e) To apply for obtaining quotas, entitlements and other allocations for cement, steel, bricks and other building materials and inputs and facilities allocable to the Owners and required for the construction of the New Buildings but in no circumstances the Owners shall be responsible for the price/value, storage and quality and use of the building materials.

f) To approach the concerned authorities for the purpose of obtaining permissions and service connections including water, sewerage and electricity for carrying out and completing the development of the said land.

g) To make deposits with the Planning Authorities and other authorities for the purpose of carrying out the development work and construction of the New Buildings on the said land and to claim refunds of such deposits and to give valid and effectual receipt and discharge on behalf of the Owners in connection therewith.

h) After completion of the construction of the New Buildings or any Phase of the Building Complex, to apply for and obtain occupation and completion certificate in respect thereof or parts thereof from the Planning Authorities or other concerned authorities.

i) To enter into agreements for sale of the Units alongwith or without the corresponding undivided share in the said land, on such terms and conditions as the Developer may think fit and proper.

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j) To execute from time to time deeds of transfer of all kinds and mode in respect of Flats/Units/Constructed spaces comprised in the said premises or any part or portion of the Said Land alongwith or without the corresponding undivided share in the said land, to receive consideration, rents, and deposits there for and present the above documents for registration and admit the execution of such documents before the appropriate authorities.

k) . To appear and represent us before the Additional Registrar / Sub-Registrar, District Registrar, Additional District Sub-Registrar, Registrar of Assurances, Kolkata in connection with the sale and transfer of Flats/Units/Constructed spaces alongwith or without the corresponding undivided share in the said land in the Buildings constructed on the said premises .

l) To accept any service of writ of summons or other legal process on behalf of and in the name of the Owners and to appear in any court or authority as the Developer deem appropriate and to commence, prosecute and/or defend any action or legal proceedings relating to development of the said land in any court or before any authority as the Developer may think fit and proper and for such purpose to appoint any Solicitor, Advocate, Lawyer in the name and on behalf of the Owners or in the name of the Developer and pay the costs, expenses, fee and other outgoings. Further to depose in the court of law or authority, sign vakalatnama, sign and verify the plaint, written statement, affidavits, petitions, applications, appeals etc., and any other document or documents in furtherance of the said objective. Provided

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always that this authority shall be available to and exercised by the Developer strictly only in cases where such litigation would touch or concern the development of the project on the said land without in anyway relating to or affecting the title of the said land.

m) To mortgage the Developer's Allocation in the new buildings to be constructed thereon, in favour of any Bank by executing simple mortgage deed or creating English mortgage, to secure project finance required by the Developer and further to execute any further document or documents in furtherance of the above objective and further to acknowledge the debt and security in terms of Sections 18 and 19 of Limitation Act. Provided however the mortgage to be created by the Developer shall be limited to the Developer's Allocation and shall not extend to the allocation of the Owners and the loan so qbtained shall only be utilised for this project and the Owners shall not be required to furnish any Guarantee for such loan and such loan /finances will be guaranteed by personal or Corporate Guarantee by the Developers to the lending Bank and/or any financial institution. In case owing to any loans or finances obtained by the Developer, the Owners suffer any losses or damages due to any non repayment, delay in repayment by the Developer or due to any other consequence of delay or default of the Developer in respect of its obligations in respect of any such loan or liability whatsoever Developer shall indemnify and keep the Owner saved harmless indemnified in respect thereof.

n) To do and perform all acts, deeds, matters and things necessary for all or any of the purposes aforesaid and for

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giving full effect to the powers and authorities herein before contained, as fully and effectually as the Owners could do in person.

10.2 The Owners hereby ratify and confirm, and agree to ratify and confirm all acts, deeds and things lawfully done in the interest of the project and in accordance with the terms and conditions of this agreement by the Developer and persons nominated by the Developer in pursuance of the powers and authorities granted as aforesaid.

10.3 Notwithstanding grant of the aforesaid powers and authorities, the Owners shall grant to the Developer and/or its nominees a registered General Power of Attorney for the purpose of doing all acts required for the Project simultaneously on execution of this Agreement and the costs on account thereof shall be borne by the Developer.

