

- 8.8. The Developer herein shall solely be responsible for the structural stability of the building and for the soundness of the construction and be liable for all claims and actions, which may arise due to deviation from the sanctioned plan and/or infringement or violation of the municipal/panchayet laws or other state laws and/or in respect of workmanship or quality of materials used and/or for any delay or default in respect of the construction and completion of the Project and/or for any delay or default pertaining to the Occupation Certificate and other clearances and permissions in respect of the Project.
- 8.9. The Developer shall keep the Owners indemnified and harmless against all third party claims and actions arising out of any act of commission or omission on the part of the Developer in relation to its obligations towards the development of the "Said Premises" and/or construction of the said Project.
- 8.10. The Developer shall duly apply for and obtain electricity, water, sewerage, drainage and other connections at the Project and shall also obtain necessary occupation certificate from the Municipality/Gram Panchayat as be required under the statutes.
- 8.11. The Developer herein shall, unless prevented by Force Majeure reasons, (a) carry out and complete the development of the "Said Premises" and construction of the Project and (b) obtain completion certificate from the Architect of the Project and also (c) apply for occupation certificate in respect of the project from the Municipality/ Gram Panchayet and/or the Zilla Parishad and/or competent authority, all positively within **48 (forty eight) months** from the date of approval and/or sanction of the Plans in respect of the proposed building from the Competent Authority with a grace period of 6 (six) months (hereinafter referred to as the "**Project Completion Date**").
- 8.12. The Developer shall complete the construction work of the said Project within the period as contemplated in **Clause 8.11** hereinabove. In case the construction work is stopped owing to Force Majeure, the time so wasted will be excluded from the time limit of construction period.
- 8.13. The Developer herein shall not be considered to be liable for any default or breach of its obligations hereunder to the extent that the performances of such obligations are prevented by the existence of the force majeure causes. The obligations of the Developer shall remain suspended during the duration of the force majeure and further keep the Owners informed of the same.
- 8.14. The Developer herein shall, notwithstanding anything to the contrary contained in this Agreement, solely be responsible for planning the project, development of the "Said Premises" and construction of the proposed Project, making publicity and marketing the project and also selling or otherwise disposing of the "Flats" and "Commercial Units" and also "other saleable spaces" of the Project and for management, maintenance and administration of the Project and its Common Parts until handing over to the Association and to observe, fulfill and perform all the terms and conditions hereof in connection therewith.



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- 8.15. The Developer shall at their own will and volition may facilitate the Owners for compliance of all their obligations.
- 8.16. The Developer shall adhere to and abide by its duties and responsibilities under this Agreement and as per the Applicable Laws including HIRA. The Developer shall neither directly or indirectly, undertake or cause/permit to be undertaken, any activity which is either illegal or in-contravention of the provisions of this Agreement and/or the Applicable Laws;

9. OWNERS' OBLIGATIONS/COVENANTS

- 9.1. The Owners herein shall bear and pay the land revenue, municipal taxes and all other rates, taxes and outgoings on account and in respect of the "Said Premises" till the date of execution of this Agreement.
- 9.2. The Owners undertake to act in good faith towards the Developer (and any appointed and/or designated representatives) so that the Project can be successfully completed in the manner contemplated herein.
- 9.3. The Owners shall not in any manner transfer or otherwise encumber their respective ownership right and further maintain good and marketable title in respect of the "Said Premises" till the sale of the proportionate share in the "Said Premises" in favour of the intending buyers and further duly reply and comply with the requisitions as may from time to time be made by or on behalf of the intending buyers and/or bankers.
- 9.4. The Owners shall as per its obligation, render its best co-operation and assistance to the Developer in the matter of the Developer commencing, carrying out and completing the development of the "Said Premises" and/or construction of the said Project, as may from time to time be necessary or required.
- 9.5. The Owners shall not do nor permit anyone to do or commit any act deed matter or thing, which may in any manner cause obstruction and/or interference in the Developer carrying out and completing the development of the "Said Premises" and/or construction of the said Project by the Developer.
- 9.6. The Owners shall sign, execute and deliver all necessary papers, applications, plans, sketches, maps, designs and other documents as may from time to time be prepared by the Developer at the costs and expenses of the Developer in conformity of the terms and conditions hereof and required by the Developer for obtaining original Sanctioned Plan from the Competent Authority in the name of the Owners. The Owners shall render all sorts of co-operation to the Developer, as may be required by the Developer to complete the intending development work of the "Said Premises".
- 9.7. The Owners shall from time to time sign execute and deliver all applications, papers, documents and declarations as may be required to enable the Developer to apply for and obtain telephone, gas, electricity,



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internet, telex, sewerage, water, drainage connections and other public utility and essential services in or upon the said Project and/or as may be required for carrying out and/or completing the said development work and/or construction of the Project.

- 9.8. The Owners shall sign, execute and deliver all necessary papers, applications and other documents as may from time to time be prepared by the Developer at the costs and expenses of the Developer in conformity of the terms and conditions hereof and required by the Developer for obtaining conversion of the Said Property from the Competent Authority as may be required by the Developer in the name of the Owners. The Owners shall render all sorts of co-operation to the Developer, as may be required by the Developer for conversion of the Said Premises.
- 9.9. The Owners shall sign, execute and deliver all necessary papers, applications and other documents as may from time to time be prepared by the Developer in conformity of the terms and conditions hereof and required by the Developer for obtaining all requisite statutory clearances/permissions/ approvals under various Acts, including but not limited to clearances under (1) West Bengal Land Reforms Act, 1955 and (2) Urban Land (Ceiling & Regulations) Act, 1976 from the Competent Authority as may be required by the Developer in the name of the Owners. The Owners shall render all sorts of co-operation to the Developer, as may be required by the Developer in this regard.
- 9.10. It is further clarified that if any other clearances, certificates, no objection certificates, conversions, mutations etc., in respect of the "Said Premises" is required whether for the purpose of sanction or construction or anything relating thereto, the Developer shall obtain the same in the name of the Owners.
- 9.11. However, if any existing clearances, certificates, no objection certificates, conversions, mutations already obtained by the Owners and provided to the Developer are found to be defective or unlawfully obtained, the Developer would apply for and obtain the same in the name and at the risk and cost of the Owners. Provided also that in the event of the existing clearance Certificates, No-objection Certificates, Conversions and Mutations already obtained by the Owners are found to be defective or unlawful, should the Developer despite its efforts is not able to obtain such Clearance Certificates, No-objection Certificates, Conversions and Mutations, the Developer shall not in any manner be liable for the same.
- 9.12. It is recorded that on or before the execution of this Agreement, the Owners have duly deposited the original title deeds and documents in respect of the "said Premises" and/or the "said Plots of Land" with the Developer to be held and kept by the Developer in his custody as Escrow Holder and that on completion of development of the said Project as also sale or otherwise disposal of the units of the Project as per this Agreement the said Escrow Holder would make over the original title Deeds and documents in respect of the "said Premises" to the Association of the owners/buyers of the units and other saleable spaces of the building complex.



