

## MAINTENANCE AGREEMENT

**THIS MAINTENANCE AGREEMENT (“Agreement”)** is executed at Pune, Maharashtra on this \_\_\_\_ day of \_\_\_\_\_, 2022:

### B E T W E E N

\_\_\_\_\_, an Owner’s Association registered under the Maharashtra Cooperative Societies Act/Maharashtra Apartment Act, 1970, having its Office at \_\_\_\_\_ through its \_\_\_\_\_ Mr. \_\_\_\_\_ S/o \_\_\_\_\_ aged about \_\_\_\_\_ years R/o \_\_\_\_\_ [hereinafter referred to as **“Association”** which expression shall unless repugnant to the subject or context be deemed to include its successor(s) and permitted assign(s) and all the Allottee(s) of the Association and their respective successor(s)/legal heir(s), nominee(s), permitted assign(s), administrator(s) and executor(s)] of the **FIRST PART**.

### A N D

**ASHIANA MAINTENANCE SERVICES LLP**, a Limited Liability Partnership Firm incorporated under the Limited Liability Partnership Act, 2008 (as amended upto date) having its Registered Office at \_\_\_\_\_, Everest, 46/C, Chowringhee Road, Kolkata -700071, and Local Office at \_\_\_\_\_, Village Marunji, Pune, Maharashtra, through its \_\_\_\_\_ Mr. \_\_\_\_\_ S/o \_\_\_\_\_, aged about \_\_\_\_\_ years, R/o \_\_\_\_\_ [hereinafter referred to as **“Maintenance Agency”**, which expression shall unless repugnant to the subject or context be deemed to mean and include its successor(s), representative(s) and permitted assign(s)] of the **SECOND PART**.

The Association and Maintenance Agency shall hereinafter be individually referred to as **‘Party’** and collectively as **‘Parties’**.

### WHEREAS:

- A. Ashiana Housing Limited, a company incorporated under the provisions of the Companies Act, 1956 (as amended upto date) having its registered office at 5F, Everest, 46/C, Chowringhee Road, Kolkata-700071 (hereinafter referred to as the **‘Promoter’**) is developing a group housing project named as **“Ashiana Malhar”(Whole Project)** in phases on a piece of land admeasuring 45898 sqm (**Entire Land**) situated at Marunji, Taluka Mulshi, District Pune (Maharashtra) in terms of a registered Development Agreement (**DA**) entered between the Promoter and the Land Owners(defined in the DA therein).
- B. Promoter is in the process of development and construction of Phase I of the Whole Project Ashiana Malhar.
- C. Association is an association formed by owners of flats/units/spaces in Phase I of the group housing project known as **“Ashiana Malhar-Phase-1” (Said Project)**. The Association has been formed for the purpose of maintenance, management and repair of common areas and facilities in Said Project/Whole Project once the construction of Said Project/Whole Project is complete.
- D. Association is empowered by the Bye Laws of the Association to enter into contracts or agreements with other persons/entities that Association deems fit for implementing the objects of the Association.
- E. Maintenance Agency is a facility management entity engaged in the business of management and maintenance of various residential projects in Bhiwadi, Jaipur, Neemrana, Jodhpur, Pune, Halol, Jamshedpur, etc. and has a very rich and vast experience and expertise in the management and maintenance of large size high rise residential projects having all modern equipment, amenities and facilities such as club house, swimming pool, gym, STP, , power back up system lifts, horticulture etc.

- F. It was further represented by the Maintenance Agency that due to its qualitative and effective maintenance of the projects, it is able to maintain the beauty and aesthetic look of the projects. Apart from qualitative maintenance of the projects, Maintenance Agency organizes various sports, cultural and festive activities from time to time for the benefit and enjoyment of the residents which ultimately provides for a good lifestyle to the residents.
- G. The Association has represented to the Maintenance Agency that Phase-I of the Whole Project is under construction and the Promoter will file for the occupancy certificate for Phase -I of Ashiana Malhar upon its completion.
- H. The Association has represented to the Maintenance Agency that the Said Project shall be handed over by the Promoter to the Association and the Promoter shall be responsible for the maintenance of the phase / project up to three months from the date of occupation certificate of the phase / project excluding the month in which occupation certificate will be issued and thereafter Association shall take over and become responsible for management and maintenance of the phase / project (hereinafter referred to as **“Effective Date”**) and thereafter it shall be the responsibility of the Association to manage and maintain the Said Project/Whole Project.
- I. Association has represented to the Maintenance Agency that the Whole Project is being developed in phases and upon completion it may happen that separate association is formed with each phase and a apex federation formed on completion of the Whole Project or this Association may be identified as a association for the Whole Project. In case Association becomes an association for the Whole Project, the future phases of the Whole Project will be handed over to the Maintenance Agency for commencement of maintenance work as per scope of the maintenance defined in this Agreement and will be maintained in accordance with the terms and conditions agreed hereupon. The same shall become effective from the expiry of 3 months from the date of receipt of occupancy certificate for each phase handed over.
- J. Therefore, the Association is desirous of availing expertise, experience and qualitative services of Maintenance Agency by appointing/assigning the Maintenance Agency for providing the maintenance and management services in respect of common areas and common facilities of the Said Project/Whole Project and the Maintenance Agency has agreed to provide the same in accordance with the terms & conditions of this Agreement.

