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- and documentations for the exercise of the development rights and in connection with all the marketing, leasing, licensing or sale of the units, including execution/ registration of the unit agreements, appear and present for registration before the jurisdictional registrar or sub registrar towards registration of the documents for sale, lease or transfer of the units;
- (viii) manage the project land and the common areas constructed upon the project land till the completion of the project and transfer/ assign such right of maintenance upon formation of the association and to retain all benefits, consideration etc. accruing from such maintenance of the project and handover the project to the association on its formation;
 - (ix) apply for and obtain any approvals in the name of owners or wherever required under the applicable law in the name of the developer, including any temporary connections of water, electricity, drainage and sewerage in the name of the owners for the purpose of development and construction and completion of the project or for any other exploitation of the development rights in the project as per this agreement;
 - (x) generally do any and all other acts, deeds and things that are ancillary or incidental for the exercise of the development rights, including any rights stated elsewhere in this agreement.

ENCUMBRANCE means any mortgage, lien, charge, non-disposal or other restrictive covenant or undertaking, right of pre-emption, easement, attachment or process of court, burdensome covenant or condition and/or any other arrangement which has the effect of constituting a charge or security interest or other third party interest or negative lien which could affect the construction and development and/or ownership of the Project;

ESCROW AGENT" means the Developer's Advocate;

ESCROW AGREEMENT" means the agreement entered into among the Owners, the Developer and the Escrow Agent;

MAINTENANCE-IN-CHARGE – shall mean and include such agency or any outside agency to be appointed by the Developer for the Common Purposes having such rules, regulations and restrictions as may be deemed proper and necessary by the Developer not inconsistent with the provisions and covenants herein contained.



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facilities/ utilities including electricity, water, club amenities/ equipment etc.; any amount collected towards maintenance and/or contribution towards corpus fund, any amount received from the prospective Intending Purchasers towards legal charges, share money, society membership fees, stamp duty, registration fee, documentation charges for transfer of Unit(s) and other incidental and allied costs, expenses, of all deeds, documents, agreements, collected from the Intending Purchasers; any grants and/or subsidies to be received for or in connection or in relation with the development work of the Project from the Authorities concerned under any Governmental or statutory schemes; any payment which may be specifically stated elsewhere in this Agreement to be solely realised and appropriated by the Developer;

SAID PROJECT LAND – shall mean All That the piece and parcel of land measuring 71.32 Bighas equivalent of 2353.5 decimal at Mouja Amtala Police Station Bishnupur in the District of South 24 Parganas more fully and particularly mentioned and collectively described in the **THIRD SCHEDULE**.

SALE PROCEEDS - shall mean and include all amounts, considerations and receipts, whether one time or periodical, as may be received and collected from the Intending Purchasers for (a) transfer of the Unit(s) and proportional undivided interest in the Land to Intending Purchasers; (b) transfer of exclusive car park areas/ spaces; and (c) transfer of proportionate Common Areas and facilities; (d) leasing/ licensing/ renting of Unit(s) in the Project which are not transferred on outright sale basis; BUT shall not include any amounts received or collected by the Developer towards:

- (i) any service tax, VAT or any other present or future taxes/cess or any other statutory or government levies or fees/ charges on development, construction or sale/transfer of any Units or otherwise on the Project;
- (ii) any electricity/ water or any other utility deposits;
- (iii) any moneys collected/ received from the Purchasers for providing facilities/ utilities including electricity, water, club amenities/ equipment etc.;
- (iv) any monies collected towards maintenance and/or contribution towards corpus fund, any amount received from the prospective Purchasers towards legal charges, share money, society membership fees, stamp duty, registration fee, documentation charges for transfer of Unit(s) and other incidental and allied costs, expenses, of all deeds, documents, agreements, collected from the prospective purchasers;;



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- (v) all fitment charges, furniture, machineries, equipment, furnishing, tools, etc., if any, to be provided to in the Institutional Units;
- (vi) any grants and/or subsidies to be received for or in connection or in relation with the development work of the Project from the Authorities concerned under any Governmental or Statutory Schemes;
- (vii) any payment which may be specifically stated elsewhere in the Agreement to be solely realised and appropriated by the Developer; and
- (xi) the Reimbursable Costs.