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- 9.13. Subsequent to settlement of the revenue share account between the parties the Escrow holder mentioned in **Clause 9.12** above shall make over the original title deeds to the Association to be formed by the Developer for its safe custody and the Association shall be bound by the covenants to produce the title deeds to be contained in the Transfer Documents.
- 9.14. The Owners shall also be liable to clear the prior khajnas and panchayet taxes in respect of the said Premises.
- 9.15. The Owners shall be liable to bear all costs and expenses to get their names mutated in the records of B.L.& L.R.O and/or any correction of records in B.L.&L.R.O. regarding the said Premises.
- 9.16. The Owners shall also cause construction of tin boundary walls or repair of boundary wall surrounding the said Premises at their own costs and expenses.
- 9.17. The Owners shall if so required, adhere to and abide by their duties and responsibilities under this Agreement and as per the Applicable Laws including HIRA. The Owners shall neither directly or indirectly, undertake or cause/permit to be undertaken, any activity which is either illegal or in contravention of the provisions of this Agreement and/or the Applicable Laws;
- 9.18. The Owners shall obtain NOC from the Urban Land Ceiling Department any other concerned authorities at their own costs and expenses., if required by the sanctioning authority.
- 9.19. The Owners are entitled to obtain conversion / change in nature of use of the said Premises i.e. to "bastu" and/or "bahutal abasan" for the purpose of development envisaged in this agreement at their own costs and expenses.
- 9.20. The Owners are entitled to amalgamate the said Premises in single Premises at their own costs and expense , if required by the sanctioning authority.
- 9.21. The Owners shall be entitle to fulfill and complete all their obligations within a period of 6 months from the date of execution of these presence.
- 9.22. **Power of Attorney for Building Plans Sanction:** The Owners shall grant to the Developer and/or its nominees a Power of Attorney for the purpose of getting the Building Plans sanctioned / revalidated / modified / altered by the Planning Authorities and obtaining all necessary permissions from different authorities in connection with construction of the said Project.
- 9.23. **Power of Attorney for Construction and Sale of Units:** The Owners shall also grant to the Developer and/or its nominees the said Power of Attorney for construction of the Building/s Complex/ Project and



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booking and sale of all Units and the Owners shall also grant a power of attorney to the Developer for the following purposes:..

- (a) appoint architects, contractors, sub-contractors, engineers, workers, labourers, agents, consultants, mistries, guards, caretakers, or other employees, and persons and enter into appropriate agreements for implementing the development of the Project, and construction of the Project/buildings and making available the various facilities;
- (b) establish, provide or procure, install, construct, and operate the building and the Common Area and Facilities;
- (c) advertise and market the Units for sale at such price;
- (d) to apply for and obtain all approvals, consents, permissions, no-objections and clearances required for the development of the Project and for achieving Completion of the Project
- (e) make applications to the concerned governmental authorities in respect of, and to carry out, all construction work and infrastructure work, including levelling, water storage facilities, water mains, sewages, storm water drains, recreation garden, boundary walls, electrical transformer and all other Common Areas and Facilities, including applying for and obtaining all approvals in this regard;
- (f) carry out such other activities incidental to the foregoing for the safe, efficient and economic implementation and operation of the Project.
- (g) To obtain Commencement Approvals and all other permission and approvals, no objection certificates, consents, etc. from the planning authorities and other authorities as may be required for the development and construction of the Project/Buildings in accordance with this Agreement and for that purpose to sign such applications, papers, documents, instruments, writings, undertakings, appeals, etc., as may be required.
- (h) To apply for modifications of the building plans from time to time as may be required, in accordance with this Agreement
- (i) To apply for and obtain temporary and permanent connections of water, electricity, drainage, sewerage and other utilities. All deposits and other payments or charges required to be paid to government authorities and private utilities for this purpose shall be borne solely by the Developer.
- (j) To pay deposits to the planning and other authorities for the purpose of carrying out the development work and construction of the Project on the said Property and to claim refunds of such deposits by way of cheques and to give valid and effectual receipt and discharge on behalf of the Owners in connection therewith.



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- (k) After completion of the construction of the Project/Buildings, to apply for and obtain occupation and completion certificates from the authorities.
- (l) To execute and issue allotment letters to prospective buyers interested in purchasing Units in the Project;
- (m) To execute agreements of sale in favour of prospective buyers.
- (n) To execute the deeds of conveyance in respect of transfer of the units comprising flats, cars parking space and other space in the project in favour of the buyers of such units including undivided proportionate share in the land after obtaining completion certificate from the appropriate authority.
- (o) To receive monies by way of sale consideration and other payments relating to the sale of the Units, provided such payments are made by way of cheques/demand drafts drawn in favour of the bank Account of the developer or by way of bank transfer to the said account.
- (p) To arrange for financing of the project (project finance) from any Banks and/or Financial Institutions for construction and completion of the project upon such terms and conditions as may be agreeable by the said Attorney, however, without creating any charge / liability in respect of the Owners' share of revenue or Owners' allocation in the project. Such finance may be secured by mortgaging the said project land belonging to the Owners in favour of any bank / financial institution by deposit of original title deeds of the said Property by way of Equitable Mortgage and/or by executing Simple / Registered Mortgage and/or by creating English mortgage. Further, the said Attorney may execute any document or documents in furtherance of the above objective, including executing letter evidencing deposit of title deeds, confirmation of deposit title deeds, deliver the title deeds and to receive back the title deeds, etc. For the aforesaid purpose, the Owners may join in as a consenting party or may execute any documents (if required by the bank/financial institution). Notwithstanding the above, the Developer shall take the project finance without creating any charge / liability in respect of the Owners' share of revenue or Owners' allocation in the project. It is, however, clearly understood that the Owners at no point of time shall be responsible for any debts raised by the Developer towards project finance and in case due to any non-payment or delay in payment of interest or principal amount by the Developer, the Owners suffers any loss, damage, cost, claim, demand, action or proceeding, the Developer shall indemnify and keep the Owners fully saved harmless and indemnified in respect thereof.
- (q) To do and perform all acts, matters and things necessary for all or any of the purposes aforesaid and for giving full effect to the