**NOW, THEREFORE THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

## **1. DEFINITIONS & INTERPRETATIONS**

In Agreement unless the context otherwise requires: -

- a) **“Allottee(s)”** shall mean a Unit owner in the Said Project and includes :
- (i) If the Allottee(s) is an individual then his/her legal successor(s), executor(s), administrator(s), legal representative(s), and permitted assignee(s);
  - (ii) If the Allottee(s) is a Hindu Undivided Family, then its karta and each of the member constituting HUF, their Heirs, executors, successors, administrators and permitted assignees;
  - (iii) In case the Allottee(s) is a Partnership Firm, then its partners for the time being, their respective legal successor(s), executor(s), administrator(s), legal representative(s) and permitted assignee(s) including those of the respective partners; and
  - (iv) In case the Allottee(s) is a limited company, then its legal successor(s), representative(s) and permitted assignee(s);
- b) **“Association”** shall mean either of the following:
- (i) A Society, if formed, of the allottees in the Said Project/Whole Project under the Maharashtra Cooperative Societies Act or

- (ii) A Condominium of Allottees formed under the Maharashtra Apartment Act, 1960 or
- (iii) A Company of allottees formed under the Companies Act
- c) **“Completed Phases of the Whole Project”** shall mean the phases which are completed by the Promoter and handed over to the Association or associations formed with subsequent phases as and when the construction of that phase is complete.
- d) **“Facilities & Services”** shall mean and include the facilities and services to be provided by the Maintenance Agency in accordance with this Agreement and more particularly detailed in **Schedule-I** attached hereto.
- e) **“Force Majeure”** shall mean any event or combination of events or circumstances beyond the control of a Party which cannot (a) by the exercise of reasonable diligence, or (b) despite the adoption of reasonable precaution and/or alternative measures be prevented or caused to be prevented, and which materially and adversely affects a Party’s ability to perform obligations under this Agreement including:
  - (i) acts of God i.e. fire, draught, flood, earthquake, epidemics and other natural disasters;
  - (ii) explosions or accidents, air crashes and shipwrecks;
  - (iii) strikes, lock-outs, civil disturbances, curfew etc.;
  - (iv) war or enemy action or terrorist action;
  - (v) change in Law, Rules and Regulations, injunctions or stay granted by court of law or interim order by Arbitrator;
  - (vi) any event or circumstances analogous to the foregoing which is beyond the control of the parties.
- f) **“Maintenance Charges”** shall mean charges payable to the Maintenance Agency for maintenance and management of the Said Project/Whole Project as described in Clause 6.5 of this Agreement.
- g) **“Maintenance Deposit”** shall mean interest free maintenance security deposit to be paid to the Maintenance Agency as a measure of security for the Maintenance Agency and more fully described in Clause 5.1.
- h) **“Said Project”** shall mean the part of the Whole project being developed on 15622 portion of the Entire Land comprising of flats/Units, club house, parking facility, other amenities and facilities, etc. developed and/or being developed excluding shops and named as **“Ashiana Malhar- Phase I”**.
- i) **“Service Charges”** shall mean charges payable to the Maintenance Agency for services rendered in the Said Project/Whole Project.
- j) **“Water Charges”** shall mean charges paid to the Maintenance Agency in respect of water supplied to the Said Project/Whole Project as described in **Clause 7** of this Agreement.
- k) **“River Water”** shall mean water supplied by the Water Resource Department or any other government agency to the Said Project/Whole Project in accordance with the infrastructure created by the department or the Promoter as per the NOC granted for supply of water to the Said Project/Whole Project.
- l) **“Tanker Water”** shall mean water procured or sourced by the Maintenance Agency from the market through tankers for the use in the Said Project/Whole Project.
- m) **“Usable Area”** shall mean a sum total of Carpet Area plus balcony area of a Unit.
- n) **“Unit”** shall mean flat/apartment in the Said Project/Whole Project having one or more direct exit to a common area and having a separate number and identity and which is meant for its specified use.

- o) **“Whole Project”** shall group housing project being developed on land admeasuring 45898 sqm comprising of flats/Units, club house, parking facility, other amenities and facilities, commercial block etc. developed and/or being developed and named as **“Ashiana Malhar”**.
- p) Words importing singular number include plural number and vice-versa.
- q) Words importing masculine gender include feminine gender and vice-versa.
- r) Headings in this Agreement are inserted for convenience and are to be ignored while construing the meaning of terms and conditions of this Agreement.

## **2. APPOINTMENT OF MAINTENANCE AGENCY**

- 2.1. In consideration of mutual covenants contained in this Agreement, the Association hereby appoints / nominates and engages Maintenance Agency for providing the Facilities & Services in respect of the Said Project/Whole Project and the Maintenance Agency hereby agrees to manage, administer and maintain the Said Project/Whole Project and provide the Facilities & Services in respect of the Said Project/Whole Project.
- 2.2. Maintenance Agency shall commence maintenance services in the Said Project/Completed Phases of the Whole Project with effect from the **“Effective Date”**.
- 2.3. It is agreed between the Association and the Maintenance Agency that in case there is a single association for all the phases of the Whole Project, the collaboration of the Association and Maintenance Agency will be extended to future phases of the Whole Project as well in terms of this Agreement.

## **3. MAINTENANCE AND SERVICES TO BE PROVIDED BY MAINTENANCE AGENCY**

- 3.1. Association and Maintenance Agency have agreed that Maintenance Agency shall manage, administer and maintain the Said Project/Whole Project and provide the Facilities & Services in respect of the Said Project/Whole Project more fully stated and described in the schedule being **Schedule I** attached hereto.
- 3.2. Any services outside the scope of services as set out in the **Schedule I** hereto shall be undertaken by the Maintenance Agency on written request of the Association subject to its own discretion, capability and feasibility of the services on additional charges.

## **4. COMMENCEMENT OF MAINTENANCE SERVICES, TERM AND LOCK-IN-PERIOD**

- 4.1. The term of this Agreement shall come into force from the date of execution of this Agreement. Maintenance Agency shall remain the sole maintenance agency of the Said Project/Whole Project, as the case may be, until this Agreement is terminated strictly as per the terms of **Clause No. 10** hereinbelow (**“Term”**). Either Party shall not be entitled to terminate this Agreement for a period of 5 (five) years commencing from the date of execution of this Agreement for any reason whatsoever (Lock-in-period) subject to Clause 10.4 of this Agreement.
- 4.2. The Association authorizes the Maintenance Agency to obtain from the Promoter a complete list of all the Allottees of the Said Project/Whole Project with complete details like father’s name, permanent address, contact details, email ID, date of possession, Unit No., area, details of tenants, if any, etc. Further, Association also authorizes Maintenance Agency to obtain from Promoter, Unit wise carpet area, balcony area of the Said Project/Whole Project.
- 4.3. Association authorizes Maintenance agency to obtain complete list of all equipment, warranty cards etc. available for carrying out maintenance to the Maintenance Agency under a valid acknowledgement which shall be deemed to be in possession of the Maintenance Agency.

