**Agreement of Project Management**

**THIS AGREEMENT OF PROJECT MANAGEMENT** made at \_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_ in the Christian Year Two Thousand \_\_\_\_\_\_\_\_.

**BETWEEN**

A. B. ENTERPRISES, a registered Partnership Firm through its Partners (1) ABC, and (2) XYZ, having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter called **“THE OWNERS”** (which expression shall unless contrary to the context or meaning, thereof mean and include its successors and assigns) of the ONE PART; AND EXCLUSIVE SERVICES LIMITED, a Public Limited company incorporated under the Companies Act, 1956 having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ represented by its Chairman and Managing Director PQR, hereinafter called **“THE PROJECT MANAGERS”** (which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include its successors and assigns) of the OTHER PART;

**WHEREAS :–**

(a) The Owners are well and sufficiently entitled to and are seized and possessed of all the ownership right, title and interest in the immovable property more particularly described in the **SCHEDULE** hereunder written and which property is hereinafter referred to as **“the said Property”**. The said property stands in the name of the Owners in the relevant Government records and the Owners are fully entitled to deal with and develop the said property. The said property is occupied by several tenants and occupants.

(b) The Project Managers have the relevant and required skills and expertise in development of immovable properties including expertise in construction, financial management, marketing etc;

(c) The Owners are desirous of entrusting to the Project Managers the works relating to the development of the said property to be carried out for and behalf of the Owners namely works relating to planning, making arrangements for required finances, designing, construction and sale of constructed premises in buildings to be constructed on the said property (hereinafter referred to as the **“PROJECT”**) on turnkey basis and the Project Managers have agreed to accept such appointment and to manage the affairs of development of the said property for and on behalf of the owners by providing their services on the terms and conditions recorded in this agreement.

**NOW THIS AGREEMENT WITNESSETH** and it is hereby agreed and recorded by and between the parties hereto as follows:—

1. The Owners **declare and confirm** as under:—

(a) The Owners are well and sufficiently entitled to the said property and that their title to the said property is free and marketable subject to the rights of existing tenants/occupants.

(a) No other person except the Owners have any right, claim or demand in respect of the said property or any part thereof;

(b) The Owners have not created any charge, lien or encumbrance by way of sale, gift, mortgage, lease or any other third party rights on the said property. The said property is not subject to any claim or demand, encumbrance, attachment or any process issued by any Court or Authority and the title of the said property is not under any lispendens.

(d) The Owners have not entered into any arrangement with any one for development or sale of the said property.

(e) No Notice from any authorities or under any statute has been served upon the Owners in respect of the said property which restricts or may restrict the development of the said property.

2. The Owners hereby appoint and authorize the Project Managers to act as their **“Turnkey Project Managers and Consultants”** for development of the said property and the Project Managers hereby accept such appointment upon the terms and conditions appearing hereinafter.

3. **RESPONSIBILITIES, DUTIES AND OBLIGATIONS OF THE PROJECT MANAGERSS**

3.1 To arrange and provide required finance for the project from its commencement till its completion and to carry out construction of all buildings including buildings for rehabilitation of Tenants/occupants. This finance shall be on account of the Owners. This finance shall be provided by the Project Managers either by arranging part sales of the premises of the new construction at the rates agreed with the Owners or by raising loan from financial institution/banks. If such finance is arranged from any financial institution/bank, the Owners agree to pay interest on the same.

3.2 To deal with all and any Government, Semi-Government, Municipal and other concerned local authorities and agencies for obtaining requisite permissions, approvals, sanctions etc. for commencement and completion of the project.

3.3 To totally plan and design the entire project and to get work executed as per the sanctioned drawings.

3.4 To carry out planning, designing, preparation of layout plans, and construction of buildings including planning of various project related amenities as a Housing Complex and including construction of buildings for rehabilitating Tenants/occupants.

3.5 To pay and deposit on behalf of the Owners amounts towards fees/charges/deposits/premiums etc. and to receive refund of the same.

3.6 To pay on behalf of the Owners for all the material required and used for construction in the project.

3.7 To appoint Architects, Engineers, R.C.C. consultants, Managers, Works Supervisors, Staff etc.

3.8 To arrange execution of the soil investigation work from parties specialized in the field.

3.9 To survey the site including planning, designing and preparation of preliminary architectural drawings for the Project and getting the same approved from the Owners and their Architects.

3.10 To prepare preliminary cost estimate of the Project including of land development works like roads, footpaths, compound wall, water supply, sewerage, storm water drainage and electrification.