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powers and authorities herein before contained in sub paras (a) to (p) as fully and effectually as the Owners could undertake.

- 9.24. In addition to the specific power of attorney, the Owners hereby undertake that they shall execute, as and when necessary, all papers, documents, plans, etc. required for the purpose of securing all approvals, permissions etc., as contemplated herein, within 7 (seven) days of request being made by the Developer.
- 9.25. **Further Acts:** The Owners shall also from time to time grant further Power of Attorney in favour of the Developer and/or its nominee/s authorizing and/or empowering it/him/them to do all acts, deeds, matters and things, to carry out development of the "Said Premises" and construction of the Project in conformity with the terms and conditions of this Agreement. Notwithstanding grant of the aforesaid Powers of Attorney, the Owners hereby undertake that they shall execute, as and when necessary, all papers, documents, plans etc. for enabling the Developer to perform all obligations under this Agreement including but not limited to the documents as required for obtaining financial accommodation from any bank and/or financial institution.
- 9.26. The Owners herein shall not in any manner encumber, sell or otherwise deal with the "Said Premises" nor part with possession of the "said Plots of Land", in any manner whatsoever.

10. **CONSTRUCTION WORK:**

- 10.1. The construction of the said Project shall be strictly as per the Municipal/ Panchayet Laws and/or the Building rules, regulations and byelaws framed there under and the same strictly in accordance with the sanctioned plan. In this respect, the Developer shall keep the Owners absolutely indemnified and harmless against all actions claims and demands whatsoever as may be made due to construction of the said Project and/or any accident or untoward incident arising at the site due to construction and/or the said development work being in deviation from the sanctioned plans and/or in violation of the Municipal/ Panchayet Laws and/or the Rules, regulations and bye-laws there under.
- 10.2. The Developer herein shall appoint and employ such masons, mistries, managers, supervisors and other employees for carrying out the said development work and/or construction of the said Project as the Developer shall think proper. In this respect, it is made clear that the Developer herein shall solely be responsible and/or liable for payment of salaries, wages, and/or remuneration of the masons, mistries, supervisors, chowkidars and durwans as also other staff and employees, who may be appointed and/or employed by the Developer for carrying out the said development work and/or construction of the Project and to comply with all applicable laws connected therewith and in this respect, the Owners shall not in any manner be responsible.
- 10.3. The Developer herein shall appoint the Architect at its discretion, as also retain and appoint Engineer and Contractor for carrying out of the said development work and/or construction of the Project, as the Developer



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shall think proper. The payment of all remunerations and/or fees of the Architects, Engineers and Contractors as may be so appointed shall be incurred and paid by the Developer and in this respect the Owners shall not in any manner be liable.

- 10.4. The works of development of the "Said Premises" and/or construction of the proposed Project by the Developer shall be by use of standard quality building materials and the same as per the recommendations of the Architects and also as per the specifications mentioned in the **Second Schedule** hereunder written.
- 10.5. Both the Owners and the Developer shall exclusively be liable towards their part for registering themselves and complying with all provisions of Real Estates Regulation Act or West Bengal Housing Industry Regulation Act.
- 10.6. The Developer hereby assures that the Owners would not suffer due to any lapses and/or negligence on the part of the Developer in carrying out the development or construction subject to compliance of all obligations by the Owners.
- 10.7. The Owners shall provide all the approvals, permissions, no objection certificates, etc. relating to the development of the said Premises and the construction of the buildings to the Developer immediately upon they being obtained by the Owners.
- 10.8. It is hereby expressly agreed by and between the parties hereto that the possession of the "said Premises" for development is not being given nor intended to be given to the Developer in part performance as contemplated by Section 53A of the Transfer of Property Act, 1972 read with Section 2(47)(V) of the Income Tax Act, 1961.
- 10.9. The parties hereto hereby declare and confirm that by virtue of the Developer entering upon the "said Premises" for carrying out the works of development and construction, the same will not amount to taking over of possession of the "said Premises" for development. It is expressly agreed and declared that juridical possession of the "said Premises" for development shall always vest in the Owners until such time the development is completed in all regards.

11. **COSTS OF CONSTRUCTION:**

- 11.1. The Developer herein shall solely be responsible for carrying out the development of the "Said Premises" and construction of the proposed Project.
- 11.2. The Developer herein shall solely and exclusively bear and pay all costs, charges and expenses as may be required to be incurred or paid for and on account of carrying out and completing development of the "Said Premises" and the construction of the proposed Project in one or more phases and the same as per the plan to be sanctioned and/or approved by the competent authority.



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- 11.3. The parties have agreed that the Developer herein shall bear and pay the costs and fees as are required to be incurred and paid for and on account of obtaining the required approvals, permissions, clearances, no-objections and sanction of plan from the Panchayet/ Municipality/ Zilla Parishad and/or the competent authority and other concerned Government authorities and/or departments and the Developer herein shall bear the fees, remuneration and costs required to be paid to the Architects and Engineers.
- 11.4. It is agreed and made clear that the Owners herein shall not be responsible to bear and pay towards the costs of construction in respect of the planning or development of the "Said Premises" and/or construction of the proposed Project.

