

AGREEMENT

This Agreement is made this day of in the year, between

..... (Company Regn. No. and
BRN No.) represented by **Mr/Ms**

..... (NID No.
.....) and duly registered at the CIDB bearing Regn. No.

..... Of (hereinafter referred to as the
"Employer")

on the one part

and

..... (Company Regn. No.
..... and BRN No.) having its registered office
at and duly registered at the CIDB bearing
Regn. No. represented by **Mr**

..... (NID No.
.....) (hereinafter referred to as the **"Contractor"**)

on the other part

Whereas

- A. The Contractor has submitted an offer for the construction of a residential building of an area of **sqm** (hereafter referred to as the Works) as per the drawings and other documents (hereinafter referred to as the Contract Drawings) prepared by the Employer.
- B. The Employer has accepted the Contractor's offer and agrees that in consideration for the execution of the Works the Employer shall pay the Contractor the amount of MUR
..... (Rupees)

The Employer and the Contractor hereby agree as follows:

1. Scope of Works

- 1.1 The Contractor shall perform the Works required under this Contract in accordance with the Contract Documents. For any Contract for construction works of the value of Rs 1 million or more (excl. VAT), the Contractor shall submit a valid certificate of registration issued by the Construction Industry Development Board (CIDB).
- 1.2 The Works comprises the Construction, completion and maintenance of a residential building located at
- 1.3 The Contractor shall provide all supervision, labour, Materials, Plant and Contractor's Equipment to complete the Works ("*Gris*").
- 1.4 The Scope of Works is as follows:

SN	Milestone	Scope of Works
1	Preliminary Site Works	• Mobilisation on Site, Site clearance, Site Preparation, Setting-out and Excavation

2	Foundation up to surface bed level	• Laying of blinding layer • Casting of column bases and strip footings • Blockwork and Hardcore fillings • Anti-termite treatment and Installation of damp-proof course • Laying of plastic sheeting on compacted rocksand • Mesh reinforcement and Casting of concrete surface bed
3	Blockwork, columns up to beam level	• Blockwork and Casting of columns and beams, including all reinforcement in accordance with the engineer's drawings
4	Casting of roof slab	• Shuttering and Laying/tying of reinforcement bars • Casting of roof slab and curing (minimum 15 days curing)
5	External rendering	• Apply plaster to external walls, cornices, overhangs, reveals and the like
6	Internal rendering and other works	• Apply plaster to internal walls, soffit of roof slab, reveals and the like, and installation of Waterproofing membrane to roof slab and testing thereof and submission of 10-year warranty by a CIDB registered waterproofing provider) • Completion of outstanding works prior to Taking-Over
7	Completion of outstanding works during Defects Liability Period	• Completion of snag list and making good/completion of outstanding works, • Dismantling of all contractor's equipment and temporary installations and removing from site and clearance of debris from the site

2. Contract Price

- 2.1 The agreed sum for the full scope of the Works as per item 1.4 hereabove is **MUR**
- 2.2 The contract is a fixed price and no increase whatsoever shall be allowed for any fluctuations in materials, plant, equipment or labour, and/or any increases arising in connection with items such as transport, fuel, freight, duties, taxes, fluctuations in exchange rates, and devaluation.
- 2.3 However, the Contract Price may be subject to adjustments(s) in case of Variation of Works. All Variations shall be approved in writing and the costs agreed before execution thereof.

3. Time for Completion

- 3.1 The Contractor shall commence the Works on the date mutually agreed by the parties (i.e. the Commencement Date), and the Contractor shall proceed expeditiously and without delay and shall complete the Works within **calender days** (referred to as the Contract Period) as from the Date of Commencement of Works.

4. Contract Documents

- 4.1 The following Documents shall be deemed to form part and be construed as part of this Contract :
- (a) this Agreement
 - (b) the Scope of Works
 - (c) the Schedule of Payment
 - (d) the Drawings prepared by the Employer
 - (e) the Specifications
 - (f) the Bill of Quantities, if applicable
- 4.2 The documents are to be taken as mutually explanatory of one another. If an ambiguity or discrepancy is found in the documents, the Employer shall issue any necessary instructions to the Contractor and such instructions shall be agreed by the parties.

5. Access to Site

- 5.1 The Employer shall provide the Site and right of access as from the date of commencement of the works.

