

On 2021

PRELIMINARY RESERVATION AGREEMENT

FOR

RESERVED UNIT SOLD ON PLANS

UNDER THE

***VENTE EN L'ÉTAT FUTUR D'ACHÈVEMENT* REGIME**

Between

VIVEA CUBICLES LTD

Grantor

And



Beneficiary

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PRELIMINARY RESERVATION AGREEMENT
FOR
PROPERTY SOLD ON PLANS
UNDER THE
VENTE EN L'ÉTAT FUTUR D'ACHÈVEMENT REGIME

BETWEEN THE UNDERSIGNED

VIVEA CUBICLES LTD, a private limited company, incorporated under the laws of Mauritius on 06/07/2020, whose registered office is at 26 Cybercity, 2nd Floor, The AXIS, Ebene 72201, Mauritius MAURITIUS, registered with the Mauritius Registrar of Companies under file no. C173111 and BRN No. C20173111

Represented by:-

(1) **Mr. MANRAKHAN SANJEEV VINOD**, born on the [date of birth], holder of a Mauritian National Identity Card bearing number [NIC no.], a company director, residing at [residential address] and

(2) **Mr. RACHEX DAVID EMMANUEL NESTOR**, born on the 11/01/1975 holder of a passport bearing no. X7017821, a company director, residing at [residential address],

who are both duly authorised for the purposes hereof,

Hereinafter referred to as the **Grantor** (“*Réservant*”)

OF THE FIRST PART

AND

Mr [full name- as per copy of birth certificate and NIC] born on [date of birth], holder of Mauritian National Identity Card bearing number [NIC No.], [profession], residing at [exact residential address – as per proof of address]

The said **Mr.** [full name] represents that he is married to Mrs. [full name of spouse – copy of birth certificate and NIC] under the legal system of community/ Separation of goods on [date of civil marriage] (act of Marriage No. -copy of marriage certificate).

OR

[Name of Company], a private limited company, incorporated under the laws of Mauritius on [date of incorporation], whose registered office is at [registered address], registered with the Mauritius Registrar of Companies under file no. [] and BRN No. [] .

Represented by:-

(1) Mr. [name of person], born on the [date of birth], holder of a Mauritian National Identity Card bearing number [] [NIC no.], a company director, residing at [residential address] and

Hereinafter referred to as the **Beneficiary** (“*Réservataire*”)

OF THE SECOND PART

The Grantor and the Beneficiary are hereinafter jointly referred to as the “**Parties**” or individually also as a “**Party**”.

RECITALS:

- A. The Grantor shall become the registered freehold owner of a plot of land of an extent of an area of 2766.21 m², being **Lot No.170(a)**, which forms part of a property complex known as the “VIVEA BUSINESS PARK-PHASE IV” located in the district of Moka, place called St Pierre, pursuant to bilateral agreement of sale dated 04/02/2021 (the **Site**).
- B. The Grantor intends to finance, construct, and equip an office property development on the Site (the **Project**), which shall upon completion be comprised of :
- (a) Two-storey (i.e. ground + 2 floors) office building of 14 office spaces
 - (b) additional rooms and ancillary facilities (including a car park) of the same standard, together with all associated infrastructure, and common areas and services such as roads, pavements, lighting, power, and water supply on the Site.
- C. The Property Complex shall be governed by Article 664 of the Civil Code of Mauritius (hereinafter the **Civil Code**) and in consequence it shall be governed by one or more set of internal specifications (*cahier des charges/ état descriptif de division*) and by-laws (*règlement de copropriété*), and a property owners’ association (*syndicat de copropriétaires*) shall be constituted by operation of law between the owners of the Units (the **Unit Owners’ Association**), the purpose of such association being the ownership, custody and maintenance of collective areas, buildings, infrastructure and

facilities and ensuring compliance with the aforesaid specifications by-laws in the owners' joint interest.