12. PUBLICITY & MARKETING:

- 12.1. The Developer shall be solely entitled to advertise and market the Project. The Developer shall arrange for Marketing or any other media publicity for the Project. The Marketing costs (including advertisement costs, publicity costs, model flat costs, marketing office and advertisement campaigns costs) for the same shall be borne and paid by the Parties respectively according to their respective shares up to an amount equal to 2% (two percent) of the sale value of the Project. Any costs beyond 2% (two percent) of the sale value of the Project shall be borne solely by the Developer. The Developer time to time shall submit the accounts of the above expenses to the Owners.
- 12.2. The brokerage costs in relation to the Project shall be shared by the Parties according to their respective shares up to an amount equal to 2% (two percent) of the sale value of the Project. Any brokerage costs beyond 2% (two percent) of the sale value of the Project shall be borne solely by the Developer.
- 12.3. The Developer may retain and appoint agents for marketing and sales of Flats Commercial units and other saleable spaces of the said Project and the same on such terms and conditions as the Developer would think proper.
- 12.4. The Developer herein shall be entitled to cause the publicity and marketing for sale of the project including Flats and other saleable spaces of the Project under the brand name "**REALMARK**", owned by the Developer, to avail benefits arising out of such brand.

13. SALE OF UNITS/PROJECT:

- 13.1. The Developer would sell, transfer or otherwise dispose of the units and saleable spaces of the Project in favour of the intending buyers, either on ownership basis or otherwise and the same at such consideration price and on such terms and conditions as the Developer may decide from time to time.
- 13.2. It has been agreed that the amounts of the entirety of the sale proceed including the earnest monies, part payments and consideration



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amounts, which the Developer would from time to time receive and/or realize on account and in respect of sale or otherwise disposal of the several Flats, commercial units, car parking space and other saleable spaces of the Project would be deposited as prescribed by WBHRA Act in the HIRA Account as provided hereunder.

- 13.3 For the sale or otherwise disposal of the flats and other saleable spaces of the Project as per **Clause 13.1** above, the Developer shall be entitled to enter into Agreements and/or contracts with the intending buyers and also to receive earnest moneys, part payments and consideration amounts and further deposit the same in the HIRA Account as mentioned hereunder.
- 13.4 The Parties hereto hereby agree that all agreements, contracts, deeds and documents for sale or otherwise disposal of the Units/Saleable spaces of the Project shall be drawn up on terms, conditions and covenants as the Developer shall decide with the consultation and written approval of the Owners and which the Advocate of the Developer may approve.

14. ALLOCATION OF SALE PROCEEDS:

- 14.1. The Parties hereby agree that all booking amounts, advances and sale proceeds received for the sale and/or otherwise transfer of the Units comprised in the Project shall be appropriated and shared by the Parties in the ratio mentioned below, save and except the **Excluded Receipts** morefully mentioned in **Third Schedule** hereunder written and which shall be exclusively received by the Developer for its use of the respective purposes.

The parties have agreed that in consideration of the Owners permitting and/or allowing the development of the "said Premises" and construction of the proposed Project as per the terms herein recorded, the Owners herein shall be entitled to **24% (twenty four percent)** of the total sale proceeds for and on account of sale or otherwise disposal of the several Flats, commercial units, car parking space and other saleable spaces of the proposed Project, to be called "**Owners' Allocation**".

- 14.2. The parties have also agreed that in consideration of the Developer herein at its own costs undertaking and carrying out development of the "said Premises" as also construction of the proposed Project as also carrying out its other obligations herein recorded, the Developer shall be entitled to **76% (seventy six percent)** of the total sale proceeds for and on account of sale or otherwise disposal of the several Flats, commercial units, car parking space and other saleable spaces of the proposed Project, to be called "**Developer's Allocation**".
- 14.3. The Parties hereto have agreed that the Developer herein shall solely and exclusively be entitled to receive, realize and recover separately from the Buyers all Excluded Receipts, morefully mentioned in Third Schedule hereunder written in its own bank account and further to deal with the same in the manner as the Developer shall at its discretion think proper and in this regard, the Owners herein shall not in any manner be accountable or responsible.



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- 14.4. The parties have also agreed that Total Sale Proceeds shall be distributed according to the respective shares of the parties therein mentioned in **Clauses 14.2 and 14.3** hereinabove.
- 14.5. The Unsold units, (the term unsold units shall always mean and include remaining Flats, Commercial Spaces and Car Parking Spaces) as on the "Project Completion Date" mentioned in **Clause 8.11** above, would be allocated to the Owners and the Developer in the ratio of their respective allocation mentioned in **Clauses 14.2 and 14.3** above. Accordingly, the Owners shall be entitled to be allocated 24% (twenty four percent) of the Unsold Units and the Developer shall be entitled to be allocated 76% (seventy six percent) of such unsold Units. The areas and spaces so separately allotted shall be exclusively held by the respective allottees as the absolute owners with absolute right to sell and appropriate the sale proceeds of the same. The allocation of such unsold units, shall be made in a fair and equitable manner and the same as may be mutually agreed and decided by the Parties. However, the Parties shall distribute all unsold units among themselves in the manner aforesaid after obtaining building completion certificate from the competent authority or the Architect of the Project or upon completion of the entire Project in all respect (the term all respect shall always mean and include completion of all Common Parts, as defined in **Clause 1.10** above including but not limited to installation of all facilities and amenities in the Common Parts), whichever is later or at any mutually agreed time. The Owners shall be liable to pay the Excluded Receipts directly to Developer for the unsold units of their own allocation.
- 14.6. The Developer shall immediately on allocation of the unsold Units as mentioned in **Clause 14.6** above, make over possession of the subject spaces and areas to the Owners. The Owners being so offered, the possession of Unsold Units, would duly takeover possession as per the letter of possession to be issued by the Developer and vice versa the Owners shall issue letter of possession to the Developer for Developer's allocation. Provided however that despite the issuance of possession letter by the Developer, should the Owners fail or neglect to take possession of the areas and spaces of the Unsold Units allotted to the Owners, it will be deemed that the Developer has duly made over possession of such areas and spaces of the Unsold Units to the Owners. Be it mentioned herein that, the Owners and the Developer shall have the right to take independent decision with respect to their respective Unsold Units and shall be entitled to deal with the same in such manner as may deem fit and proper. Further, the Owners shall be liable to pay Excluded Receipts, as applicable to the Developer, as mentioned above with respect to their allotted Units on or before the date of commencement of liability. Further, the maintenance and rates & taxes shall be applicable from the date of commencement of liability.
- 14.7. The accounts between the parties with regard to sale of the project shall be gone into, taken and settled every month. The Developer shall furnish to the Owners a statement of monthly sales and also realization of the sale proceeds every month by the 7th day of the next month. Upon receipt of such statement the Owners shall settle the accounts for that month



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with the Developer which shall thereafter not be challenged unless manifest error or omission is detected.

