

CONSTRUCTION AGREEMENT

This Construction Agreement (the "**Agreement**") is made and entered into on (the "**Effective Date**"), by and between:

1. _____, a company incorporated under the Companies Act, 2013 with PAN _____ and its registered office located at _____ (hereinafter called as the "**Owner**"); and
2. _____, a company incorporated under the Companies Act, 2013 with PAN _____ and its registered office located at _____ (hereinafter called as the "**Contractor**").

The Owner and the Contractor are hereinafter individually referred to as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS:

1. The Owner is desirous of constructing a commercial office ("**Office**") with intent to lease out the Office to multinational companies for office purposes.
2. The Owner wishes to engage the Contractor to construct the Office and the Contractor accepts the engagement to construct the Office and the Contractor is ready to construct the Office; and
3. The Parties are desirous of executing their understanding on the subject matter in writing.

NOW THEREFORE, in consideration of the mutual promises of the Parties, the Owner and the Contractor agree as follows:

1. Construction work:

- a. The Contractor shall construct the Office according to the approved construction plan and subject to the terms and conditions of this Agreement.
- b. The Contractor shall not make any modifications to the approved construction plan, except without prior written consent of the Owner.
- c. The Contractor shall arrange all labor, materials, equipment, supplies and other items necessary to construct the Office.

2. Construction period:

- a. The Contractor shall commence the construction work only when directed in a written notice issued by the Owner.
- b. The construction work shall commence no later than _____ and shall be completed within _____ months from commencement.
- c. In view of the difficulty or impossibility of determining the Owner's damages from construction delay, if the Contractor fails to construct the Office within agreed completion date, the Contractor agrees to a deduction of a sum of _____ for each day of delay as liquidated damages for such delay.
- d. If liquidated damages exceed the last installment of the contract price due or to become due, then the Contractor shall pay the Owner the difference within 3 days of receipt of written demand.

3. Contract Price: The Owner shall pay to the Contractor the following contract price, depending on phase wise construction as provided in the approved plan.

4. Payment Schedule:

- a. The Owner shall make monthly payments to the Contractor on account of the contract price.
- b. If the Owner fails to make payments to the Contractor as they become due under the terms of this Contract or in any award by a court, interest at the rate as agreed by the Parties, shall become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly.

5. Contractor's Responsibilities:

- a. The Contractor shall be thoroughly acquainted with all available information concerning the conditions of the construction work and is responsible for correctly and fully estimating the difficulty and cost of successfully performing the construction work.
- b. The Contractor shall study and compare the contract documents sufficiently in advance of beginning each phase or portion of the construction work to be performed and immediately report any material error, inconsistency, conflict, ambiguity, or omission that is discovered to the Owner.
- c. The Contractor shall have a competent superintendent on the site at all times during the progress of the construction work.
- d. The Contractor's superintendent must be acceptable to the Owner. The superintendent shall have such assistants with such individual specialized competencies.
- e. The Contractor shall at all times enforce strict discipline and good order among the workers on the construction site and shall not employ or continue to employ any unfit person on the construction site or any person not skilled in the work assigned to him.
- f. The Contractor shall be responsible to the Owner for all acts and omissions of its employees, subcontractors and suppliers.
- g. The Contractor shall file with the Owner at the time of execution of the Agreement, a performance bond, a payment bond, and a warranty bond on Owner approved forms, each in the full amount of the contract.
- h. The Contractor shall maintain a daily log of construction activities for each calendar day of the contract time, using a form approved by the Owner.

6. Indemnification:

- a. Each Party agrees to defend, indemnify and hold the other Party harmless for, from and against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by such Party's breach of any of the terms or provisions of this Contract, or by any negligent, grossly negligent or strictly liable act or omission of such Party in the performance of this Contract.
- b. No Party shall make any indemnification compromise or settlement without prior written consent of the other Party.
- c. For the avoidance of doubt, it is hereby expressly stated that either Party shall not bear any responsibility for any indemnification compromise or settlement made by the other Party without prior written consent of such Party.

7. Confidential Information:

- a. Each Party shall disclose certain non-public information to the other Party under the Agreement that is marked as confidential or disclosed under the circumstances reasonably indicating its confidentiality (the "**Confidential Information**").
- b. No Party shall disclose Confidential Information to any third party or use the Confidential Information in violation of the Agreement for its own or certain third-party benefit.
- c. Each Party may disclose the Confidential Information to its own employees for the purpose of exercising their rights and obligations under the Agreement provided such employees agreed to abide by the terms and conditions of the Agreement.
- d. Each Party shall treat the Confidential Information with at least the same degree of care and protection as it will use with respect to its own confidential information of a similar nature, but in no event less than a reasonable standard of care.

7. Confidential Information: (continued)

- e. If Recipient believes that it will be compelled by a court or other authority to disclose Confidential Information, it shall:
 - 1) give the disclosure timely written notice so that the disclosure may take steps to oppose such disclosure; and
 - 2) cooperate with the disclosure in its attempts to oppose such disclosure, provided that such opposition is reasonable in light of applicable law or regulation.
- f. The foregoing confidentiality obligations will not apply to Confidential Information that:
 - 1) is already known to the recipient prior to disclosure by the disclosure;
 - 2) is or becomes a matter of public knowledge through no fault of the recipient;
 - 3) is rightfully received by the recipient from a third party not known by the recipient to be bound by a duty of confidentiality to the disclosure with respect to such information;
 - 4) is independently developed by the recipient without using the Confidential Information; and
 - 5) is disclosed by the recipient with the prior written approval of the disclosure.

8. Work inspection:

- a. All construction work done, and all materials are subject to inspection by the Owner to determine if they conform to the contract documents.
- b. The Owner shall at all times have access to the construction work, including materials being fabricated or stored off site.
- c. The Contractor shall furnish any facilities necessary for sufficient and safe access to the construction work.

9. Delays and extensions: If the Contractor is delayed at any time in the progress of the construction work by any neglect act of the Owner or by changes in the work, or by labor disputes or any other similar reason and without any fault or negligence of the Contractor then the contract time shall be extended by the Owner as deemed necessary.

10. Termination:

- a. Either Party may terminate the Agreement, if the other Party commits a material breach and fails to cure such material breach within the cure period agreed by the Parties.
- b. The Owner may terminate the Agreement, if the Contractor fails to conclude the construction work within the stipulated time.
- c. The Agreement may be terminated by the Contractor as a consequence of non-payment of the arrears due to the Contractor by the Owner.
- d. The termination of the Agreement in any of the circumstances aforesaid shall not in any way affect or prejudice any right accrued to any Party against the other Party, prior to such termination.
- e. No Party shall incur liability for any kind of loss or damage suffered by the other Party as a consequence of the legitimate termination of the Agreement by either Party.

11. Limitation of Liability:

- a. Each Party's liability for any claim arising out of or in connection with the Agreement shall not exceed _____.
- b. No Party will be liable to the other Party for any consequential, special, exemplary, or punitive damages arising out of the Agreement.

12. Representations and Warranties: Each Party represents and warrants to the other Party that:

- a. It is a company that has been duly incorporated or organized and is validly existing and in good standing.
- b. It is properly qualified where qualification is necessary for the conduct of its business under the Agreement.

It has adequate corporate and other power to enter into and perform the Agreement.