- D. The owners of the aforesaid Units shall hold certain non-exclusive rights of access and use in respect of a number of collective facilities, all as morefully detailed in the Appendix 1.
- E. The Units referred to hereinabove are destined for sale, together with the underlying land, under the statutory regime governing sales of buildings on plans (*ventes en l'état futur d'achèvement*) laid down in Articles 1601-3 *et seq.* of the Civil Code. To that end, *Maître* Ashvin Krishna Dwarka, a duly appointed and commissioned notary having his notarial chambers in Mauritius, Port Louis, United Docks Business Park, Marina du Caudan, (the **Notary**), has been entrusted with the task of drawing up the aforesaid internal specifications and by-laws, in order to organise (i) the management of the facilities, infrastructure and equipment intended for common use within the Property Complex, (ii) the management of the Property Complex, and (iii) the respective rights and obligations of owners and occupiers of property within the Property Complex.
- F. In connection with the Project, the Grantor has undertaken various preliminary surveys and assessments and procured the performance of certain preliminary design work. Favourable conclusions have been presented by its consultants and advisors as to the legal, financial and technical feasibility of the Project. However, completion of the Project shall depend on the Grantor's securing the requisite financing.
- G. The Grantor wishes to enter into the present agreement (hereinafter referred to as the **Agreement**) in order to allow the Beneficiary to hold, as of this day, the benefit of the offer to purchase the property described in Article 2 below (hereinafter referred to as the **Reserved Unit**).
- H. The Beneficiary, being fully aware of the conditional and prospective nature of the reservation witnessed herein, in particular in light of (i) the financing that the Grantor must obtain prior to execution of the deed of sale of the Reserved Unit on plans, (ii) the provisional nature of the physical features of the Reserved Unit, (iii) the contingent nature of the Project at this stage, has wished to avail himself of the possibility of purchasing the Reserved Unit in the event of implementation of the Project.

The foregoing recitals form an integral part of this Agreement.

NOW, THEREFORE, THE PARTIES HAVE COVENANTED AND AGREED AS FOLLOWS:

1. – RESERVATION AND DEPOSIT

1. The Grantor hereby undertakes, in accordance with the provisions of Articles 1601-38 to 1601-45 of the Civil Code:
 - 1°) to reserve in favour of the Beneficiary the Reserved Unit on the terms and conditions set forth in the Agreement; the features and technical characteristics of the Reserved Unit being provisionally set forth in (i) the technical memorandum, (ii) the draft plan of the Reserved Unit, and (iii) the location plan of the Reserved Unit within the Property Complex, all attached hereto as stated hereinbelow; and
 - 2°) to notify to the Beneficiary the offer of sale of the Reserved Unit as well as the whole of the organic and regulatory documentation of the Property Complex (*the Offer*).
2. During the time period agreed upon hereinafter in paragraph **1.3**, the Grantor undertakes not to offer the Reserved Unit for sale to any person other than the Beneficiary.

In consideration thereof, the Beneficiary undertakes to pay, within seven (7) calendar days as of the date hereof, the amount as described under Article 7, on an escrow account opened with the Notary in the name of the Grantor, as a security deposit (*the Deposit*), which shall be unavailable, non assignable and non attachable, under penalty of the Agreement being null and void at the Grantor's sole discretion without need for any formality whatsoever in that regard.

3. The Agreement is entered into for a term expiring on [estimated date of signature of deed of sale].

In the event that, as at such date, the Grantor is not in a position to make the Offer by reason of failure to fulfil the relevant legal, financial and technical prerequisites therefore, or by reason of any of the Grantor's acts or omissions, this Agreement shall automatically be void and of no effect whatsoever, each of the Parties being fully released from their respective obligations without any indemnity whatsoever. In that event, the Deposit shall be refunded to the Beneficiary in accordance with the provisions of Article 7 hereof.

2. – DESCRIPTION OF THE PROPERTY

2.1. DESCRIPTION OF SITE

The land underlying the Property Complex, defined as **the Site** is bounded as per the attached plan in Appendix II.

2.2. DESCRIPTION OF UNIT AND UNDERLYING PARCEL OF LAND

The lot will comprise, at its completion, all the parts described in Appendix III.

2.3. PLANS AND TECHNICAL MEMORANDUM – PROJECTED CHARACTERISTICS OF THE RESERVED UNIT

The location of the Reserved Unit within the Property Complex as well as the draft plan of the Reserved Unit appear in the global layout plan and the levelling plan of the Reserved Unit, a copy of which has been signed by the Parties and appears in Appendix II.