## **5. MAINTENANCE DEPOSIT COLLECTED FROM EACH ALLOTTEE**

- 5.1. Association hereby authorizes and empowers the Maintenance Agency to collect and hold Maintenance Deposit (Interest Free Maintenance Security Deposit) as a measure of security for the Maintenance Agency from the Allottees of the Said Project/Completed Phases of the Whole Project. . The Maintenance Agency shall provide a detail list of Maintenance Deposit collected and held against each Unit to the Association on its request. The Maintenance Deposit to be collected from each Allottee with Effective Date is detailed in **Annexure- 1**.
- 5.2 In case an Allottee(s) sells/transfers his Unit, the Association shall obtain a no objection certificate from the Maintenance Agency with respect to the Maintenance Deposit and any kind of dues towards the Unit.

## **6. MAINTENANCE AND OTHER CHARGES**

- 6.1. It has been agreed by and between the Association and the Maintenance Agency that in consideration of the Maintenance Agency maintaining the Said Project/Whole Project and providing the Facilities and Services as set out in **Schedule I** hereto, Maintenance Agency shall be entitled to the Maintenance Charges including Service Charges and taxes as applicable.
- 6.2 It has been agreed by and between the Association and the Maintenance Agency that in lieu of the services provided by Maintenance Agency, it shall be entitled to raise bills directly to the Allottee(s) for the Facilities and Services provided in the Said Project/Whole Project. Association hereby empowers and authorizes the Maintenance Agency to raise a consolidated quarterly bill in advance for the agreed Facilities and Services to the individual Allottee(s)s.
- 6.3 Maintenance Charges (Fixed Charges + Capital Charges + Reimbursements + Service charges (all defined below in clause 6.5)) for a Unit will be calculated by taking into consideration the Maintenance Charges for all the months in a quarter for the Said Project/Completed Phases of the Whole Project and then proportionately distributed on each Unit on the basis of Total Usable Area of respective Allottee.
- 6.4. Association is aware that the Whole Project is being developed in phases. The Parties agree that with the development of different phases, the Maintenance Charges will be calculated taking into consideration the services being provided for the management and maintenance of the Completed Phase (s) of the Whole Project.
- 6.5 It has been agreed by and between the Association and the Maintenance Agency that every Allottee(s) shall be liable and obligated to pay to the Maintenance Agency every quarter Maintenance Charges comprising of the following: -

### **6.5.1 Fixed Maintenance Charges -**

- (i) An amount to be paid towards costs of maintenance and upkeep in terms of **Paragraph A of Schedule I** attached hereto.
- (ii) The Fixed Maintenance Charges will include Service Charges to be paid to the Maintenance Agency for the services rendered by it.

### **6.5.2 Capital Maintenance Charges-**

- (i) An amount, as determined by the Maintenance Agency, in the beginning of every financial year shall be payable towards costs of capital repairs/replacement in terms of **Paragraph B of Schedule I** attached hereto. It is agreed between the parties that the Maintenance Agency shall review the basis of calculation of Capital Maintenance Charges every financial year and determine the revised Capital Maintenance Charges which shall be borne by the Allottee(s). The Capital Charges so arrived at will be distributed between the allottees based on their Usable Areas.

### 6.5.3 Reimbursements -

- (i) Costs of electricity and/or power for lighting common areas including streetlights, operation of water pumps, R.O. Plants, STP, lifts, community hall, club house and other common facilities as per actual. The monthly cost will be divided between the Allottees in proportion to the Usable Area of the Unit. Above electricity and/ or power costs shall be billed in advance on estimated basis which shall be subject to review at the interval of every quarter /based on actual consumptions.
- (ii) Costs of diesel, lubricating oil and other consumables for operation of generator on connected generator wattage basis as per actual per month. It shall also be billed in advance which shall be subject to review at the interval of every quarter /based on actual consumptions reviewed.
- (iii) Cost of water for use in horticulture, sanitation and other common use as per actual. It shall also be billed in advance which shall be subject to review at the interval of every quarter /based on actual consumptions reviewed.

6.5.4 Proportionate costs of any other services plus Service Charges at the rate of 25% that may be extended or provided from time to time by the Maintenance Agency and not stated in Schedule I.

6.5.5 The above referred charges are tentative and may vary at the time of actual expenditure incurred and the Allottee(s) shall have to pay to the Maintenance Agency or its assignee accordingly.

6.5.7 In the event any additional/ specific services are exclusively required by the Allottee(s)/ resident (over and above the general maintenance services provided to the Said Project/Whole Project), the said services may be provided by the Maintenance Agency, in its sole discretion. Where such additional/ specific services are agreed to be provided by the Maintenance Agency, such services shall be billed as per the actual costs incurred for provision of such services along with Service Charges. Such specific/ additional services shall be solely to the account of the Allottee(s)/ resident or if a number of Allottee(s)/ residents use the same services then the same shall be billed on pro-rata basis.

### 6.5.8. Service Charges and Taxes-

- (i) The Allottee will be required to pay Service charges on Fixed Maintenance Charges as mentioned in Clause 6.5.1(ii) to the Maintenance Agency. The tentative Service Charges is Rs. 0.684 per sqft of Usable Area per month. The Fixed Maintenance Charges on each Unit along with Service Charge is elaborated in **Schedule II (A)**. The said Service Charges shall increase every year in proportion of the increase in Fixed Maintenance Charges. Therefore, for eg if the current Fixed Maintenance Charges for a 2 BHK unit Type A is Rs. 2340/- for a month and Service Charges is Rs585/- and if the Fixed Maintenance Charges increase by 10% from Rs. 2340/- per month to Rs. 2574/- per month, then the Service Charge shall also increase by 10% from Rs. 585/ per month to Rs. 644 per month and the total fixed Maintenance Charges will be Rs. 3218/- for the month.
  - (ii) GST and/or any other tax as applicable from time to time on material, services provided and arrears (if any) demanded in this regard at any time.
  - (iii) Service Charges @ 25% charged on additional services as referred to in **Clause 6.5.4**.
- 6.6. Association is aware that the Maintenance Agency will calculate the Maintenance Charges for the quarter keeping Fixed, Reimbursement and Capital Charges in mind and the same will be distributed among the allottees on the basis of Usable Area, as a basis of distribution. It is agreed that Maintenance Charges shall be shared by the Allottees in proportion to the total Usable Area of Completed Phases of the Whole Project.
- 6.7 Association and Maintenance Agency are aware that the as per the current mechanism of