3.11 To Plan, design and prepare the architectural and structural drawings.

3.12 To prepare the tender documents comprising the technical specification, General Terms and Conditions, Special Conditions etc. for inviting tenders.

3.13 To invite tender from its registered contractors/short-listed contractors or by open tendering as per norms of tendering by following rules and procedure.

3.14 To evaluate the tenders and to award the works to contractors in consultation with the Owners.

3.15 To pay on behalf of the Owners for the labour and manpower in the form of Contractor/s.

3.16 To prepare estimates of cost of the various items of work.

3.17 To submit to the Owners periodically (every month but not later than once in three months) statement of expenditure on the project duly certified by its representative. On completion of all works of the project, the accounts of the work shall be closed and a final statement thereof shall be submitted for determining the total cost of the Project and to be audited by a mutually agreed Chartered Accountant.

3.18 To make payments towards the project expenditure which shall be made by transfer of funds in a separate bank account to be opened in any Bank in the name of the Owners and earmarked for the project.

3.19 To its best endeavor to reduce the cost of construction by any change of specifications, method of construction, value engineering or any innovative or economical design. Such reduction in the cost of construction to be made without affecting/prejudicing or endangering in any way the safety or security of the buildings constructed in the project.

3.20 To be fully responsible for the quality and structural safety of the construction. The Project Managers shall make their Contractors responsible for rectification of any defects within the warranty period, which shall be for a period of 12 months from the date of handing over of any buildings and amenities of the project. The Project Managers will make provision in agreement with the contractors that the Security Deposit of the Contractor shall be refunded only after expiry of warranty period and rectification of defects period.

3.21 To remain responsible for proper structure, workmanship and liability for defects of the building constructed by it for a period of twelve months from the date of completion of project.

3.22 Any defect discovered and brought to the notice of the Project Managers during the period aforesaid shall be rectified forthwith by Project Managers through the concerned contractor or by themselves at their own cost and expense. Upon such failure on part of the Project Managers, without prejudice to any other rights available to them in law, and after due notice to the Project Managers, the same shall be rectified by the Owner for and on behalf of and at the cost and expense of the Project Managers. The Owner shall have the right to deduct or set off the expenses so incurred by it from or against any amount due and payable or to become due and payable or to the Project Managers under this agreement or to claim the same from them.

3.23 The Project Managers, unless otherwise specified shall be fully responsible for procurement of all required material and services for construction and completion of the project as contemplated herein.

3.24 The Project Managers shall be fully responsible for observance and compliance of all labour and other laws applicable to the project and shall indemnify and keep indemnified the Owner against effect of any non-observance of any such laws.

3.25 At the end of the project, any surplus item, material, or goods for which payment has been made on account of the Owners, shall be disposed off by the Project Managers at mutually agreed price and amount credited to Owners. The Project Managers shall also clear the site of their materials etc. within one month from the date of completion of the Project failing which the Owners shall dispose it off in the manner deemed fit by the Owners.

3.26 To do in the name of the Owners all acts necessary and incidental to the commencement and successful completion of the project within the stipulated time.

3.27 The Project Managers shall take all major decisions with the prior consent of the Owners.

4. **RESPONSIBILITES AND OBLIGATIONS OF THE OWNERS**

4.1 To make available the site for construction of individual buildings of the project free of all encumbrances.

4.2 To extend full co-operation to the Project Managers and render assistance in obtaining all permissions and sanctions required for development of the project as may be requested by Project Managers.

4.3To execute a limited Power of Attorney in favour of the Project Managers to do and perform all acts on their part as envisaged hereunder.

5. **COMPLETION OF THE PROJECT**

5.1The Project, subject to (i) force majore and circumstances beyond control of the Project Managers; (ii) dispute or challenge to the Owner’s title to the said property by any third party; (iii) stop work Notice from any Governmental, Municipal (Building Proposal) Dept. or Revenue and other Statutory bodies; and (iv) injunction from any Court, shall be completed in all respects within a period of \_\_\_ months from the date specified in Clause 5.2 below.

5.2 The date of start of the work shall be reckoned from the 15th day after the date of approval of Building plans by the local authorities and granting permission for commencement of the work.

6. **FEES OF THE PROJECT MANAGERS**

Out of the total gross project realizations/sale proceeds of the constructed premises, the Project Managers shall be entitled to receive the following:-

(a) Fees of \_\_\_\_\_\_% (\_\_\_\_\_\_\_\_ percent only) of total gross realizations to arise from the sale of “free sale areas” of the Project as their charges/fees for project management, consultancy, supervision and for services rendered.

(b) The gross sale proceeds shall not include the amounts collected/received from the purchasers of constructed premises towards share-money; society formation charges, taxes and maintenance charges; legal fees; deposits; stamp duty and registration charges; club membership charges; charges in respect of general amenities of the complex or cost of additional and extra work to be carried out for the Purchasers of premises.

7. In consideration of their appointment as Project Managers and receiving charges/fees as aforestated, the Project Managers on execution hereof shall deposit a sum of Rs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_/- (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only) as a refundable security deposit with the Owners for due performance of the obligations of the Project Managers under the present contract. The said security deposit shall be refunded by the Owners to the Project Managers without any interest once the complete development of the said project including total sales is over.

8. 8.1 The Agreements for Sale of the constructed premises in the buildings shall be made and executed in the name of the Owners. All net sale proceeds realized/received from time to time under such agreements (pending the final accounts) shall be applied and appropriated as follows:—

(a) \_\_\_\_\_\_\_% thereof shall be transferred to development account for utilization towards cost of development of the Project and repayment of funds raised and interest thereon.

(b) \_\_\_\_\_\_\_% thereof shall be transferred to the “Owners Bank account” for use by the Owners.

(c) \_\_\_\_\_\_\_% thereof shall be transferred to the Project Managers to be applied towards payment of part of their agreed fees.

 **—————**     100% TOTAL
 **—————**

 8.2 All the sale proceeds shall be first received and deposited in Owners main bank account. The funds from the main account shall be disbursed in the proportions mentioned in Clause 8-1 above. A separate bank account under the name of “Development Account” shall be opened in the name of the Owners and shall be operated by the Owners. From the “Development Account” amounts shall be disbursed as per Clause 8-1 above.

 8.3 The final accounts shall be arrived at within\_\_\_\_months from the date of completion of the project.

9. Timely completion of the entire development is essence of agreement. In the event, for any reason whatsoever, if the Project Managers fail or neglect to complete the construction work as provided in clause \_\_\_\_\_\_ hereinabove, in that event the Owners themselves, after expiry of the stipulated period and after giving 60 days notice to the Project Managers, would be entitled to takeover the project and to complete the remaining construction on their own or by appointing any other agency.

10. It is the intention of the parties hereto that by executing this presents, the Owners are not transferring or intending to transfer to the Project Managers the ownership or possession of the property or any part thereof to the Project Managers. This Agreement is also not a lease nor an agreement to sell the said property nor it is intended to give possession of the said property to the Project Managers u/s 53-A, of the Transfer of Property Act, 1882. It is agreed and expressly clarified that bare permission and licence will be given to the Project Managers to enter upon the said property for the construction of the building and development of the said property and for sale of flats, shops and parking spaces and other areas by marketing for on behalf of the owners as provided herein above.

11. The provisions herein do not constitute any Partnership and/or joint venture between the parties hereto. The appointment of Project Managers is strictly as “Project Managers and Consultants” only by the Owners for the development of the said property and does not in manner create any right, title or interest in favour of the Project Managers in the said property nor does it make them Co-owners in the said property. Each of the parties shall remain liable to pay and discharge their respective tax liabilities arising on their share of profits/remuneration/income from the project. Each of the parties shall bear and pay the professional charges of their respective legal advisors.

12. The Project Managers **shall not assign** the benefit of this Agreement to any one without the previous written consent of the Owners.

13. Any disputes, differences or non performance or non-payment between the Owners and the Project Managers arising under this agreement, **shall be referred to arbitration** under the provisions of Arbitration and Conciliation Act, 1996. Such Arbitration shall be held at\_\_\_\_\_\_\_.

THE SCHEDULE ABOVE REFERRED TO:

(Description of the said property)

In witness whereof the parties hereto have hereunder affixed their respective hands and seals the day and year hereinabove.

SIGNED AND DELIVERED BY THE )

withinnamed OWNERS A. B. )

ENTERPRISES by its partners )

(1) ABC and (2) XYZ )

in the presence of …….. )

THE COMMON SEAL of the withinnamed )

EXCLUSIVE SERVICES LIMITED )

was hereunto affixed pursuant to )

the Resolution of its Board of Directors )

passed in that behalf on the \_\_\_\_\_\_\_\_\_ )

day of \_\_\_\_\_\_\_\_\_\_\_ 200\_ by its )

Chairman and Managing Director PQR, )

in the presence of ………… )

DATED THIS DAY OF \_\_\_\_\_\_\_, 200\_\_

M/S. A. B. ENTERPRISES ..OWNERS

A N D

EXCLUSIVE SERVICES LIMITED

 ……PROJECT MANAGERSS

**AGREEMENT OF PROJECT
MANAGEMENT CONSULTANCY**