The quality and characteristics of construction of the Reserved Unit are set forth in the Technical Memorandum a copy of which has been signed by the Parties and appears in Appendix II.

3. – LEGAL REGIME – INTERNAL BY-LAWS

3.1. UNIT OWNERS' ASSOCIATION

The Unit forms part of a group of **14 office units** and shall be governed by the internal by-laws (*règlement de copropriété*), which shall be published at the relevant Mauritian land and mortgage registry, to be enforced by the property owners' association (*syndicat de copropriétaires*) (the **Unit Owners' Association**).

The statutory object of the Unit Owners' Association shall include, without being limited to, the ownership, possession, management, maintenance, replacement and if appropriate the moving of all facilities located within the bounds of the Property Complex, as well as open spaces existing on the Site underlying the Units, whether common to all or some of the owners, excluding facilities under the responsibility of specific parties.

The Unit Owners' Association shall be formed as of execution of the first deed of sale in the notarised form pursuant to deeds to be drawn up and executed by the Notary. The Beneficiary expressly acknowledges having been informed of the applicability of the by-laws and the setting up of this association and undertakes to comply, as of the Sale, with the obligations stemming therefrom.

3.2. MEMORANDUM OF SPECIFICATIONS AND EASEMENTS

A memorandum of specifications and easements (*état descriptif de division*) shall be drawn up and shall be incorporated into the internal by-laws, and shall be strictly complied with by all owners and occupiers of property within the Property Complex.

3.3. COMPLIANCE WITH PUBLIC-LAW PROVISIONS

In addition to the private-law documents governing the Property Complex, the Reserved Unit shall be subject to all applicable administrative statutes and regulations governing *inter alia* construction, the environment and occupancy of real property.

4. – PROJECTED TIMETABLE FOR COMPLETION OF WORKS

4.1. TARGET DATE OF COMPLETION

Completion of the Unit is scheduled for 31 **March 2022, save and except in case of “force majeure or des causes usuelles et légitimes de suspension des délais.”**

4.2. DEFINITION OF COMPLETION

Completion shall occur, within the meaning of Article 1601-13 of the Civil Code, when buildings have been completed and equipment and facilities installed so as to permit use of the Reserved Unit in accordance with the intended use thereof (*Completion*).

4.3. FORCE MAJEURE AND ACTS OF GOD

This stipulated timetable for Completion is subject to events of force majeure, or other usual causes of extension of delivery periods, such as bad weather, including mistral wind, strike, whether general or affecting the building or any of the building companies working on the site, receivership or judicial liquidation of any of the companies carrying out the works, court injunctions or administrative injunctions having the effect of suspending or halting works, disorders caused by insurrection or building site accidents.

In case of occurrence of a force majeure event or of legitimate grounds for postponement, the date scheduled for Completion shall be postponed by a period equal to the duration of the relevant event having impeded continued performance of the works.

4.4. PROGRESSIVE COMPLETION OF UNITS

Completion of works on the Property Complex not being simultaneous, the Beneficiary shall bear any inconvenience arising from the continuance or carrying out of the completion works and final completion works necessary for the full completion of the Property Complex.

5. – OFFER OF SALE

5.1. OFFER OF SALE

The Grantor undertakes to express its offer to the Beneficiary by the latest at **the end five (5) months, as from date of signature of the present.**

Notice of the offer shall be sent by registered mail with acknowledgement of receipt requested or by process server (*acte extra judiciaire*) at the Beneficiary's stated address for service, at least one month before the date set forth in the Offer for execution of the Sale in the notarised form in accordance with Article 1601-44 of the Civil Code.

5.2. INFORMATION TO BE SENT TO THE BENEFICIARY

The Offer referred to in Article 5.1. hereinabove shall contain the following information:

- (a) sale price;
- (b) information, where relevant, as to any changes in surface areas or equipment and facilities as compared with the information contained in the documentation referred to hereinabove or attached;
- (c) the location plan of the Property, the provisional plans of the Property and the descriptive notice.