distribution of the maintenance charges on the Allottees, the Maintenance Agency will be distributing the Maintenance Charges on the basis of Usable Area of the Units of the Completed Phases of the Whole Project. However, if due to any change in the regulations, court orders there is a change in the manner of distribution of Maintenance Charges among the Allottees towards common expenses along with other Allottees, the Allottee will be liable to adhere to such orders and/or circulars without prejudice to the rights of the Maintenance Agency and will not hold Maintenance Agency liable and obligated for any changes. In such a situation, The Association and Maintenance Agency agree that the total Maintenance Charges being charged by Maintenance Agency in aggregate to all the Allottees of all the Completed Phases of the Whole Project will not change and only the manner of distribution of Maintenance Charges among the Allottees will undergo changes. It is also agreed by the Association and the Maintenance Agency that such change if any, will be applied prospectively and not retrospectively.

- 6.8. It has been agreed by and between the Parties that indicative monthly Maintenance Charges as on the Effective Date shall be as per the rate given in **Schedule II(A)** and the same shall be valid for 12 months from the Effective Date. It has been agreed by and between the Parties that the Allottee(s) shall pay Maintenance Charges for a period of 12 months starting from the Effective Date in advance to the Maintenance Agency (hereinafter referred to as **Upfront Maintenance Charges**) as per rates indicating Maintenance Charges given in **Schedule II(A)**. The Maintenance Charges shall not be reviewed and revised till the expiry of 12 months from the Effective Date for each phase. After expiry of 12 months, the Maintenance Agency shall review the Fixed Maintenance Charges and fix the same based on then current prices of the materials, services, wages, etc. and the same shall be valid for the remaining part of the financial year, the Maintenance Agency shall be at liberty to revise the Capital Maintenance Charges for the remaining part of the financial year and the Reimbursements will be as per actual consumption and reviewed at the interval of every quarter.
- 6.9. Subsequently, in the beginning of every financial year, the Maintenance Agency shall review and determine the Fixed Maintenance Charges on the basis of current prices of materials, service, minimum wages, etc. The Association specifically agrees that Ashiana Maintenance Services shall be at liberty to review, determine and fix the Fixed Maintenance Charges at the beginning of every financial year taking into account the escalation and/or variation in rates and/or prices of commodities, services, wages etc., and such assessment by the Maintenance Agency shall be conclusive, final and binding on the Allottee(s). However, in case of hike in labour rates/ wages and / or unreasonable hike in cost of maintenance, the Maintenance Agency may calculate and revise the Fixed Maintenance Charges any time during the year.
- 6.10 Amount received for the capital repair/replacement under clause 6.5.2 of this Agreement shall be utilized for capital repair/replacement arising out of normal wear and tear of the capital equipment. It has been agreed by the Allottee/s that any capital repair/replacement arising/ caused due to any reason except normal wear and tear shall not be met by the amount collected under clause 6.5.2 of this Agreement and shall be solely borne by the all the Allottees collectively. Under no circumstances, Maintenance Agency shall be liable even for capital repair/replacement caused due to but not limited to force majeure reasons and/or negligence of any person and Allottees shall collectively be responsible for such kind of repair/replacement of capital equipment.
- 6.11 Association is aware that the ever-changing prices of the commodities and increase in salary and wages have a direct impact on the cost of maintenance and the cost of capital repairs and maintenance. It is therefore agreed between the Association and the maintenance agency that the Fixed Maintenance Charges and Capital Charges shall be revised at the beginning of every financial year. Accordingly for the smooth functioning of the Said Project/Whole Project and its management, Association authorizes the Maintenance Agency to increase the Fixed Maintenance Charges Service Charges and Capital Charges upto 8% annually. Any increase beyond 8% annually will require the Maintenance Agency to discuss with and take consent of the governing body/managing committee/board of managers of the Association.

## 7.0 **WATER CHARGES**

- 7.1 The Allottee shall be responsible to pay to the Association and/or Maintenance Agency towards security/deposit/ recurring infrastructure charges / cost of securing approvals, there renewals and ensuring compliances of the approvals to be paid to the government agencies towards electricity, water charges (including but not limited to extraction charges) and infrastructure charges or any other charges or deposit/security required to be paid with respect to the Said Project/Whole Project.
- 7.2 The Association represents that as intimated by the Promoter, Promoter has obtained approval from Central Ground Water Authority for extraction of water for the Whole Project. Additionally, Promoter has obtained necessary approvals for sourcing water from the nearby river and will create necessary infrastructure for sourcing of water from the river which may take some time. Association represents and Maintenance Agency agrees that till the time such infrastructure for extracting water from river is completed, the water in the Whole Project will be provided through extraction of ground water and if required, depending on the demand, through other available sources including procurement of water from water tanker agencies.
- 7.3 It is agreed between the Parties that once the necessary infrastructure for supply of water from the river is created, the Maintenance Agency may stop procurement of Tanker Water and use only Tube well Water or River Water or both for common use and for use in the individual Unit(s) in the Said Project/Whole Project.
- 7.4 The Maintenance Agency represents that in all the cases, either the water is sourced through tube well, through river or through tankers, the allottees will be required to contribute a sum towards Water Charges and same will be reflected in the maintenance bill. as detailed in **Schedule II (B)**. In any of the cases, the Allottee will be required to contribute upfront amount for 12 months towards the Water Charges forming part of maintenance bill as detailed in **Schedule II(C)**.
- 7.5 It has been agreed between the Parties that, the Water Charges as per the rates fixed for occupied Unit and as detailed in Schedule II(B) will become applicable once the Allottee starts occupying the Unit and will be applicable till the time the Allottee is occupying the Unit ("**Occupied Period**"). For example, if the Allottee has occupied the unit for 11 months, the 11 months will be considered as the Occupied Period and the Allottee shall be liable to pay Water Charges as per the rates applicable. The Allottee of an unoccupied Unit will be liable to pay 50% of the Water Charges.
- 7.6. Without prejudice to anything contained in Clause 7.5 above, the Association understands and agrees that in the event the Occupied Period is even for a day in any calendar month, the Allottee will be liable to pay Water Charges for one full month. The Parties hereby agree that the final say with respect to the question of occupancy shall solely vest with the Maintenance Agency.
- 7.7 The Maintenance Agency represents that it may happen that on the Effective Date, there may not be enough water from Tube well or the necessary infrastructure for supply of water from river is not ready, under such a situation, Tanker Water will be used to meet water requirement in individual Units as well as for common use like horticulture, gardening, swimming pool etc. and cost of procurement, storage, distribution or any incidental charges shall be recovered from the Allottee(s). In such a case the Allottee will be required to contribute a fixed amount towards water charges
- 7.8 The Maintenance Agency represents that installation of Unit wise water meter to record water consumption is not feasible and therefore, it has been agreed by and between the Maintenance Agency and the Association that the Maintenance Agency shall charge a fixed amount towards Water Charges from the occupied as well as unoccupied unit irrespective of water consumption in the Unit/flat. The same will form part of the maintenance bill and will be in addition to the common area maintenance charges.
- 7.9 It is represented by the Association that as a general practice and better quality of water treatment plant is advisable. It is agreed between the Association and the Maintenance Agency to install a water treatment plant/machine. Association authorizes the Maintenance Agency to divide the cost of such plant proportionately on the allottees.