REALIZATION - shall mean the amounts realized from the sale of constructed spaces, signage spaces, car parking spaces, common areas arising from sale and transfer but excluding Extra Charges and Deposits

SAID SHARE – shall mean the undivided proportionate indivisible part or share in the said land attributable to either party's allocation as in the context would become applicable.

SIGNAGE SPACE – shall mean all signage and display spaces outside all Units/ spaces in the common areas of the commercial area, if any and the Complex and the exterior of the new buildings including the roofs, car parking area and the open areas of the new buildings as also the boundary walls of the Complex.

SPECIFICATION – shall mean the specification for the said Complex as mentioned in the **NINTH SCHEDULE** hereunder written subject to minor alterations or modifications with the consent of the Architect.

TITLE DEEDS – shall mean the documents of title of the Owners in respect of the said Owners' Land mentioned in the **TENTH SCHEDULE** hereunder written and the documents of title of the Owners as available in respect of the said Land.

TRANSFER – with its grammatical variations shall include transfer by possession and by other means adopted for effecting what is understood as a transfer of space in multi-storied building to the transferees thereof as per law.

TRANSFEREE/PURCHASER – according to the context shall mean all the prospective or actual transferees who would agree to purchase or shall have



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purchased any Unit in the Complex and for all unsold Unit and/or Units in the Owners' allocation shall mean the Owners and for all unsold Unit and/or Units in the Developer's Allocation shall mean the Developer.

2. **INTERPRETATION:**

In this agreement save and except as otherwise expressly provided –

- i) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties require and the verb shall be read and construed as agreeing with the required word and pronoun.
- ii) the division of this agreement into headings is for convenience of reference only and shall not modify or affect the interpretation or construction of this agreement or any of its provisions.
- iii) when calculating the period of time within which or following which any act is to be done or step taken pursuant to this agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a business day, the period in question shall end on the next business day.
- iv) all references to section numbers refer to the sections of this agreement, and all references to schedules refer to the Schedules hereunder written.
- iv) the words 'herein', 'hereof', 'hereunder', 'hereafter' and 'hereto' and words of similar import refer to this agreement as a whole and not to any particular Article or section thereof.
- vi) Any reference to any act of Parliament or State legislature in India whether general or specific shall include any modification, extension or enactment of it for the time being in force and all instruments, orders, plans, regulations, bye-laws, terms or direction any time issued under it.
- vii) Any reference to any agreement, contract, plan, deed or document shall be construed as a reference to it as it may have been or may be from time to time amended, varied, altered, modified, supplemented or novated. all the aforesaid recitals shall form integral and operative part of this Agreement as if the same were set out and incorporated



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verbatim in the operative part and to be interpreted, construed and read accordingly.

3. **PURPOSE**

3.1 This Agreement is to set forth the terms and conditions with respect to and pertaining to the grant of the Development Rights by the Owners with respect to the Said Project Land in favour of the Developer, the nature of the Project to be developed by the Developer and the rights and obligations of the Parties towards the implementation of the Project.

3.2 The Parties shall extend all cooperation to each other and do all such acts and deeds that may be required to give effect to and accomplish the provisions and purposes of this Agreement. The Owners shall provide all assistance to the Developer that may be required by the Developer from time to time for the purpose of carrying out the transactions contemplated hereby.

3.3 If, for any reason whatsoever, any term contained in this Agreement cannot be performed or fulfilled, then save and except any other rights the Parties respectively may have against the other under this Agreement or in law, the Parties shall meet, explore and agree to any alternative solutions depending upon the changed circumstances, but keeping in view the spirit and objectives of this Agreement.