- 14.8. After the settlement of the accounts of monthly sales, the Developer shall pay the respective revenue share of the Owners' Allocation to the Owners by the 10th day of the next month.
- 14.9. On the 10th day of every month, 24% of the net sale revenue of the preceding month will be disbursed to the Owners as Owners' share of net sale revenue from the HIRA account.
- 14.10. The Sale price of the residential flats, commercial units and other saleable spaces of the project would be such as may from time to time mutually agreed and decided by and between the parties.

15. HIRA ACCOUNT:

- 15.1 The Developer shall open a separate bank account as required under the said Act, with a bank acceptable to all Parties ("**HIRA Account**") and deposit 100% (one hundred percent) of any and all monies to be received from the Buyers/Purchasers into this HIRA Account. All monies paid or payable by prospective buyers (including proceeds receivable on the sale of Units and car parks in the Project/Building and undivided interest in the said Property) shall be received by way of cheques/demand drafts/Bank transfer favouring the HIRA Account. No payment shall be received under any arrangement with any buyer other than by way of a cheque or demand draft or bank transfer favouring the said HIRA Account.

16. SECURITY DEPOSIT:

- 16.1 The Developer herein shall deposit with the Owners a sum of **Rs.2,50,00,000/- (Rupees Two Crore Fifty Lakh only) (Security Deposits)** as and by way of interest free, refundable, security deposit. The Security Deposit shall be paid by the Developer in the following manner:
- 16.1.1 A sum of Rs. 5,00,000/- (Rupees Five Lakh only) shall be paid on the execution of this presence.
- 16.1.2 A sum of Rs.1,25,00,000/- (Rupees One Crore Twenty Five Lakh only) shall be paid within 7 days from the execution of this presence.
- 16.1.3 The balance sum of Rs.1,25,00,000/- (Rupees One Crore Twenty Five lakh only) shall be paid on sanction of the building plan of the Project.
- 16.2 The said Security Deposit amounting to the sum of **Rs.2,50,00,000/- (Rupees Two Crores Fifty Lakh only)** shall be refunded in the following manner:
- 16.2.1 The Owners shall be liable to refund 75% (seventy five percent) of the Owners' entitlements in the Total Sale Proceeds upto the refund of the Security Deposit, i.e. Rs.2,50,00,000/- (Rupees two crore fifty lakh only) and shall retain the balance 25% (twenty five percent) of the Owners' entitlement in the Total Sale Proceeds as it is/shall be agreed between themselves.



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16.2.2 On refund of the entirety of the Security Deposits as per their agreed terms, the Owners shall be entitled to receive the Total Sale Proceeds in agreed ratio.

17. MORTGAGE:

- 17.1 The Owners hereby agree, undertake and acknowledge that after the issuance of the Sanctioned Plan, the Developer shall be entitled, to obtain loans and/or advances from the Banks and/or Non-Banking Financial Companies (NBFCs) as may from time to time be required specifically and only for carrying out and completing the Project and not for any other purpose and the same by creating charge/mortgage over the 76% of the share forming part of the Developer's Allocation by deposit of original title deeds or through a Deed of Simple Mortgage, registered mortgage and equitable mortgage of and in respect of the said Premises and the same upon notice to the Owners and giving details of the finance obtained by the Developer and the terms thereof.
- 17.2 To enable the Developer to raise finance exclusively for development of the "Said Premises" as per **Clause 17.1** above, the Owners shall extend its co-operation and assistance as may be required for obtaining such loans and advances from the Banks and/or Non-Banking Financial Companies (NBFCs) as also for creating charge over the "Said Premises" and/or the project or creating charge over and in respect of the 76% share forming part of the Developer's allocation as aforesaid. The Owners for such purpose shall grant Power of Attorney, wherein, the Developer and/or its nominee or nominees would be empowered to represent the Owners to create charge as per **Clause 17.1** above in favour of the Banks and/or Non-Banking Financial Companies (NBFCs).
- 17.3 The Developer shall solely and exclusively be responsible to repay the loans and advances, which the Developer may obtain as aforesaid as also to pay all interest thereon and charges related thereto and in this regard the Owners shall not be liable or responsible in any manner what so ever.
- 17.4 All benefits under the Income Tax Act for borrowings made by the Developer would be available to the Developer and it would be entitled to claim all such benefits.
- 17.5 The Developer shall keep the Owners and Owners' Allocation as also the "Said Premises" and/or the said Project absolutely indemnified and harmless against repayment of such loans and advances including interest and all other connected obligations and liabilities and against any loss, damage, cost, claim, demand, action, prosecution or proceeding



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as may be suffered or incurred by the Owners or any buyer/transferee in the Project in this regard.

18. RATES, TAXES AND MAINTENANCE:

- 18.1. The Owners herein shall bear and pay the land revenue, Panchayet / Municipal taxes and other rates, taxes and outgoings whatsoever concerning or relating to the "Said Premises" for the period till the date of execution hereof.
- 18.2 On and from the date of execution of this present, the Developer herein shall bear and pay the land revenue as also the Panchayet/ Municipal taxes and other rates taxes and outgoings whatsoever concerning or relating to the "Said Premises" till the Developer complete construction of the Project and makes over the Flats, Commercial units and Car Parking spaces of the Project to the buyers and the buyers start paying the same.
- 18.3 On and from the date of completion of the proposed Project as also making over of possession of the several Flats, Commercial units and Car Parking spaces of the Project to the buyers and/or transferees, the Buyers/Transferees shall be responsible to bear and pay the land revenue, Panchayet/ Municipal taxes and all other rates, taxes and outgoings as also to pay the monthly maintenance and service charges on account of their respective Flats, Commercial units and Car Parking spaces.
- 18.4 On and from the date of completion of construction of the said Project, the Developer shall be responsible to look after, manage and administer the day to day maintenance of the Project as also maintenance of the common parts, areas, amenities and facilities at the Project, on the terms and conditions the Developer deems fit and proper, and till the formation of an Association/Syndicate or incorporation of a Company for the purpose.
- 18.5 The Developer shall cause an Association or Syndicate or Limited company to be floated and/or incorporated for the purpose of managing and maintaining of the common facilities, common areas and amenities at the said Project. The Developer shall also be responsible to frame the rules, regulations and byelaws of such Management Association/ Syndicate / Company.