- 7.10 Association represents to the Maintenance Agency that while granting the approval for extraction of water the CGWA authority as well as the Water Resource Department has fixed an upper limit for extraction of water. The Association feels the need to educate the allottees regarding the same. Maintenance Agency has requested the Association to take steps for educating the same. The Maintenance Agency and Association agree that at no point it will be responsible if the extraction of water exceeds the upper limit fixed and any liability will have to be borne by the allottees collectively.

## **8 Electrical Vehicle Charging-**

- 8.1 The Association represents that Promoter has facilitated the provision for charging of electric vehicles in some of the parking spaces earmarked for the Allottees. As clarified by the Promoter further the associated ancillary cost of creating the requisite infrastructure which includes buying/fixing/installation of charging ports and electric-meter, cost of electricity consumed, electric-charger etc. for charging the vehicle shall be borne by the Allottee(s) only. Association represents that the charging of vehicles will also be from the electricity load sanctioned for the Whole Project. At present there is a fixed load sanctioned for the Whole Project. However, in case the demand for electricity exceeds the sanctioned load capacity and there is a requirement of enhancement of sanctioned load for the Whole Project, under such circumstances the Association authorizes the Maintenance Agency to get the load enhancement done and accordingly distribute the additional cost for increasing the load from all the Allottees collectively proportionately on the basis of Usable Area.

## **9. PROCEDURE OF BILLING AND PAYMENT**

- 9.1. The Association authorizes/ empowers the Maintenance Agency to collect in advance amount from the Allottee(s) for the Maintenance Charges, Water Charges,
- 9.2. It has been agreed between the Parties that the Allottee shall be liable and obligated to make payment of Maintenance Charges with effect from the "Effective Date" and such charges would be payable irrespective of the fact whether or not the Unit is occupied or unoccupied.
- 9.3. The Maintenance Agency represents that the invoice will be raised in advance on a quarterly basis by 10<sup>th</sup> of the first month of the quarter. The quarterly bill system will be on financial year basis and accordingly quarters (April – June, July-September, October – December, January – March) will be considered for billing purposes. For eg. If the management and maintenance starts from May, under such condition, the Maintenance Agency shall raise the first bill for the period of May and June and the second invoice be generated by 10<sup>th</sup> of July, being the first month of the next quarter. In case of any cheque issued is dishonored or returned by the banker for any reason whatsoever then the Maintenance Agency without prejudice to its right to seek redressal under the Negotiable Instruments Act, 1881 and any other law shall be entitled to a service charge of Rs. 1000/- or such other service charge as may be revised by the Maintenance Agency from time to time in addition to the bill amount and interest for the delay, if any.
- 9.4. The Maintenance Agency represents that the Allottee of the Unit shall be at liberty to enter into any agreement and/or arrangement with its tenants or licensees with regard to payment of Maintenance Charges, Water Charges but the Maintenance Agency shall recognize only the Allottee as the person liable or responsible for payment of all charges.
- 9.5 Any correspondence with regard to maintenance and service by the Maintenance Agency and charges thereof shall be entered into only by the Allottee. Maintenance Agency shall entertain correspondence with regard to maintenance of service and charges thereof only from the Allottee and shall not entertain or deal with any tenant in this regard.

## **10. TERMINATION**

- 10.1. Maintenance Agency would maintain the Said Project/Whole Project and would plan a range of entertainment and learning activities. Maintenance Agency strives to provide qualitative and cost-

effective maintenance of the Said Project/Whole project, , It is agreed between the Parties that after the expiry of Lock-In-Period as mentioned under clause 4 hereinabove, the Maintenance Agency will continue with the management and maintenance of the Said Project/Whole Project till the time Agreement is terminated by the Association in the manner laid herein below This Agreement shall stand terminated upon expiry of a period of three months from the date of the following events:-

- (i) Upon a decision taken by the Allottees through a voting mechanism passed by a majority i.e 51% of the Allottees to terminate this Agreement (Association agrees and authorizes the Maintenance Agency with the right to survey / verify the consent of Allottees from every individual Allottee(s);
  - (ii) Upon the Maintenance Agency issuing a general circular informing the Association and the Allottee(s) about its decision to terminate this Agreement;
  - (iii) The Maintenance Agency is declared insolvent by a court of competent jurisdiction.
- 10.2. Upon the termination of the maintenance agreement, the Maintenance Agency shall hand over the maintenance of the Said Project/Whole Project to the Association within three months.
- 10.3. Save as aforesaid this agreement shall continue and no individual Allottee(s) or the Association shall have any right to determine or terminate this agreement.
- 10.4. Notwithstanding anything contained in clause 10.1 herein-above, Maintenance Agency shall be entitled to terminate this Agreement even during the Lock-In Period in case the total outstanding dues of the Maintenance Agency towards Association and/or all the Allottee(s) exceeds 20 lacs only due to the Maintenance Agency from the Said Project.
- 10.5 Upon termination, the Maintenance Agency shall be relieved and discharged of all its obligations and duties relating to maintenance and services.
- 10.6 It is agreed by and between Parties, that upon termination of this Agreement the outstanding dues if any against the Allottee(s), advances. security deposit (if any) paid to government departments like electricity department, water department, fire department or any other department for smooth functioning of the Said Project/Whole Project shall be adjusted against the Maintenance Deposit and the balance amount, if any, shall be refunded by the Maintenance Agency to the Association as agreed between the Parties at that time within 30 (thirty) days of such termination. In case the outstanding dues against some Units are not covered by the Maintenance Agency, the Maintenance Agency shall cover such deficit from the total deposit held against all the Units and after adjustment transfer the balance amount to the Association.