4. **OWNERS' REPRESENTATIONS:** The Owners have represented to the Developer as follows:-

- (a) The Owners trace their title successively from the C.S and R.S recorded owners right upto the L.R stage and possess clear, marketable, unfettered, absolute and unrestricted right, title and interest and pursuant thereto are seized and possessed of and well and sufficiently entitled to the Said land which is properly identified by metes and bounds in accordance with Mouza map as well as the Smart Plan . No person other than the Owner has any right, title and/or interest, of any nature whatsoever in the Said land or any part thereof and the Owners have made all payments to be made in terms of the sale deed/ documents under which the Said Land were acquired and there are no impediments, defaults, omissions or constraints whatsoever with regard to the rights, ownership, titles, estate, privileges and interests vesting in the Owner. All current and antecedent title documents have been duly



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registered and stamped at the correct valuation of the Said Land as required under law;

- (b) The Owners have full right, power and authority to enter into this Agreement.
- (c) The Owners represent that they have made all material disclosures in respect of the Said Land and have provided all information in relation to the transactions contemplated herein and all original documents of title of the Owner and all other title related documents such as Powers of Attorney, Wills, Probates, Letters of Administration, Heirship certificates, Faraznama and/or sworn affidavits affirming heirships and Court Order granting permission to Trusts enabling purchase or sale of land etc wherever necessary with regard to the chain of title are in its custody and the Owners agree to deposit the same in the custody of the Developer's Advocates, whom the parties have agreed to appoint as the Escrow Agent, to be held in Escrow and after formation of the Association, hand over the documents to the Association of Apartment owners. It is however agreed that if the Developers wishes to obtain Project Finance from any Bank or Financial Institution on the security of the said Project land by creation of mortgage in the manner provided in Clause 10.1(m), in such case the original title deeds will be kept with such Bank and/or Financial Institution during pendency of the loan.

For the purpose of due diligence by the Developer if any further documents are required, the Owners undertake to provide the same such as:

- (i) documents establishing Legal Heirship, Faraznama of the predecessors in title of the owners;
 - (ii) any document establishing requisition of land whether subsequently acquired or not ;
 - (iii) Copies of Powers of Attorney granted by predecessors in interest of the Owners.
- (d) The Owners further represents that no part of the Land is affected by the West Bengal Thika Tenancy (Acquisition & regulation) Act 2001
 - (e) The Owners shall do or cause to be done all deeds and things at its costs and expenses to satisfy the Developer or its Advocates as to the title of the Owner to the said land and also in respect of the Additional land after its purchase and agree to ensure that no other



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person, acting under or through them, does, any act of commission or omission that (i) interferes with or causes any obstruction or hindrance in the exercise of any of the Development Rights by the Developer; or (ii) whereby the grant or assignment of the Development Rights or the rights of the Developer in respect of the Said Project Land are prejudicially affected. In the performance of their duties and the exercise of its rights, powers and authorities under this Agreement, the Owners shall act in the best interests of the Project and shall not, in any manner whatsoever do any act, deed or thing that is detrimental to or against the interests of the Developer.

- (f) The Owner shall apply for and obtain the mutation of the non mutated portions of the said land and the Additional land after its purchase in the names of the Owners at their cost and expenses.
- (g) The Owners further represents that neither they nor their predecessors held any excess vacant land within the meaning of Urban Land (Ceiling and Regulation) Act, 1976 and if required the Owner shall apply for and obtain necessary no objection certificate from the competent authority under the said Act at its cost and expenses.
- (h) The Owner shall obtain conversion of the said land to 'Vastu use' under the West Bengal Land Reforms Act at the cost and expenses of the Developer.
- (i) The Said Land and all parts of it are free from all kinds of Encumbrance and third party claims including any prior sale/ agreement to sell, lease/license/ allotment whether flat buyer agreement, plot buyer agreement or villa buyer agreement or any other agreement or memorandum of understanding for sale, booking of any plot, flat, apartment or any other space/ area gift, mortgage, tenancy, license, trust, exchange, lease, encroachment by or settled possession of a third party or any power of attorney or any other authority, oral or otherwise empowering any other person(s) to deal with the Said Land or any part thereof for any purpose whatsoever, claims, loan, surety, security, lien, court injunction, litigation, stay order, notices, charges, disputes, acquisition, attachment in the decree of any court, hypothecation, income tax or wealth tax attachment or any other registered or unregistered Encumbrance whatsoever. No part or portion of the Said Land has vested under



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any law in force and The Said Land is properly contiguous land and there are no impediments with regard to the development and construction of the Project on the Said Land;

- (j) The Owners are in absolute compliance of the Applicable Law, all statute, law, land ceiling laws, regulation, ordinance, rule, judgment, notification, rule of common law, order, decree, bye-law, government approval, directive, guideline, requirement or other governmental restriction, or any similar form of decision of, or determination by, or any interpretation, policy or administration including rules and regulations prescribed by the Kolkata Improvement Trust (KIT) as well as the Land Use & Control Development Plan of the KMDA or WBHIDCO, having the force of law of any of the foregoing, by any authority having jurisdiction over the matter in question as in effect as of the date of this Agreement;
- (k) There are no structures on the Said Land which are recorded as 'Heritage' Property.
- (l) The said land does not fall in a Zone having any military establishment within 500 meters
- (m) The Said Land does not fall under a forest zone.
- (n) That no suits and/or proceedings and/or litigations are pending in respect of the said Land or any part thereof and same is not involved in any civil, criminal or arbitration proceedings and no such proceedings and no claims of any nature (whether relating to, directly or indirectly) are pending or threatened by or against Owners or in respect whereof Owners are liable to indemnify any person concerned and as far as the Owners are aware there are no facts likely to give rise to any such proceedings.
- (o) The Owners further represent if any dispute arises in future the Owner shall be responsible for any litigation related to their title to the said Project land and in that event, the Owners shall, at their own costs and expenses, settle all disputes, claims, demands, suits, complaints, litigation, etc. in relation to the right, title and interest of the Owners over the Said Project Land and ensure that the development and construction of the Project by the Developer shall not be interrupted, obstructed, hampered or delayed in any manner by such disputes, claims, demands, suits, complaints,



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litigation, etc. Further, the Owners agree and acknowledge that in the event the Developer incurs any costs, expenses,

- (p) damages etc. to rectify or remedy the title of the Owners to the Said Project Land, it shall be entitled to deduct such incurred amounts from the Owners' Allocation with interest.
- (q) The Owners represent that they shall not (i) initiate, solicit or consider, whether directly or indirectly, any offers or agreements from any third party for the sale/ transfer or disposal of the Project Land or any rights or entitlements, including any Development Rights in the Said Project Land, in any manner whatsoever; (ii) enter into any arrangement or agreement of any nature whatsoever for sale/ transfer or disposal of the Said Project Land (or any rights or entitlements, including any development Rights in the Land), in any manner whatsoever with any other person; (iii) negotiate or discuss with any third party the financing, transfer, mortgage of the Said Land (or any rights or entitlements, including any development Rights in the Project Land); and (iv) disclose any information pertaining to this Agreement or Said Project Land to any other person.
- (r) The Owners represent that no part or portion of the said land ever belonged to any Debottor trust / or to any Minor ;
- (s) The Owner shall also apply for and bear the cost of shifting drainage lines , electrical lines, Pipelines or any other service lines running underneath or over the Said Land from their existing location to any other location for enabling the Developer to construct without any obstruction and with full authority;
- (t) The Owner shall also bear the cost of providing drainage facilities on its land to the Developer
- (u) The Owner shall obtain and co-operate with the Developer in obtaining all certificates which may be required for the purpose of completing the registration of sale deeds or other deeds and /or for transferring the title for undivided share of the land attributable to the Developer's allocation and/or their nominees after obtaining the Completion Certificate.



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