19. CERTAIN DEFAULTS AND CONSEQUENCES:

- 19.1 The following shall be the events of default:-
- (a) If the Owners fail to make out a marketable title in respect or the said Premises.
 - (b) If the Owner fails to comply with any other obligation contained herein.
 - (c) If the Developer fails to construct, erect and complete the Complex within the time and in the manner contained herein.
 - (d) If the Developer fails to comply with any other obligations contained herein.
- 19.2 In case of any event of default, the other party (the aggrieved party) shall serve a notice in writing to the defaulting party, calling upon the



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defaulting party to comply with its obligation in default within the time and in the manner to be mentioned in the said notice.

- 19.3 Upon receipt of such notice, the defaulting party shall rectify the said event of default and/or breach within the time and in the manner mentioned herein.
- 19.4 In case of the default continues for a period of thirty (30) days thereafter, in such event, the aggrieved party shall be entitled to serve a final notice on the defaulting party.
- 19.4.1 On expiry of the said period of notice, if the defaulting party is the Owners, then the Developer shall be entitled to take over the responsibility of the defaulted item or items upon itself on behalf of the Owners and shall be entitled to complete the same at the risk, costs and expenses of the Owners. In the event of dispute between the parties as to the quantum of the costs and expenses, the same shall be decided by arbitration.
- 19.4.2 In the event, the Developer is unable to rectify the breach or the default as per **Clause 19.3** inspite of its efforts, then the Developer shall be entitled to serve a notice of termination of this agreement without prejudice to the right, title and interest of the Owner No. 33 and Owner No. 34 in the Said Premises. The damages, if any of the parties shall be determined by arbitration.
- 19.4.3 If the defaulting party shall be the Developer, the Owners shall be entitled to refer the same to arbitration to compel the Developer to comply with its obligations and shall be entitled to claim costs, and damages from the Developer for such default.
- 19.4.4 If the defaulting party shall be the Developer, the Owners shall be entitled to be made over possession of the "said Premises" on as is and whatever there is condition as also be entitled to be returned the original title deeds and documents in respect of the "said Premises" by the Developer and the Owners shall further be entitled to be paid by the Developer the losses, damages, interest and penalty as may be determined by the Arbitration.
- 19.5 If the agreement is terminated by reason of any default of the Owners as mentioned in **Clause 19.1 (a) and (b)** above, the Owners shall be liable to and the Developer shall be entitled to refund of the entire security deposit together with interest thereon as determined by the Arbitrator and the Owners shall be further liable to pay and/or reimburse the Developer all costs, charges and expenses and/or investments made by the Developer in the said project as may be determined by the Auditor in pursuance of the Arbitration proceeding.
- 19.6 If the Developer fails or commits default to perform its obligations mentioned in **Clause 18.1(c) and (d)** above, the Developer shall be liable to and the Owners shall be entitled to be paid the amounts of losses, damages, interest, penalty and costs as may be determined by the Arbitrator in pursuance of the arbitration proceeding.



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- 19.7 Till such time the amount mentioned in **clause 19.5** above is paid, the same shall form a charge in respect of the said Premises and the Developer shall be entitled to enforce such charge in such manner as it may deem fit and proper.
- 19.8 It is agreed by and between all the Parties, that this Development Agreement shall only be cancelled and/or rescinded by way of a registered Deed of Cancellation, which must be executed by all the Parties to this Agreement.

20. INDEMNITY:-

- 20.1 Without prejudice to any other indemnity available under this Agreement, the Developer shall indemnify and keep the Owners saved, harmless and indemnified from and against any and all losses, claims, proceedings, liabilities (civil or criminal) and all costs, charges, demands, fines, expenses, damages, including interest and penalties with respect thereto and out-of-pocket expenses (including attorney's fees and disbursements) that may at any time hereafter be incurred/suffered by, or imposed on the Owners, arising out of or in connection with: (a) the construction of the Building and development of the Project; (b) any breach or default of this Agreement by the Developer including any representations and warranties made or undertakings or covenants provided herein; (c) any act, omission, or default of the Personnel of the Developer; (d) any violation of any laws, permissions, rules, regulations or bye-laws, whether wilful or otherwise by the Developer or (e) any claims, proceedings, liabilities, demands, etc. made by any third party in connection with the development of the Project.
- 20.2 The Owners shall jointly indemnify and keep the Developer saved, harmless and indemnified from and against any and all loss, damage or liability (whether criminal or civil) suffered by the Developer by reason of or as a consequence of or in connection with (a) any claim made by any third party for any defect in title of the said Property save and except as mentioned herein or (b) any breach or default of this Agreement by them including of any representations and warranties made or provided herein or (c) any violation of any laws, permissions, rules, regulations or bye-laws, whether wilful or otherwise by the Owners or any of them.
- 20.3 The Owners do hereby affirm, confirm and declare, assure and undertake to keep Developer harmless and indemnified if they suffer or likely to suffer any loss, risk, cost and injury arising out of any defect in title of the said Property.

21. MISCELLANEOUS:

- 21.1 The Owners and the Developer have entered into this Agreement purely on principal to principal basis and nothing stated herein shall be deemed or construed to be a partnership and/or joint venture between the Developer and the Owners nor shall the parties hereto constitute an Association of persons.

