. 13. The Borrower hereby subrogates all his rights for refund with respect to the said residential unit in favor of IHFL.
11. Further if the Borrower commits a breach of any of the terms and conditions of this Tripartite Agreement it shall be treated as an event of default under the Agreement for Sale / Allotment cum Agreement for sale or any such agreement or document signed by and between the Borrower and the Builder for the sale of the said residential unit.
12. It is hereby agreed between the parties that the subvention interest paid/borne by the Builder, for and on behalf of the Borrower, during the continuity of liability period (in terms of clause number 4), to IHFL is non-refundable. The Builder hereby undertakes that they shall not make any claim for refund of subvention interest, which has been already paid to IHFL, in the event of cancellation of allotment or on account of any other reason, whatsoever.
13. That in the event of occurrence of default under the Loan Agreement and/or the Apartment Buyer agreement, which would result in the cancellation of the Allotment as a consequence thereof and/or under any other provisions of this agreements and/or for any reason whatsoever if the allotment is cancelled, or in the event of borrower requesting for cancellation of the allotment of the residential unit in his favor, the total amount received by the Builder and amount payable to the Borrower on account of such cancellation shall be directly paid to IHFL under intimation to the borrower for appropriation and adjustment by IHFL against all monies due to it from the borrower/s, till the date of closure of loan account. The Builder shall be liable to refund the total amount due to IHFL as agreed aforesaid till the time the sale deed of the said entire property is not executed.

In other words, the parties hereto agrees that in the event of cancellation of the allotment for any reason whatsoever, the total amount received by the Builder (prior to execution of sale deed) on account of the residential unit shall be applied and utilized as follows:

- a) Firstly, to refund the total amounts due to IHFL from the borrower, as on the date of closure of loan account, as specified in the foreclosure statement.
- b) Secondly, the Builder shall be entitled to retain to the extent of earnest money from the Borrower's contribution.

However, it is further agreed between the parties that such payment made by the Builder directly to IHFL shall not absolve the Borrower from his liability to pay the residual amount, if any, from the outstanding under the Loan Agreement.

14. That the Borrower agrees that it unconditionally and irrevocable subrogates its right to receive any amount payable by the Builder to the Borrower in the event of cancellation in favor of IHFL and that the act of payment by the Builder to IHFL under this clause shall amount to a valid discharge of builder's obligation to pay the Borrower such cancellation amount.

15. Further the parties agree that the Builder shall in no circumstances forfeit any amount over and above the amount equivalent to the difference between the amount received by the Builder on account of the residential premises and the total amount due to IHFL from the borrower, as on the date of closure of loan account.
16. Further, the Builder, in the event of default of repayment as mentioned in clauses hereinabove, shall on intimation by IHFL, within 30 days from the date of issuance of such notice, cancel the allotment of the residential unit in favor of the borrowers and all monies advanced by IHFL & Borrower shall be refunded to IHFL, directly under intimation to the borrower for appropriation and adjustment by IHFL against all monies due to it from the Borrower as mentioned above in clause no. 13.
17. In case of cancellation of the residential unit, as mentioned in the above-mentioned clauses of this agreement, the Builder hereby agrees to make the payment of the total amount due to IHFL at the earliest and in any case not beyond 30 days from the date of the issuance of allotment cancellation notice by IHFL. Further, if the Builder fails to refund total amount due to IHFL within 30 days from the date of issuance of notice, the Builder shall be liable to pay penal interest @ 24% per annum on total amount due till the date of refund.
18. The Builder also confirms and undertakes that it shall submit to IHFL all documents for the Project as requested by IHFL and shall keep IHFL informed of the progress of the project and shall obtain a clearance from IHFL before handing over possession of the respective unit to the borrower.
19. Any or all disputes arising out of or in connection with this Tripartite Agreement shall be subject to exclusive jurisdiction of the Courts at New Delhi
20. This Agreement shall come to an end upon occurrence of any of the following events –

Registration of Conveyance Deed/ Sale Deed in favor of the Borrower and deposit of the sale deed with IHFL by the Builder

OR

Termination of allotment of unit to the Borrower by the Builder, in terms of the documents of allotment and this agreement and upon payment of entire outstanding loan amount, in terms hereof, by the Builder to IHFL.

Signed and Delivered by the within-named Borrower	Signature of all Borrower(s)
Signed and Delivered by the within-named builder by the hand of	Signature of Builder Signatory with Company Stamp
Signed and delivered by the within-named Indiabulls Housing Finance Limited by the hand of	Signature of Credit Manager with IHFL Stamp

SCHEDULE- I

Details of the Subvention Scheme	
Liability Period (Definition)	Liability Period shall mean and include the liability assumed by the Builder on account of interest payable by the Borrower to IHFL
Duration of Liability Period (in months)	
Broken Period, if any (disbursal in mid of month)	
Subvention Period	From/...../..... to/...../.....
Commencement of the scheme/...../.....
End of the scheme/...../.....
Date of commencement of Borrower's liability to pay Pre-EMI/EMI interest on Balance term of loan	From/...../.....

Signed and Delivered by the within-named Borrower	Signature of all Borrower(s)
Signed and Delivered by the within-named builder by the hand of	Signature of Builder Signatory with Company Stamp
Signed and delivered by the within-named Indiabulls Housing Finance Limited by the hand of	Signature of Credit Manager with IHFL Stamp