## **11. LIMITED LIABILITY**

- 11.1. The Maintenance Agency shall not be responsible or liable in case of theft, pilferage or misplacement of materials or equipment kept in the Units, to be used or useable in the interior works of the Units. Further, the Maintenance Agency shall not be liable for any accident or injury caused or occasioned to any employee or workman engaged by the Allottee(s) for doing the interiors in the Units or any job or work relating thereto. Such liabilities or claims, if any, shall be satisfied by the Allottee(s) themselves. The Allottee(s) shall indemnify and keep Maintenance Agency harmless against all such claims or liabilities.
- 11.2. Maintenance Agency shall to the best of its ability render and provide all necessary and or requisite maintenance and services as set out in **Schedule I** attached hereto directly and/or by outsourcing to various other agencies ("**Agency**") under separate agreements/ arrangements entered into with them. However, Maintenance Agency shall not be liable for any default in providing such maintenance and services by reason of any Force Majeure circumstances or any circumstances

beyond its control.

- 11.3. In case of outsourced Agency, liability of Maintenance Agency shall be limited to the extent of minimum supervision of these agencies work and to ensure that their operation is in conformity with the agreement executed with them and to replace an Agency if its performance is not upto the standard. But under no circumstances shall Maintenance Agency shall be responsible and liable for the losses incurred by any act of such Agency.
- 11.4. In course of rendering maintenance services Maintenance Agency does not guarantee or ensure full proof safety and security of the Said Project and Maintenance Agency shall have no financial and or any other liability by reason of any fire, theft, burglary etc. occurring in the said Unit / Said Project or any part or portion thereof.
- 11.5. Maintenance Agency shall also not be liable for any loss, damage or physical injury which may be caused to the Allottee(s), his family Allottee(s), customers, visitors or guests on account of any human error or fault on the part of the employees of Maintenance Agency or by reason of any Force Majeure circumstances.
- 11.6. Maintenance Agency shall not be liable / responsible for renewal of statutory approvals for the Said Project/Whole Project. Compliances and/ or renewal of the approvals and/or NOCs shall be the responsibility of Association. The Association along with other allottees of the Whole Project/Said Project shall be liable and responsible for applying for and obtaining renewal of various approvals which are obtained/ required to be obtained for the Said Project/Whole Project and to ensure the compliance with applicable laws and the conditions under such approvals at all times . The Association along with Allottees will also be responsible for obtaining various NOCs including but not limited to Fire NOC, Consent to Operate, Lift License, CGWA NOC or Irrigation NOC ,there renewals and/or other statutory renewals which are required to be obtained for the Said Project/Whole Project. The Association along with Allottees of the Said Project/Whole Project shall be entitled to approach the requisite authority for any such approvals/renewals and shall also ensure that they comply with the conditions of such approvals and NOC(s) at all times. Failure to get statutory approvals or renewal within the prescribed time and/or consequences resulting due to non-renewal of the statutory approvals or noncompliance of the conditions of approvals or NOC(s) shall not cast any liability on the Maintenance Agency.

## **12. GENERAL**

- 12.1. The Association shall be solely responsible for any disputes or differences amongst its Allottee(s) and the Maintenance Agency shall communicate with the Allottee(s) of Management Committee of the Association, which shall function in accordance with bye-laws of Association. Further, the Maintenance Agency shall not be answerable to individual Allottee(s) in the Said Project/Whole Project.
- 12.2. Maintenance Agency shall not be obligated to take insurance of the Units and it shall be the responsibility of the Allottee(s) / the Association.
- 12.3. The Association acknowledges and appreciates the need for strict compliance of the rules & regulations or the guidelines from time to time for maintaining the beauty, sanctity and uniformity of the entire Said Project/Whole Project. The Association appreciates the need to maintain and preserve the ambience of the Said Project/Whole Project and authorizes Maintenance Agency to ensure that the Allottee(s)/ residents shall not do anything which will adversely affect the beauty, sanctity and uniformity of the Said Project/Whole Project.
- 12.4. The Association authorizes Maintenance Agency to impose penalty on the Allottee(s)/ residents on violation of above points. The Association shall ensure that under no circumstances, the Allottee(s)/ residents shall confront with Maintenance Agency or any of its staff under the circumstances of violation of guidelines. Under the circumstances of violation, rules / guidelines framed by

Maintenance Agency and / or the Association shall be applicable. Further, Maintenance Agency shall not be held liable or incur any liability for noncompliance by the Allottee(s) under any circumstances.

- 12.5 The Association as well authorizes the Maintenance Agency to cut off, withhold or in any manner curtail or reduce any essential supply or service enjoyed by a Unit owner/Allottees if the Allottee/Unit owner willfully violates or evidently threatens to violate the peace and harmony of the Said Project/Whole Project, undertakes illegal construction and violates sanctioned plans or fails to pay the common area charges for a period of more than three months.
- 12.6. The Association hereby authorize and allow the Maintenance Agency to commercially exploit certain common areas of the Said Project/Whole Project for generating revenue, including but not limited to, advertisements by putting hoardings/banners on parapet/boundary walls or lifts; mobile tower/booster on terrace; kiosk by companies; other advertisements in the Said Project; revenue from signage space; organizing events, etc. The revenue generated from the above activities shall be utilized by the Maintenance Agency towards the maintenance of the Said Project/Whole Project and Maintenance Agency shall keep 20% of revenue generated from the same for identifying vendors, organizing events, etc. The revenue so generated from common areas of the Said Project/Whole Project, less Maintenance Agency's consideration from the same in accordance with this clause shall be adjusted in determining estimated Cost of Maintenance as per Clause 6.5.3.
- 12.7 Association represents and understand that Maintenance Agency will require a lot of space in the Said Project/Whole Project to be utilized as office space of Maintenance Agency, for storing of equipment etc. Therefore, Association authorizes Maintenance Agency to exclusively use the space identified as office, store room, staff quarter, rest room for its employees and staff.
- 12.8 Maintenance Agency represented that it has a rental and resale division wherein it provides services to the Allottees to either resale or give their apartments on rent. Maintenance Agency has offered to provide such services to the Association and the Allottees. Association agrees and allows the Maintenance Agency to provide such services as well to the Allottees as per the term and conditions agreed with the Allottee on a chargeable basis. The employees of resale and rental division shall be able to operate out of the maintenance office without the requirement of any form of consent or consideration to the Association or the Allottees.