10.4 Notwithstanding grant of the aforesaid General Power of Attorney, the Owners hereby undertake that they shall execute, as and when necessary, all papers, documents, plans etc. for the purpose of development of the said land within 7 (Seven) days of the request being made.

10.5 While exercising the powers and authorities under the Power or Powers of Attorney to be granted by the Owner in terms hereof, the Developer shall not do any such act, deed, matter or thing which would in any way infringe the rights of the Owners in any manner or put any financial or other obligation claim or liability upon the Owners.

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11 FINANCIALS:

11.1 All benefits under the Income Tax Act for borrowings for development would be available to the Developer and it would be entitled to claim all such benefits

11.2 The Developers will be entitled to seek financing of the Project (Project Finance) by a Bank/Financial Institution (Banker). Such Project Finance can be secured on the strength of the Developer's Allocation being developed and construction work in progress/receivables to the extent pertaining to the Developer's Allocation without creating any charge on the land or the Owners' Allocation and such loan /finances will be guaranteed by personal or Corporate Guarantee by the Developers to the lending Bank and/or any financial institution. For this purpose, the Owners shall execute necessary documents through their delegated authority or General Power of Attorney in favour of the Developer and the Owners may join as consenting parties (if required by the funding institution) to accord its no objection to creation of charge by the Developer in favour of Banks or Financial Institutions or any other institution(s) for availing such loan facility. In this regard, the Developer shall indemnify the Owners against any claim arising out of such borrowings. In any event no charge shall be created on the Owners' Allocation and the Owners shall not be required to furnish any Guarantee for such loan. In case owing to any loans or finances obtained by the Developer, the Owners suffer any losses or damages due to any non repayment, delay in repayment by the Developer or due to any other consequence of delay or default of the Developer in respect of its obligations in respect of any such loan or liability

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whatsoever, the Developer shall indemnify and keep the Owner saved harmless and indemnified in respect thereof.

11.3 It is expressly agreed and/or declared by the developers that the charge to be created in pursuance of clause 11.4 hereinabove shall not withstanding anything to the contrary or otherwise stipulated elsewhere in these agreement remain restricted only to the developers, an in no event the developers be entitled to create any charge and/ or lien and/ or encumbrance over and/ or in respect or in part or portion of the owners and no part or portion of the owners shall be utilized and/or appropriated and/or for/ towards repayment or otherwise of the aforesaid borrowings of / by the developers.

11.4 For the aforesaid purpose the owners shall sign and execute all necessary deeds, documents instruments as may be reasonably requested for by the developers and further will also execute powers and authorities in respect thereof in favour of the Developers and / or its nominee(s) to carry out execute and perform various acts, deeds and things in respect of the creation of the aforesaid mortgage including signing and executing all necessary deeds and documents without creating any charge on Owners in their Companies/entities by any Banks and/or financial institution.

11.5 It is unequivocally and unambiguously made clear understood and further the developer undertakes and covenants that neither any of the parties comprising/ constituting the owners nor any part or portion of the owners share shall in any manner be responsible and/ or liable and / or applied for repayment of such loan amount/ borrowings of the developers and/ or the interest

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accrued or due thereon and/ or for the due compliance and/or performance of any of the terms, conditions, obligations etc. relating/ pertaining to the same, and the developers shall indemnify and keep each of the parties comprising/ constituting the owners safe, harmless and indemnified from and against all costs, charges, demands, claims, actions suits and proceedings arising therefrom and/ or in respect thereof.

11.6 The Developers further confirms and undertakes that the funds received as aforesaid shall be appropriated and used by the developers solely and exclusively for the execution and implementation of the project and for no other purpose whatsoever and howsoever.

11.7 For the avoidance of any doubt it is further clarified that the above stated loan if any obtained by the developers and/or the terms and conditions attached to/ governing the same shall in no manner impede and/or prejudice and/or hamper and/or hinder the right of the owners to receive the owners share in terms of this agreement and the Developers undertakes and covenants to ensure that the aforesaid is strictly enforced and compiled with.