5.3. BENEFICIARY'S DECISION TO PURCHASE

1. The Beneficiary shall give notice of his acceptance to purchase the Reserved Unit described in Article 2 hereinabove, within twenty (20) Business Days (as this term is defined in article 6.2) as of receipt of the Grantor's Offer referred to in Article 5.1 hereinabove.
2. The Beneficiary's decision to purchase shall be deemed to have been validly notified to the Grantor within the abovementioned time period, either by process server (*acte extrajudiciaire*), or by hand-delivered letter with acknowledgement of receipt given, or by registered letter, with acknowledgement of receipt requested; in the latter case, the certificate of posting issued by the post office shall evidence the date.
3. If the Beneficiary fails to show up on the day scheduled for the execution of the Sale, a formal summons shall be sent to him by registered letter with acknowledgement of receipt requested, five (5) Business Days prior to the date scheduled for a second meeting for execution of the deed of sale.
4. If the Beneficiary discloses his intention not to give further effect to the Agreement, or if he fails to show up at both meetings scheduled for execution of the Sale, or if, having shown up, he refuses to sign or does not

pay the portion of the price then payable, the Beneficiary shall be deemed to have waived the Sale and the Deposit shall fully accrue to the Grantor, which shall then recover unfettered ownership of the Reserved Unit and the right to dispose thereof at its discretion.

5. Likewise, any request expressed by the Beneficiary with a view to introducing into the Sale new provisions that do not comply with the Agreement shall be deemed to be a clear and express rejection of the offer to purchase and the Grantor shall then recover unfettered ownership of the Reserved Unit and the right to dispose thereof at its discretion.

6. – WITNESSING SALE IN NOTARISED DEED – TERMS AND CONDITIONS OF SALE

6.1. EXECUTION OF DEED OF SALE IN THE NOTARISED FORM

The Sale shall be witnessed and recorded in a deed in the notarised form that shall be drawn up by Me. Ashvin Krishna Dwarka, a notary, having his office situate at United Docks Business Park, Marina du Caudan, Port-Louis, on the date set forth in the notification of Offer referred to in Article 5 hereinabove.

6.2. REMITTANCE OF DOCUMENTS

The Grantor undertakes to remit to the Notary all title deeds, documents and information necessary for the completion of the Sale, within twenty (20) Business Days prior to the execution thereof.

It is understood that the term "**Business Day**" means a calendar day, other than a Saturday, a Sunday or a statutory holiday in Mauritius.

6.3. EXTENSION OF DEADLINE

In the event that the Notary has not been provided with all documents and information from the Grantor as are necessary for the execution of the Sale, the time period set forth in Article 5.1 hereinabove for the purchase by the Beneficiary shall automatically be extended until the tenth Business Day following that on which the Notary shall have been provided with the last of the requisite documents or information, it being specified that the date of execution of the Sale shall not be postponed by more than two (2) months following the date set forth in the notification of Offer referred to in Article 5 hereinabove.

6.4. CONDITIONS OF THE SALE

The Sale, if carried out, shall occur under the sale on plans (*vente en l'état futur d'achèvement*) regime pursuant to Articles 1601-3 *et seq.* of the Civil Code, on such terms and conditions as are habitually applicable to sales on plan of residential property, in addition to the following terms and conditions:

1. The Sale shall include one of the completion or reimbursement guarantees referred to in Articles 1601-31 to 1601-37 of the Civil Code, the Grantor holding sole discretion as to the choice of the guarantee to be provided and as to the right to substitute the reimbursement guarantee for the completion guarantee referred to in Article 1601-35 of the Civil Code, without the Beneficiary's participation, in accordance with the provisions of Article 1601-36 of the Civil Code.

The Grantor shall hold the powers of the owner (*maître de l'ouvrage*) of the Reserved Unit until Completion.