**13. NOTICE**

- 13.1. Any notice, letter or communication to be made, served or communicated under these presents shall be in writing and shall deemed to be made, served, or communicated only if the notice or letter or communication is addressed at the aforesaid address and sent by registered post or courier. However, a general notice / circular may be deemed to be served if the same is affixed or posted on the notice boards of the Said Project.

**14. SUCCESSION**

- 14.1 In the event of dissolution of Association and/or formation/constitution of any other body/entity by the Allottee(s) in the Said Project for carrying out same/similar functions as the Association was carrying out until its dissolution, such new body/entity shall be deemed to be the successor of the Association for the purpose of this Agreement and this Agreement shall continue with such new body/entity for the rest of the Term.

**15. ASSIGNABILITY / TRANSFERABILITY**

- 15.1 The Association agrees and hereby assigns the right of the Association to the Maintenance Agency so as to enable it to enforce the code of conduct under the Bye Laws.
- 15.2 The Maintenance Agency shall be entitled to assign or transfer its rights or obligations under or interest in this Agreement with prior written intimation to the Association.

**16. WAIVER**

- 16.1. The failure of Maintenance Agency to enforce any term or any provision(s) hereof shall not be construed to be waiver of any provision(s) or right to enforce any or each and every provision(s) of this Agreement.
- 16.2. No waiver of any provision of this Agreement shall be valid unless the same is made in writing and signed by the Party so waiving.

**17. JURISDICTION**

- 17.1. The courts having original jurisdiction in Pune shall have the jurisdiction in all matters relating to or arising out of this Agreement.

**18. DISPUTES AND THEIR REDRESSAL**

- 18.1. All differences between the Association and the Maintenance Agency will first be sorted out through mutual discussion and dialogue but in case any difference or dispute remain, the same shall be referred to the sole arbitrator appointed by mutual consent of the Parties who shall decide the dispute in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and as amended from time to time and his decisions shall be final and binding on both the parties. The venue and seat of Arbitration shall be Pune and the cost of arbitration shall be equally borne by the Parties.

**IN WITNESS WHEREOF** this Agreement has been signed by the parties on the date, month and year first above written.

**1. \_\_\_\_\_ Owners Association**

\_\_\_\_\_

**2. Ashiana Maintenance Services LLP**

\_\_\_\_\_

**Witnesses :**

1. \_\_\_\_\_ 2. \_\_\_\_\_

## **SCHEDULE I**

### **SCOPE OF WORK**

The scope of work to be undertaken by Maintenance Agency at Said Project/Whole Project would cover:

#### **A 1. Sanitation**

- 1.1 Daily sweeping of common areas (all such spaces used and enjoyed by the Property owners in common with other property owners in the Said Project).
- 1.2 Daily domestic refuse collection at source in dry, wet and hazardous nature and its disposal.
- 1.3 Cleaning of surface drains, sewage collection network etc. depending on requirement.
- 1.4 Operation/maintenance of Sewage Treatment Plant.
- 1.5 Operation/maintenance of Organic Waste Composter(OWC).

#### **2. Horticulture**

- 2.1 Regular maintenance and upkeep of gardens, plantation, greenery, fountains etc. in the common areas within the Said Project.

#### **3. Water Supply**

- 3.1 Maintenance and operation of water tanker/ water reservoir, as applicable.
- 3.2 Maintenance and operation of Pumping sets - Pumping of water on need basis.
- 3.3 Maintenance, operation and upkeep of water distribution system.
- 3.4 Periodical testing of water.
- 3.5 Maintenance and Operation of R.O. Plant (if any)

#### **4. Power Supply**

- 4.1 Maintenance of power distribution network including, DG sets, switch gears, cables etc.
- 4.2 Operation and maintenance of street lights, lighting of passages, corridors and other common spaces.
- 4.3 Maintenance of generator(s) and its operation as and when necessary.

#### **5. Civil Maintenance**

- 5.1 Repair & Maintenance of boundary walls, drains, parking areas and all common facility areas.
- 5.2 Normal maintenance/pot hole repairs of roads, sidewalks etc.
- 5.3 Repair and maintenance of all common areas and facilities like main gate, common road, open space area etc. outside the boundaries of the Said Project.(Cost for such repair shall be charged proportionately)

#### **6. Security**

- 6.1 Round the clock security of the Said Project
- 6.2 CCTV monitoring for post investigation

#### **7. Running and Maintenance Cost-**

- 7.1 Cost for running and maintaining the club house and any other common areas and facilities including the salary of administrative staff.

#### **8. Compliance Cost-**

- 8.1 Proportionate cost of amount incurred towards securing various approvals like fire, electricity,

consent to operate, Solid Waste Management, CGWA, etc. and ensuring compliances under them

**B. Capital Repairs/ Replacement**

The capital repairs would cover :

1. Replacement and repair of water & STP distribution systems.
2. Major repairs of pathways, fountains etc.
3. Major repairs / replacements of Generators, if any, Transformers, electrical switch gears, electrical cables, lighting fixtures etc.
4. Replacements / major repairs of sewage network.
5. Replacement / major repairs of communication equipment, computers, transportation equipment, gardens equipment etc. and relaying of lawns.
6. Replacement and addition of furniture & fixture items
7. External re-painting of the Units once in 7 years. 7 years shall be counted from the date of Occupancy Certificate of Phase-II.
8. Any other misc. repair / replacement of capital nature.
9. CCTV , lifts & Organic Waste Composter

**C. Services**

Services of electrician and plumber to the occupants of the units subject to availability for attending to minor jobs, within their properties on a nominal charges basis. Material necessary of these minor jobs would have to be provided by the occupants.