11.8 All the transferees shall pay to or deposit with the Developer in escrow the Extras and Deposits (EDC) mentioned in the **Fourth Schedule** hereunder written for the Units to be acquired. If the parties decide to shift to the space sharing model at any stage of development , and in the event certain parts of Owner's allocation delivered to the Owners remain unsold on completion of the last phase of construction and/or finishing of the entire Complex and such extras and deposits shall be payable by the Owners as and when the Flats will be sold and if any flat remains unsold even

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after expiry of twelve months from the completion of the entire Complex, the Owners will pay EDC out of its own funds for the unsold flats and the same will also be applicable for developer's allocation except the following amounts:-

(a) Stamp Duty and registration fee, legal charges:.

(b) GST on the Owners Allocation, which shall be paid by the Developer and recovered by the Developer to the extent allowable in law from the transferees of the Owners' Allocation and in case of separate allocation from the Owners in respect of the separately allocated and /or unsold Owners' Allocation, the liability of the Owners to reimburse shall be as soon as it becomes actually payable by the Developer.

(c) Any other tax and imposition levied by the State Government, Central Government or any other authority in respect of total construction shall be exclusively paid by the Developer

(d) For this purpose each phase/the entire Complex shall be deemed to be completed by the Developer on making the same habitable and issuance of the Completion certificate by the Municipal Authority.

11.9 The entire proceeds against marketing of the project/Complex would be shared by and between the parties in the ratio of 28% belonging to the Owners and 72% belonging to the Developer (hereinafter referred to as "the said ratio"). The marketing costs which includes the advertisement and promotion costs of the project shall be shared by the Owners and the Developers as agreed and the share of the Owner is fixed at 5% of the sale price of the Owners' Allocation or actual whichever is lower which the Owners shall pay to the Developer as a marketing cost (inclusive

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of advertisement and promotion costs of the project, brokerage, commission and all other costs and expenses on any account whatsoever relating to marketing or sale). In connection with the sharing of realization the following is agreed:-

(a) Except Parking charges, Extra Charges and Deposits (EDC) as mentioned in Fourth Schedule, all proceeds and receivables in gross on any account whatsoever arising from the sale or transfer or otherwise of any Transferable Areas (in short Realisation) by the parties jointly as above shall belong to the Owners in the said ratio 28% and to the Developer in the said ratio of 72%.

(b) Parking Charges, Extras and Deposits (EDC) shall be realized solely by the Developer from the proposed buyers of the transferable areas and shall be deposited in a separate Account

(c) The Owners will be at liberty to inspect the accounts in all respects mentioned herein for their satisfaction.

(d) All Realization of whatsoever nature shall be deposited in a specified escrow bank account jointly opened by the parties (Special Account) and all customers will be required to be notified about mentioning of the bank account in the cheques and other instruments for making payments on any account relating to the project. There shall be standing instructions to the bank about transfer of the funds therein to the respective bank accounts of the Owners and the Developer in the said Ratio. The Developer hereto of the other part shall be bound and obliged to provide the owners party hereto of

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the one part, on a fortnightly basis, bank statements of the escrow account. The developer further undertakes and covenants not to utilize/apply/withdraw any part or portion of his share until fulfillment of any outstanding obligations of the developer in respect of the payment of the outgoings together with the interest and/or penalty thereon, if any.

12. **DEALING WITH SPACES IN THE NEW BUILDINGS:**

12.1 Until separate allocation in terms hereof all the spaces in the new buildings will be marketed by the Developer through a common marketing agency to be appointed by the Developer from time to time (collectively Marketing Format) and the marketing agents shall act on behalf of the owners and the Developer. The parties hereby agree to appoint N. K. Realtors as their common preferred marketing agent.

12.2 In marketing the said project, name and logo of only Developer will figure in all marketing materials with the same size as the names and logos of the Developer group.

12.3 The Developer in consultation with marketing agent shall determine the price for sale or disposal of the spaces in the new building/s to be constructed by the Developer on the said land keeping in view the economics and market response of the project. None shall sell or market any Transferable Areas below such price.

12.4 The parties in consultation with marketing agent shall periodically revise the rates for sale of various types of transferable areas and the same shall be adhered to.

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12.5. In case the parties fail to reach a consensus regarding the selling price then in that event, the Owner shall have the sole discretion to notify (in writing) the Developer to mutually allocate those unsold areas which are the subject matter of disagreement, and on being so notified the parties shall immediately mutually allocate the concerned unsold areas separately amongst themselves on equitable basis as per the said ratio and thereafter the sharing of the proceeds of the aforesaid allocated areas will stop and each party will sell their allocated space independently and in that case the marketing expense shall not be applied to such allocated area..

12.6 Except as otherwise separately allocated within twelve months of completion of the last phase in its entirety and obtaining statutory Occupancy Certificate thereof, any unsold areas shall be divided between the Owners and the Developer in the said Ratio .

12.7 If the parties at any stage adopt the Space sharing model and in case of sale of any portion of the separate Owners' Allocation by the Owners, the Owners shall directly receive the payment from the buyers, make payment of brokerage and shall pay the Developer the proportionate share of the actual advertisement and promotion costs. The Transferees shall directly pay or deposit the extras and deposits mentioned in the **Fourth Schedule** hereunder written to the Developer provided that in case by then the Owners have paid the amounts in terms of clause 11. then the Owners shall receive the EDC from the Transferees .

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12.8 The Developer and Owners shall execute and register with the appropriate registering authorities Deeds of Conveyance or other document for transferring and/or demising of any saleable space in the New Buildings as aforesaid unto and in favour of the intending purchasers/transferees and the cost for stamp duty and registration charges in respect thereof shall be borne by the intending purchasers/transferees as the case may be.

12.9. The Owners shall also be liable for the actual proportionate common expenses in respect of any separately allocated unsold Units delivered to the Owners on completion of the entire complex in terms of this agreement provided the same is made fit for habitable use with effect from the date of receiving completion certificate.

12.10 It is agreed and recorded that all Agreements, Deeds of Conveyance or any other papers and documents in respect of the transfer of any areas in the New Buildings shall maintain uniformity in respect of the restrictions, stipulations, covenants, terms and condition for the use and occupation thereof applicable to transferees together with amenities and facilities therein as are stipulated in this agreement or that would be drafted by the Developer's Advocates and the parties hereby undertake to each other that neither of them shall deviate from the such restrictions stipulations, covenants, terms and conditions.

12.11 The Owners and the Developer agree to execute all such deeds and documents that may be required by their Purchasers of their

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respective allocation to enable them to obtain loan from Bank etc. without creating any liability or obligation upon them.

13. **MUNICIPAL TAXES AND OUTGOINGS:**

13.1 As from the date of execution hereof, the Developer shall pay the Rates in respect of the said land till such time the New Buildings are ready for occupation upon issuance of statutory Completion Certificate in respect thereof, after which, the Transferees shall become liable and responsible for payment Provided That after completion of the entire complex in case the Developer is liable to pay any Rates in respect of unsold and unallocated portions of duly completed New Buildings, the Owners shall reimburse 28% of the same to the Developer.

14. **POST COMPLETION MAINTENANCE:**

14.1 On completion of each phase the Developer shall give a notice to the Owners informing thereabout. Before giving notice as aforesaid, the Developer shall obtain the statutory Occupancy Certificate from the concerned municipal authorities in respect of the area forming part of such notice and make the same habitable including in respect of the services (such as water, drainage, electricity, lift etc.,) and infrastructure.

14.2 After completion of the last phase, in case of separate allocation of any part of the Owners' Allocation in terms hereof and the same remaining unsold, on and from the date of expiry of the notice of Completion given in terms of this agreement and subject to the Developer having complied with its obligations regarding the construction and completion thereof in terms hereof, the Owners shall be deemed to have taken over possession for the purpose of determination of liability and shall become liable and

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responsible for the payments of maintenance charges (at the same rate as the Developer would pay the same for the separately allocated and unsold areas forming part of the Developer's Allocation) and Rates in respect thereof irrespective of the fact whether actual physical possession was taken or not.

14.3 The Parties and/or their respective nominees/transferees shall punctually and regularly pay the maintenance charges, Rates for their respective allocations to the concerned authorities/Maintenance in charge in accordance with the terms and conditions hereof and in case any party is in default in payment of its liability, such party shall keep the other indemnified against all claims, actions, demands, costs, charges, expenses and proceedings whatsoever directly or indirectly instituted against or suffered by or paid by the other thereby.

14.4 Till handing over of the project to the Association the Developer shall be responsible for the management, maintenance and administration of the New Buildings or at its discretion appoint an agency to do the same. The Owners hereby agree to abide by all the common rules and regulations to be framed for the management of the affairs of the New Buildings.

14.5 The Developer or the Agency to be appointed shall manage and maintain the Common Portions and services of the New Buildings and shall collect the costs and service charge therefor (Maintenance Charge). It is clarified that the Maintenance Charge shall include premium for the insurance of the New Buildings, land tax, water, electricity, sanitation and scavenging charges and also occasional repair and renewal charges and charges of capital nature for all common wiring, pipes, electrical and

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mechanical equipment and other installations, appliances and equipments and all other expenses incurred for common purpose.

15. **COMMON RESTRICTIONS:**

15.1 The Complex shall be subject to the restrictions as are applicable to ownership buildings, intended for common benefit of all occupiers of the New Buildings.

15.2 For the purpose of enforcing the common restrictions and ancillary purposes and/or for the purpose of repairing, maintaining, rebuilding, cleaning, lighting and keeping in order and good condition any Common Portions and/or for any purpose of similar nature, all occupants of the New Buildings shall permit the agency to be appointed, with or without workmen, at all reasonable time, to enter into and upon the concerned space and every part thereof.

15.3 It is agreed between the parties that the Developer shall in consultation with the Owners frame a scheme for the management and administration of the New Buildings and all the occupiers of the building shall perpetually in succession abide by all the rules and regulations to be framed in connection with the management of the affairs of the New Buildings.

16. **OBLIGATIONS OF THE DEVELOPER:**

16.1 Execution of the Project shall be in conformity with the sanction plans and prevailing rules and byc-laws of all concerned authorities and State Government/Central Government bodies.

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16.2 The Developer shall be responsible for planning, designing development and construction of the New Buildings with the help of professional bodies, contractors, etc.

16.3 The Developer has assured the Owners that they shall implement the terms and conditions of this Agreement strictly without any violation and shall adhere to the stipulations of time limits without default.

16.4 The Developer shall construct the New Buildings at its own cost and responsibility. The Developer shall alone be responsible and liable to Government, Municipality and other authorities concerned as also to all the labourers, staff and employees engaged by it and all Transferees and shall alone be liable for any loss or for any claim arising from such construction or otherwise relating thereto and shall indemnify the Owners against any claims, loss or damages for any default or failure or breach on the part of the Developer.

16.5 All tax liabilities in relation to the construction including GST, works contract tax and other dues shall be paid by the Developer subject to the condition that all statutory levies and taxes applicable for sale of the Owners' Allocation to the buyers thereof shall be entirely on account of the Owners.

16.6 The costs of marketing and publicity/advertisement campaigns shall be shared and borne by the parties in as agreed herein but the marketing strategy, budget, selection of publicity material, media etc. shall be decided by the Developer.

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16.7 The Developer hereby agrees and covenants with Owners not to transfer and/or assign the benefits of this agreement or any portion thereof without the consent in writing of the Owners first obtained. It is clarified that the Developer shall until completion of the Complex be under the control and management of its present constituents and of no one else.

16.8 The Developer hereby agrees and covenants with the Owners not to violate or contravene any of the provisions of the laws and rules applicable to construction of the New Buildings.

17. **OBLIGATIONS OF OWNERS**: During the subsistence of this agreement:

17.1 The Owners undertake to fully co-operate wherever necessary with the Developer for any requirement of the Developer for obtaining all permissions required for development of the said Land.

17.2 The Owners undertake to act in good faith towards the Developer so that the Project can be successfully completed.

17.3 The Owners shall provide the Developer with all available documentation and information relating to the said land as may be required by the Developers from time to time.

17.4 The Owners shall not do any act, deed or thing whereby the Developer may be prevented from discharging their functions under this Agreement.

17.5 The Owners hereby covenant not to cause any interference or hindrance in the construction of the New Buildings.

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17.6 The Owners hereby agree and covenant with the Developer not to do any act deed or thing whereby the Developer is prevented from developing, constructing, completing, selling, assigning and/or disposing of any part or portion of the constructed area or saleable area in the manner and to the extent mentioned in this agreement.

17.7 During the subsistence of this agreement the Owners shall not sell, convey, sub-let, transfer, assign or charge, or give any authority in relation to, the said Land or any part thereof, or grant any rights or easements over the said Land or any part thereof, to any other person or enter into any covenants affecting the said Land or part thereof, with any other person without the prior written consent of the Developer. The restriction in this clause shall not affect the transfer of the Owners' Allocation or any part thereof in any manner.

17.8 Except with the prior permission from the Owner in writing, the persons now in control and management of the constituents of the Developer shall not part with their controlling interest except within promoter group of the constituents.

17.9 The Owners hereby agree to modify this Joint Development Agreement as and when required by the Developer for a smooth development of the said Land, and to allow the Developer to carry out its obligations in terms of this Joint Development Agreement without any objection.

18. **INDEMNITY:**

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18.1 The Developer shall indemnify and keep the Owners saved, harmless and indemnified of from and against any and all loss, damage or liability (whether criminal or civil) suffered by the Owners in relation to the construction of the New Buildings including any act of neglect or default of the Developer's contractors, employees or violation of any permission, rules regulations laws or bye-laws or arising out of any accident or otherwise or violation or breach of its obligations hereunder by the Developer or any attorney appointed under the powers of attorney to be granted by the Owner in pursuance hereof.

19. **MISCELLANEOUS:**

19.1 The agreement entered into by and between the parties herein is and shall be on principal to principal basis.

19.2 The Owners and the Developer expressly agree that the mutual covenants and promises contained in this Agreement shall be the essence of this contract.

19.3 Nothing contained herein shall be deemed to be or construed as a partnership between the Parties in any manner nor shall the Parties constitute an association of persons.

19.4 Failure or delay by either Party to enforce any rights under this Agreement shall not amount to an implied waiver of any such rights.

19.5 If the Developer desires to register this Agreement they shall make payment of appropriate stamp duty and registration charges. The Owners shall however provide all co-operation to

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the Developer to do that including being present before the registering authorities as and when required by the Developer.

19.6 It is understood that from time to time to facilitate the uninterrupted construction of the New Buildings by the Developer, various deeds, matters and things not herein specified may be required to be done by the Developer and for which the Developer may need authority of Owners. Further, various applications and other documents may be required to be signed or made by the Owners relating to which specific provisions may not have been mentioned herein. The Owners hereby undertake to do all such acts, deeds, matters and things and execute any such additional power of attorney and/or authorisation as may be required by the Developers for the purpose and the Owners also undertake to sign and execute all additional applications and other documents, provided that all such acts, deeds matters and things do not in any way infringe on the rights of the Owners and/or go against the spirit of this Agreement.

19.7 The Parties shall do all further acts, deeds and things as may be necessary to give complete and meaningful effect to this Agreement.

19.8 The Owners shall not be liable for any Income Tax, Wealth Tax or any other taxes in respect of the Developer's Allocation and the Developer shall be liable to make payment of the same and keep the Owners indemnified against all actions, suits, proceedings, claims, demands, costs, charges and expenses in respect of the Developer's Allocation. Similarly the Developer shall not be liable for any Income Tax or Wealth Tax in respect of transfer of the Owners' Allocations and the Owners shall be liable to make

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