2. Entry into possession of the reserved Reserved Unit shall be subject to completion of the Sale, and may not take place until Completion of the Reserved Unit within the meaning of Article 4 hereof, all in accordance with Article 1601-13 of the Civil Code. Furthermore, entry into possession shall be denied unless full payment of the purchase price for the Reserved Unit (the **Price**) has been duly effected by the Beneficiary.
3. The payment of such portions of the Price as are payable at fixed dates shall be secured by the vendor's lien (*privilège de vendeur*) and the action for rescission (*action résolutoire*), as well as by a first-demand independent bank guarantee to be issued in favour of the Grantor by a reputedly solvent Mauritian bank.
4. Rescission of the Sale shall give rise to the payment of an indemnity amounting to 10% of the price by the Party responsible for such rescission, without prejudice to the right held by the Party demanding rescission to demand compensation for the loss or harm effectively suffered.
5. The Grantor shall be discharged from its statutory obligations if the Beneficiary fails to give notice of any defects that he shall have witnessed within the statutory time period set forth in the said Article.
6. The Sale shall unconditionally cancel and supersede the Agreement and in the event of contradiction, the provisions of the deed witnessing the Sale shall solely prevail.

7. – ALLOCATION OF DEPOSIT

1. In the event that the Sale occurs, the Deposit shall cease to be unavailable and the amount thereof shall be transferred by the Escrow Agent to the

Grantor's account so as to contribute to the payment of such portion of the Price as shall be payable on the date of execution of the Sale, as may be required, it being specified that interest on the Deposit shall accrue to the Grantor without offsetting any part of the Price.

2. When notification of the Offer shall have been made, and in the event that the Beneficiary should decline to acquire the reserved Reserved Unit on one of the grounds referred to in paragraphs b, c, d, e of Article 1601-45 of the Civil Code, as set forth in Article 10 hereof, he shall notify, by registered mail with acknowledgement of receipt requested, his request and the reasons for such request, for refund to the Grantor and the Escrow Agent. In the absence of any challenge on the Part of the Grantor within a period of fifteen (15) Business Days following the sending of the request, the Escrow Agent shall refund the Deposit, without any withholding or penalty, within three (3) months as of the request of the Beneficiary. In the event of a challenge on the part of the Grantor, the Deposit shall not be payable to either of the Grantor or the Beneficiary unless a court decision having the authority of *res judicata* is delivered.
3. The Deposit shall likewise be refunded by the Escrow Agent to the Beneficiary in the event that the Project is discontinued. In that event, the Deposit shall not be reduced by any deduction or penalty, and shall be increased by any interest accrued thereon until the refund thereof to the Beneficiary.
4. In the event that, after the Offer is notified, the Beneficiary should decline to acquire the Reserved Unit on grounds other than those referred to in paragraphs b, c, d, e of Article 1601-45 of the Civil Code, as set forth in Article 10 hereof, the Deposit shall be payable to the Grantor. The Deposit shall be paid by the Escrow Agent, provided the Grantor shows evidence of notification of the Offer, if within a period of forty five (45) Business Days as of the sending of this notification, the Grantor has not received a request for a refund on the part of the Beneficiary made in accordance with Article 7.2 hereinabove.

8. – PRICE

8.1. AMOUNT

Consideration for the Sale, if it occurs, shall amount to an agreed and final Price of:

Rs [...] for Office no. [...]

And Rs [.....] for [No.] Parking Space.

exclusive of all taxes and charges save for those specified in Article 8.3 hereof.

8.2. TERMS AND CONDITIONS OF PAYMENT OF PRICE

The Price shall be payable in accordance with the table below:

(a)	on reservation	5%
(b)	on start of constructions	20 %
(c)	on completion of foundations	10 %
(d)	on completion of first floor (mise hors d'eau)	25 %
(e)	on completion of second floor (mise hors d'eau)	10%
(f)	on completion of construction	25 %
(g)	on handover of keys of the Reserved Unit(s)	5 %

8.3. COMPONENTS OF PRICE OF RESERVED UNIT

The Sale, if it occurs, shall take place for consideration amounting to the Price stipulated in Article **8.1**, such Price not including:

- (a) costs relating to the Sale before the Notary, including registration costs such as stamp duty and registration duty;
- (b) costs, duties and charges in respect of loans that the Beneficiary may have taken out;
- (c) the amount of all taxes and duties, contributions and other fees the burden of which is incumbent on the Beneficiary, including those that may be amended or created in future;
- (d) costs of drawing up the organic and regulatory documents of the Property Complex. The allocation of these costs shall be carried out in accordance with the provisions of the *état descriptif de division*, capped however at a maximum of Rs 5,000 (five thousand Rupees)
- (e) the proportional share of the instalment on charges of the Unit Owners' Association as of the date on which notice is given to the Beneficiary that the Reserved Unit is placed at his disposal. This proportional share includes *inter alia* the costs of installation of (i) boundary protection and video surveillance of the Property Complex and (ii) as the case may be, a fibre-optics network installed by the Grantor within the Property Complex. This cost of installation shall be financed by the Unit Owners' Association and amortised over a period of 10 years.

The Price shall be payable in accordance with the provisions of Article **8.2** hereinabove.

Any late payment of an instalment shall give rise to the payment of a penalty of 1 % per month of delay, applied to the amount not paid on the due date.

Payments shall be made within ten (10) Business Days following the sending of each certificate of progress of works, drawn up in accordance with conditions that shall be specified in the Sale.

8.4 NO LOAN FINANCING OF THE BENEFICIARY'S ACQUISITION

The Beneficiary represents that he does not intend to take out a loan to finance the contemplated acquisition, such financing being entirely covered out of his personal funds or the equivalent thereof and that if he nevertheless resorts to loan financing, this shall not howsoever affect his undertakings and obligations hereunder.

9.- CONDITIONS PRECEDENT

The present Agreement and the Beneficiary's decision to purchase are subject to the fulfilment of the following conditions precedent (the "**Conditions Precedent**"), which amount to essential conditions for completion of the Sale and without which the Parties would not have entered into the Agreement:

- (i) that the Notary certify, no earlier than within two months prior to the execution of the deed of Sale in the notarised form, that the Mauritian land and mortgage registry books do not show any registered charge or inscription of security interest or indication of such nature as to impede the sale of the Reserved Unit or to adversely affect the value of the Reserved Unit;
- (ii) that the Grantor raise sufficient financing to complete the Project;
- (iii) absence of ongoing judicial or other proceedings directly affecting the Reserved Unit;
- (iii) that the Grantor becomes the registered freehold owner of the Site
- (iv) that the beneficiary obtains the necessary permit from the Prime Minister's Office

With the exception of the condition set forth in paragraph (ii) hereinabove, the aforementioned conditions precedent are stipulated in the sole interest of the Beneficiary who may alone waive the benefit thereof at any time.

10.- NO WITHDRAWAL OF ACCEPTANCE

Acceptance of the Offer shall be final and binding, and may not under any circumstances whatsoever be withdrawn on any grounds whatsoever, and no provision of foreign law shall operate to relieve the Beneficiary of his obligations arising from acceptance of the Offer in accordance with the provisions hereof.

Any purported withdrawal of acceptance of the Offer shall entail immediate payment of the full amount of the Deposit, together with any interest accrued thereon, to the Grantor, without prejudice to the Grantor's right to apply to court for specific

performance of the Sale and/or claim compensation for any loss suffered as a result of such purported withdrawal of acceptance.

11. – ADDRESS FOR SERVICE

1. Save where otherwise expressly stated, any notice referred to herein shall be validly communicated, by registered letter with acknowledgement of receipt requested or by process server (*acte extrajudiciaire*) confirmed by facsimile or electronic mail sent to the Parties' stated address for service, to the following persons (the first presentation of the registered letter amounting to receipt and therefore notification to the addressee):

(a) **Grantor**

At the Grantor company's registered office

(b) **Beneficiary**

Address :. [ensure proof of address is given]

The above addresses and the names of persons authorised to receive notice may be amended by the Parties subject to notice given to the other Party, in accordance with the provisions of the present Article, the new address or name of the new authorised persons. In any event, any further statement of address for service shall not be made otherwise than within the island of Mauritius, to the exclusion of any election of domicile beyond such territory.

12. – GOVERNING LAW AND JURISDICTION

This Agreement is governed by, and shall be construed in accordance with, the laws of Mauritius.

Failing settlement by amicable means or through arbitration, any dispute which may arise in connection with the construction or performance of the Agreement shall be submitted to the courts having jurisdiction over the Property Complex.

Executed at Port Louis

On

In three (3) originals.