6. The Contractor

- 6.1 Upon signature of this Agreement, the Contractor shall submit to the Employer a programme for the Works in the form of a bar chart.
- 6.2 The Contractor shall carry out the Works properly and in accordance with this Agreement.
- 6.3 The Contractor shall provide all supervision, labour, Materials, Plant and Contractor's Equipment as may be required.
- 6.4 All Materials and Plant brought on the Site shall become the property of the Employer once payment thereof has been satisfied.
- 6.5 The Contractor shall not subcontract any part of the Works without the consent of the Employer.
- 6.6 The Contractor shall allow other contractors employed by the Employer to access the site for services which are to be embedded and concealed in the Works.

7. Employer's Liabilities

- 7.1 In this Agreement, the Employer's shall be liable for the following events: war; civil disorder; any operation of the forces of nature affecting the Site and/or the Works, which was unforeseeable or against which an experienced contractor could not reasonably have been expected to take precautions; Force Majeure; physical obstructions or physical conditions of the site other than climatic conditions, encountered on the Site during the execution of the Works; any delay or disruption caused by any instruction for Variation; any change in the law of this Contract after the date of signature of the Agreement; and adverse climatic conditions.
- 7.2 The Employer shall be responsible for obtaining the building permit and submit a copy to the Contractor prior to the start of the Works.

8. Extension of Time

- 8.1 The Contractor shall be entitled to an extension to the Time for Completion if he is or will be delayed by any of the Employer's Liabilities.
- 8.2 On receipt of an application from the Contractor, the Employer shall consider all supporting details provided by the Contractor and shall extend the Time for Completion as appropriate.

9. Late Completion

- 9.1 If the Contractor fails to complete the Works within the Time for Completion, the Contractor shall pay a penalty to the Employer for such failure the amount of **MUR** for each day for which he fails to complete the Works. The maximum limit of the penalty shall be 10% of the Contract Sum. The Employer shall be entitled to deduct the said amount without fulfilling any formality or "mise en demeure"

10. Taking-Over

- 10.1 The Contractor shall inform the Employer when the Works is substantially complete, the Employer shall then inspect the Works and issue a Taking-Over Notice, and shall take over the Works accordingly. In absence of any notice from the Contractor the Employer may take over the Works and the Works shall be deemed to have been taken over at the that date.
- 10.2 After taking over, the Contractor shall immediately complete any outstanding works and/or defects identified by the Employer and shall thereafter clear and vacate the Site.

11. Remedying Defects

- 11.1 The Defects Liability Period shall be of a duration of one year, which shall commence as from the date of Taking over Notice, or deemed completion as the case may be, by the Employer.
- 11.2 The Employer may at any time prior to the expiry of the Defects Liability Period, notify the Contractor of any defects or outstanding work.
- 11.3 The Contractor shall immediately remedy at no cost to the Employer any defects due to the Materials, Plant or workmanship not being in accordance with this Agreement.
- 11.4 Failure to remedy any defects and/or complete the outstanding work within a reasonable time of the Employer's notice shall entitle the Employer to carry out all necessary work at the Contractor's cost and deduct same from monies due to the Contractor or claim this amount as a debt owed by the Contractor to the Employer.

12. Variations

- 12.1 The Employer may instruct an addition to or omission from, or other change in the Works, and such instruction shall be valued at appropriate rates in case a Bill of Quantities is appended to the Contract, or any new rates in case of a lump sum as may be agreed by the parties, or which the Employer considers reasonably to be appropriate.

13. Claims

- 13.1 The Contractor shall notify the Employer as soon as he is aware of any circumstances which may delay or disrupt the Works, or which may give rise to a claim for additional payment.
- 13.2 The Contractor shall take all reasonable steps to minimise the effects of these circumstances.
- 13.3 The Contractor's entitlement to an extension to the Time for Completion or additional payment shall be limited to the time and payment which would have been due if he had given prompt notice and had taken all reasonable steps to mitigate the delay. In absence of the said notice, no extension of time or additional cost will become payable.
- 13.4 The Claims for additional payment shall be calculated pro-rata to the amount provided under the Preliminaries in the Contract Sum, or as may be agreed by the parties.

14. Interim Payments

- 14.1 The Works shall be valued as per provisions of this Clause.
- 14.2 The Contractor shall be entitled to be paid the value of Works executed, as per the Payment Milestone below, subject to any additions or omissions which may be due.