- 21.2 Nothing in these presents shall be construed as a sale, transfer or assignment or conveyance in law by the Owners of the "Said Premises" or any part thereof to the Developer, or as creating any right title or interest in respect thereof in favour of the Developer, save the right to undertake development as per this Agreement.
- 21.3 The proposed Project to be erected by the Developer in or upon the land comprised in the "Said Premises" shall be named with such name as decided by the Developer. Provided however that the name of the building shall bear the word "**REALMARK**" which is the brand logo of the Developer.
- 21.4 On completion of the development of the "Said Premises" and construction of the said Project as also distribution and payment of the Net Sale Proceeds between the Owners and the Developer of the Owners' allocation and the Developer's allocation respectively mentioned in **Clauses 14.2 and 14.3** above and allocation and delivery of unsold areas as mentioned in **Clause 14.6** above, this Agreement shall stand fulfilled.
- 21.5 The Owners and the Developer hereby agree and undertake to sign and execute all other deeds and documents for smooth implementation of this Agreement, as and when so required.
- 21.6 The Owners and/or their respective directors and authorized representatives shall at all times be entitled to view, inspect the development work and/or construction of the Project at the "Said Premises" upon giving prior notice of 24 hours to the Developer.
- 21.7 Neither of the parties hereto shall be entitled to dispute the legality and/or enforceability and/or validity of this Agreement and/or any of the terms herein recorded.
- 21.8 At all times hereafter the Developer hereto shall indemnify and agree to keep the Owners, saved, harmless and indemnified in respect of all losses, damages, costs, claims, demands, actions, proceedings, liabilities, fines, penalties or other consequences (whether criminal civil or revenue) suffered or incurred by the Owners and arising due to any delay or default of the Developer in complying with the terms and conditions hereof.
- 21.9 Any GST and/or taxes arises out of this development agreement will be paid by the respective parties in proportion of their respective revenue/allocation ratio.



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- 21.10 Any Goods and Service Tax or other impositions and taxes relating to development and construction of the Project and in respect of implementation of this transaction shall be borne and paid by the Developer.

22. NOTICES:

- 22.1 **Mode of Service:** Any notice or other written communication given under or in connection with this Agreement may be delivered personally or sent by registered post with acknowledgement due to the proper address, described below and for the attention of the relevant Party (or such other address as is notified in the manner mentioned in this clause by each Party from time to time):

22.1.1 **In case of notices to be sent to Developer:**

GAGAN LOHIA

209, AJC Bose Road, Karnani Estate, 5th Floor, Room No.192,
Police Station Beniapukur, Post Office Circus Avenue, Kolkata
700017

22.1.2 **In case of notices to be sent to Owners:**

MAULA GAZI

Village & Post Office Pailan, Police Station Bishnupur, Kolkata-
700104, District South 24 Parganas;

KAUSHIK ROY

25, Sourin Roy Road, Post Office and Police Station Behala,
Kolkata - 700034

PS VINAYAK COMPLEX LLP

122/1R, Satyendranath Majumdar Sarani, Post Office
Kalighat, Police Station Tollygunge, District South 24
Parganas, Kolkata-700026

- 22.2 **Time of Service:** Any such notice or other written communication shall be deemed to have been served (1) if delivered personally, at the time of delivery (2) if sent by registered/speed post, on the 4th day of handing over the same to the postal authorities.
- 22.3 **Proof of Service:** In proving such service it shall be sufficient to prove that personal delivery was made or in the case of registered post, that such notice or other written communication was properly addressed and delivered to the postal authorities.
- 22.4 **Electronic Mail:** Any notice sent by way of electronic mail (e-mail) shall be considered **not** to have been served.
- 22.5 **No Assignment/Nomination:** Under no circumstances, either of the Parties be entitled to assign/nominate or transfer any benefit of any nature whatsoever, as conferred in their favour by virtue of this Agreement and/or Said Premises.



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23. DOCUMENTATION:

- 23.1 All agreements, contracts, deeds, documents for the sale of the units at the Project shall be identical containing the similar terms and conditions as may be decided by the Developer in consultation with the Owners.
- 23.2 All deeds, documents, Agreements and papers as may from time to time be required to be prepared in pursuance of this Agreement including those for sale of the Flats, Commercial units and other saleable spaces of the Project shall be prepared by the Advocate appointed by the Developer (**Project Advocate**) and the same shall be strictly in accordance with the agreed terms under this agreement.

24. ENTIRE AGREEMENT:

- 24.1 This Agreement records all the terms, conditions, understandings, representations, and declarations by and between the parties, oral or in writing with regard to the subject matter hereof.
- 24.2 This Agreement is a culmination of the discussions and negotiations between the parties and constitutes the final bargain between them and all rights and obligations with respect to the "Said Premises" and/or development thereof as also construction of the proposed Project thereat shall be governed only by this Agreement. No offer, counter offer or communication made or exchanged between the parties, contrary to or inconsistent herewith, prior to this Agreement shall bind the parties.

25. AMENDMENTS:

- 25.1 No modification or amendment of this Agreement nor waiver of the terms or conditions herein recorded shall be binding, unless made specifically in writing by the parties.

26. SEVERABILITY:

- 26.1 If any of the provisions of this Agreement is or become invalid, unlawful or unenforceable, the parties agree that the validity, legality and/or enforceability of the remaining provisions shall not in any way be affected or impaired.

27. ARBITRATION AND CONCILIATION:

- 27.1 In case of there being any dispute or difference or misunderstanding by and between the parties hereto concerning or relating to or arising out of this agreement and/or interpretation of this agreement or any of the clauses herein recorded and/or the completion of the transaction as per this agreement, the parties would hold joint meetings and make all possible efforts to conciliate and/or settle such disputes and/or differences and/or misunderstandings mutually.
- 27.2 In the event the parties hereto being not able to amicably clarify the confusions and/or misunderstandings and/or to mutually resolve the disputes and/or differences as provided hereinabove, all disputes and differences by and between the parties hereto concerning or relating to or arising out of this Agreement or with regard to interpretation of this



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Agreement or any of the clauses herein recorded and/or the respective claims of the parties, the same shall be referred and adjudicated adjudication as per the provisions of the Arbitration and Conciliation Act, 2015.