**Note :**

1. All the sewage would be treated, and the treated water shall be used for flushing, watering of lawns, plantation etc. to the extent possible.
2. Solid Waste Management: garbage collection from residents in Dry, Wet and hazardous nature at source. Residents should be provided accordingly.
3. Cost of maintenance dues does not include repairs/maintenance within the Unit and individual power bills.
4. The capital expenditure incurred/to be incurred in respect of the buildings, plant, machinery etc. (e.g. STP, generators, electrical distribution system etc.) serving the Said Project/Whole Project shall be shared among all occupants of the Said Project/Completed Phases of the Whole Project in proportion to their Usable Area.
5. There are certain facilities and services which are common between Ashiana Malhar and Commercial Block such as STP, water reservoir, SWM, etc. For such common facilities and services, expenses shall be distributed between Ashiana Malhar and Commercial Block on Usable Area basis.

**Schedule- II**

**A. Maintenance Charges**

The Tentative Maintenance Charges for the time being are as follows-

Type of Unit	Carpet Area (Sqft)	Balcony Area(Sqft)	Usable Area (Total of Carpet and Balcony Area) (Sqft)	Fixed Charges for a month (excluding Service Charges)	Service Charge for a month	Capital Charge for a month	Reimbursement for a month	Tentative Maintenance Charges for a month	Tentative Maintenance Charges for one Quarter	Upfront Maintenance Charges for 12 months
Type A & A2 - 2 BHK ((Magnolia 1)	751	105	856	2,340.00	585.00	531.00	671.00	4127.00	12381.00	49524.00
Type A3 - 2 BHK (Magnolia 3)	856	114	970	2,651.00	663.00	603.00	760.00	4677.00	14031.00	56124.00
Type B1 - 3 BHK (Lavender 1)	948	97	1045.	2,856.00	714.00	649.00	818.00	5037.00	15111.00	60444.00
Type B2 - 3 BHK (Lavender 2)	1122	55	1177	3,218.00	805.00	731.00	922.00	5676.00	17028.00	68112.00
Type C - 2 BHK (Magnolia 2)	644	88	733	2,004.00	501.00	455.00	574.00	3534.00	10602.00	42408.00

**B. Water Charges-**

Type of Unit	Carpet Area (Sqft)	Balcony Area (Sqft)	Usable Area (Total of Carpet and Balcony Area) (Sqft)	Charges in case of Ground Water Extraction Charges for a month	Charges in case of River Water for a month	Charges in case of Tanker Water for a month
Type A & A2 - 2 BHK ((Magnolia 1)	751	105	856	50.00	512.00	1867.00
Type A3 - 2 BHK (Magnolia 3)	856	114	970	50.00	512.00	1867.00
Type B1 - 3 BHK (Lavender 1)	948	97.00	1045.	50.00	512.00	1867.00
Type B2 - 3 BHK (Lavender 2)	1122	55.00	1177	50.00	512.00	1867.00
Type C - 2 BHK (Magnolia 2)	644	88.00	732.	50.00	512.00	1867.00



**C. Upfront Water Charges-**

Type of Unit	Carpet Area (Sqft)	Balcony Area (Sqft)	Usable Area (Total of Carpet and Balcony Area) (Sqft)	Upfront Water Charges for Ground Water Extraction Charges for 12 months	Upfront Water Charges in case of River Water for 12 months	Charges in case of Tanker Water for 12 months
Type A & A2 - 2 BHK ((Magnolia 1)	751	105	856	600.00	6144.00	22404.00-
Type A3 - 2 BHK (Magnolia 3)	856	114	970	600.00	6144.00	22404.00
Type B1 - 3 BHK (Lavender 1)	948	97.00	1045	600.00	6144.00	22404.00
Type B2 - 3 BHK (Lavender 2)	1122	55.00	1177	600.00	6144.00	22404.00
Type C - 2 BHK (Magnolia 2)	644	88.00	732	600.00	6144.00	22404.00

**Note-**

- The above water charges will form part of the monthly maintenance bill. Same will be in addition to the Monthly Maintenance Charges as mentioned in Table A.
- Above Charges will be applied for the unit from Effective Date.
- It may happen that at a particular time water through two sources is being supplied in the project. Under Such condition charges reflected under both heads will be applicable. Once the Upfront Water Charges are adjusted, Allottee will be required to pay Fixed Water Charges.
- Above Water Charges for a month are calculated keeping into consideration occupancy of the Unit. In case of unoccupied the monthly water charges will be 50% of the charges reflected in Table B above.
- For Allottee(s) who buy the Unit after the Occupancy Certificate of respective Phase Maintenance charges shall be applicable from the date of handover of the Unit or from the expiry of 30 days from the issue of Letter of Offer for Possession of the said Unit whichever is earlier.
- Maintenance charges may be revised and fixed by the Maintenance Agency on the basis of current prices of the commodities, services, minimum wages etc. any time during the year.
- The charges (Maintenance and Water Charges) for subsequent phases shall be as per the prices prevailing as on the date of taking over of the maintenance of the phase.
- GST is to be paid over and above the charges mentioned above.
- The above-mentioned charges are tentative and may vary as on the Effective Date.

**Annexure-1**

**Interest Free Maintenance Security Deposit**

Sr No	Particulars	Carpet Area (Sqft)	Balcony Area (Sqft)	Usable Area (Total of Carpet and Balcony Area) (Sqft)	Interest Free Maintenance Security on usable Area
1	Type A & A2 - 2 BHK ((Magnolia 1)	751	105	856	28,900.00
2	Type A3 - 2 BHK (Magnolia 3)	856	114	970	32,750.00
3	Type B1 - 3 BHK (Lavender 1)	948	97.00	1045	35,275 .00
4	Type B2 - 3 BHK (Lavender 2)	1122	55.00	1177	39,750.00
5	Type C - 2 BHK (Magnolia 2)	644	88.00	732	24,750.00