Valuation for Building (Ground Floor Only)

SN	Stage	%	Cumulative %	Amount (Rs)	Cumulative Amount (Rs)
	SUB-STRUCTURE				
1	Excavation for Foundation	3	3		
2	Cast of Foundation	5	8		
3	Blockwall up to plinthe incl. columns	4	12		
4	Formwork, reinforcement and cast of plinthe	2	14		
5	Hardcore filling & ground floor slab	5	19		
	SUPERSTRUCTURE-GROUND FLOOR				
6	Blockwall up to cills, incl. columns	5	24		
7	Blockwall up to lintels, incl. columns & lintels	5	29		
8	Blockwall up to beam soffit, incl. columns	5	34		
9	Formwork, reinforcement and cast of beams	5	39		
10	Formwork, reinforcement for staircase	2	41		

SN	Stage	%	Cumulative %	Amount (Rs)	Cumulative Amount (Rs)
11	Formwork, reinforcement for slab	7	48		
12	Cast staircase	2	50		
13	Cast slab	9	59		
	FINISHING WORKS				
20	Metal/Aluminium Openings placed	6	65		
21	Internal rendering	6	71		
22	External rendering	5	76		
23	Floor screeding	2	78		
24	Plumbing installation, incl. fittings	3	81		
25	Sanitary Appliances	2	83		
26	Ceramic Tiles	2	85		
27	Electricity supply incl. fittings	3	88		
28	Glazing	3	91		
29	Painting	3	94		
	MISCELLANEOUS WORKS				
30	Any other miscellaneous works to complete the project(septic tank, boundary wall, landscaping, gate, fencing, soak aways, etc..)	6	100		
	COMMISSIONING	100	100		

NOTE

If downpayment of 10% applies then first payment will be effective as from completion of item 4 above less the 10% downpayment

Valuation for Building (Ground Floor+1)

SN	Stage	%	Cumulative %	Amount (Rs)	Cumulative Amount (Rs)
	SUB-STRUCTURE				
1	Excavation for Foundation	2	2		
2	Cast of Foundation	4	6		
3	Blockwall up to plinthe incl. columns	3	9		
4	Formwork, reinforcement and cast of plinthe	2	11		
5	Hardcore filling	1	12		
	SUPERSTRUCTURE-GROUND FLOOR				
6	Blockwall up to cills, incl. columns	3	15		
7	Blockwall up to lintels, incl. columns & lintels	2	17		
8	Blockwall up to beam soffit, incl. columns	2	19		
9	Formwork, reinforcement and cast of beams	2	21		
10	Formwork, reinforcement for staircase	1	22		
11	Formwork, reinforcement for slab	3	25		
12	Cast staircase	2	27		
13	Cast slab	6	33		
	SUPERSTRUCTURE-FIRST FLOOR				
14	Blockwall up to cills, incl. columns	3	36		
15	Blockwall up to lintels, incl. columns & lintels	3	39		
16	Blockwall up to beam soffit, incl. columns	3	42		
17	Formwork, reinforcement and cast of beams	3	45		

SN	Stage	%	Cumulative %	Amount (Rs)	Cumulative Amount (Rs)
18	Formwork, reinforcement for slab	4	49		
19	Cast slab	6	55		
	FINISHING WORKS				
20	Metal/Aluminium Openings placed	9	64		
21	Internal rendering	6	70		
22	External rendering	5	75		
23	Floor screeding	2	77		
24	Plumbing installation, incl. fittings	3	80		
25	Sanitary Appliances	2	82		
26	Ceramic Tiles	1	83		
27	Electricity supply incl. fittings	2	85		
28	Glazing	3	88		
29	Painting	5	93		
	MISCELLANEOUS WORKS				
30	Any other miscellaneous works to complete the project(septic tank, boundary wall, landscaping, gate, fencing, soak aways, etc..)	7	100		
	COMMISSIONING	100	100		

NOTE

If downpayment of 10% applies then first payment will be effective as from completion of item 4 above less the 10% downpayment

14.3 Within **7 days** after completion of each milestone as per the Payment Schedule, the Employer shall pay to the Contractor the amount due for the works executed less retention at the rate of **10%** of the Contract Price, and less any amount for which the Employer has specified his reasons for disagreement and any previous payments effected.

15. Payment of Retention

15.1 One half of the retention shall be paid by the Employer to the Contractor within **7 days** after issuing the Notice of Taking-Over or the date of Taking Over by the Employer.

15.2 The remainder of the retention shall be paid by the Employer to the Contractor within **7 days** after either the expiry of the Defects Liability Period, or the remedying of notified defects or the completion of outstanding work, whichever is the later.

16. Final Payment

16.1 Within **7 days** after either the expiry of the Defects Liability Period, or the remedying of notified defects or the completion of outstanding work, whichever is the later, the Contractor shall submit a final account to the Employer together with any documentation to enable the Employer to ascertain the final contract value. In case of failure by the Contractor to submit the final account the Employer shall prepare and submit the Final Account to the Contractor within 14 days from the date of the expiry of the Defects Liability Period.

16.2 Within **14 days** after the submission of the final account, the Employer shall pay to the Contractor any amount due or the Contractor shall reimburse the excess amount paid to the Employer.