28. JURISDICTION:

28.1 The Hon'ble Court at Calcutta shall exclusively have the Jurisdiction to entertain, try and determine all matters concerning or relating to or arising out of this Agreement.

THE FIRST SCHEDULE ABOVE REFERRED TO
"Said Property/Premises"

All Those various pieces and parcels of Sali land measuring an area of 331.44 Decimals, be the same a little more or less, comprised in several Dags recorded in various L.R. Khatians situate at Mouza Sarmasterchak, J.L. No.17, under Police Station Bishnupur, within Kulerdari Gram Panchayat, District South 24 Parganas, details whereof are mentioned hereinbelow:

Sl. No.	L.R. Dag No.	R.S. Dag No.	L.R. Khatian No.	Area (in Decimal)
1.	137	97	490, 691 & 692	33.2
2.	127	98	490, 691 & 692	160.1
3.	126	99	490, 691 & 692	15
4.	125	100	490, 175, 691 & 692	32
5.	128	100/168	490, 691 & 692	17
6.	129	100/169	490, 691 & 692	32.64
7.	130	126	490, 691 & 692	20.5
8.	133	129	490, 691, 692 & 513	21
Total:				331.44

The said Property is butted and bounded as follows:

On the North	By R.S. Dag Nos.125 and 126 (Part)
On the South	By R.S. Dag Nos.97 (P), 132, 131, 98 (P), 100/169 (P), 126 (P)
On the East	By R.S. Dag Nos.132, 131, 20Ft wide road, 129 (P), 98 (P), 126 (P) and 30ft wide road
On the West	By R.S. dag Nos.97 (P) and 98 (P)

THE SECONDSCHEDULE ABOVE REFERRED TO
Specifications

Living / Dining / Lobby / Passage	
Floor	Vitrified Tiles
Walls &	POP/wall putty



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Ceiling	
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Bedrooms	
Floor	Vitrified Tiles in Bedrooms
Walls	POP/wall putty

Kitchen	
Walls	Rectified Joint Free tiles up to 2'-0" on counter walls and wash areas, Balance POP
Floor	Tiles
Counter	Granite Counter
Fitting / Fixtures	Stainless Steel Sink with reputed make fittings

Bathrooms	
Walls & Floor	Walls - Joint Free Rectified tiles, Floor - Anti Skid Ceramic tiles
Sanitary Ware / CP Fittings	Reputed sanitary ware and fittings

Doors & Windows	
Entrance Doors	Flush Doors
Internal Doors	Flush Doors
Windows	Sliding Aluminium windows

Electrical	
Modular switches with copper wiring	
Power Backup	For common areas
Apartment Type	Power Backup at extra cost
Lobby	
Entrance	Exquisitely designed at ground



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Lobby	floor
Lift	Lift of reputed make
CCTV, Intercom Facility	

THE THIRD SCHEDULE ABOVE REFERRED TO:-
EXCLUDED RECEIPTS

- a. **Special Amenities/Facilities:** provision of any special amenities/facilities in the common portions (save and except those described in the Sixth Schedule) including Club Development charges etc.
- b. **Upgradation of fixtures and fittings:** at any buyer's request, any improved specifications of construction, any internal change made in the layout and/or upgradation of fixtures and fittings of any unit over and above the Specifications described.
- c. **Common Expenses/Maintenance Charges/Deposits:** proportionate share of the common expenses/maintenance charges as may be levied.
- d. **Transformer and allied installation:** Obtaining HT/LT electricity supply from the supply agency through transformers and allied equipment.
- e. Formation of Association/Holding Organization.
- f. **Taxes:** deposits towards Municipal rates and taxes, etc.
- g. **GST:** any other tax and imposition levied by the State Government, Central Government or any other authority or body, if payable on the construction of any units for the buyers of such units and on the transfer of the Owners' allocation by the Developer to the Owners shall be paid by the Owners, if leviable.
- h. **Electricity Meter:** Security deposit and all other billed charges of the supply agency for providing electricity meter to the Said Complex, at actual.
- i. **Generator:** stand-by power provision to the Said Complex from diesel generators.
- j. Any Nomination charges and/or cancellation charges to be paid by the buyers in respect of their Units.



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- k. Charges which may be charged by the Developer for delayed payment and/or not for fulfillment of obligations by the buyers.
- l. Gas bank charges, if any
- m. Cancellation / Nomination charges
- n. Legal charges
- o. Guarding charges: collected/invoked in case a flat owner is not taking possession after due date
- p. Any other extra facility/reimbursable expenses (for example : air conditioning)
- q. Stamp duty, Registration fees and all other legal expenses as may be collected from the intending Buyers respectively of the "Flats", "Commercial Units" and "Car Parking Spaces" at the Project;



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IN WITNESS WHEREOF the parties hereto hereunto set and subscribed their respective hands and seals the day month and year first above written.

SIGNED EXECUTED AND DELIVERED by the **OWNERS** abovenamed at Kolkata in the presence of:

1. *Muhammad Ansham*
37/5 N.S Road
Bishwa Highway 712 248

✓ *Maula Gazi*
(MAULA GAZI)

2. *Dipankar Sardar*
122/1B. S.N. Road. Sarani
KOL- 700026

Chandana Roy
(CHANDANA ROY)

Kaushik Roy
(KAUSHIK ROY)

✓ *Khuku Rani Saha*
(KHUKU RANI SAHA)

✓ *Jiban Krishna Saha*
(JIBAN KRISHNA SAHA)

Rajashree Roy
(RAJASHREE ROY)

Ranajit Kumar Dutta
(RANAJIT KUMAR DUTTA)

Rita Dutta
(RITA DUTTA)



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L.T.G. of Manavvara
 Begum by the pen of
 Sachin Chhok
 (MANAVARA BEGUM)

Moshtakin Gazi
 (MOSTAKIN GAZI)

Momtaj Gazi
 (MOMTAJ GAZI)

Anwar Gazi
 (ANWAR GAZI)

Mujibar Rahaman Gazi
 (MUJIBAR RAHAMAN GAZI)

Neha Gazi
 (NEHA GAZI)

Рабиѡал Хаѡе Гази
 (RABIYAL HAQUE GAZI)

Сакина Гази
 (SAXINA GAZI)



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