

---

**Fw: Draft of Development Agreement.**

1 message

---

**DEEPAK NARENDRA THANEKAR** <dthanekar@rediffmail.com>  
To: omdigital17@gmail.com

Sat, Jun 29, 2024 at 1:42 PM

From: dthanekar@rediffmail.com  
Sent: Wed, 26 Jun 2024 12:36:03  
To: "sharadaras21@gmail.com" <sharadaras21@gmail.com>  
Subject: Fw: Draft of Development Agreement.

From: ramesh@mayfairhousing.com  
Sent: Wed, 06 Sep 2023 13:22:48  
To: Vishwakutir <vishwachs@rediffmail.com>  
Cc: Nayan Shah <nas@mayfairhousing.com>, Aditya Shah <aditya@mayfairhousing.com>, vithoba4 <vithoba4@gmail.com>, dthanekar <dthanekar@rediffmail.com>  
Subject: Re: Draft of Development Agreement.

sir

enclosed herewith is the draft of development agreement for discussion as received from the advocate.

we are sending you for the discussion to save time in the mean time we will also go through simultaneously and then we can discuss the suggestions from both the sides and freeze the same.

**APPRECIATING YOU**

**Ramesh Tank | DGM- BDD | Mayfair Housing Pvt. Ltd.**  
1, Mayfair Meridian, Ceaser Road, Off. S. V. Road, Amboli, Andheri (West), Mumbai- 400 058  
Mobile: +91-9820210019

Website: [www.mayfairhousing.com](http://www.mayfairhousing.com) Email: [ramesh@mayfairhousing.com](mailto:ramesh@mayfairhousing.com) |  
[bdd@mayfairhousing.com](mailto:bdd@mayfairhousing.com)  
CIN: U70100MH1986PTC041829



 Help the environment – please don't print this email unless you really need to!

---

From: vishwachs@rediffmail.com <vishwachs@rediffmail.com> on behalf of Vishwakutir <vishwachs@rediffmail.com>  
Sent: Wednesday, September 6, 2023 8:57 AM  
To: Ramesh Tank <ramesh@mayfairhousing.com>

**Cc:** Nayan Shah <nas@mayfairhousing.com>; Aditya Shah <aditya@mayfairhousing.com>; vithoba4 <vithoba4@gmail.com>; dthanekar <dthanekar@rediffmail.com>

**Subject:** Draft of Development Agreement.

Dear Mr Ramesh Bhai,

Further to the trailing mail & the discussion undersigned & Chairman had with you on number of occasion on the subject matter.

We regret to inform you that the matter is not given the due importance at your end.

As you are well aware that as per Government Guidelines Clause No. 18 of 4th July 2019, the Development Agreement has to be executed with the Developer within 3 months from the date of selection and as such we were suppose to have signed the Development Agreement by 28th August 2023, however we have still not received the draft of Development Agreement from your end. for the reasons best known to you.

We are deeply hurt that every time when we call you we are getting standard reply that draft of Development Agreement will be sent to us by the weekend or early next week, but so far we have not received the draft of Development Agreement.

If your Advocate is having any query regarding drafting of Development Agreement, please communicate to us so that we can solve the same after discussing with our Solicitor.

We once again request you to personally look into the matter and forward us the draft of Development Agreement asap.

A line of confirmation on the above will be highly appreciated.

Regards,  
Deepak Thanekar  
Secretary

From: "Vishwakutir" <vishwachs@rediffmail.com>

Sent: Thu, 10 Aug 2023 09:52:35

To: "ramesh" <ramesh@mayfairhousing.com>

Cc: "nas@mayfairhousing.com" <nas@mayfairhousing.com>, "vithoba4" <vithoba4@gmail.com>, "dthanekar" <dthanekar@rediffmail.com>

Subject: Draft of Development Agreement & Drawings

Dear Mr Ramesh Bhai,

This has reference to the trailing mail wherein we had requested you to provide Draft of Development Agreement & Draft of Building plan by 30th July 2023. However the same are not received by us till date.

We have personally handed Letter of Indent dated 25th May 2023 to you on 28th May 2023 & also had joint meeting with Ar. Reza Kabul on 3rd July 2023.

The initial queries raised by Ar Reza Kabul regarding the four premises were cleared by us in your Office on 12th July 2023.

Further, after every 8 to 10 days we are regularly following up with you to share the Draft of Development Agreement & Draft of Building plan.

As you are aware that as per the Government Guidelines Clause No 18 of 4th July 2019, the Development Agreement has to be executed with the Developer within 3 months from the date of selection i.e by 28th August 2023.

You are once again requested to submit the Draft of Development Agreement along with the Draft of Building plan so as to adhere the time frame set in the Govt. Guidelines Clause No 18 of 4th July 2019.

A line of confirmation on the above will be highly appreciated.

Regards,

Deepak Thanekar  
Secretary

From: Ramesh Tank <ramesh@mayfairhousing.com>



Sent: Thu, 27 Jul 2023 19:56:19

To: Vishwakutir <vishwachs@rediffmail.com>

Cc: vithoba4 <vithoba4@gmail.com>, dthanekar <dthanekar@rediffmail.com>

Subject: Re: Draft of Development Agreement & Drawings

Sir

Our architect and advocate are working on the dutta draft and first cut on the plans and we are in follow up with them will revert ASAP

Appreciating You

Ramesh Tank

Get Outlook for iOS

---

**From:** vishwachs@rediffmail.com <vishwachs@rediffmail.com> on behalf of Vishwakutir <vishwachs@rediffmail.com>

**Sent:** Wednesday, July 26, 2023 1:43:31 PM

**To:** Ramesh Tank <ramesh@mayfairhousing.com>

**Cc:** vithoba4 <vithoba4@gmail.com>; dthanekar <dthanekar@rediffmail.com>

**Subject:** Draft of Development Agreement & Drawings

Dear Mr Ramesh Bhai,

This has reference to our visit to your Office on 12th July 2023, wherein we had given clearance regarding 4 Premises Viz, R1, R2,R4 & B1 & the subsequent telecon we had on 20th July 2023.

You are requested to forward the Draft of Development Agreement drafted by your Adv Mr D'souza & also the Draft of the Building Plan prepared by Ar. Reza Kabul on or before 31st July 2023 so that we can take up the matter as per the schedule.

Regards,

Deepak Thanekar  
Secretary



**Development\_Agreement\_PL\_Version1\_.docx**

181K

**PREFATORY NOTES**

1. *The Society is to collate and provide Precept Legal copies of all documents/ details requested to be provided in Precept Legal's List of Requirements furnished to the Society/ its Advocates. In order that Precept Legal is able to carry out its due-diligence to the Property, the Society and its members will be required to schedule a time for inspection of the original documents available (deeds going as far back in time as is available). We request the Society and its members to treat this matter as urgent so that our due-diligence can proceed simultaneously with the discussions on this draft.*
2. *The process for vacating the Property has been specifically calibrated considering any obstruction that may be raised to the project- the process will be explained by Precept Legal and discussed in detail so as to bring all stake-holders on the same page;*
3. *All factual details (including names, addresses, Plot details, Old Structure details, members' details, details of existing premises, amounts, facts and figures through the DA and other documents are requested to be thoroughly verified, at the inception of the draft as well as periodically once iterations are made, and errors are requested to be brought to the notice of Precept Legal.*
4. *Tax implications/ efficiencies should be checked by the Society/ members and any amendments suggested to the Development Agreement should be informed/furnished to Precept Legal. On the Development Agreement and other ancillary documents being signed, it will be presumed that all intricacies of the Development Agreement including tax implications have been understood.*
5. *Names of all members as reflected in the Share Certificates/ Society's registers will be included in the DA. Therefore, if the name of any Associate Member has been included as such on the Share Certificate for convenience/ to attend meetings (and not on account of his/ her having a share in the premises), his/ her name should be deleted from the records/ Share Certificate before the execution of the DA. Please note that the names mentioned in the Share Certificate and in the DA and in the PAAA have to match.*
6. *It is presumed that the Committee members are elected as per the provisions of the Maharashtra Co-operative Societies Act and Rules and the bye-laws of the Society, the Committee is validly constituted, all Committee members have followed all provisions of the Act, Rules and bye-laws so as to render their appointment and continuance as Committee members as valid, and provisions of the Act, Rules and bye-laws have been adhered to in the administration/ management of the Society.*
7. *Members should furnish the following (since the same will have to be annexed to this Agreement and other documents to be executed)-*
  - a. *3 Photographs of each member. 4 additional photographs of the Committee members (who are signing the documents) should be furnished All photographs should be of stamp size.*
  - b. *Share Certificate copies (both sides) of the Members.*
  - c. *PAN Card of the Society, and PAN Cards & Aadhar Cards of all members. The PAN/Aadhar Cards should be bunched and photocopied together to fit around 3 or 4 pages (and not individual PAN /Aadhar copies per sheet).*
8. *The Society / Members should ensure that proper resolutions are passed for the project. The drafts of the resolutions need to be discussed and decided upon in advance by the Society, the Developer and their respective Advocates to ensure adequacy of purpose and content.*
9. *If any members will not be personally available to sign/ register the DA, Powers of Attorney should be executed well in advance- the form and content of the same need to be accurate*



and the manner of execution/ attestation of the same- so please ensure that such POAs are drafted by the Society's Advocates.

10. Resolutions will be required before signing of the DA in respect of-
- Allocation of members' new premises (areas, floors and location on each floor);
  - Rights of the Developer to the Developer's premises (including appurtenant terraces), Developer's Car-parking Spaces;
  - If any taxes are payable on the amounts paid by the Developer to the Society/ members, the same are the liability of the Society and the existing members (or persons claiming through such existing members) and that neither the Developer nor any purchasers/ allottees of the Developer's Flats (or persons claiming through them) shall be liable to pay/ contribute towards the same (even after admission to membership).
  - Approval of the following documents for signing/ registration, as applicable-
    - DA (with all annexures);
    - POA;
    - Society's Declaration;
    - Members' individual declarations.
  - Authorizing the Chairperson, the Secretary and one Committee member to execute/ register the documents on behalf of the Society
11. The Index, Annexure numbers, Recital/ Clause Numbers, Recital numbers will require to be revalidated, as per changes that will be done to the draft from time to time.

**Changes to the draft Agreement will be made based on the responses to the aforesaid.**

## **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT ("this Agreement") made and entered into at Mumbai this \_\_\_\_ day of \_\_\_\_\_ 2023 BETWEEN: -

**I. THE VISHWA KUTIR CO-OPERATIVE HOUSING SOCIETY LIMITED**, a society registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 under No. BOM/WGN/HSR (TC) 4874 of 1989-90 dated 10.05.1990, having its registered address at \_\_\_\_\_, Shankar Ghanekar Marg, Dadar (West), Mumbai 400 028, hereinafter referred to as the "**Society**" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to include its successors and all its members and persons claiming through its members) of the **FIRST PART**,

**II.** The following members of the Society: -

<b>S. No.</b>	<b>Name(s) of the Member(s)</b>	<b>Flat No.</b>
1.		
2.		
3.		
4.		

5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		
26.		
27.		
28.		
29.		
30.		
31.		
32.		
33.		
34.		
35.		
36.		
37.		
38.		
39.		
40.		
41.		
42.		
43.		
44.		



45.		
46.		
47.		
48.		

having their addresses at the flats shown against their respective names in the building, “Vishwa Kutir” at Plot No.\_\_\_\_, Shankar Ghanekar Marg, Dadar (West), Mumbai 400 028, hereinafter collectively referred to as the “**Executing Members**” (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to include their respective heirs, executors, administrators, successors and permitted assigns) of the **SECOND PART, AND** <<< *exact names of the Members will have to be checked by the Society* >>>

**III. M/s. MAYFAIR HOUSING**, a partnership firm registered under the Indian Partnership Act 1932, under Serial No. BA104751,, having its registered address at 1, Mayfair Meridian, Near St. Blaise Church, Caesar Road, Andheri (West), Mumbai 400058 hereinafter referred to as the “**Developer**” (which expression shall, unless repugnant to the context or meaning thereof, be deemed to include the partner/s for the time being or from time to time constituting the firm, the survivors of them and the heirs, executors, administrators and assigns of the last surviving partner, and its assigns) of the **THIRD PART**.

- Herein, where required, the Society, Executing Members and the Developer are collectively referred to as “**Parties**”.

#### **W H E R E A S:**

- A. The subject matter of this Agreement is the redevelopment of the freehold plot of land of the Society bearing Final Plot No. 892 of Town Planning Scheme Mahim No. IV, bearing Cadastral Survey No. 1261 of Mahim Division, admeasuring 1,672.54 square meters (as recorded in the Property Card thereof), situated at Shankar Ghanekar Marg, Dadar (West), Mumbai 400 028 (hereinafter referred to as the “**Plot**”), with the building named “Vishwa Kutir” comprising of a ground floor, three upper floors and part of the fourth floor, and ancillary structures thereon (hereinafter referred to as the “**Old Building**”);
- B. Annexed hereto and marked “**Annexure-A**” is a plan on which the Plot is shown edged in a red-coloured line and the Old Building is shown shaded blue. Annexed hereto and marked “**Annexure-B/1**” and “**Annexure- B/2**” are copies of the Survey Register and City Survey Plan in respect of the Plot. Herein, where required, the Plot with the Old Building are collectively referred to as the “**Property**”. The Property is more particularly described in the **First Schedule** hereto.
- C. The Society has represented that its title to the Plot has devolved as follows-
- C.1. The Society derives title to the said Property from a Unilateral Deemed Conveyance dated 24<sup>th</sup> July 2014 executed in its favour by Chandrakant V Tikule (Competent Authority, as per the powers conferred upon him under section 5A of the Maharashtra Ownership Flats Act, 1963) on account of the defaulting owners, Confirming Parties, developers, promoters stated therein which is registered at the Office of the Sub-Registrar of Assurances at Bombay under Serial No. BDE2/6650/ 2014 dated \_\_\_\_\_;
- C.2. The Society is the absolute owner of the Plot and the Old Building, free from all encumbrances and third-party claims.



- D. The Society has represented to the Developer that its membership currently comprises of forty-one members (which includes the Executing Members herein). Hereinafter, the forty-one members of the Society, including the Executing Members, are collectively referred to as the **“Members”**, and such expression shall mean and include all joint members (but exclude associate and nominal members), the respective heirs, executors, administrators, successors and permitted assigns of the Members, and all persons claiming through or under any of the Members.
- E. The Members hold shares of the Society. The Society has represented that there are (i) \_\_\_\_\_ commercial units on the \_\_\_\_\_ floor of the Old Building, which are owned by \_\_\_\_\_ of the Members (hereinafter referred to as the **“Members’ Old Shops”**), and (ii) 36 residential flats in the Old Building which are owned by \_\_\_\_\_ of the Members (hereinafter referred to as the **“Members’ Old Flats”**). Herein, where required, the Members’ Old Flats and Members’ Old Shops, are collectively referred to as the **“Members’ Old Premises”**. The names of the Members, the details of their shares held in the Society, and the details of the Members’ Old Premises are set out in the **Second Schedule** hereto; <<<Note: Society to revert with the details>>>
- F. The Society and its Executing Members represent that, save as recorded in this Agreement, the Members’ Old Premises are owned by the concerned Members free from all encumbrances. To that effect, each Executing Member has, this date, also signed a Declaration-cum-Consent, declaring that he/ she/ they is/ are the owner/s of their respective Members’ Old Premises and corresponding shares, and consenting to the terms of the redevelopment by the Developer;
- G. The Old Building is over 35 years old and requires repairs at an increasing frequency and costs, which the Members are reluctant to continue expending. The Society opined that considering the age and condition of the Old Building, the Society should consider a redevelopment of the Property so that the Members could get new and larger premises. The Society or its Members however do not have the requisite funds to carry out a redevelopment of the Property.
- H. The Society, accordingly, decided to re-develop the Property through professional developers, whereby certain FSI would be reserved for the Members which would be utilized to provide new and larger premises for the Members in a multi-storied building with modern amenities, besides which Members would be paid a compensation. In lieu thereof, the appointed developers would be entitled to utilize the balance of the agreed development potential to construct and sell the premises (besides those earmarked for the Members) and appropriate the proceeds to themselves.
- I. Under the provisions of the Development Control & Promotion Regulations - 2034 For Greater Mumbai (**“D.C.P. Regulations”**), in the event of a society undertaking a redevelopment of its land, it would be entitled to utilize the primary Floor Space Index (**“FSI”**) of the land under various provisions of the D.C.P. Regulations and FSI under various provisions thereof including by way of premium paid FSI (**“Premium FSI”**), by way of Transferable Development Rights (**“TDR”** or **“TDR/FSI”**), compensatory/ Fungible FSI (**“Fungible FSI”**), incentive FSI, etc., as well as FSI in lieu of stairways, lobbies, elevator shafts, etc.
- J. The Government of Maharashtra issued a Circular dated 03<sup>rd</sup> January 2009 (bearing No. CHS 2007/CR554/14-C, Co-operation, Marketing and Textiles Department) by way of a Directive under Section 79(A) of Maharashtra Co-operative Societies Act 1960, laying down guidelines to be followed by co-operative societies undertaking redevelopment



projects- since then, the same was modified as per Circular No. SaGruYo 2018/Pra. Kra. 85/14-S dated 04<sup>th</sup> July 2019. The Society has represented, and its Members have confirmed, that it has followed the procedure laid down in the said Circular and the decisions taken for redevelopment include the following-

- J.1. At its Special General Body Meeting (hereinafter referred to as “SGBM”) held on \_\_\_\_\_, the Society decided to undertake a redevelopment of the Property;
- J.2. \_\_\_\_\_
- J.3. \_\_\_\_\_  
<<<This recital will be modified based on the documentation to be provided by the Society>>>
- J.4. Thereafter, the Society negotiated with the Developer herein and the improved terms were recorded by the Developer in its letters dated 31.01.2023, 02.04.2023 read with his revised offer dated 25.04.2023;
- J.5. Pursuant to the aforesaid procedures, the final bids and offers for redevelopment were put to vote at the Society’s SGBM held on 14.05.2023 in the presence of Mr. Nikhil Kochare (being the Authorized Officer appointed for the said SGBM by the Deputy Registrar of Co-operative Societies, G/North Ward), whereat the Developer was selected and appointed to carry out the redevelopment of the Property;
- J.6. The Deputy Registrar of Co-operative Societies, by his letter dated 24.05.2023 confirmed the appointment of the Developer to carry out its redevelopment project, a copy of which is annexed hereto and marked and marked “Annexure-C”.
- K. The Society issued a letter dated 25.05.2023 to the Developer recording, inter alia, the selection and appointment of the Developer to undertake the redevelopment project of the Property.
- L. Since then, the detailed terms and conditions of the Redevelopment Project were deliberated upon and this Agreement, embodying all the final terms for Redevelopment agreed upon between the Society and the Developer, the Power of Attorney for purposes of Redevelopment to be executed in favour of the Developer by the Society, Declarations of individual Members and the Society’s Declaration were drafted and settled over several meetings between the Society and the Developer and their respective Advocates. The final drafts of the documents to be executed for the Project were deliberated on, accepted and approved for execution at the Society’s SGBM held on \_\_\_\_\_, whereat three of the Committee members of the Society were authorized to execute the documents on behalf of the Society;
- M. Annexed hereto and collectively marked “Annexure-D” are extracts of the relevant resolutions pertaining to the Redevelopment Project passed at the meetings of the Society.
- N. The Parties hereto are accordingly executing this Agreement.

**NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, it is hereby agreed as follows:**

- 1. **RECITALS FORM AN OPERATIVE PART OF THIS AGREEMENT-** The recitals of, and schedules and annexures to this Agreement are treated as forming an operative part of this Agreement and the same shall be read and construed accordingly.
- 2. **DEFINITIONS & INTERPRETATION-**



- 2.1. **Definitions-** Besides the capitalized terms that have been defined elsewhere in this Agreement, and which shall have the meanings respectively ascribed thereto in such definitions, in this Agreement (including the recitals above and the Schedules hereto), the following words and expressions, shall have the meanings set opposite them except where the context otherwise requires -

<b>“this Agreement”</b>	shall mean this Development Agreement with all schedules and annexures and all instruments supplemental to or in amendment or confirmation of this Agreement entered into in writing, including any writings signed contemporaneously with this Agreement.
<b>“Appointed Date”</b>	shall mean the date on which all of the Members’ Old Premises and the entire Old Building duly vacated are handed over to the Developer and the vacant possession of the entire Property has been handed over to the Developer for the purpose of Redevelopment.
<b>“Authority”</b>	shall mean any government or semi-government body, entity, department, board, commission, or authority exercising executive, legislative, judicial, regulatory or administrative functions including the Brihanmumbai Municipal Corporation, SRA, Collector, City Survey Authorities, Land Records authorities, Land Revenue Authorities;
<b>“BMC”</b>	shall mean the Brihanmumbai Municipal Corporation
<b>“Carpet Area”</b>	In relation to the Members’ New Premises shall mean measurable wall-to-wall area within the Members’ New Premises [(i) measured after brick/block work with plaster but before finishing/POP work (if brick/ block work is planned by the Developer), or (ii) measured after casting of walls using pre-fabricated form-work system (such as MIVAN or other technology as decided by the Developer), without plaster but before finishing/POP], excluding external walls, but including (i) areas covered under internal walls, (ii) areas for which Fungible FSI/incentive FSI/ any categories of FSI as per D.C.P. Regulations have been utilised, and including areas covered by balconies/ decks/ sit-outs, door jambs, sliding-door jambs, column projections, ledge walls for plumbing & electrical purposes.
<b>“Common Amenities”</b> <b>“Specifications”</b>	shall mean the common amenities and specifications to be provided in the New Building which are listed in <b>“Annexure-H”, ‘Part-3’</b> hereto.
<b>“Defects Liability</b>	means a period of sixty months from the date of Full



<b>Period</b>	Occupation Certificate being issued by the concerned Authority in respect of the New Building.
<b>“Development Potential”</b>	shall mean (i) the entire FSI that is available under the D.C.P. Regulations for utilizing and consuming on the Plot (whether on the area shown on the Property Register Card or as per physical measurement, as the Developer decides), such as the primary FSI of the Plot, TDR/FSI, Fungible FSI, Premium paid FSI, compensatory FSI, incentive FSI, etc., plus (ii) FSI/area towards staircase, elevator shafts, lobby areas or areas that is or may become available free of FSI under the D.C.P. Regulations either free of cost or on payment of premium etc., plus (iii) FSI available with/ without premium under the D.C.P. Regulations, (iv) plus FSI generated on account of hand over of road set-back area, if any;
<b>“Developer’s FSI”</b>	shall have the meaning ascribed to it in Clause 3.3 of this Agreement.
<b>“Developer’s Commercial Units”</b>	shall mean all commercial units (with or without exclusive rights to Private Terraces) besides the Members’ New Shops in the New Building, which the Developer shall have full rights to deal with at its discretion including rights to sell the same under the provisions of RERA/ MOFA/ applicable law, grant license or otherwise deal with as provided in this Agreement;
<b>“Developer’s Flats”</b>	shall mean all flats (with or without exclusive rights to Private Terraces) besides the Members’ New Flats in the New Building, which the Developer shall have full rights to deal with at its discretion including rights to sell the same under the provisions of RERA/ MOFA/ applicable law, grant license or otherwise deal with as provided in this Agreement;
<b>“Developer’s Car-Parking Spaces”</b>	shall mean all car-parking spaces in the Project besides the Members’ New Car-Parking Spaces, and over which the Developer shall have full rights to allocate the same amongst the Developer’s Flats / Developer’s Commercial Units and/or allot the same to the purchasers/ allottees of the Developer’s Flats/Developer’s Commercial Units;
<b>“Developer’s Premises”</b>	shall mean, collectively, the Developer’s Flats, Developer’s Commercial Units and the Developer’s Car-Parking Spaces;
<b>“Developer’s</b>	shall mean the agreed tasks listed in Clause 16.2.2 hereof

<b>Completion Obligations</b>	that the Developer will complete before issuing the Notice-To-Occupy to the Society offering possession of the Members' New Flats;
<b>"Occupation Certificate"</b>	shall mean the certificate issued by the concerned Authority granting permission to occupy the New Building or parts thereof to the extent stated in such certificate.
<b>"Members' Amenities"</b>	shall mean the amenities agreed to be provided by the Developer in the Members' New Flats, all of which are listed in <b>"Annexure-H", 'Part-1'</b> hereto and in the Members' New Shops all of which are listed in <b>"Annexure-H", 'Part-2'</b> hereto;
<b>"Members' Old Flats"</b>	shall mean the 34 residential flats owned by the _____ Members in the Old Building; <<<total number of Members' Old Flats and total number of Members who owns Members' Old Flats to be confirmed by the Society>>>
<b>"Members' Old Shops"</b>	shall mean the 12 commercial units flats owned by the _____ Members in the Old Building; <<< Society to confirm the total number of shops and total number of Members who owns the Members' Old Shops>>>
<b>"Members' Old Premises"</b>	shall mean, collectively, the Members' Old Flats and the Members' Old Shops owned by _____ of Members. The Members' Old Premises are detailed in the <b>Second Schedule</b> hereto.
<b>"Members' New Flats"</b>	shall mean the _____ residential flats to be constructed for the Members in the New Building, in lieu of the Members' Old Flats (as detailed in Clause 9 and in <b>"Annexure-F"</b> to this Agreement) which shall belong to the respective Members on ownership basis, as and when such New Building is constructed;
<b>"Members' New Shops"</b>	shall mean the _____ commercial units to be constructed for the Members in the New Building, in lieu of the Members' Old Shops (as detailed in Clause 9 and in <b>"Annexure-F"</b> to this Agreement) which shall belong to the respective Members on ownership basis, as and when such New Building is constructed
<b>"Members' New Car-Parking Spaces"</b>	shall have the meaning ascribed to it in Clause 9.9 of this Agreement.
<b>"Members' New Premises"</b>	shall mean, collectively, the Members' New Flats, Members' New Shops and the Members' New Car-Parking



Spaces;

- “Minimum Development Potential”** shall mean the FSI required to construct the Members’ New Premises and the Developer’s Commercial Units ;
- “New Building”** shall mean the building that the Developer shall construct on the Plot after demolishing the Old Structures, by utilizing the Development Potential of the Plot, and which shall contain inter alia the Members’ New Premises and the Developer’s Premises;
- “Notice-To-Occupy”** shall mean-
- (i) in respect of the Members’ New Shops, the written notice to be issued by the Developer to the Society (after the Members’ New Shops have been completed and the part Occupation Certificate at the Developer’s discretion) in respect thereof has been issued by the Concerned Authority) calling upon the concerned Members to take possession of the Members’ New Shops within fifteen days of receipt of this notice;
  - (ii) In respect of the Members’ New Flats, the written notice to be issued by the Developer to the Society (after the Developer’s Completion Obligations as per Clause 16.2.2 have been complied with) calling upon the concerned Members to take possession of the Members’ New Flats within fifteen days of receipt of this notice;
- Notice-To-Vacate** shall mean the written notice issued by the Developer to the Society after the Developer has complied with its Pre-Vacating Obligations (listed in Clause \_\_\_\_ hereof) calling for the Members’ Old Premises/Old Building and the entire Property to be vacated and handed over to the Developer by the Specified Date (defined hereinbelow)
- “Pre-Vacating Obligations”** shall mean the agreed tasks listed in Clause 5.1.1 to 5.13 hereof that the Developer will require to complete before issuing the Notice-To-Vacate to the Society calling for the Property to be vacated by the Specified Date;
- “Redevelopment” or “Project” or “Redevelopment Project”** shall mean the redevelopment of the Property by utilizing the entire Development Potential which will entail the demolition of the Old Building standing on the Plot, and the construction of a New Building thereon. For the redevelopment, the Developer is entitled to utilize the entire FSI and Development Potential of the Plot by the Developer.

<b>“RERA”</b>	“RERA” shall mean the Real Estate (Regulation and Development Act) 2016, and any statutory modification or amendment or thereof and all rules thereunder including rules passed by the Maharashtra Real Estate Regulatory Authority, and including all notifications/ orders/ circulars passed and any statutory modification or amendment thereof;
<b>“MOFA”</b>	“MOFA” shall mean the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management & Transfer) Act, 1963, and any statutory modification or amendment thereof;
<b>“Society’s PMC”</b>	shall mean the Project Management Consultant appointed by the Society to guide the Society through the Project.
<b>“Society’s Retained Area”</b>	shall have the meaning ascribed to it in Clause 3.3 of this Agreement.
<b>“Specified Date”</b>	shall mean the date mentioned by the Developer in the Notice-to-Vacate, by which date all of the Members’ Old Premises/Old Building and the entire Property, duly vacated, should be handed over to the Developer for the purposes of Redevelopment. Such date shall be thirty days from the date of the Notice-to-Vacate.

**2.2. Interpretation. In this Agreement, unless the context otherwise requires-**

- 2.2.1. the terms “hereof”, “herein”, “hereto”, “hereunder” or similar expressions used in this Agreement mean and refer to this Agreement and not to any particular Clause or Recital hereof.
- 2.2.2. The use of words herein in the singular or plural, or with a particular gender unless the context otherwise permits shall not limit the scope or exclude the application of any provisions hereof to such person or persons or circumstances. Words denoting persons shall include an individual, a body corporate, association or partnership firm or any other legal entity;
- 2.2.3. Any grammatical form of a defined term herein shall have the same meaning as that of such term;
- 2.2.4. a reference to recitals, clauses, schedules and annexures shall be reference to the recitals, clauses, schedules and annexures contained in, or annexed to this Agreement (as the case may be);
- 2.2.5. references to the word “include” or “including” are deemed to be followed by the words “without limitation”;
- 2.2.6. All annexes/ schedules appended to this Agreement or executed pursuant to this Agreement form part of this Agreement and shall have the same force and effect as if set out in the body of this Agreement and references



to this Agreement include the annexures/ schedules.

- 2.2.7. if by the terms of this Agreement, any act would be required to be performed on or within a period ending on a day which is a public holiday, that act shall be deemed to have been duly performed if it is performed on the working day immediately succeeding the last holiday.
- 2.2.8. all approvals and/or consents to be granted by the parties or any other person (including any statutory or regulatory authority) under this Agreement shall be deemed to mean approvals and/or consents in writing;
- 2.2.9. no provisions of this Agreement shall be interpreted in favour of or against any party by reason of the extent to which such party or its advocates participated in the drafting hereof or by reason any such provisions being inconsistent with any prior draft hereof;
- 2.2.10. If there is any conflict or inconsistency between a term in the body of this Agreement and a term in any of the Schedules of the Agreement or any other document referred to or otherwise incorporated in this Agreement, the term in the body of this Agreement shall take precedence.
- 2.2.11. Any obligation on a party not to do anything shall include an obligation not knowingly to cause or allow that thing to be done;
- 2.2.12. The headings of recitals or clauses of this Agreement are merely to facilitate the easy perusal of this Agreement and do not/ should not be construed to define, explain, limit, extend or interpret the scope of the recitals or clauses hereof.

### 3. **GRANT OF DEVELOPMENT RIGHTS-**

- 3.1. The Society hereby grants to the Developer and the Developer hereby accepts the exclusive and irrevocable rights and entitlements, free from all encumbrances, claims and demands in respect of the Redevelopment of the Property, subject to the terms contained in this Agreement.
- 3.2. In consideration of the grant of Redevelopment rights in respect of the Property to the Developer, the Developer shall construct the Members' New Premises with the Members' Amenities for the Members and pay the various amounts as agreed with the Society and detailed in this Agreement.
- 3.3. The Developer shall carry out the Redevelopment on the basis that the area of the Plot is not less than 1672.54 square meters, and the Society shall extend all support and co-operation in respect thereof including executing all documents, agreements, writings, required by the Developer for the Project and as per the terms hereof. On the basis of the Development Potential that the Developer succeeds in making available for the Project, the Society shall retain 3109 square metres built-up area generated from the FSI (namely, existing built-up area of 2302.96 square metres plus its free-of-cost fungible FSI of 35% i.e. 806.04 square metres built-up area) (herein referred to as the "**Society's Retained Area**"). The Society hereby entrusts upon the Developer the obligation of utilizing the Society's Retained Area in the construction of the Members' New Premises on the terms hereof. The balance of the Development Potential of the Plot belongs absolutely to the Developer and the



Developer shall be entitled to utilize and deal with the same in accordance with this Agreement (herein referred to as the “**Developer’s FSI**”).

- 3.4. The Developer is given the absolute right to carry out the Redevelopment Project on the terms mentioned herein including the right to enter upon the Property and to bring contractors, workmen and such other staff and employees on the Property for the purpose of carrying out the Redevelopment Project including any pre-development activity such as soil testing, surveying the Plot and the Members’ Old Premises, etc., and to keep and store necessary materials on the Property, and generally to carry out the Redevelopment work in terms of this Agreement. The rights of Redevelopment granted in favour of the Developer in respect of the Property are irrevocable till completion of the Project and thereafter, the Developer shall have continuing, absolute and unfettered rights to the Developer’s Flats, Developer’s Commercial Units and the Developer’s Car-Parking Spaces including rights of carrying out interior & finishing works thereto (either themselves or by the purchasers thereof) and rights of marketing and sales thereof as well as market and sales for the Developer’s/ its group companies’ projects. It is an intrinsic part of this Agreement that notwithstanding anything contained herein, on completion of the Project (i) the Developer shall always have full and free access to enter upon, and shall always be, and be deemed to be, in the possession of all of the Developer’s Flats, Developer’s Commercial Units and all of the Developer’s Car-Parking Spaces, until such time as the possession thereof has been delivered by Developer to the respective purchasers or allottees thereof or any persons nominated by the Developer, & (ii) the Developer shall have full and free access to enter upon Plot and New Building to showcase the same to prospective purchasers/ potential land-owners of other projects in future after obtaining Full Occupation Certificate thereof, and the aforesaid rights shall survive the completion of the Project. It is clarified that: -

3.4.1. The title to the Plot is not transferred and is not intended to be transferred to the Developer under this Agreement.

3.4.2. Title to the Plot is being retained by the Society and will continue to vest in the Society.

#### **4. MAXIMUM AREA TO BE DEVELOPED-**

- 4.1. For the Redevelopment of the Property, the Developer is fully and freely entitled and at liberty to utilize the entire Development Potential in terms of this Agreement including FSI available for set-back area as per Circular No. CHE/2703/DP/Gen. dated 13<sup>th</sup> May, 2022 issued by Municipal Corporation of Greater Mumbai.
- 4.2. If for any reason any FSI benefits from and out of the Development Potential relating to the Plot cannot be completely utilised or consumed in the Project as of the date of receipt of the full Occupation Certificate, then the Developer shall be entitled to transfer and/or assign the balance or any unutilised FSI in favour of any person and appropriate to itself the amounts received in respect thereof.

#### **5. PRE-VACATING OBLIGATIONS-**

- 5.1. The Developer shall, within a period of \_\_\_\_ months from the date of execution and registration of this Agreement, and a grace period of further \_\_\_\_ months and subject to Force Majeure or obstruction caused by any Members, comply with the



obligations mentioned in Clauses 5.1.1 to 5.1.3 below (herein collectively referred to as the “**Pre-Vacating Obligations**”)-

- 5.1.1. obtain the full concession approval of plans New Building sanctioned by the concerned Authority to the extent of the Plot;
- 5.1.2. obtain the Intimation of Approval/Disapproval upto the FSI covering the Minimum Development Potential from the concerned Authority; and
- 5.1.3. procure and load such FSI (whether by way of Premium paid FSI, or TDR/ FSI or Incentive FSI or Fungible FSI, etc., as the Developer may decide) upto the Minimum Development Potential.

- 5.2. If the Developer fails to complete the Pre-Vacating Obligations within the said \_\_\_\_ months from the date of execution and registration of this Agreement and the said grace period of \_\_\_\_ months thereafter (subject to Force Majeure or obstruction caused by any Members), they shall deposit with the Society’s Advocates such sum required to load the required TDR/FSI so as to achieve the Minimum Development Potential (which amount shall be jointly decided by the Society’s PMC and the Project Architect). On deposit of the aforesaid, the Developer shall have such time as may be required to complete the Pre-Vacating Obligations. The aforesaid deposit shall lie in escrow with the Society’s Advocates, to be refunded by the Society’s Advocates to the Developer within seven days of the Developer having complied with the Pre-Vacating Obligations.

- 6. **REPRESENTATIONS OF THE SOCIETY AND THE MEMBERS.** The Society and the Executing Members hereby represent, warrant, covenant, agree and undertake (as the case may be) as follows:

6.1. **As Regards the Property-**

- 6.1.1. That the Plot is bounded by proper boundary walls and a gate and that there is no dispute with any of the adjoining properties as to boundaries or areas or encroachments and that the area of the Plot is as stated in the First Schedule hereto;
- 6.1.2. There is no order or direction of any court or any other authority that causes restriction to the demolition of the Old Building or construction on/ development of the Plot;
- 6.1.3. The Society has not received any notice for acquisition, requisition or reservation of the Property or any part or portion thereof, nor is the Property or any part thereof included in any intended or published scheme of improvement of the Municipality or other public body or authority;
- 6.1.4. There is no outstanding encumbrance, mortgage, charge, lien, notices for acquisitions, easement rights or outstanding interest, lien or claim by any person in respect of the Property nor is the same the subject matter of any pending litigation or attachment either before or after judgment;
- 6.1.5. Neither the Society nor the Members have dealt with the Property, and/or the FSI, TDR, or development potential of the Property, or entered into any agreement or arrangement for grant of development or redevelopment rights in respect thereof to any third parties, or contracted to create any



right, title or interest in respect of the Property, nor have they done or committed to do any acts, deeds, things or matters whereby or by means whereof their right, title or interest in respect of the Property is or can be adversely affected and/or seriously prejudiced;

- 6.1.6. No title document has been deposited with any third-party as and by way of security for grant of any loans or credit facilities, and/or as and by way of mortgage, or otherwise howsoever. The Society is in possession and control of the following documents pertaining to the Plot and the Old Structures-

6.1.6.1. \_\_\_\_\_;

6.1.6.2. \_\_\_\_\_;

**<<<Society to give details/ inspection of the title documents  
and provide copies of the same, following which the above  
blanks will be filled in>>>**

- 6.1.7. That all taxes, outgoings, duties and dues including without limitation, N.A. taxes, assessment bills, water bills, electricity bills have been paid and that no notice has been served on the Society for recovery of any taxes, duties or dues;
- 6.1.8. That the Plot is of freehold tenure and that the title to the Property is clear and marketable and free from all encumbrances;
- 6.1.9. That the responsibility to maintain the Old Building and ensure the safety, security and structural integrity thereof till the Appointed Date is solely that of the Society.

**6.2. As regards the Society-**

- 6.2.1. The Managing Committee is a validly elected committee and have complied with all provisions of the Maharashtra Co-operative Societies Act 1960, the Maharashtra Co-operative Societies Rules 1961, and the bye-laws of the Society so as to validly continue as managing committee;
- 6.2.2. The Society has complied with and shall always comply with all the provisions of the Maharashtra Co-operative Societies Act 1960, the Maharashtra Co-operative Societies Rules 1961, and the bye-laws of the Society and that the Society has not done/ will not do any act which is in contravention to the provisions of the Maharashtra Co-operative Societies Act 1960, the Maharashtra Co-operative Societies Rules 1961, and/or the bye-laws of the Society and/ or which would put this Agreement in jeopardy;
- 6.2.3. That the Society is fully competent and has absolute right to enter into this transaction with the Developer;
- 6.2.4. The Society shall extend (and shall ensure that the Members extend) their co-operation to the Developer and shall furnish copies of their title documents if required by the Developers for the Redevelopment purposes;
- 6.2.5. The Society and the members have fully and completely understood, approved and accepted the scheme of Redevelopment of the Property, and all



the terms and provisions of this Agreement and all related writings, and consequently, neither the Society nor the members shall under any circumstances require the Developer to pay/provide any additional or other consideration, benefits, payments, etc., other than as specifically recorded in this Agreement.

**6.3. As regards the Members-**

- 6.3.1. The Members mentioned in the **Second Schedule** hereto are the only members of the Society and they are the only persons entitled to the Members' Old Premises;
- 6.3.2. The Members have paid all their dues including maintenance and repair bills, outgoings, and duties of and relating to or proportionate to the respective Members' Old Premises upto date and shall continue to pay the same for the entire period upto the Appointed Date;
- 6.3.3. All Members are resident Indians as defined by the Income Tax Act 1961 save and except for those Members who are NRIs, and whose details are mentioned in **"Annexure-E", 'Part 1'** hereto); <<< *Society to give details of NRI members* >>>
- 6.3.4. Save and except for some of the Members' Old Premises that have been given by the members thereof on leave-and-license basis for residential purposes (details whereof are mentioned in **"Annexure-E", 'Part-2'** hereto) all other Members' Old Premises are in the occupation of the respective members and their immediate family members. In respect of those of the Members' Old Premises given on license basis, the concerned members shall not renew the licenses and shall ensure that such premises shall be vacated by the licensee within ten days of the Notice-To-Vacate. No leave and license agreements of any of the Members' Old Premises shall be executed hereafter; <<< *Society to give details of licensed flats and furnish copies of the license agreements* >>>
- 6.3.5. Save and except for some of the Members' Old Premises that have been mortgaged (details whereof are mentioned in **"Annexure-E", 'Part-3'** hereto), none of the other Members' Old Premises are mortgaged or loans taken or premises offered as security or encumbrances/ third party rights created (whether by way of registered or unregistered documents). From the date hereof, none of the Members shall mortgage any of the Members' Old Premises or create any third-party rights in respect thereof without the prior written consent of the Developer; <<< *if any members have mortgaged their premises, details and documents in respect thereof to be provided* >>>
- 6.3.6. If any Member has been admitted as nominee or heir of a deceased member, he/she/ they shall hold his/her/ their Shares and the new premises in the New Building for and on behalf of all heirs and it shall be the responsibility of such Member to deal with the other heirs and the title to the Shares/ new premises.
- 6.3.7. In the event any third party puts any claim in respect of any of the Members' Old Premises or obstructs the development work, the concerned



Member shall deal with and clear such claims/ obstruction at his/her own costs and expeditiously so as to not cause any delay in the Redevelopment work, and shall be responsible for the costs and consequences of the delay;

- 6.3.8. None of the Members' Old Premises are attached either before or after judgment or at the instance of any court or taxation authority or any other statutory authorities and none of the Members have given any undertaking to any taxation authorities so as to not deal with or dispose of his/her right, title and interest in his/her flat/ premises;
- 6.3.9. There are no proceedings pending in any Court or before any authority or any attachment or prohibitory order of any Court or authority concerning, touching and affecting any of the Members' Old Premises which prevent any of the Members from executing this Agreement or in any manner dealing with their premises;
- 6.3.10. None of the Members are restrained under any provisions of law including the Income-Tax Act 1961 from selling or transferring or dealing with any of the Members' Old Premises or their corresponding shares held in the Society;
- 6.3.11. No petition or proceedings for insolvency/ bankruptcy/ winding-up has been filed or initiated before any court of law or other competent authority against any Member by any creditors or any other person or persons;
- 6.3.12. None of the Members have entered into any agreement or arrangement with any other person or persons for sale, transfer or assignment of any of the Members' Old Premises and none of the Members have accepted any token deposit, earnest money or any other consideration/ amount from any person or persons towards the Members' Old Premises/ shares;
- 6.3.13. No persons (other than the respective Members, and other than the licensees of licensed premises or mortgagees of mortgaged/ charged premises as listed in Annexure 'E' hereto) have any claim, right, title or interest of any nature whatsoever in or to any of the Members' Old Premises, including by way of sale, exchange, lease, sub-lease, mortgage (equitable or otherwise), gift, trust, inheritance, succession, bequest, tenancy, lien, or otherwise howsoever, and that the Members are the absolute legal and beneficial owners of the respective Members Old Premises have a clear and marketable title to the same, free from all encumbrances and that the Members have absolute and unfettered powers to deal with their respective premises. The Members hereby agree to indemnify and keep indemnified the Developer against any claims from any third-party or authorities in respect of the Members' Old Premises/ the Members' New Flats, whenever they arise in the future;
- 6.4. The Society agrees to cause all the members to file their nominations with the Society. As agreed, in the event of the death of any member, the Developer is entitled to hand over the possession of the deceased member's new flat/ shop and pay the agreed consideration/ amounts that were due to the deceased member to such nominee as will be indicated by the Society and without being liable in any manner whatsoever to any other heirs of such deceased member. In the case of any dispute,



the affected Member agrees that the Developer is entitled to hand over the keys and the possession of such disputed flat/ shop along with the cheque for balance payment pending to the nominee as directed by the Society, and the Developer shall not be responsible in any manner for such handover.

- 6.5. The Society shall ensure compliance by individual Members of the terms hereof and, in particular, the vacating and handing over of the Members' Old Premises and the settlement of any third-party claims pertaining to the Members' Old Premises and the Members' New Premises.
- 6.6. The Members shall not commit any act whereby the rights of the Developer created herein may be prejudiced, and the Society is responsible to ensure the same;
- 6.7. During the construction of the New Building, no hindrance or obstruction will be caused by any member in carrying out the redevelopment of the Property by the Developer;
- 6.8. In view of the Developer incurring and agreeing to incur the substantial obligations and liabilities (financial and otherwise) set out herein, it is agreed that this Agreement is non-terminable and shall not be cancelled or terminated by the Society and/or the Members.

7. **TITLE –**

- 7.1. The Society has further represented and guarantees that the title to the Plot is clear and marketable and free from all encumbrances, and shall, simultaneously with the execution of this Agreement, execute a declaration recording inter alia the representations, covenants and undertakings in this Agreement and that all of the representations, covenants and undertakings of the Society made in or pursuant to this Agreement shall remain true and correct as of the Appointed Date. The Society shall also, on the Appointed Date, issue a writing confirming that the representations, covenants and undertakings of the Society are true, correct and complete, in all material respects, as of the Appointed Date. The Society is aware that the Developer is relying on the representations by the Society/ Executing Members as contained in this Agreement and on the declarations by the Executing Members and the Society. The Developer shall nevertheless be entitled to investigate the title of the Society to the Property and the Members to their respective Members' Old Premises. The Society and its Members shall provide the necessary assistance to the Developer/ its Advocates for the same. It shall, at all times hereafter, be the responsibility of the Society to maintain clear title to the Property and the Members to their Members' Old Premises/ Members' New Premises, and any obstruction caused due to non-observance of the aforesaid obligation to maintain clear title shall accordingly entitle to the Developer to an extension of the time available to it to complete its obligations contained herein.
- 7.2. The Society shall within seven working days from the date hereof hand over to the Advocates of the Developer the title deeds of the Plot and the Old Building (along with one set of certified true copies) to enable the Developer's Advocates to investigate the Society's title thereto. <<<Note: Society to furnish details/ documents/ copies, and grant inspection at the earliest>>>
- 7.3. It is agreed that if, inspite of the due diligence and investigation of the title with respect to the Property by the Developer, at any time hereafter, any encumbrance/s



arise and/or any claim/s or demand/s are received from any party in respect of the said Property, it shall be the sole responsibility of the Society and the current Members (or persons claiming through the current Members), at their costs, to have such encumbrance/s, claim/s and demand/s, and/or suits, actions, proceedings and disputes (as the case may be) settled, removed, or withdrawn, no later than fifteen days from the date that the same are notified or come to the knowledge of the Society and/or to the Developer, and in the event any injunction from any court or claims/ encumbrances have the effect of obstructing the redevelopment work, then the timelines for compliance/completion of the Developer's obligations as per this Agreement shall stand extended to that extent.

## 8. THE NEW BUILDING-

- 8.1. **Composition of the New Building:** The ground floor of the New Building will comprise of shops, retail/ commercial units (which shall contain the Members' New Shops and the Developer's Commercial Units). The first floor and second floor may comprise of partly or entirely of shops/commercial units (containing the Developer's Commercial Units) or flats. There will be such car-parking floors as may be decided by the Developer (whether by way of basement/s or podium levels as decided by the Developer), and there will be residential floors (which shall contain the Members' New Flats at lower residential floors and the Developer's Flats above the Members' New Flats). Since the design and planning of the New Building and the number of parking levels and the number of commercial floors above the ground floor will be decided by the Developer on the basis of the clearance of the height of the New Building by the Civil Aviation authorities and as per the Developer's planning/ design requirements, for the purposes of this Agreement, the 'first habitable floor' containing residential/commercial units shall be the first floor directly above the topmost car-parking podium level/amenity deck, the level above the first habitable floor will be the 'second habitable floor', and so on. After the Developer obtains the approval of the plans of the New Building from the BMC, the floors of the New Building will be counted as follows (i) the ground level containing the commercial units, lobby etc., will be the 'ground floor', (ii) the floor above the ground floor (whether containing podium parking level and/or Developer's Commercial Units and / or the Members' New Flats and / or Developer's Commercial Units and/or part car parking spaces) will be the 'first floor', (iii) the floor above the first floor (whether containing podium parking level and/or Developer's Commercial Units and / or the Members' New Flats and/or part car parking spaces) will be the 'second floor', and so on moving upwards, upto the topmost floor containing the topmost Developer's Flats.
- 8.2. **Refuge Areas:** Refuge areas shall be provided as per the D.C.P. Regulations. The Developer or the Society do not have the right to and agree not to create any rights in favour of any allottees/ purchasers in respect of the refuge areas, and access to the same will not be restricted in any manner. The refuge areas shall be a common area belonging to the Society, and no premises-owner shall be entitled to the exclusive use thereof. The Society shall adhere to and shall ensure adherence of the provisions of the D.C.P. Regulations and regulations of the Fire Department and other authorities with regard to the refuge areas.

### 8.3. **Terraces-**



- 8.3.1. The terrace above the topmost habitable floor of the New Building shall be a common area and facility for the benefit of the owners / occupants of all the premises in the New Building and the same will be located above the uppermost habitable floor. All other terraces or parts thereof in the New Building (whether included in FSI or free of FSI) shall belong to the Developer (the “**Private Terraces**”). It is hereby clearly understood and agreed that the Private Terraces are available to the Developer to attach to the Developer’s Flats and/or the Developer’s Commercial Units and/or to grant exclusive rights and user thereof to the purchasers/allottees of the Developer’s Flats or the Developer’s Commercial Units as the Developer shall decide at its discretion, and that the Society and/or the Members or any persons claiming through the Members shall not object to the same at any time. The amounts agreed to be paid by the Developer to the Society and to the Members as per this Agreement are also towards the rights of exclusive use of the Private Terraces by the purchasers/ allottees of such of the Developer’s Flats and/or Developer’s Commercial Units, as decided by the Developer, and accordingly the Society and the Members irrevocably and unequivocally agree and covenant that the Private Terraces shall be married to and appurtenant to the Developer’s Flats or the Developer’s Commercial Units, as decided by the Developer, and such shop/office/ flat-purchasers/allottees shall be exclusively entitled to use, enjoy and occupy such Private Terraces to the exclusion of any other shop/office/flat-holders in the New Building. Such Private Terraces shall be treated as a part of such flats/offices/shops as decided by the Developer for all rights and obligations and are specifically excluded from the general/ common areas of the Society. The Society and the Members agree and confirm that such rights to the Private Terraces shall be transferred and/or inherited along with the transfer of such premises. The owners/ occupiers of such premises shall be liable to maintain such Private Terraces at their own costs and expenses and bear the taxes of the same. Such shop/ office/flat-purchasers/allottees to whom the Private Terraces have been allotted shall also be liable to pay to the Society maintenance charges of the Private Terraces, as decided by the Society, and the Developer shall incorporate such terms in the agreement(s) to be executed with such purchasers/allottees. The Society shall also, at the Developer’s cost and expense, execute such writings/ pass such resolutions as may be required by the Developer in conformity with the above.
- 8.4. **Car-Parking Provisions.** The Developer shall provide car-parking levels/ floors in the New Building within the compound and within the car-parking levels decided by the Developer, and shall provide such parking systems as may be decided by the Developer. Of the car-parking spaces that the Developer earmarks on site, an aggregate of 48 parking slots shall be earmarked for the Members’ New Flats and the Members’ New Shops as per Clause 9.9 hereof, and the balance parking slots in the project (including in the compound and/or within the car-parking levels/ systems) shall belong to the Developer with absolute right to allot the same amongst the Developer’s Flats and/or the Developers’ Commercial Units.
- 8.5. **Common Areas.** Other than the Members’ New Car-Parking Spaces, the Developer’s Car-Parking Spaces and the Private Terraces, which, as agreed, are not common areas, all other common areas, shall belong to the Society for the benefit of



all its members (which will include all purchasers/ allottees of the Developer's Premises). It is reiterated that the Members' New Car-Parking Spaces are not general common areas and shall belong to the concerned members for their exclusive use, with transferrable and heritable rights thereto attached to their respective premises. Likewise, the Developer's Car-Parking Spaces and the Private Terraces are not general common areas and shall belong to the concerned purchaser/ allottee thereof for their exclusive use thereof, and with transferrable and heritable rights thereto.

- 8.6. The Developer shall be entitled to place its logo/name on the New Building on any part of the New Building and/or compound wall thereof and the same shall not be removed/ altered by the Society and shall be maintained by the Society.
- 8.7. The design of the New Building including the RCC structure, type and thickness of slabs, type and thickness of internal and external walls, elevation, placement of columns, beams, doors, windows, etc., shall be carried out by the Developer as per the advice of their Architects/ structural consultants/ RCC Consultants engaged by the Developer for the Project, and overrides the specifications contained in the Society's tender- however there will be no reduction in the Carpet Areas of the Members' New Flats and/or the Members' New Shops beyond the deficit tolerance area specified in this Agreement.
- 8.8. The Developer is entitled to conceptualize, plan, and execute the design of the New Building including the common amenities, facilities, infrastructure of the Project, placement of columns, beams, doors, windows, etc., as the Developer deems fit, and to do and execute or cause to be done and executed all such acts, deeds, matters and things as may be necessary for implementing and completing the Project and for undertaking its obligations as contemplated under this Agreement.
- 8.9. No box grills shall be installed in any of the premises in the New Building.
- 8.10. The Society shall ensure that the elevators, parking systems and other equipment provided by the Developer are handled by trained personnel and that the same are handled with due care and caution and that annual maintenance contracts shall be signed and renewed with the original equipment manufacturers or their authorized maintenance personnel.

9. **DETAILS OF THE MEMBERS' NEW PREMISES.** The Developer shall utilize the Society's Retained Area (and procure the required FSI to make up the Society's Retained Area) and construct the Members' New Flats and the Members' New Shops for the Members on the following other terms & conditions: -

- 9.1. **Area Representation of the Members' Old Premises.** The Society has represented that the aggregate carpet area of all of the Members' New Flats and the Members' New Shops is 23,248.84 square feet and that the individual carpet areas of each of the Members' Old Flats and Members' Old Shops are as detailed in the **Second Schedule** hereto and, at the Society's behest, the Developer has accepted the same, and shall not be responsible if any of the Members dispute any of their existing areas as stated in the Second Schedule hereto.
- 9.2. **Free Area Entitlement.** The Developer shall utilize the Society's Retained Area and construct and provide to the Members, free of costs as per this Agreement, with new flats or new shops, as the case may be, which will comprise of the carpet



areas of the Members' Old Premises plus such additional carpet area generated from the Society's Retained Area ("**Free Area Entitlement**"). In the event any of the Members desire to purchase additional area, over and above their Free Area Entitlement, they shall first reach an agreement for such purchase with the Developer and if terms thereof are agreed by the Developer, the area so purchased shall form part of the respective Members' New Premises and the terms of such purchase shall be recorded in the Members' PAAAs. It is agreed between the Society and the Members that the Society's Retained Area is the sum of the existing built-up area plus its fungible area of 35% which is available free of FSI. In case if any part of this 35% fungible FSI is charged, the same will be borne by the respective members or shall be deducted and adjusted from the compensation payable to them.

**9.3. Location of the Members' New Premises-**

9.3.1. The Members' New Flats will be located on the habitable floors above the Developer's Commercial Units (if any) in the New Building (so as to cover the lower residential floors of the New Building). The Society, at its SGBM held on \_\_\_\_\_ had approved the allocation of the Members' New Flats amongst the concerned Members.

9.3.2. The Members' New Shops will be located on the ground floor of the New Building. The Society, at its SGBM held on \_\_\_\_\_ had approved the allocation of the Members' New Shops amongst the concerned Members.

9.3.3. Details of the Members' New Flats and the Members' New Shops are set out in the list annexed hereto and marked "**Annexure-F**". In the event the Developer has purchased any of the Members' Old Premises or the Members' New Premises at any time from the date hereof to the date of the Full Occupation Certificate, the Developer is entitled to take such area of such purchased premises or area in lieu of the purchased premises into the Developer's Premises and either merge the same with the Developer's Flats/ the Developer's Commercial Units, or hold and sell the same as a member of the Society.

9.4. **Floor Plans.** Proposed floor plans in respect of the Members' New Flats and the Members' New Shops as drawn up by the Developer and approved by the Society are annexed hereto and marked "**Annexure-G**". The annexed floor plans shall be submitted by the Developer for approval to the concerned Authority and shall be subject to such approval. The Developer is entitled to amend the plans in respect of the New Building provided however that any amendments do not result in reduction in the areas of the Members' New Flats and the Members' New Shops. The plans approved by the concerned Authority will contain the exact areas of the Members' New Flats and the Members' New Shops and, in the event of any variance with the proposed plans annexed hereto, the plans approved by the concerned Authority shall prevail. If a change is sought by any Member in the area, location or orientation of his/ her new flat/ shop and the same is agreed by the Developer, at its discretion, and such change does not alter the area or floor of the other flats/ shops of the Members, the Developer is entitled to carry out such change and the same will be reflected in the PAAA of such individual member.

**9.5. Deficit tolerance /deficit compensation of Carpet Areas-**



- 9.5.1. While the plans for the New Building will be submitted to the concerned Authority with-out any deficit tolerance, a tolerance of upto 3% difference in the Carpet Areas of the Members' New Flats and the Members' New Shops is accepted without payment of any penalties/ compensation.
- 9.5.2. If the Carpet Areas as per measurement in any of the Members' New Flats or Members' New Shops is less than the Carpet Areas mentioned in "Annexure-G" hereto, in such event-
- 9.5.2.1. the shortfall up to 3% inter alia on account of civil work and finishing tolerance of the Carpet Area shall be condoned (and not compensated for).
- 9.5.2.2. If the shortfall is more than 3% of the Carpet Area, the Developer shall compensate such Member @ Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) per square foot for any shortfall in the carpet area beyond 3%, and such payment shall be made to the concerned Member against their taking possession of the Members' New Premises.
- 9.5.3. If the Carpet Areas of the Members' New Premises should exceed the agreed carpet areas mentioned in "Annexure-G" hereto, the Society/ Members shall, within \_\_\_ days of the Carpet Area being certified by the Project Architect (and in any event prior to the Developer handing over possession of the concerned Members' New Premises), make payment to the Developer for such surplus Carpet Area @ Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) per square foot for such surplus in the carpet area;
- 9.5.4. To ensure timely verification of the Carpet Areas in respect of the Members' New Premises, the Developer shall inform the Society's PMC on the completion of [(i) brick/block work with plaster but before finishing/POP work or each floor containing the Members' New Premises, or (ii) after casting of walls in RCC using pre-fabricated form-work system (such as MIVAN or other technology as decided by the Developer), without plaster but before finishing /POP of each floor containing the Members' New Flats and the Members' New Shops], and the Society's PMC shall be entitled to inspect and measure the same within 15 days of such intimation, after which (i) the Society shall be deemed to have accepted the accuracy of the areas of those of the Members' New Flats/Members' New Shops on such floors, (ii) the Developer shall proceed with finishing the shops/ flats, and no further claims shall be raised regarding deficit areas. Any deficit in areas brought to the notice of the Developer by the Society's PMC shall be rectified by the Developer or, if not rectified, compensation for the same will be paid by the Developer to the concerned member at the rates specified in Clause 9.5.2.2 hereof. The Project Architect will also issue a certificate recording the areas of the Members' New Premises.
- 9.6. **Height.** The slab-to-slab height (i.e., top of the upper slab to the top of the lower slab of a floor) of the floors containing the Members' New Flats or the Members' New Shops in the New Building shall not be less than 2.9 meters inclusive of slab thickness. It is clarified that such height shall not be available in toilets/ bathrooms, or sunk areas or where beams are located.



9.7. **Members' Amenities.**

9.7.1. **As regards the Members' New Flats-** The Members' New Flats shall be provided with the Members' Amenities listed in **"Annexure-H", 'Part I'** annexed hereto. The Members' Amenities shall not be less than those agreed to be provided as per **"Annexure-H", 'Part-1'** hereto. In the event, the Developer provides equivalent or further or better amenities than those listed in **"Annexure-H", 'Part-1'**, the same shall be done at the costs of the Developer alone, and the Society and/or the concerned Members shall not be required to compensate/reimburse the Developer for the same unless such better amenities or changes have been provided at the request of the Society and/or the concerned Members.

9.7.2. **As regards the Members' New Shops-** The Members' New Shops shall be provided with the Members' Amenities listed in **"Annexure-H", 'Part 2'** annexed hereto. The Members' Amenities shall not be less than those agreed to be provided as per **"Annexure-H", 'Part-2'** hereto. In the event, the Developer provides equivalent or further or better amenities than those listed in **"Annexure-H", 'Part-2'**, the same shall be done at the costs of the Developer alone, and the Society and/or the concerned Members shall not be required to compensate/reimburse the Developer for the same unless such better amenities or changes have been provided at the request of the Society and/or the concerned Members.

9.8. **Alterations to Members' New Premises.** No alteration whatsoever is permitted to be made by the Members to the size or location of plumbing lines of the kitchens, bathrooms/ toilets of the Members' New Flats and the Members' New Shops. If any other change is sought by any member, and if the same is agreed upon by the Developer, the same shall be carried out. The other members shall not raise any objection to any such changes that may be agreed upon by the Developer with any particular member. It is clearly understood and agreed that no member shall make any changes to their Members' New Flats and the Members' New Shops so as to affect the elevation of the New Building or so as to cause any damage to the New Building or any electrical or plumbing lines or damage/ leakage- individual members alone shall be liable for any damage as a result of any changes.

9.9. **Members' New Car-Parking Spaces-** Out of the car-parking spaces that the Developer earmarks on site, the Society shall have, for the benefit of the Members listed in the **Second Schedule** hereto (or to persons claiming through such Members), forty-eight car-parking slots mentioned below (the **"Members' New Parking Spaces"**).

9.9.1. As agreed, the Developer shall provide a total of 48 (forty-eight) car-parking spaces to the Society (i.e., one per existing unit) for allocation to those of the Members herein as internally agreed in the Society. The Society has decided the allocation of the Members' New Car-Parking Spaces amongst its Members and the details thereof are included in **"Annexure-\_\_\_"** hereto. The Society has internally agreed that the distribution of Members' New Car-Parking Spaces amongst the existing Members is not based on the areas of the Members' New Flats and/or of the Members' New Shops but as agreed and stated in Annexure-\_\_\_ hereto.



*<<< a resolution in respect of the Members' New Car-Parking Spaces will be required >>>*

- 9.9.2. The block of the Members' New Car-Parking Spaces shall be identified by the Developer on the completion of the car-parking floors of the New Building.
- 9.9.3. The Members' New Car-Parking Spaces shall be handed over to the Society and the Society shall be responsible to allot the same to the Members. The Developer shall not be concerned with, involved in, or responsible for the allocation and distribution of the Members' New Car-Parking Spaces amongst the Members;

**9.10. Individual Confirmatory Writings In Respect Of The Members' New Flats-**

- 9.10.1. A document termed as 'Permanent Alternate Accommodation Agreement' shall be executed in favour of the Members to confirm the allocation of each of the Members' New Flats and the Members' New Shops as per this Agreement ("**Permanent Alternate Accommodation Agreement**" or "**PAAA**"). A draft of the Permanent Alternate Accommodation Agreement is annexed hereto and marked "**Annexure-I**" (and the format thereof is subject to relevant changes/ updates as may be required);
- 9.10.2. As per Circular No. K.5/Stamp-17/ Pra.Kr.10/ 13/303/17 dated 30<sup>th</sup> March 2017, stamp duty on areas agreed to be provided by Developer to society-members free of costs is Rs.100/-. The Developer shall execute the said Permanent Alternate Accommodation Agreements in favour of the Members by the Appointed Date. PROVIDED, however, (i) if any Member has not signed this Agreement, or (ii) if any Member is unavailable to execute/ register their Permanent Alternate Accommodation Agreement at the time that the Developer decides on the execution of the same, or (iii) if there is any transfer/ transmission or exchange of any of the Members' New Premises, or (iv) there is any change/ difference in the names of any of the Members in their Share Certificates, then notwithstanding anything contained herein, such member shall be liable to pay the stamp duty and registration charges in respect of his/ her Permanent Alternate Accommodation Agreement and/or in respect of any supplemental agreements/documents that may be required to be executed. Further, if any Member purchases any additional area (over and above the Free Area Entitlement), stamp duty on the same shall be borne by the concerned Member. *<<< Society/ Members to ensure accuracy of members' names on the Share Certificates and to ensure that the same tally with the respective Members' names on their PAN/Aadhar Cards >>>*

**10. PAYMENTS TO THE MEMBERS-**

- 10.1. **Hardship Compensation.** The Developer has agreed to pay a comprehensive compensation calculated @ Rs.2,000/- (Rupees Two Thousand Only) per square foot carpet areas of the Members' Old Premises, and the aggregate amount thus payable is Rs.4,64,97,680 /- (Rupees Four Crores Sixty-four Lakhs Ninety-seven Thousand Six Hundred Eighty). The aforesaid compensation is the agreed predetermined lump sum amount payable to the Members (i) for having given



concurrence and consent for the Redevelopment of the Property (ii) for alleviating the hardship that the Members (including joint members and their family members) will have to endure on account of shifting out of the Members' Old Premises to facilitate the Redevelopment of the Property, and shifting back into the Members' New Flats/ Members' New Shops as per this Agreement, (iii) for agreeing to the terms hereof including rights of the Developer to the Developer's Flats/ Developer's Commercial Units and to the Developer's Car-Parking spaces as stated in this Agreement and rights of the Developer to attach Private Terraces to any of the Developer's Flats or Developer's Commercial Units and grant exclusive rights to the purchasers/ allottees thereof, (iv) for having agreed to share the general common areas with more persons on completion of the Project, (v) to help Members meet the increase in the outgoings & dues including property taxes/ Society charges, in respect of the Members' New Premises, (herein referred to as the **"Hardship Compensation"**). The aforesaid Hardship Compensation is agreed to be paid by the Developer to the Members in the following installments-

10.1.1. 10% of the Hardship Compensation aggregating to Rs.46,49,768 /- (Rupees Forty-six Lakhs Forty-nine Thousand Seven Hundred and Sixty-eight) shall be paid to the Members on the execution and registration of this Agreement;

10.1.2. 20% of the Hardship Compensation aggregating to Rs. 92,99,536/- (Rupees Nine-two Lakhs Ninety-nine Thousand Five Hundred and Thirty-six) shall be paid to the Members on the Appointed Date;

10.1.3. The balance 70% of the Hardship Compensation aggregating to Rs. 3,25,48,376/- (Rupees Three Crores Twenty-five Lakhs Forty-eight Thousand Three Hundred and Seventy-six) shall be paid to the Members against each Member taking possession of his/ her new premises after the full Occupation Certificate of the New Building is issued by the concerned Authority;

10.2. **Displacement Compensation.** The entire Property has to be vacated by all Members/ occupants to facilitate the demolition of the Old Building and the construction of the New Building. It is hereby agreed that the Members shall make their own arrangements for temporary accommodation elsewhere for the entire period upto the end of the Notice-to-Occupy that will be issued by the Developer. As agreed, the Developer shall pay to each of the twenty Members holding the Members' Old Premises, the Rental Compensation and Temporary Accommodation Expenses, mentioned below, as and by way of compensation inter alia towards having to shift/ reside in alternate accommodation (which amounts shall be for the benefit of the members including joint members and their families, and which they may use in the manner they may deem fit)-

10.2.1. **Rental Compensation.** The entire Property has to be vacated by all Members/ occupants to facilitate the demolition of the Old Building and the construction of the New Building(s). It is hereby agreed that the Members shall make their own arrangements for temporary accommodation elsewhere for the entire period upto the end of the Notice-to-Occupy that will be issued by the Developer as stated below (**"Rental Compensation"**)-

10.2.1.1. **As regards the Members' Old Shops-**



10.2.1.1.1. Rental Compensation shall be paid to those Members holding the Members' Old Shops ("**Rental Compensation towards Members' Old Shops**") @ Rs.250/- (Rupees Two Hundred and Fifty) per square foot of the Members' Old Shops, per month. The said Rental Compensation towards Members' Old Shops, at the aforesaid rate, to cover a period of 12 months from the Appointed Date, shall be paid in advance on the Appointed Date. [The aggregate of the aforesaid tranche of Rental Compensation towards Members' Old Shops is Rs.\_\_\_\_\_-/- (Rupees \_\_\_\_\_)];

10.2.1.1.2. The Rental Compensation towards Members' Old Shops shall be paid by the Developer to the concerned Members until such time the Developer completes the construction of the Members' New Shops and obtains the Part Occupation Certificate in respect of the Members New Shops and upto the end of the Notice-to-Occupy that will be issued by the Developer in respect of the Members New Shops (thereby offering possession of the Members' New Shops);

**10.2.1.2. As regards the Members' Old Flats-**

10.2.1.2.1. Rental Compensation shall be paid to those Members holding the Members' Old Flats ("**Rental Compensation towards Members' Old Flats**") @ Rs.125/- (Rupees One Hundred Twenty-five) per square foot of the Members' Old Flats, per month. The said Rental Compensation towards Members' Old Flats, at the aforesaid rate, to cover a period of 12 months from the Appointed Date, shall be paid in advance on the Appointed Date. [The aggregate of the aforesaid tranche of Rental Compensation towards Members' Old Flats is Rs.\_\_\_\_\_-/- (Rupees \_\_\_\_\_)];

10.2.1.2.2. Rental Compensation towards Members' Old Flats for a further period of 12 months (i.e., from the 13<sup>th</sup> month to the 24<sup>th</sup> month of the Appointed Date) shall be paid @ Rs.125/- (Rupees One Hundred Twenty-five) per square foot of the Members' Old Flats, and shall be paid as a lumpsum amount in advance prior to the expiry of the twelfth month of the Appointed Date for which post-dated cheques shall be handed over by Developer to the Society on the expiry of the eleventh month from the Appointed Date for distribution amongst its Members [The aggregate of the aforesaid tranche of Rental Compensation towards Members' Old Flats is Rs.\_\_\_\_\_-/- (Rupees \_\_\_\_\_)];



\_\_\_\_\_)]

10.2.1.2.3. Rental Compensation towards Members' Old Flats for a further period of 12 months (i.e., from the 25<sup>th</sup> month to the 36<sup>th</sup> month of the Appointed Date) shall be paid @ Rs.125/- (Rupees One Hundred Twenty-five) per square foot of the Members' Old Flats, per month, by way of monthly post-dated \_\_\_\_\_ cheques, which shall be handed over to the Members on \_\_\_\_\_. [The aggregate of the aforesaid tranche of Rental Compensation towards Members' Old Flats is Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_)].

10.2.1.2.4. The Rental Compensation towards Members' Old Flats shall be paid upto the end of the Notice-to-Occupy that will be issued by the Developer.

10.2.2. From the end of the 15-day Notice-to-Occupy that will be given by the Developer to the Society in respect of the Members' New Shops, the Developer will not be liable to pay the Rental Compensation towards Members' New Shops (even though the construction of the New Building will continue till completion) and any uncashed cheques or any amounts lying with the concerned Members for the period beyond the fifteen-day Notice-to-Occupy shall be returned/ refunded to the Developer before taking possession of the Members' New Shops. Similarly, from the end of the 15-day Notice-to-Occupy that will be given by the Developer to the Society in respect of the Members' New Flats, the Developer will not be liable to pay the Rental Compensation towards Members' New Flats and any uncashed cheques or any amounts lying with the concerned Members for the period beyond the 15-day Notice-to-Occupy shall be returned/ refunded to the Developer before taking possession of the Members' New Flats.

10.2.3. **Compensation to meet expenses in respect of temporary accommodation.** The Developer shall also pay to each of the \_\_\_\_\_ Members the following non-recurrent one-time lumpsum compensations-

- i) Rs.40,000/- (Rupees Forty Thousand) towards expenses that the Members may incur towards packing & moving/ transportation expenses;
- ii) (a) As regards the Members holding the Members' Old Shops, a sum calculated at the rate of Rs.500/- (Rupees Five Hundred) per square foot of the Members' Old Shops, to meet all expenses that the concerned Members may have to incur in respect of temporary accommodation including stamp duty, registration expenses, brokerage/ realtor fees, etc., (b) As regards the Members holding the Members' Old Flats, a sum calculated at the rate of Rs.250/- (Rupees Two Hundred and Fifty) per square foot of the Members' Old Flats to meet all expenses that the concerned Members may have to incur in



respect of temporary accommodation including stamp duty, registration expenses, brokerage/ realtor fees, etc.

- Herein, where required, the aforesaid amounts are collectively referred to as "**Temporary Accommodation Expenses**").

10.2.4. The Temporary Accommodation Expenses shall be paid on the Appointed Date.

10.2.5. Herein, where required, the Rental Compensation (being the collective of Rental Compensation towards Members' Old Flats and the Rental Compensation towards Members' Old Shops) and the Temporary Accommodation Expenses, are collectively referred to as the "**Displacement Compensation**".

10.2.6. A statement of the Hardship Compensation and Displacement Compensation payable to each Member is included in "**Annexure-J**" hereto.

10.2.7. Notwithstanding the obligation of the Developer to pay the aforesaid Hardship Compensation and Displacement Compensation, in the event any of the Members decide to purchase additional area, over and above their Free Area Entitlement, the consideration payable to the Developer for the same shall be adjusted from and out of the Hardship Compensation, Displacement Compensation or other amounts payable to such concerned members.

## 11. **DETAILS OF THE DEVELOPER'S PREMISES-**

11.1. Besides the Members' New Flats, the Members' New Shops and the Members' New Car-Parking Spaces mentioned above, all other flats/commercial units along with Private Terraces so identified by the Developer (with or without common doors) and all Developer's Car-Parking Spaces, shall belong to the Developer and are collectively referred to as the "**Developer's Premises**". The Developer shall have the absolute right to utilize the balance FSI out of the Development Potential (being the Developer's FSI) and to construct and deal with the Developer's Flats & Developer's Commercial Units, and the Developer also has the absolute right to deal with the Private Terraces and the Developer's Car-Parking Spaces as envisaged herein. The Developer shall exclusively decide upon, determine and establish the contractual terms and conditions in respect of the allotments and sales and/or of leasing or mortgaging or granting licenses or any other transactions in of the Developer Premises, and fix the sale price and/or other amounts, charges, pass through charges, etc.

11.2. **Developer's Car-Parking Spaces.** The balance of the car-parking spaces available in the Project (over and above the 48 Members' New Car-Parking Spaces as per this Agreement) and as earmarked on site by the Developer (including those in the stilts, podium(s), basement(s), and whether stand-alone non-mechanized parking spaces or whether within or as part of any mechanized stack parking systems that may be installed by the Developer) are the Developer's Car-Parking Spaces and the Developer is fully, freely and exclusively entitled to allocate the same amongst the Developer's Flats & Developer's Commercial Units and/or to allot the same to the purchasers/ allottees thereof as the Developer deems fit (including more than two spaces or all spaces comprised in a podium/ basement for a single unit) whereupon the same shall be deemed to have been allotted to such allottees



and purchasers by the Society, and the Society and the Members undertake not to challenge or change the same. The Society and the Members irrevocably and unequivocally agree and covenant that the shop/ flat-purchasers to whom the Developer allots the Developer's Car-Parking Spaces shall be exclusively entitled to use the same for the parking of their vehicles to the exclusion of the other shop/ flat-holders in the New Building, and that the location, number of spaces allotted by the Developer and sizes thereof shall not be challenged by the Society or the members or sought to be changed/ reduced. The amounts agreed to be paid by the Developer to the Society and to the Members as per this Agreement is also towards the rights of the Developer (and the allottees thereof) in respect of the Developer's Car-Parking Spaces. The Society is bound and liable to recognize such allottees and purchasers as holders of the car-parking spaces allotted to them by the Developer. The Society undertakes to execute all such writings in conformity with the above, as may be required or whenever called for by the Developer.

- 11.3. The Developer's Premises are and shall be the absolute and exclusive property and assets of the Developer, and by virtue thereof the Developer and the purchasers and allottees of the Developer's Premises have and shall have a proportionate interest in the capital and property of the Society upon being admitted as members of the Society.
- 11.4. The Developer has full discretion in the planning/ designing of the New Building and the Developer's Premises including matters concerning the internal layout and amenities and the internal heights of the Developer's Premises provided however that the same does not reduce the areas of the Members' New Premises. The Developer is also entitled to provide bare/unfurnished flats in respect of the Developer's Premises, or to provide/ install any extra or premium amenities in the Developer's Premises as they deem fit.
- 11.5. The Developer and/or the purchasers/ allottees/occupiers of the Developer's Commercial Units shall be entitled to place/ install brand-names and logos and names of their businesses (including without limitation hoardings, illuminated signboards, neon signs, bill-boards, digital/ video signboards, etc) at such spaces as directed by the Developer, and without obstruction or objection from the Society or the Members or any person claiming through the Members.
- 11.6. The Developer alone is entitled to sell/allot the Developer's Premises under the provisions of RERA or any other applicable law, or to lease, grant license, or otherwise deal with the same (and without having to take any permission of the Society) and appropriate the proceeds unto themselves.
- 11.7. As stated above, any Private Terraces and/or any balconies or deck areas (whether free of FSI or included in FSI) shall be appurtenant to the respective premises to which they relate or are attached, and shall be exclusively owned, held, possessed, used, occupied and/or enjoyed (as the case may be) by the owner/occupier thereof. At the Developer's sole option, the Society may be joined in such agreements/documents; provided that no obligation or liability shall be cast upon the Society thereunder which is contrary to, or inconsistent with, the Society's specific obligations herein.
- 11.8. The Developer further agrees as follows-



- 11.8.1. Subject to the terms hereof, any contract or agreement that may be entered by the Developer in respect of the Developer's Premises shall be on principal-to-principal basis and not as the agent of the Society or the Members.
- 11.8.2. All the consideration/amounts which shall be received by the Developer from the sale of the Developer's Premises shall belong to the Developer and will be received by them on their own account.
- 11.8.3. The Society/ Members shall not be liable or responsible in any manner whatsoever in respect of any of the Developer's Premises and shall not be liable or responsible to any such persons with whom the Developer enter into any agreement in respect of the Developer's Premises, whether in respect of the monies paid/ to be paid to the Developer in respect thereof, the terms that the Developer or such persons agree upon in respect of the Developer's Premises, any delays in completion or in handing over any of the Developer's Premises, any breach or deviation of terms claimed by the Developer or such persons, any claims for interest/ penalties/ refunds/ damages (save as provided for herein).
- 11.9. **Loans by Unit-purchasers.** The purchasers/allottees of the Developer's Premises may borrow/ avail of loans from any financial institution/ bank/ organization/ employer to fund the purchase; however, the repayment of the loan/ interest and other charges on such loan shall be the sole responsibility of the purchaser availing such loan. The Society grants/ shall be deemed to have granted its consent and NOC to all such purchasers of the Developer's Premises for creating such charge, lien and/or other security upon such flats and/ or their right, title and interest therein. The Society hereby acknowledges that the Developer and/or purchasers and/or the banks/ financial institutions shall rely on the aforesaid to create charge/ lien and to release loans as aforesaid.
- 11.10. All the purchasers and allottees of the Developer's Premises (and/or the Developer, if they choose to retain any of the Developer's Premises) shall be admitted as members of the Society and they shall only pay the face value of the shares of the Society allotted to them respectively, the statutorily prescribed entrance fees as per this Agreement, but no other premiums, transfer charges, contributions, or other amounts whatsoever.
- 11.11. **Unsold Premises.** Prior to the expiry of 36 months from the date of the Full Occupation Certificate, if the Developer at its discretion decides to be admitted to the membership of the Society in respect of all or any of the Developer's Premises, the Developer shall inform the Society and pay the value of the Society's shares for each such unit following which the Society shall admit the Developer as a member of the Society and shall issue the requisite shares/ share certificate per unit. If, however, any of the Developer's Flats or Developer's Commercial Units remain unsold/ are not transferred for 36 months from the date of the Full Occupation Certificate, the Developer shall become a member of the Society on payment of the share money for each such unit, and the Society shall issue the requisite shares/ share certificates per unit. However, on and from the issuance of the Full Occupation Certificate, the Developer shall be liable to contribute the applicable monthly maintenance charges in respect of the unsold Developer's Premises which other members of the Society are required to pay. It is agreed that no prior permission of



the Society shall be required nor any transfer charges shall be payable to the Society whenever the Developer effects sales of/ transfers the unsold premises. As and when the purchasers/ transferees of the Developer's Premises are admitted to the membership of the Society, the Society will issue new shares/ share certificates or transfer the shares/ share certificate (if already issued to the Developer) to the purchasers/transferees of each of such premises without charging any transfer fees/ donation or corpus contribution. Until such time of 36 months as aforesaid, the Developer is entitled to grant license of any of the Developer's Premises in the Developer's name or otherwise deal with the same and permit the same to be used as the Developer decides, without requiring any permission of the Society.

- 11.12. On the Developer issuing the Notice-To-Occupy to the Society, the Developer is entitled to forward applications for admission to membership of the Society in respect of the Developer's Premises.
- 11.13. The Society is bound to complete the admission process and issue the shares/ share certificates to the applicants/ the Developer within fourteen working days of their receiving a written intimation thereof and all of the following documents from the Developer: -
  - 11.13.1. Photocopy of the sale/ transfer agreement along with copies of the stamp duty receipt and registration receipt in respect thereof;
  - 11.13.2. Application for membership with the applicable membership fee; and
  - 11.13.3. Cost of shares.
- 11.14. In case of admission of the Developer to the membership of the Society, Clause 11.13.1 hereof shall not be applicable.
- 11.15. The Society and the Members undertake not to admit any purchasers/ allottees as member(s) on their own and shall only do so on receiving a written notice from the Developer. Any delay by the Society in admitting any of the unit-purchasers, flat-purchasers/ allottees/ Developer to the membership and issuing shares/ share certificates shall make the Society liable for action taken by the unit-purchasers, flat-purchasers/ allottees/ Developer.
- 11.16. It is clarified that the Members, the purchasers/ allottees of the Developer's Premises admitted to the membership of the Society and the Developer (if it retains any of the Developer's Premises), shall enjoy the advantages, benefits and privileges in the Society and the use and benefit of all common amenities, facilities, areas and services in the redeveloped Project on the same footing / basis as all the Members.
- 11.17. The applicable property taxes, N.A. taxes, maintenance charges levied by the Society in respect of the Developer's Premises shall be paid by the Developer until the Developer's Premises are sold/ allotted and the concerned purchasers/ allottees are put in possession thereof.
- 11.18. The Society shall not obstruct, and shall ensure that its members do not obstruct, the marketing and sales of the Developer's Premises or the grant of license thereof and/or the allotment of the Developer's Car-Parking Spaces, and the access thereto, and they shall extend all necessary support and cooperation in this regard;
- 11.19. **Marketing & Sales.** The Developer has taken rights of Redevelopment and the



Society is aware that the Developer will be incurring substantial obligations so as to be able to sell the Developer's Premises and realize the proceeds thereof. Accordingly, the following terms are agreed upon and form an intrinsic part of this Agreement-

11.19.1. The Developer shall be fully entitled to advertise and publicize and market the Developer's projects/ those of its group companies and Developer's Premises, in print media, digital media, electronic media or any other form of media, including newspapers, magazines, flyers, brochures, billboards, hoardings, websites, emails, etc., and also through realtors, estate agents, and in any other manner as the Developer may deem fit, and also to put up and maintain billboards, hoardings, signages, on the Plot or the New Building as the Developer may deem fit. For the aforesaid purposes and for the marketing of the Developer's projects/ those of its group companies and the sales of all or any of the Developer's Premises, the Developer is entitled, at its costs, to appoint any advertising agencies, creative agencies, brokers, agents, or any other personnel as the Developer deems fit. The sales and marketing efforts decided upon by the Developer will continue beyond the completion of the Project.

11.19.2. As part of the Developer's marketing efforts, the Developer will be the showcasing the New Building/ Project. The Society hereby agrees that any feature lighting that may be installed by the Developer to light up the façade/ features of the New Building or air-conditioners if provided in the lobby shall not be switched off.

11.19.3. Access by the Developer's marketing personnel, channel partners and/or by prospective flat-purchasers or owners/ societies of other plots for viewing the common areas (including the common terrace, fitness centre, parking areas, etc.) as may be provided in the Project shall not be obstructed by the Society or its members.

## **12. GENERAL PROVISIONS RELATING TO THE REDEVELOPMENT WORK.**

12.1. As stated in Clause 9.4 hereof, the Developer has prepared and the Society has approved the tentative plans in respect of the Members' New Flats and the Members' New Shops, copies whereof are annexed hereto at "Annexure-G" hereto. Minor changes as may be required by the concerned Authority or due to design/planning constraints, so long as the same does not change the location and reduce the Carpet Areas of the Members' New Flats or the Members' New Shops, can be carried out by the Developer. If, however there is any change in the layout which causes any change in the location or reduction in the Carpet Areas of the Members' New Flats or the Members' New Shops or if there is a change in the dimensions of the rooms exceeding 15% of the dimensions shown on the plans hereto annexed then the Developer shall obtain the Society's prior approval in respect thereof, which decision shall be communicated by the Society to the Developer within fifteen days from the date the Developer submits the applicable revised floor plans of the Members' New Flats/ Members' New Shops to the Society- provided however that if a change is sought in the area or location or layout of any particular unit of an individual member (which is accepted by the Developer) and such change does not alter the area or location of the other premises of the Members, the



Developer is entitled to carry out such change and the same will be reflected in the PAAA of such individual member.

- 12.2. The Members are at liberty to dismantle and take away their furniture and fixtures, including cupboards, units, shelves (including those fixed to the walls) from the Members' Old Premises not later than fifteen days before the Specified Date. The Members shall not remove any doors, windows, door/ window frames, grills, tiles, electrical wires, kitchen platforms and other embedded fixtures- if any Member does so in breach of the aforesaid, he/she shall be liable to compensate the Developer for the value thereof as quantified by the demolition contractor. Such compensation, if unpaid, shall be adjusted from the Hardship Compensation/ Displacement Compensation or any other amounts payable to such Member as per the terms hereof or if no amounts are payable to such Member (on account of the same being adjusted against the purchase of additional area, if any) then the Member shall be responsible to reimburse the Developer for the value thereof as quantified by the demolition contractor. As on the date that each of the Members' Old Premises are vacated, any furniture, household items or paraphernalia left behind shall be deemed to have been abandoned and shall be discarded without recourse by the Society/ Members against the Developer.
- 12.3. The demolition of the Old Building shall be carried out by the Developer at its costs and the value realized salvaged material shall belong to the Developer alone.
- 12.4. All permissions required from all concerned authorities for the Project shall be obtained by the Developer at its costs. The Developer shall strictly adhere to the rules and regulations of the concerned authorities whilst carrying out the Redevelopment work.
- 12.5. As and when called upon by the Developer, the Society shall, without demur or delay, sign, execute, register, issue and deliver to the Developer all applications, writings, letters, plans, forms, documents, etc., as may be required by Developer, for submission to the concerned authorities or otherwise, to enable the Developer to undertake and complete the Redevelopment Project as envisaged herein, including documents required to enable the Developer to obtain the approval of the building plans and specifications and utilization of the Development Potential and to obtain approvals/ sanction of any amendments, modifications and/or variations thereto.
- 12.6. The Developer shall not be responsible or liable for any breaches or non-compliance of any approvals, permissions, plans, sanctions, orders and NOCs granted or issued in respect of or relating to the Old Structures.
- 12.7. The Developer shall pay and discharge duly and punctually all liabilities to the building contractors, labour, material suppliers, workmen and other employees of the Developer for the purpose of the Redevelopment work, in terms hereof.
- 12.8. The Developer is entitled to amend the plans pertaining to the New Building and/or Developer's Premises without requiring the prior approval of the Managing Committee of the Society provided that there will be no resultant reduction in the areas and change in the location of the Members' New Premises.
- 12.9. The Common Amenities & Specifications of the New Building/ Project that the Developer shall provide, at its costs, are listed in **"Annexure-H", 'Part-3'**



annexed hereto. If the Developer provides equivalent or further/better specifications, utilities, facilities than those listed in "Annexure-H", 'Part-3' hereto, the same shall be done at the costs of the Developer alone, and the Society or its Members shall not be required to compensate/ reimburse/pay the Developer for the same.

- 12.10. The Developer is entitled to appoint (and change, if decided by the Developer) the architects, structural consultants, RCC consultants, engineers, landscape designers, electrical consultants, landscape consultants, design consultants, plumbing consultants, contractors, workmen, and any other professionals, consultants and personnel for the Project, on such terms as the Developer deems fit.
- 12.11. Save as provided herein, the entire Redevelopment/ construction costs including the fees of the Architects, R.C.C. Consultants and all other professionals/consultants appointed by the Developer, the bills of the various contractors appointed by them, the wages/ dues of the workmen, costs of all materials, bills of suppliers, all charges, fees and deposits to be paid to the concerned authorities for the Project, costs of/ expenses for procuring and loading TDR, Premium FSI, Fungible FSI, etc., and all premiums/ charges payable to the concerned authorities shall be borne and paid by the Developer alone as per the terms hereof. The Developer shall be entitled to obtain the refund from the concerned authorities of all refundable deposits which are paid/ payable by the Developer to the concerned authorities. The Society shall have no claim on refundable deposits which are paid/ payable by the Developer to the concerned authorities. If any such deposits are refunded to the Society, the same shall be paid-over by the Society to the Developer without any demur within one week of the amounts being credited into the Society's account.
- 12.12. The Developer shall be liable to bear and pay, for the period commencing from the Appointed Date upto the expiry of period of Notice-To-Occupy, the land revenue/ Municipal taxes in respect of the Plot.
- 12.13. The Developer shall adhere to all provisions of law as regards the workmen employed/ engaged in the Project and shall solely be liable and responsible for all the liabilities in respect of claims by any workmen/ persons so employed/ engaged in the construction work.
- 12.14. The Developer is entitled, at their own risk and costs, on a principal-to-principal basis, to avail of loans including credit facilities, construction finance, etc., from banks, financial and credit institutions and/or any other persons, for the Redevelopment of the Property, and to create any mortgage, charge and/or other security interest in respect of its rights and entitlements under this Agreement including development rights and/ or in respect of the saleable area/FSI out of the Developer's rights, sold or unsold premises, receivables, etc., provided that the Developer shall not create any mortgage, charge or other security interest in respect of the Plot, the Members' Old Premises or the Members' New Premises. For the aforesaid purposes, the Developer shall be at liberty to execute all agreements, documents and writings, provided that the Developer shall be the principal debtor and they shall solely be liable and responsible to repay such loans with interest, costs, charges and expenses thereon. The Society hereby grants/ shall be deemed to have granted its consent and NOC to the Developer for raising construction finance/ loans/ credit facilities and to create any mortgage, charge and/or other



security interest in respect of Developer's rights and entitlements herein and/or in the Developer's Premises and the Society hereby acknowledges that the banks/ financial institutions/ lenders shall rely on the aforesaid to transact with the Developer and to release loans/ credit facilities/ finance to the Developer. The Society and the Members shall not be liable or responsible in any manner howsoever for any such loans or credit facilities availed of by the Developer and/or for any default on the part of the Developer, and any such credit facility/ loan taken by the Developer (or default by the Developer in repayment of the same) shall have no bearing whatsoever on the Members' New Premises. Under no circumstances shall the Developer create a charge over the Plot and the Members' New Premises, and the Developer shall keep the same free of all encumbrances. The Society further undertakes to execute such writings as may be required by the proposed lender in their format within seven days of the Developer requesting the same from the Society.

- 12.15. The Society and/or its Members shall not cause any obstruction or hindrance to the construction/ development work, and the Society/Members shall not claim or demand any additional consideration/amounts by whatever name called for any reason whatsoever from the Developer other those that provided in this Agreement.
- 12.16. While all permissions, approvals and sanctions of the concerned authorities pertaining to the New Building are available online, certified copies of any such documents in physical form as may have been obtained by the Developer will be handed over by the Developer within 12 months of the receipt of the Full Occupation Certificate of the New Building.
- 12.17. From the date hereof, the Developer shall be entitled to put up its board upon the Property, but subject to the provisions of applicable law.
- 12.18. The Society or the Society's PMC shall not hinder, interfere with or restrict the Developer whether during or after the completion of the Redevelopment, from entering upon, holding, possessing, occupying and enjoying Developer's Premises and Developer's Car-Parking Spaces.
- 12.19. The Society's Managing Committee members shall, after issuing prior notice, visit the site subject to adherence of all site rules regarding safety.
- 12.20. The Society (for itself and all its Members) and the Developer agree and undertake to comply with all their obligations without any delay or default, and on a time bound basis. Accordingly, it is agreed and clarified that unless any other time period is specified in this Agreement, when any consent is required to be given by the Society to the Developer or to be issued by the Society's PMC, the Society shall provide such confirmation or consent or communicate its disapproval (as the case may be) not later than the date that the Society is required to provide the same (if no time is specifically provided within 7 days from the date of receiving communication in writing from the Developer), failing which such confirmation or consent shall be deemed to have been granted.
- 12.21. To prevent delays and avoid disputes, the Developer shall deal only with the Managing Committee of the Society in all matters concerning the Redevelopment of the Property as per the terms and provisions of this Agreement, and the Developer is not required to deal with or entertain any Members independently. Accordingly,



the Society shall ensure that no Member independently approaches the Developer regarding the Project.

- 12.22. On completion of the New Building, the Society shall comply with and ensure compliance of all rules and regulations pertaining to the use, operation, upkeep and maintenance of all equipment and systems including fire-fighting, elevators, mechanized parking systems/ hoists/lifts, water-pumps, electrical systems, safety/ security equipment, etc.

**13. POWER OF ATTORNEY-**

- 13.1. The Society has, on the execution hereof, executed in favour of the Developer an irrevocable Power of Attorney inter-alia authorizing the Developer to do and execute all such acts, deeds and things as per this Agreement or as may be required by the Developer for commencing and completing the Redevelopment of the Property in terms of this Agreement including dealing with the concerned authorities and obtaining sanction/ approval of building plans (and amendments thereto) and for obtaining all permissions required for the Project. Notwithstanding the aforesaid, the Society agrees and undertakes to sign and execute such letters, applications, writings, plans, etc., that may be required by the Developer or by the concerned authorities in respect of the Redevelopment. The said Power of Attorney is not capable of being altered, revoked or terminated by the Society, and shall only lapse once all of the Developer's Premises have been sold- thereafter, any powers which, by their nature, survive this Agreement shall remain with the Developer to be exercised as the Developer deems fit, subject to the terms of this Agreement.
- 13.2. All acts, deeds and things done by the Developer by virtue of the Power of Attorney shall be at the risk and costs of the Developer.

**14. THE SOCIETY'S PMC-**

- 14.1. The Society's PMC shall guide/ advise the Society in the matters pertaining to the construction work and adherence to the time schedule of this Agreement and adherence to the plans approved by the concerned Authority.
- 14.2. The Society's PMC shall not interfere with the designs and planning of the New Building/Project or seek any change in the Members' Amenities/ Common Amenities or Specification. While the Society's PMC is entitled to carry out measurements as per this Agreement and advise the Society on the general construction activity, the Society shall ensure that the Society's PMC does not interfere with or cause delay in the construction activity.
- 14.3. The Society and the Society's PMC are aware that they can freely access the website of the concerned Authority for details and copies of all plans and permissions approved by the concerned Authority in respect of the New Building.
- 14.4. If the Developer requires the Society's PMC to provide any letters, writings, clarifications etc., in respect of the Redevelopment and if no time period is specified in this Agreement to do so, the Society shall ensure that the Society's PMC shall provide the same within seven days of the Developer's request to the Society.

**15. PROCESS FOR HANDING OVER THE PROPERTY TO THE DEVELOPER-**

- 15.1. As stated above, the Developer shall complete the Pre-Vacating Obligations within



the timelines set out in this Agreement but subject to the terms hereof, following which the Developer shall issue the Notice-To-Vacate, calling for the entire Property to be vacated and handed over to the Developer for purposes of Redevelopment. The Developer shall specify in such Notice-To-Vacate the date by which all of the Members' Old Premises and the entire Property, duly vacated, should be handed over to the Developer for the purposes of Redevelopment, and such date shall be thirty days from the date of the Notice-to-Vacate (the "**Specified Date**"). The Developer will inform the Society on the progress made in respect of the Pre-Vacating Obligations so as to enable the Members to prepare to vacate their respective premises without delay;

- 15.2. The Society shall, within ten days of the receipt of such Notice-to-Vacate, obtain and hand over to the Developer letter(s) executed by all the Members/ occupants confirming that all Members/ occupants shall vacate their Members' Old Premises with their families/ occupants and furniture/ paraphernalia and hand over to the Developer, by the Specified Date, the Members' Old Premises for the purposes of Re-development. In respect of those of the Members' Old Premises that have been licensed, the Society and the concerned Members shall be responsible to get the same vacated within fifteen days from the date of the Notice-To-Vacate and furnish to the Developer writings evidencing the same. In respect of those of the Members' Old Premises that have been mortgaged, the Society and the concerned Members shall be responsible to get No Objection/ No-dues Certificates from the concerned banks/ financial institutions/ creditors about the Redevelopment Project and obtain from them a No-Objection Certificate within fifteen days of the Notice-To-Vacate being issued by the Developer to the Society, and furnish to the Developer writings evidencing the same. In the event any of the Members/ occupants fail to provide the aforesaid confirmation letters and/or dissents/ fails/ refuses to vacate and hand-over any of the Members' Old Premises, then the Developer shall be entitled to take the required legal action as the Developer may deem fit at its sole discretion so as to get the Property vacated in order to proceed with the Redevelopment as envisaged under this Agreement.
- 15.3. It is confirmed that the actual date that the Developer is handed over the entire Property, duly vacated by all Members/ occupants, for purposes of Redevelopment, be it before or after the Specified Date- shall be the "**Appointed Date**".
- 15.4. On the Appointed Date, the Developer shall handover to the Society, the following cheques for the distribution amongst the Members-
  - 15.4.1. Cheques drawn in favour of each of the Members towards the second tranche of the Hardship Compensation, as per Clause 10.1.2 hereof,
  - 15.4.2. Cheques drawn in favour of each of the Members towards the Displacement Compensation as per Clause 10.2 hereof.

**16. PROCESS FOR HAND-OVER OF MEMBERS' NEW PREMISES-**

**16.1. In respect of the Members' New Shops-**

- 16.1.1. the Developer at its discretion shall, on receipt of the Part Occupation Certificate in respect of the Members' New Shops, issue the Notice-to-Occupy offering possession of the Members' New Shops. On issuance of the



Notice-To-Occupy in respect of the Members' New Shops, all cheques lying with the concerned members towards Rental Compensation towards Members' Old Shops for the period beyond the 15-day notice shall be treated as cancelled, and the concerned members shall handover the cheques/ refund the balance amount beyond such 15-day notice (if cheques are encashed) to the Developer before taking possession of their Members' New Shops. The Developer is not liable to pay the Rental Compensation towards Members' Old Shops beyond the aforesaid 15-day Notice-To-Occupy. The concerned Members shall not be entitled to create any obstruction to the continuation of the Redevelopment work or raise any objection to the same;

16.1.2. The Society shall cause the Members who are entitled to the possession of their new shops, to take physical possession thereof, and to sign appropriate letters and writings in terms of drafts prepared by the Developer confirming, inter alia, that they have received and taken peaceful and vacant possession of their respective new shops, and confirming the rights of the Developer as per this Agreement including the rights to continue the Redevelopment work without obstruction, and confirming the appointment of the Facilities Management Teams (*defined below*), and confirming all rules and regulations for the upkeep and maintenance of the New Building. Simultaneously with the compliance of the aforesaid and against such Members taking possession, the Developer will hand over the last tranche of the Hardship Compensation payable as per Clause \_\_\_\_ hereof after adjusting any amounts payable by the concerned Member to the Developer as per this Agreement. Simultaneously with the Developer issuing the Notice-To-Occupy in respect of the Members' New Shops, the Developer shall be freely entitled and at liberty to offer and deliver peaceful and vacant possession of all the Developer's Commercial Units to the respective allottees/ purchasers/ acquirers/ users thereof, and continue using/ granting use of/ handing over possession of the Developer's Commercial Units to the purchasers/ allottees/ licensees/ users thereof, and business therefrom can be commenced and carried out without any obstruction from the Society or any of its members.

**16.2. As regards the Members' New Flats-**

16.2.1. On completion of the Members' New Flats with the Members' Amenities and on the Developer applying for the Full Occupation Certificate in respect of the New Building, the Developer, the Society's PMC and the Developer's Architect shall undertake a joint inspection of the Members' New Flats to ascertain that the Members' Amenities are provided in the Members' New Flats in accordance with this Agreement. Any remediation work shall be decided by the Society's PMC with the Developer's Architect and carried out by the Developer.

16.2.2. On completion of the obligations mentioned in Clauses 16.2.2.1 to 16.2.2.2 hereof (herein referred to as the "**Developer's Completion Obligations**"), the Developer shall issue to the Society (for itself and on behalf of Members), the Notice-To-Occupy offering possession of the Members' New Flats and Members' New Car-Parking Spaces -



- 16.2.2.1. the Full Occupation Certificate of the New Building has been obtained from the concerned Authority; and
  - 16.2.2.2. the Members' New Flats with all Members' Amenities have been completed.
- 16.2.3. Within fifteen days of the date of the Notice-To-Occupy -
- 16.2.3.1. the Society shall hand over any uncashed cheques of Rental Compensation towards Members' Old Flats to the Developer and collect from the Members (and hand over to the Developer) any uncashed cheques/ balance amounts of such Rental Compensation refundable to the Developer as per this Agreement;
  - 16.2.3.2. The Society shall cause the Members who are entitled to the possession of their new flats, to take physical possession thereof, and to sign appropriate letters and writings in terms of drafts prepared by the Developer confirming, inter alia, that they have received and taken peaceful and vacant possession of their respective new flats, and confirming the rights of the Developer as per this Agreement and without obstruction, and confirming the appointment of the Facilities Management Teams (defined below), and confirming all rules and regulations for the upkeep and maintenance of the New Building. Simultaneously with the compliance of the aforesaid and against such Members taking possession, the Developer will hand over the last tranche of the Hardship Compensation payable as per Clause \_\_\_\_ hereof after adjusting any amounts payable by the concerned Member to the Developer as per this Agreement.
- 16.3. Simultaneously with the Developer issuing the Notice-To-Occupy, the Developer shall be freely entitled and at liberty to offer and deliver peaceful and vacant possession of the Developer's Premises to the respective allottees/ purchasers/ acquirers/ users thereof.

## **17. CONTINUING WORKS OF IMPROVEMENTS-**

- 17.1. The Society/ Members are aware that on receipt of the Full Occupation Certificate, the Developer will have to hand-hold the Society so as to ensure a smooth functioning of the elevators, pumps, common lights, switches, car-parking systems, gates, and other common amenities, and to ensure a seamless hand-over of the management of the same to the Society. The Society/ Members are also aware that after receipt of the Full Occupation Certificate, there will be continuing works of improvements and beautification to be done so as to enhance the aesthetics of the New Building and the common areas and facilities (whether by way of landscaping, green areas, ornamental plants, lobby improvements, furniture, etc.). The Society/ Members are also aware that the interior works to the Developer's Flats and the Developer's Commercial Units will continue beyond the Full Occupation Certificate. The Society/ Members shall not obstruct such work being carried out nor shall they raise a claim of unfinished work by the Developer, it being understood and agreed that once the Developer has fulfilled the Developer's Completion Obligations, the Developer is entitled to serve the Notice-To-Occupy to the Society



and shall only be liable to pay the Rental Compensation towards the Members' New Flats upto the issuance of such Notice.

**18. MANAGEMENT OF THE NEW BUILDING, CORPUS & MAINTENANCE CONTRIBUTION -**

18.1. The Developer will be establishing high standards of design, execution, provision of common amenities, etc., in respect of the Project. The Developer and the Society have agreed that on completion of the Project, the New Building and the common areas and facilities will have to be well maintained so as to retain its value over the years. This would also be beneficial to Society members since they would be able to achieve higher values of their premises should they desire to sell the same in future. The Society and the Developer have accordingly agreed to the below mentioned measures-

18.1.1. **Facilities Management.** The Developer shall, at its sole discretion, be entitled to appoint such persons/ company/ agencies that it may deem suitable for the purposes of management, operations and maintenance of the Project and the common areas and common facilities ("**Facilities Management Teams**") and the Society shall continue such arrangements for at least three years from the date of the Full Occupation Certificate, and enter into related agreements with the Facilities Management Teams as may be directed by the Developer. The Society shall pass such resolutions to put in place such Facilities Management Teams, as decided by the Developer, as well as resolutions approving the rules and regulations of the Facilities Management Teams, which rules shall be treated as forming part of and read with the bye-laws of the Society. All flat-owners and unit-owners shall abide by any and all terms, conditions, rules and/or regulations that may be framed by the Developer and/or the Facilities Management Teams including without limitation, payment of the proportionate share of the service charges that may become payable with respect to the operation and maintenance of the common areas and facilities of the Project and the common areas and facilities.

18.1.2. **Advance payment of outgoings.** The monthly maintenance expenses in respect of the Members' New Flats (excluding property taxes) is tentatively fixed at Rs. \_\_\_\_/- per square foot carpet area (which is inclusive of RERA carpet area plus area covered by balconies/ decks) and in respect of Members' New Shops is tentatively fixed at Rs. \_\_\_\_/- per square foot carpet area (which is inclusive of RERA carpet area plus area covered by balconies/ decks, if any)- and the same is agreed by the Parties to be collected in advance for a period of three years from the date of the Notice-To-Occupy. Such contribution at the aforesaid rate shall be adjusted from the Hardship Compensation/ Displacement Compensation/ amounts payable by the Developers to the Members as per this Agreement, which shall be deposited in the Society's account within forty-five days from the issuance of the Notice-To-Occupy. In respect of the Developer's Premises, which has already been sold prior to the issuance of the Notice-to-Occupy, the Developer shall collect a similar advance payment of outgoings from the purchasers/ allottees of the Developers' Premises by the time of completion of the transaction of sale in respect thereof by the Developer. Such amounts collected by



the Developer from its purchasers/ allottees of the Developers' Premises shall be deposited in the Society's account in the same proportion that the Society has collected from the existing Members, and such contribution shall be deposited against the Society admitting such purchaser/ allottee of the Developer's Premises to its membership. It is clarified that in the case of unsold flats/ shops, the Developer shall bear all such proportionate outgoings until sale thereof on a monthly basis (without having to deposit amounts towards advance outgoings). However, in the event that such Developers' Premises are thereafter sold prior to the expiry of the 36<sup>th</sup> month from the date of the Notice-to-Occupy, the purchasers/ allottees of such Developers' Premises shall contribute towards advance outgoings for such balance period, i.e., from the month in which the transfer is complete to the expiry of the 36<sup>th</sup> month from the Notice-to-Occupy. The amount collected from the purchasers/ allottees of the Developer's Premises for the balance period shall be deposited in the Society's account against the Society admitting such purchaser/ allottee to its membership. It is clarified that any amounts collected by the Developer from its purchasers/ allottees towards the advance payment in respect of the outgoings, as stated above, shall be deposited in the Society's account in the same proportion that the Society has collected from the existing Members. The aforesaid advance payments shall be utilized to meet the costs of maintaining the New Building including payments to the house-keeping/ Facilities Management Teams appointed by the Society in pursuance of the suggestions made by the Developer, for the maintenance and administration of the new project.

- 18.1.3. **Corpus.** Each purchaser/ allottee shall deposit with the Society a proportionate amount for equalizing the fund contributions/deposits lying to the credit of the present Members in the Society's accounts as on \_\_\_\_\_ ("**Corpus**" and "**Corpus Contribution**"). In this regard, the Society shall, on the Appointed Date, address a letter to the Developer specifying the fund contributions/deposit lying to the credit of current \_\_\_\_\_ Members (with accounts) and the proportionate Corpus Contribution to be made by the purchasers/ allottees of the Developer's Flats and the Developer's Commercial Units on the basis of a rate per square foot thereof, so as to enable the Developer to inform each purchaser/ allottee of their proportionate Corpus Contribution as aforesaid. The Developer shall not be responsible for the collection/ payment of the proportionate Corpus Contribution in respect of the Developer's Flats and the Developer's Commercial Units if the Society does not inform the Developer in a timely manner of the details of the funds of the Society (with accounts) and the proportionate Corpus Contribution to be made by the purchasers/ allottees of Developer's Flats and the Developer's Commercial Units. Such proportionate Corpus Contribution per flat/shop shall be paid on the Society admitting the concerned purchaser/ allottee (or admitting the Developer as a member if the Developer opts for membership) to the membership of the Society and issuing and handing over the requisite shares/ share certificate in the name of such purchaser/allottee or Developer, as the case may be. The corpus amount/funds lying with the Society and the Corpus Contribution by purchasers/ allottees/ Developer shall be retained by the Society and shall not be distributed



amongst any of the members (including the present members).

**19. FORCE MAJEURE -**

19.1. It is agreed that the time for completion of the New Building and for obtaining the Full Occupation Certificate thereof shall be subject to Force Majeure. The term “**Force Majeure**” wherever used in this Agreement shall mean any event or circumstance or combination of events or circumstances as specified below that affects the Developer in the performance of its obligations in accordance with the terms of this Agreement and includes:

19.1.1. acts of God including earthquakes, floods, inundations, landslide, storm, tempest, hurricane, cyclone, lightning, epidemic, pandemic, endemic, declaration of lockdown or containment zone by the authorities, and the resultant effects causing restrictions on movement of workmen or material, or delays due to restricted/ reduced functioning of the concerned authorities directly or indirectly restraining the Developer to continue with the construction work of the New Building;

19.1.2. any Notice, Order, Rule, Notification of the Government and/or other Public or Competent authorities, order, injunction, or decree or judgement of any Court staying or curtailing construction activities or the working-hours or restricting the Redevelopment, which Notice, Order, Rule or Notification or injunction, or decree or judgement is not issued by reason of an act of commission or omission on the part of the Developer directly or indirectly restraining the Developer to carry out the construction of the New Building;

19.1.3. acts of terrorism, war, hostilities (whether declared or not), invasion, rebellion, riots.

19.1.4. any restriction on movement of material imposed by authorities, or any shortage of workmen or shortage or disruption in supply of material due to Force Majeure reasons.

19.1.5. any delays in issuance of permissions by the concerned authorities;

19.1.6. any acts beyond the reasonable control of the Developer;

19.2. The Developer will notify the Society of the occurrence of a Force Majeure event setting out the nature of the same.

19.3. Notwithstanding anything to the contrary, if any Force Majeure conditions occur, time for compliance of the Developer's obligations shall stand extended and the Developer shall continue paying the Rental Compensation at the rate as provided for in this Agreement without enhancements. For the duration of the Force Majeure event or circumstance, the Developer shall not be liable to bear or pay any interest or penalties or liquidated damages or any other amounts, charges, liabilities, etc.

**20. COMPLETION PERIOD-**

20.1. As stated above, the Developer shall complete the Pre-Vacating Obligations as per this Agreement, but subject to Force Majeure or obstruction caused by any of the Members.



- 20.2. The Developer shall complete the Developer's Completion Obligations within 36 months of the Commencement Certificate subject to Force Majeure or obstruction caused by any of the Members, and if the same is not so completed, the Developer shall have an initial grace period of 6 months and a final grace period of 6 months to comply with its obligations, for which the Rental Compensation payable towards Members' New Flats shall, as stated above, stand increased by 5% per annum commencing from the 31<sup>st</sup> month of the Commencement Certificate being issued by the concerned Authority.
- 20.3. If the Developer has not completed the Developer's Completion Obligations within the agreed final grace period, the Society shall be entitled to step-in to complete the construction of the New Building and obtain the Full Occupation Certificate in respect thereof (which Step-In Rights are defined and detailed below). It is agreed that if the delay is due to Force Majeure or obstruction by any Members resulting in delay/ stoppage of work, the period during which the Force Majeure exists or the obstruction by any Member exists shall be excluded in computing the aforesaid period of completion.
21. **SECURITY FOR COMPLETION-** As security to the Society in case of default by the Developer in completion of the New Building, the following terms are agreed upon-
- 21.1. The parties hereto have agreed that the Developer shall keep unsold, one premises of 2 BHK out of the Developer's Flats in the New Building (hereinafter referred to as the "**Secured Flat**"). The Secured Flat shall automatically stand released from the Society's charge on application being made for the Occupation Certificate of the New Building. Notwithstanding the auto-release of the Society's claim over the Secured Flat, the Society agrees and undertakes to execute cancellation documents of the form and content required by the Developer within five days of the Developer applying for the Occupation Certificate of the New Building and informing the Society of the same. In the event the Society does not execute the cancellation documents as required by the Developer, the payments then due by the Developer shall be withheld without interest till compliance of the aforesaid by the Society, and the Developer shall be entitled to withhold possession of the Members' New Flats.
- 21.2. It is agreed that at any time upto the application for Occupation Certificate, the Secured Flat earmarked as such by the Developer can be substituted by the Developer with a similar unsold flat out of the Developer's Flats.
- 21.3. The Developer shall on the Appointed Date, execute such writings in favour of the Managing Committee Members of the Society granting powers to deal with the Secured Flat as per Clause \_\_\_\_\_ below. In the event there is a substitution of the Secured Flat as stated in Clause \_\_\_\_ above, the Developer shall execute fresh writings in favour of the Managing Committee Members of the Society granting powers to deal with the substituted Secured Flat. These writings will be kept deposited with the Advocates of the Society in escrow.
- 21.4. In view of the Developer incurring and agreeing to incur the substantial obligations and liabilities (financial and otherwise) set out herein, besides which third-party rights would be created as per this Agreement in respect of the Developer's Premises, besides which the Society has been granted rights over the Secured Flat to the extent stated herein, and also Step-In rights (as detailed below), the Parties agree



that this Agreement cannot be terminated by the Society, but the Society shall have the Step-In Rights as detailed below-

- 21.4.1. If, subject to Force Majeure or obstruction by any Members leading to stoppage or delay of work, the Developer fails to obtain the Full Occupation Certificate of the New Building as per the terms of this Agreement by expiry of 36 months of the Commencement Certificate and thereafter an initial grace period of 6 months and a final grace period of 6 months, or if the Developer fails to pay the Rental Compensation (as applicable) as per this Agreement, the Society shall write to the Developer pointing out the default/ delay of the Developer and calling upon the Developer to take appropriate steps to make good the same and to show cause within 2 months of receipt of the notice as to why the Society should not exercise the Step-in Rights mentioned below.
- 21.4.2. In the event the Developer does not take appropriate steps to rectify the delay/ default, the Society shall then have the right to step-in and complete the construction of the Members' New Premises in the said New Building and obtain the Occupation Certificate ("**Step-In Rights**"). It is understood and agreed that in the event of the Society exercising its Step-In Rights, the rights of the Developer to the Developer's Flats, the Developer's Commercial Units and the Developer's Car-Parking Spaces shall remain unchanged. For the purpose of exercising its Step-In Rights-
- 21.4.2.1. The Project Architect shall prepare a report inter-alia estimating the pending construction work, timelines and estimated costs/ expense to complete the New Building and to pay the applicable Rental Compensation till such period of completion, following which the Society is entitled to sell the Secured Flat subject to the Developer having the first right of refusal to take over the said Secured Flat.
- 21.4.2.2. With regard to the sale of the Secured Flat, the Society agrees to provide the Developer with a written notice of 15 (fifteen) days with respect to the offer received by the Society from the prospective buyer/ purchaser which the Society deems fit and appropriate to consider for sale of the Secured Flat. The Developer shall have 7 (Seven) days from the date of receipt of the Society's notice to respond in writing confirming its intention to take over the Secured Flat at a same price offered by the prospective buyer/ purchaser. If the Society has not received a written response by the end of said 7 (Seven) days period or if the Developer declines to accept Society's offer which the Developer shall reject, in writing, as unacceptable, then the Society shall thereafter be free to sell the Secured Flat at the same price or such higher price in the market on such terms and conditions as Society shall determine without any further obligation to offer the same to the Developer. It is further clarified that in the event the Developer confirms the taking over of the Secured Flat then the Developer shall be bound to make the payment of the entire consideration for the Reserved



Developer's Flat within a period of 15 days from the date of such confirmation made to the Society, failing which the right of first refusal granted to the Developer for the Secured Flat under this Clause shall stand revoked and terminated and the Society shall be entitled to proceed with the sale as aforesaid.

21.4.2.3. The amount realized from the sale proceeds of the Secured Flat shall be deposited by the Society into a separate bank account and shall be utilized by the Society towards the Rental Compensation payable to Members as applicable up to the Occupation Certificate and to complete the Members' New Flats and the New Building with Occupation Certificate, for which the Society shall be entitled to appoint their own contractors and Architects. The Society shall undertake the expenses based on the Project architect's report. The Society shall render accounts to the Developer in respect of the construction and completion work. On receipt of the Full Occupation Certificate, the balance amount in such account of the Society shall be refunded to the Developer.

- 21.5. The Developer shall provide all necessary support and cooperation, and execute all NOCs, letters, resignations, deeds and documents, as may be required by the Society for exercise of its rights. The Society shall consult the Developer with regard to the application for Occupation Certificate to be obtained in respect of the New Building.
- 21.6. On applying for the Full Occupation Certificate from the BMC, the Society shall cease to have any Step-In Rights or rights to the Secured Flat mentioned herein, and the Developer be entitled to complete the Developer's Premises.

## **22. DELAY OR DEFAULT BY MEMBERS-**

- 22.1. If any of the Members fail to hand over to the Developer, on or before the Specified Date, full and complete vacant possession of any of the Members' Old Premises, then such Member in default shall be liable to pay and shall pay to the Developer, as penalty, a sum calculated at the rate of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Thousand) per day for the period of the first 7 days commencing from the Specified Date, and thereafter at the rate of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) per day beyond the expiry of the aforesaid period of 7 days computed from the Specified Date till the time such Member in default actually vacates and hands over vacant possession thereof to the Developer, and the amount so calculated shall be adjusted against the Hardship Compensation/ Displacement Compensation and/or any amounts payable to such Member in pursuance of this Agreement. Besides, and notwithstanding anything contained in this Agreement, the Developer shall not be held to be in breach, and time for completion of the Project as stated in this Agreement shall stand extended to the extent of such delay and the Developer shall not be liable to pay any penalty for such delay.
- 22.2. In the event any of the Members hinder, interfere with, restrict or obstruct the Re-development of the Property, or any third-party/ person claiming through the concerned Member, puts forward any claim which results in a delay or stoppage of work, the concerned Member shall be liable to pay the penalties mentioned above,



i.e., Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Thousand) per day for the period of the first 7 days and thereafter at the rate of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) per day beyond the expiry of the aforesaid period of 7 days, till such hinderance/ obstruction/ restriction is removed/abated, and notwithstanding anything contained in this Agreement, the Developer shall not be held to be in breach, and time for completion of the Project as stated in this Agreement shall stand extended to the extent of such delay and the Developer shall not be liable to pay any penalty for such delayed period of time.

- 22.3. The aforesaid is without prejudice to the rights of the Developer and the Developer is entitled to take legal proceedings as they deem fit including without limitation a right to claims for damages, interest on payments made, costs incurred, etc. against the concerned Member.
- 22.4. It is agreed that the pecuniary penalties are agreed upon considering the considerable time and expertise put by the Developer towards the Project and the crores of Rupees that they are and will be expending towards the Project and the losses and loss of opportunity that the Developer will have to bear on account of any delay or default caused by any Members.
- 22.5. If any amounts due to the Developer by any Member are not sufficient to cover the penalties/ amounts due by such Member, the Developer is entitled to withhold the possession of the new flat/ shop of such Member in default till recovery of all dues.

**23. CONDITIONS FOR SALE/ TRANSFER OF MEMBERS' OLD OR NEW PREMISES-**

- 23.1. Till receipt of the Commencement Certificate of the New Building, if any of the Members desire selling any of the Members' Old Flats, Members' Old Shops, or their shares or rights and entitlements under this Agreement, the concerned Member shall offer the same to the Developer at the same rate/ price and terms offered by a third-party with whom such Member has negotiated and if no agreement is reached by the Developer with such Member within fifteen working days of such offer, the concerned Member is entitled to sell the same to a third party at the same rate or a higher rate. In the event the Developer or its nominees purchase any of the Members' Old Flats, Members' Old Shops, Members' New Flats or the Members' New Shops at any time from the date hereof to the date of the Full Occupation Certificate, the Developer is entitled to take such area of such purchased premises into the floors comprising of the Developer's Commercial Units or above the floors of the Members' New Flats and either merge the same with the Developer's Commercial Units or Developer's Flats, as the case may be, or sell/ have the same sold as a member of the Society. The Society and the Members have factored in the aforesaid whilst negotiating on and agreeing to the terms mentioned in this Agreement.
- 23.2. Subject to the aforesaid, in the case of sale or transfer in any other manner of any of the Members' Old Flats, Members' Old Shops, or their shares or rights and entitlements under this Agreement to a third party, the concerned Member and the intending transferees shall simultaneously with the completion of the sale of the Member's rights under this Agreement execute(s) and register(s) and hand over to the Society and the Developer a Deed of Adherence of the form and content provided by the Developer thereby agreeing to abide by and comply with all the



obligations of the transferor-member under this Agreement without any demur, and the Society shall be entitled to record the transfer in its records and on the share certificate only thereafter.

- 23.3. Any further writings required by the Society to secure the rights of the Society and/or the Developer and/or the other members shall be given by the concerned member or by the transferee(s) without any demur.
- 23.4. This Agreement shall be binding on the new purchaser(s)/ transferee(s) to all intents and purposes and such purchaser(s)/ transferee(s) alone shall be entitled to the new premises and to the concerned member's share of the consideration/ amounts or the balance thereof or any other benefits as per this Agreement.
- 23.5. The member(s) who sell(s)/ transfer(s) his/her premises or shares shall cease to have any rights to the new flat or to receive any monies as per this Agreement or generally to any benefits or rights under this Agreement from the date of such transfer.
- 23.6. The proposed transferee shall not be entitled to, and shall not, claim any right adverse or prejudicial to the rights/interests of the Developer and/or obstruct or interfere with the Redevelopment.

#### **24. TAXES, UTILITY BILLS, OUTGOINGS AND DUES-**

- 24.1. All dues including monthly outgoings, duties, and taxes of and related to the Members' Old Premises shall be paid by the Members and all dues including property taxes, water bills, N.A. taxes, and all other taxes and duties in respect of the said Property shall be borne and paid by the Society for the entire period up to the Appointed Date and if not paid, shall be adjusted from the amounts due to the Society/ Members under this Agreement. From the Appointed Date, the Developer shall pay the taxes, duties and dues up to the date of completion of the construction of the New Building, provided however that maintenance charges as billed by the Developer and outgoings, taxes, duties and dues including charges of the Facilities Management Teams/ house-keeping personnel proportionate to their respective Members' New Premises, shall be payable by the concerned Members (whether or not Members take possession of the Members' New Premises), (i) from the expiry of the period of the Notice-To-Occupy in respect of the Members' New Shops as per Clause \_\_\_\_ hereof, (ii) from the expiry of the period of the Notice-To-Occupy in respect of the Members' New Flats as per Clause \_\_\_\_ hereof. The Society is responsible to ensure that all Members make timely payment of their respective outgoings/ maintenance charges/ dues/ taxes. The Developer in respect of the unsold Developer's Premises shall be liable to pay the outgoings/ maintenance charges/ taxes, duties and dues from the date of the Full Occupation Certificate of the New Building, while the unit-purchasers shall be liable to pay the outgoings, duties and dues from the date of the Developer putting them in possession of their units. Billings by the Society shall be as per bye-law 67 of the Model bye-laws 2014.

#### **25. INCOME TAX/ TDS/GST**

- 25.1. It is agreed that if TDS is required to be deducted from the amounts payable by the Developer to the Members/ Society under the terms of this Agreement, the same shall be deducted at the applicable rate.



- 25.2. Any income tax payable in respect of the amounts paid by the Developer to the Society/ Members under this Agreement shall be the responsibility of the Society/individual members alone, and the Developer shall not be responsible/liable for the same in any manner whatsoever.
- 25.3. In the event any income tax/ capital gains tax is payable by the Society/ the Members by virtue of this Agreement at any time in future, the Society and/or the Members (or the heirs, executors, administrators, assigns and persons claiming through the Members herein) shall be liable to pay/ shall pay the same. Neither the Developer nor the purchasers/ allottees of the Developer's Premises (even after their admission to the membership of the Society) (or their heirs, executors, administrators, assigns and persons claiming through them) shall be liable to pay or be called upon to contribute towards the same. The Society has passed adequate resolutions for the same at its Special General Body meeting held on \_\_\_\_\_ and a copy thereof forms part of "Annexure-D" hereto.
- 25.4. Goods And Services Tax (GST), if any, payable in respect of the grant of development rights by the Society to the Developer and/or in respect of the Members' New Premises (upto the Free Area Entitlement), shall be borne and paid by the Developer alone. In the event any of the members desire to purchase additional area, the GST on such purchase shall be borne and paid by such members.

**26. DEFECTS LIABILITY-**

- 26.1. If any structural defect in the New Building is brought to the notice of the Developer within the Defects Liability Period, such defect/s shall be rectified by the Developer at its own costs, subject to the following-
- 26.1.1. "Structural Defect" shall mean defects in the structure of the said New Building and shall always exclude wear and tear, act of God or Force Majeure, defects due to minor changes / cracks, on account of variation of temperature / weather, normal wear and tear.
- 26.1.2. Such defects are not caused due to any renovations/ changes/ interior works carried out in the Members' New Flats/Members' New Shops;
- 26.1.3. The Members are not entitled to shift/ change any plumbing lines and/or electricity lines or make any internal changes to the Members' New Flats/Members' New Shops that will be in deviation of the building plans sanctioned by the concerned authorities and/ or which may affect the Occupation Certificate issued by the BMC or lead to any action being taken by the concerned authorities against the Developer. Any damage caused to the common areas or adjoining flats will be rectified by the concerned Members at their costs.
- 26.1.4. The Society is responsible to ensure that the elevators, pumps, parking systems and other equipment provided by the Developer is handled by trained personnel and that the same are handled with due care and caution and not misused and that annual maintenance contracts shall be signed with the original equipment manufacturers or their authorized maintenance personnel so as to ensure timely servicing and authorized maintenance and repairs. In case of electrical systems or plumbing systems, maintenance, repairs or



servicing of the same shall only be done by qualified plumbers and electricians, and that all required licenses/ permissions (including B/I Form, Lift Inspection Certificate, fire-department requirements, etc.) are kept valid/ updated.

26.1.5. Defects liability shall not cover events of force majeure or regular wear and tear.

26.1.6. Warranties of equipment, appliances and electronic items shall be as per the standard warranties provided by the manufacturers/ service providers and accordingly any defect in such equipment, appliances and/or electronic items and/or in the installation thereof shall be rectified in accordance with the warranties provided by the manufacturers/authorized suppliers/ authorized service providers, and it is agreed that beyond the manufacturer warranties, annual maintenance contracts with the manufacturers/authorized suppliers/authorized service providers shall be obtained (i) by the Members in respect of the equipment, appliances and/or electronic items installed in the Members' New Flats, and (ii) by the Society in respect of the equipment, appliances and/or electronic items installed in the New Building/ Project.

26.1.7. All natural materials including marble, granite, tile, timber, aluminum, etc., contain veins and grains with tonal differences, and while the Developer shall pre select such materials for installations, their non-conformity, natural differences, tonal differences / variations at the time of installations will be unavoidable besides which discolouration, reductions in shine/sheen / etc., would take place over time, and the Members shall not claim defects for the aforesaid reasons.

**27. TIME IS OF THE ESSENCE.**

27.1. Time being of the essence of the contract, the parties shall strictly follow the schedules mentioned herein.

27.2. Any delay in the payment of any amounts by any party to the other parties will attract interest at the rate of \_\_\_\_% per annum without prejudice to other rights and remedies of the aggrieved party.

27.3. If there is a delay in any of the Members' Old Premises being handed over to the Developer or of the Property being handed over to the Developer or if any of the Members (or persons claiming through Members) cause any obstruction to the Project, the time limit for completion of the Project as stated in this Agreement shall stand extended to the extent of such delay and to such further days as determined therein without the Developer being liable for any penalties to the extent of the delayed time period only and the same shall be without prejudice to other rights of the Developer including rights as per this Agreement.

**28. MODE OF PAYMENT TO MEMBERS-** Payments of all amounts due to the Members under this Agreement shall be by cheques drawn in favour of each member (in the name of the first named member in the Share Certificate or as directed by the Society in writing) or to both the persons in case of joint members and will be handed over by the Developer to the Society or to the Society's Advocates in discharge of their obligation of payment of



the amounts stated in the cheques to the Members. It shall be the responsibility of the Society to hand over the payments to the Members as per this Agreement and obtain receipts thereof and hand over the same to the Developer.

29. **MANAGING COMMITTEE DECISIONS SHALL BIND ALL MEMBERS-** As agreed, all decisions taken and documents executed by the Managing Committee of the Society shall be deemed to be for and on behalf of all Members and shall bind all Members of the Society (including persons claiming through members). Further, if any individual Member and the Developer agree to any change in area or location or orientation of such Members' New Flats/Members' New Shops (which change is acceptable to the Developer) and if such change does not affect the area or floor of any of the other Members' New Premises, then notwithstanding anything contained in this Agreement, such change can be carried out by the Developer and the same shall be reflected in the PAAA of such individual Member alone.

30. **THE DEVELOPER'S REPRESENTATIONS & UNDERTAKINGS-**

- 30.1. The Developer represents that its partners are (i) Nayan A. Shah, (ii) Anuradha Shah, and (iii) Mayfair Housing Pvt. Ltd.
- 30.2. The Developer agrees that it shall not assign, encumber and/or transfer the benefits of this Agreement nor any right or obligation hereunder to any person or persons. The existing partners are entitled inter se to alter their capital or profit-sharing ratio or induct any family members or family/group firms or companies as partners without requiring any consent of the Society.
- 30.3. The Developer has authorized Mr. Nayan A. Shah (*Partner*) and/or Mr. \_\_\_\_\_, to represent the Developer and deal with the Society/ Members regarding all matters connected with the Project and also to sign and execute this Agreement and all other documents or writings as may be required for the Project. All decisions that will be taken by either of the aforesaid authorized signatories shall be binding to all intents and purposes on the Developer.
31. **NO PARTNERSHIP.** This Agreement shall not be treated as a partnership or a joint venture between the parties hereto and this Agreement contemplates only the development rights agreed to be granted by the Society in favour of the Developer as provided herein.
32. **REGISTRATION OF THIS AGREEMENT.** This Agreement shall be registered with the Sub-Registrar of Assurances. The parties shall attend the Office of the Sub-Registrar of Assurances and admit execution hereof. This Agreement shall be registered on the day of execution or latest within a period of 5 days from the execution thereof for which all Parties agree to make themselves available. The Developer shall arrange for the registration of this Agreement and all documents executed in pursuance hereof.
33. **STAMP DUTY/ REGISTRATION CHARGES/ INCIDENTAL COSTS.**
- 33.1. The Developer shall bear and pay the stamp duty, registration charges and all incidental costs on this Agreement, the Power of Attorney and on all documents that may be executed in pursuance of this Agreement.
- 33.2. The Developer shall also pay the stamp duty, registration charges and all incidental costs on the Permanent Alternate Accommodation Agreements of the Members subject to the terms hereof. If any member purchases additional area or changes



the allocation of their new flats or there is a change of ownership/ membership after execution of this Agreement, stamp duty, registration charges and all incidental costs for such purchased area or on account of changes in the flat allocation or changes in the ownership/ membership shall be borne by such members alone.

34. **NAME OF THE NEW BUILDING.** Keeping in mind the marketing strategy of the Project, the Developer shall decide on the name of the New Building and inform the Society of the same.
35. **NOTICES.** The respective addresses of the parties hereto for service of any notice are as follows:-

35.1. If to the Society and/or to the Members or any of them-

*The Chairman or Hon. Secretary,  
The Vishwa Kutir CHSL,  
Shankar Ghanekar Marg,  
Dadar (West), Mumbai 400 028  
E-mail address-\_\_\_\_\_*

If to the Developer-

*M/s. Mayfair Housing  
1, Mayfair Meridian,  
Near St. Blaise Church,  
Caesar Road, Andheri (West),  
Mumbai 400058  
E-mail addresses- -\_\_\_\_\_*

- 35.2. Any notice required to be served on the parties shall be in writing and shall be sufficiently served if sent by registered post acknowledgement due or personally delivered or e-mailed at the respective addresses, unless notice of a different address is received. Any notice required to be served on individual members shall be deemed to have been received by them if the same has been addressed to the Society and sent to the address of the Society.

36. **DISPUTE RESOLUTION-**

- 36.1. If any dispute arises out of or in connection with this Agreement including its interpretation, application or performance or any alleged breach of any provision of this Agreement, the Power of Attorney and/or any related or incidental documents, and/or the implementation and/or interpretation of the terms, provisions and conditions hereof/thereof, the Society (for itself and on behalf of its Members) and the Developer shall firstly endeavour to personally resolve such disputes or differences in an amicable manner within thirty days from the date that either of them has first notified (in writing) to the other party of the existence of such disputes or differences and call upon the other party to hold discussions / dialogues for resolving the same. In the event such disputes or differences are not resolved within the said period of thirty days, the Society (for itself and for all its members, whether signatories to this Agreement or not) and/or the Developer shall refer the dispute for resolution to a sole arbitrator or, in the event that they are unable to agree on the person to act as the sole arbitrator within thirty days after claim for arbitration in written form, by three arbitrators, one to be appointed by each of the Society and



the Developer with power to the two arbitrators so appointed, to appoint a third arbitrator.

- 36.2. The arbitration will be governed by the Arbitration and Conciliation Act 1996 including any statutory amendments or re-enactments thereof for the time being in force and rules made thereunder by the Bombay High Court. The arbitration proceedings will be conducted in English language at Mumbai. The costs of arbitration will be initially paid jointly by the parties in equal shares.
- 36.3. The Arbitrator/s is/are entitled/ authorized to grant the relief in the most equitable manner and to decide ex aequo et bono and amiable compositeur as set out under Section 28(2) of the Arbitration Act taking into consideration the economic interest and other relevant factors;
- 36.4. The Arbitrator/s shall be entitled to determine by the award as to who will finally bear the cost and in what proportion.
- 36.5. The Award of the Arbitrator/s shall be binding on all Parties.
- 36.6. The Parties hereto agree that notwithstanding the arbitration proceedings, the Society or the Members will not interfere, restrict or obstruct the re-development work and/or the possession/occupation of the flats by the purchasers. it being understood and agreed that the construction/sale activity shall continue unobstructed.
37. **JURISDICTION.** Subject to the aforesaid, the Courts at Mumbai only shall have jurisdiction in respect of all matters whatsoever arising out of this Agreement
38. **MEMBERS' DECLARATIONS.** The Society shall procure from the Members, before the Appointed Date, declarations confirming inter alia their representations in this Agreement.
39. **NON-EXECUTION OF THIS AGREEMENT BY MEMBERS.** In the event any of the Members are not available/ do not sign this Agreement, his/ her name will be removed as a signatory and the execution of the documents will be completed and the same shall bind all members to all intents and purposes and the Project will be proceeded with as contemplated in this Agreement. Action shall be taken against any Member who obstructs the Project.
40. **RERA-** The Developer shall strictly adhere to the provisions of RERA and agree that in the event of any complaint being filed or in the event any breach is caused of the provisions of RERA or the Rules thereunder (whether by way of delays in the Project, breaches of any of the terms of the agreements with the purchasers of any of the Developer's Premises, or otherwise howsoever), the Developer alone shall be liable for the same.
41. **PARTIES' ADVOCATES-** In this transaction: -
- 41.1. \_\_\_\_\_, represent the Society and their fees and costs shall be borne and paid by the Society.
- 41.2. M/s. Precept Legal, Advocates, represent the Developer and their fees and costs shall be borne and paid by the Developer.
42. **CLOSING PROVISIONS-**
- 42.1. **No waiver of Rights.** Save and except as expressly provided in this Agreement,



no failure to exercise, or delay in exercising any right or remedy provided by law or vested in any party under or pursuant to this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

- 42.2. **Amendment.** This Agreement may be modified or amended only by a writing duly executed by the Society and the Developer.
- 42.3. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future Law, and if the rights or obligations under this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable; (b) this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance here from; and (c) in lieu of such illegal, invalid, or unenforceable provision, the Society and the Developer shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.
- 42.4. **Authority to Sign.** The parties hereto represent that the persons signing this Agreement have full and complete authority to do so on behalf of the respective Parties and execution hereof by the parties creates a legal and binding obligation on the respective Parties.
- 42.5. **Permanent Account Numbers-**
- 42.5.1. The Permanent Account Numbers of the Society, the Developer, and of the Members (as available with the Society) are listed in **“Annexure-M”** annexed hereto.
- 42.5.2. Photocopies of the PAN cards of the Society, the Developer, and of the Members (as available with the Society) are annexed hereto and marked **“Annexure-N”** collectively.
- 42.5.3. **Photocopies of Share Certificates.** Photocopies of the share certificates of the Members &/or other identifying documents of the Members are annexed hereto and marked **“Annexure-O”** collectively.
- 42.5.4. **Survival of Clauses-** Notwithstanding the expiry or termination of this Agreement, clauses of this Agreement which by their very nature survive this Agreement shall survive.
- 42.5.5. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties in relation to its subject matter and contains all agreed terms and conditions for the Redevelopment of the said Property, and supersedes the tenders, offers, prior agreements/ understandings/ writings, whether oral or written, with respect to the Redevelopment of the Property.
- 42.5.6. **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.



**THE FIRST SCHEDULE.**

*(Description of the Property)*

**Firstly** *(Description of the Plot)-*

Freehold plot of land of bearing Plot No. 892, T.P.S IV of Mahim Division, bearing Cadastral Survey No.1261, admeasuring 1,672.54 square meters (as recorded in the Property Register Card thereof) of the plot, situated at Shankar Ghanekar Marg, Dadar (West), Mumbai 400 028, in the Registration District and Sub-District of Mumbai City and Mumbai Suburban, and bounded as follows: -

- On or towards the North - by F.P.No 888; <<<corresponding CS numbers required>>>  
On or towards the South - by \_\_\_\_\_;  
On or towards the East - by F.P. No. 889 and F.P. No.891;  
On or towards the West - by F.P.No.887.

**Secondly** *(Description of the Old Building standing on the Plot)-*

- a. The building named “Vishwa Kutir” comprising of \_\_\_\_\_ at ground level, and \_\_\_\_\_ upper floors;  
b. Ancillary structures such as pump room, meter room, etc.

**THE SECOND SCHEDULE.**

*(Details of the Members' Old Premises and shares held in the Society)*

S. No.	Name(s) of the Member(s)	Members' Old Premises			Members' Shares	
		Flat No.	Floor	Carpet Area (sqft)	Distinctive Nos.	Cert No.
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						
21.						
22.						
23.						
24.						
25.						
26.						
27.						



28.					
29.					
30.					
31.					
32.					
33.					
34.					
35.					
36.					
37.					
38.					
39.					
40.					
41.					
42.					
43.					
44.					
45.					
46.					
47.					
48.					
		<b>TOTAL-</b>			

**IN WITNESS WHEREOF** the parties hereto have hereunto set and subscribed their respective hands and seals on the day and year first hereinabove written.

The Common Seal of  
the within named “**Society**”  
**THE VISHWA KUTIR CO-OPERA-  
TIVE HOUSING SOCIETY LIMITED**  
has hereunto been affixed pursuant to the  
resolution passed at its Special General  
Body Meeting held on \_\_\_\_\_ in the  
presence of

### Signatures

### Thumb Impressions

## Photographs

1) Mr. \_\_\_\_\_, *Chairman*

2) Mr. \_\_\_\_\_, *Secretary*

3) Mr. \_\_\_\_\_, *Treasurer*

who, in token thereof, have hereunto  
set and subscribed their respective  
hands in the presence of the







[illegible]

1. \_\_\_\_\_  
(Signature & Name)

2. \_\_\_\_\_  
(Signature & Name)

SIGNED SEALED AND DELIVERED by )  
)  
the within named “**Developer**” )  
)  
**M/s. MAYFAIR HOUSING** by the hands )  
of its Partner, Mr. Nayan A. Shah )  
)  
\_\_\_\_\_)  
in the presence of )  
)  
)  
the following witnesses- )

### Signatures

### Thumb Impressions

## Photographs



) | |

1. \_\_\_\_\_  
(Signature & Name)

2. \_\_\_\_\_  
(Signature & Name)



**TABLE OF ANNEXURES TO THE DEVELOPMENT AGREEMENT**

<b><i>S. No.</i></b>	<b><i>Annexure Number</i></b>	<b><i>Details of the Annexure</i></b>
1.	Annexure-A	Plan (on which the Plot is shown edged in a red colour line and the Old Building thereon are shown shaded blue)
2.	Annexure-B	Copies of the Property Register Card and City Survey Plan of the Plot
3.	Annexure-C	Copy of the Letter dated _____ issued by the Dy. Registrar of Cooperative Societies, confirming the appointment of the Developer
4.	Annexure-D	Extracts of the relevant resolutions passed at the meetings of the Society
5.	Annexure-E	<u>Part-1</u> : Details of Members who are NRIs; <u>Part-2</u> : Details of those Members' Old Premises that are mortgaged.
6.	Annexure-F	Details of the Members' New Premises
7.	Annexure-G	Proposed floor plans of the Members' New Flats;
8.	Annexure-H	<u>Part-1</u> : Details of the Members' Amenities to be provided in Members' New Flats; <u>Part-2</u> : Details of the Members' Amenities to be provided in Members' New Shops; <u>Part-3</u> : Details of Common Amenities & Specifications
9.	Annexure-I	Specimen of the Permanent Alternate Accommodation Agreements of the Members;
10.	Annexure-J	Details of the Hardship Compensation and Displacement Compensation payable to the Members
11.	Annexure-K	Specimen of the Deed of Cancellation
12.	Annexure-L	Specimen of the Deed of Adherence
13.	Annexure-M	Permanent Account Numbers of the Parties
14.	Annexure-N	Copies of the PAN Cards of the Parties
15.	Annexure-O	Copies of the Share Certificates of the Members