17. Delayed Payment

17.1 The Contractor shall be entitled to interest at the rate of **2%** above the Key Repo Rate for each day the Employer fails to pay beyond the prescribed payment period.

18. Default by the Contractor

18.1 If the Contractor refuses or fails to comply with a valid instruction of the Employer or fails to proceed expeditiously and without delay, or stops execution of the Works for more

- than **14 days** without reasonable excuse, or is in breach of this Contract, or abandons the Works, the Employer may give notice referring to this Sub-Clause and stating the default.
- 18.2 If the Contractor has not taken all practicable steps to remedy the default within **14 days** after the Contractor's receipt of the Employer's notice referred to in clause 18.1, the Employer may by a second notice given within a further **14 days**, terminate the employment of the Contractor under this Agreement.
- 18.3 After termination, the Contractor shall demobilise from the Site leaving behind Materials and Plant for which payment have been made and shall leave the site and the Works in a safe condition.

19. Default by the Employer

- 19.1 If the Employer fails to pay the Contractor in accordance with this Agreement, or is, despite a written complaint, in breach of this Agreement, the Contractor may give notice referring to this Sub-Clause and stating the default.
- 19.2 If the default is not remedied within **7 days** after the Employer's receipt of the notice referred to in Clause 19.1, the Contractor may suspend the execution of the Works.
- 19.3 If the default is not remedied within **14 days** after the Employer's receipt of the Contractor's notice, the Contractor may by a second notice given within a further **14 days**, terminate this Contract.
- 19.4 After termination, the Contractor shall demobilise and leave the site and the Works in a safe condition.

20. Insolvency

- 20.1 If a Party is declared insolvent under any applicable law, the other Party may by notice terminate this Contract immediately.
- 20.2 After termination, the Contractor shall, expeditiously, demobilise from and vacate the Site.

21. Payment upon Termination

- 21.1 After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the Materials and Plant reasonably delivered to the Site, adjusted by any sums to which the Contractor is entitled and/or any sums to which the Employer is entitled,
- 21.2 After termination, the net balance due shall be paid by the Employer or reimbursed by the Contractor within **14 days** of the notice of termination.

22. Risk and Responsibility

- 22.1 The Contractor shall take full responsibility for the care and safety of the Works from the commencement of Works until the date of the Employer's notice of Taking-Over.

23. Force Majeure

- 23.1 "*Force Majeure*" means an exceptional event or circumstance:
- (a) which is beyond a Party's control;
 - (b) which such Party could not reasonably have provided for against before entering into this Contract;
 - (c) which, having arisen, such Party could not reasonably have avoided or overcome; and
 - (d) which is not substantially attributable to the other Party.
- 23.2 If the performance of the whole or any part of this Contract is delayed for more than **60 days** by a "*Force Majeure*", either party shall, by notice in writing to the other party, be entitled to terminate this Contract.

24. Insurances

- 24.1 The Contractor shall submit, prior to the commencement of works, the following insurances in the joint names of the Parties and pay all costs in connection thereof:
- (a) for loss and damage to the Works, Materials, Plant, Contractor's Equipment, property of third parties and Employer's property other than the Works; and
 - (b) for personal injury or death of Contractor's personnel, Employer's representatives / employees, and third parties.

25. Alternate Dispute Resolution

- 25.1 Any dispute arising out of, or in connection with, this Contract may, unless it is amicably settled, be decided upon by an Adjudicator to be appointed jointly by the parties or failing agreement to be named by the CIDB. The decision of the Adjudicator shall be complied by each party within 14 days of the issue of the decision.
- 25.2 Should either party be dissatisfied with the decision they may refer the matter to an Arbitrator within 14 days of the decision of the Adjudicator. The Arbitrator shall be named by the CIDB who shall conduct the proceedings in accordance with the "code de procedure civile" related to arbitration. The arbitrator shall transmit his decision in writing to both parties, which shall be final and binding on both parties.
- 25.3 The arbitration proceedings shall be conducted in English language.
- 25.4 This Agreement shall be subject to the laws of Mauritius.
26. Any dispute arising out of, or in connection with, this Contract may, notwithstanding clause 25, be submitted to the jurisdiction of the Courts of Mauritius.

27. General Provisions

- 27.1 Laws importing persons or parties shall include firms and organisations.
Words importing singular or one gender shall include plural or the other gender where the context requires.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed in their respective capacity as of the day and year first above written.

For and on behalf of **Employer**

For and on behalf of **Contractor**

Signature:

Signature:

Name and Title
of Signatory:

Name and Title
of Signatory: