

9.4 The Developer has paid a further sum of Rs. 4,45,00,000/- (Rupees four crores and forty five lacs only) vide Draft No. 108035 dated 22.08.2014 drawn on Vijya Bank, Service Branch, Kolkata, to IHFL for and on behalf of the Owners and DUNE LEASING immediately after the Owners and DUNE LEASING have obtained the consent of the IHFL confirming the terms and conditions herein contained.

9.4.1 The said sum of Rs. 75,00,000/- (Rupees Seventy Five Lacs only) and the said sum of Rs. 9,45,00,000/- (Rs. Nine Crore Forty-five Lac Only) aggregating a sum of Rs. 10,20,00,000/- (Rs. Ten Crore Twenty Lac Only) deposited by the Developer with the Owners as aforesaid is hereinafter collectively referred to as the INITIAL DEPOSIT AMOUNT towards TSD.

9.5 The balance of the TSD being a sum of Rs. 9,00,00,000/- (Rupees Nine Crore only) (hereinafter referred to as the BALANCE TSD) shall be paid on or before **31st December 2014**.

9.6 REPAYMENT OF SECURITY DEPOSIT AND ADJUSTMENT

9.6.1 The said TSD shall be refunded and/or adjusted in the manner as hereinafter stated:

- i) 50% of the Initial Deposit Amount i.e. Rs. 5,10,00,000/- (Rupees five crores ten lacs only) shall become refundable by the Owners to the Developer within a period of one year from the date of sanction of the plan by the concerned authorities.
- ii) In the event of non refund of the said sum of Rs. 5.10 crores on its due date as aforesaid the same will carry interest at the rate of 18% per annum for a period of 6 months from the date of the same becoming due and payable (hereinafter referred to as the EXTENDED PERIOD) and if within the said Extended Period the said sum of Rs.5.10 crores together with interest accrued due thereon at the aforesaid rate is not paid then and in that event the same shall be adjusted and appropriated out of the Owners Allocation as per the choice of the Developer, at the rate of Rs. 12,000/- (Rupees twelve thousand only) per sq.ft.

- iii) Thus 50% of the Initial Deposit Amount i.e. Rs. 5,10,00,000/- (Rupees five crores ten lacs only) shall become refundable by the Owners to the Developer within a period of eighteen months from the date of sanction of the plan by the concerned authorities and in the event of non refund thereof the same shall be adjusted and appropriated out of the Owners Allocation as per the choice of the Developer, at the rate of Rs. 12,000/- (Rupees twelve thousand only) per sq.ft.
- ii) The balance 50% of the TSD shall become refundable and/or repaid by the Owners to the Developer at or before taking over possession of the Owner's Allocation and in no event the Owners or any person claiming through or under them shall be entitled to claim possession of any of the flats units apartments constructed spaces servants quarters and car parking spaces forming part of the Owner's Allocation until such time the entirety of the said TSD is refunded and in the event of non refund thereof the same shall be adjusted and appropriated out of the Owners Allocation as per the choice of the developer, at the rate of Rs.12000/- (Rs Twelve thousand per sq.ft.
- iv) DUNE LEASING and the Owners have further assured and covenanted with the Developer that they shall ensure timely payment of the amounts due and payable to IHFL, however, in the event of any default on the part of DUNE LEASING and/or the Owners in making timely payment of the amounts due and payable to IHFL, the Developer, though not obligated, shall make payment of the amounts which may become payable to IHFL for and on behalf of and on account of DUNE LEASING and/or the Owners for the purpose of protecting its interest, **IT BEING EXPRESSLY AGREED BY THE PARTIES HERETO**, in that event, the amount so funded by the Developer, shall be adjusted and appropriated on the date of that such payment out of the Owners Allocation as per the choice of the developer, at the rate of Rs. 12,000/- per square foot and be vested in the Developer and to that extent the Owners Allocation shall stand proportionately reduced without any further act deed and thing.

ARTICLE X - DELIVERY OF SITE

- 10.1 Immediately after the execution of this Agreement the Owners shall deliver and/or make over the site to the Developer to enable the Developer to undertake certain preliminary works for the purpose of facilitating the development of the said Premises until such time the said Premises is vacated by the owners in the manner as hereinafter appearing.
- 10.2 As and from the date of execution of this agreement the Owners shall hold the said Premises in trust and for the benefit of the Developer **IT BEING HEREBY EXPRESSLY** made clear that by making over the site to the Developer for the purpose of undertaking preliminary works will not be construed as making over possession in accordance with the provisions of Section 53A of the Transfer of Property Act 1882.
- 10.3 The Owners have agreed to vacate the said Premises on or before 31st December 2014 and time in this regard is and shall always remain as the essence of the contract.

ARTICLE XI – Repayment of dues of IHFL by the owners

- 11.1 At or before execution of this Agreement the Owners have represented to the Developer that as on 21.08.2014 and amount of Rs.48,58,57,698.46 (Rupees Forty eight crore fifty eight lacs fifty seven thousand six hundred ninety eight and paise forty six only) is due and payable towards principal outstanding , pending monthly instalments (EMI) and interest (as on date). The repayment of loan amount shall also include other interest and charges like overdue interest, foreclosure charges, late payment charges and cheque bouncing charges, if any, in terms of the loan agreement executed by IHFL (hereinafter referred to as the IHFL DUES). In case of any difference in respect of the given amount the statement of account maintain by IHFL shall be final and binding on the parties for full and final settlement of loan account.
- 11.2 The Owners as well as DUNE LEASING in association with the Developer have negotiated with IHFL for repayment of entire loan amount along with all interest, charges and the dues of IHFL, in terms of the loan agreement executed with IHFL, in the following manner:

- i) Rs. 5.00 crores has already been paid by the developer for on behalf and on account of the Owners/Dune Leasing to IHFL for and on behalf of the owners / Dune Leasing prior to the execution of this Agreement.
- ii) Interest accrued upto 31st December 2014 amounting to Rs. 4.45 crores approx. to be paid upfront upon execution of this agreement.
- iii) Rs. 9,00,00,000/- (Rs. Nine Crore Only) to be paid to IHFL on or before 31st December 2014, over and above the amount paid as per sub-clause 11.2 (i) & 11.2 (ii) of this Article hereinabove.
- iv) IHFL has agreed to release from its charge 4 flats, out of which 2 flats forming part of the Developers allocation and 2 flat forming part of owner allocation and/or give NOC to that effect in respect thereof upon receiving an aggregate sum of Rs. 18,45,00,000/- (Rs. Eighteen Crore Forty-five Lac Only) by 31st December 2014. Such application for release of charge and NOC (with reference to the Flat Numbers) will be moved jointly by the owners and the developer, on their mutually agreed terms. However Developer shall have the Lien over 2nos of flats forming part of the Owners Allocation, upon refund of the TSD as per the agreed terms by the owner to the developer, the developer will release its lien in favour of the owner, in the event of the non refund of the TSD, the developer will appropriate and or adjusted the TSD from the owners allocation area as per the choice of the Developer, @ Rs 12000/- per sq ft.
- v) From January 2015 onwards, till full and final settlement of the loan account with IHFL in terms of the loan agreement executed between the Owners and IHFL, the Owners and/or the Developer shall make a minimum payment of Rs. 5,00,00,000/- (Rs. Five Crore Only) on or before the last day of each fourth month of English calendar year i.e. April, August and December aggregating Rs.15.00 crores against each such payment of Rs.5.00 crores, upon their joint application, the owners and developer shall be entitled for charge release letter/NOC from IHFL for two flats. IHFL will issue their NOC/release letter within 7 day from the date of receipt of above said amount, otherwise on expiry of 7 days from the date of receipt of payment by the Owners/Developer it shall be deemed to have released its charge over

two nos flats (upon payment of Rs.15.00 crores IHFL shall release its charge over six nos flats out of which charge over Three flats forming the part of the Developers allocation will be released and charge over three flats forming part of Owners allocation will also be released). In the event of such amount or any part thereof being paid by the Developer, the Developer shall be entitled to adjust and or appropriate the amount paid out of the flats so released in favour of the owners. In case of delay and default in repayment, as agreed herein, IHFL shall have right to withheld the charge release letter and/or NOC, at its sole discretion.

vi) Thus minimum payment of Rs. 15,00,00,000/- (Rs, Fifteen Crore Only) is necessary in each Calendar year from January 2015. However, in any case the full and final payment of the loan amount together with all interest, charges and dues, has to be made on or before 31st December, 2017. Upon payment of each instalments as mentioned above, IHFL will issue their NOC/release letter within 7 day from the date of receipt of above said amount, otherwise on expiry of 7 days from the date of receipt of payment by the Owners/Developer it shall be deemed to have released its charge over two nos flats, out of which one flat shall form the part of the owners allocation and one will form the part of the Developers allocation. In the event of such payment being made by the Developer on behalf of the owners/Dune Leasing, the Developer shall be entitled to adjust and appropriate the amount so paid on the date of such payment against the flats as per its choice out of the owner allocation so released.

vii) The complete loan amount together with all interest, charges and dues of the IHFL shall be, primarily, paid by the Owners to IHFL on or before 31st December 2017 and upon receipt of the same the charge of IHFL over the Sald Premises shall stand released and IHFL will return the original title deeds to the Owners or its authorized representative Shri R. L. Gaggar (Advocate) who is also nominated by the Developer to retain the original Title documents as an Escrow Agent. The Owners do hereby agree not to create any further charge/lien and or mortgage over its allocation unless and until the IHFL loan excepting what is herein agreed in terms of these presents.

- viii) Subject to the plan being sanctioned by the authorities concerned for the sake of convenience it has been agreed by and between the parties hereto for the purpose of ensuring uniformity each flat in the said new building shall comprise of 3000 sq.ft. (super built-up) (more or less)
- 11.3 The Owners have further assured and covenanted that it shall be their primary and foremost obligation as well as that of the DUNE LEASING to make payment of loan amount of IHFL, in terms of the loan agreement executed with IHFL, at or before entering into this agreement and in no event IHFL shall be entitled to have any claim against the Developer excepting, the payment to be made in case of default by the owners and Dune Leasing, what is expressly agreed herein IT BEING EXPRESSLY made clear that in no event the Developer is assuming any liability and/or obligation to make payment of the dues of IHFL.
- 11.4 It is hereby expressly made clear that the Developer /Owners may enter into agreement for sale in respect of the various flats units apartments constructed spaces and car parking spaces forming part of the Developer's/Owner's Allocation. However the developer /owner shall neither handover possession of the flat nor will execute any deed of conveyance with respect to the said flats till such time either charge is released and/or the said premises is released by IHFL upon full and final payment of the loan amount together with all interest, charges and dues in terms of the loan agreement executed between the Owners and IHFL.
- 11.5 The Owners acknowledge that in as much as the Developer is entering into this agreement for the purpose of undertaking development of the said Premises in terms of this agreement, the Developer would be acquiring a substantial stake in the said premises and even though it is the primary and foremost obligation of DUNE LEASING and the Owners to make payment of the loan amounts due and payable to IHFL. In the event of any default on the part of the Owners and DUNE LEASING in making payment of the dues of IHFL then and in that event, though not obligatory, the Developer shall make payment of the amounts which may become due and payable to IHFL, for and on behalf of and on account of DUNE LEASING and the Owners. In the event of the Developer making payment of any amount to IHFL, for and

on behalf of the Owners and DUNE LEASING, then and in that event the amount so paid by the Developer, shall be adjusted and appropriated proportionately out of the Owners Allocation as per the choice of the Developer, at the rate of Rs. 12000 per sq.ft. on the date of such payment and to that extent the Owners Allocation in terms of this Agreement shall stand reduced/modified.

11.6 Upon full and final payment of the loan amounts due and payable to IHFL in terms of the loan agreement and to the full satisfaction of IHFL, the original title deeds shall be delivered by IHFL to the Owners or its authorized representative Shri R L Gaggar (Advocate) who is also nominated by the Developer to retain the original Title documents as an Escrow Agent. IHFL further agrees and undertakes to issue necessary No Due Certificate in this regard.

11.7 The Owners and DUNE LEASING jointly and severally has accorded their consent to make the payment by the Developer directly to IHFL on their behalf. Also, the owners and DUNE LEASING have hereby given their free consent to the Developer and IHFL for the above said arrangements with regard to release the charge by the IHFL and issuing its NOC for Developer and Owners share allocation, on mutually placed application to this effect mentioned hereinabove.

ARTICLE XII – REPRESENTATIVES

12.1 APPOINTMENT OF OWNERS' REPRESENTATIVE

12.1.1 For the purpose of giving effect to this agreement and implementation thereof it has been agreed that Shri Aditya Kumar Jajodia one of the Owners shall be deemed to be the authorised representative for and on behalf of all of the Owners and the Confirming Parties for the following purposes:

- i) the giving and receiving of all notices, statements and information required in accordance with this agreement.

- ii) performance and responsibilities of the Owners in connection with the Development.
- (iii) For such other purposes for the purpose of facilitating the work of completion of the said project in terms of this Agreement.

12.2 APPOINTMENT OF DEVELOPER'S REPRESENTATIVE

12.2.1 For the purpose of giving effect to this agreement and implementation thereof it has been agreed that Shri Apurva Salarpuria shall be deemed to be the authorised representative of the Developer for the following purposes:

- i) the giving and receiving of all notices, statements and information required in accordance with this agreement
- ii) performance and responsibilities of the Developer in connection with the Development/
- iii) For such other purposes for the purpose of facilitating the work of completion of the said project in terms of this Agreement.

12.3 It is hereby expressly made clear that any act, deed or thing done by any of the authorised representatives shall be final and binding on the parties to whom such authorized representative belongs.

ARTICLE XIII – PRELIMINARY WORKS FOR CONSTRUCTION AND COMPLETION

13.1 The Owners hereby covenant with the Developer that the Owners are presently in complete vacant possession of the entirety of the said Premises.

13.2 Immediately after the execution of this Agreement the Owners shall allow the Developer to enter upon the said Premises as a Licensee of the Owners for the purpose of undertaking preliminary works such as:

- i) Carrying out survey of the said Premises which shall be done in the presence of any person who may be deputed by the Owners.

- ii) To have the soil tested
- iii) To undertake all other preliminary work for the purpose of undertaking development of the said Premises

13.3 The Owners have agreed to grant a limited power of Attorney to enable the Developer and/or its nominee and/or nominees to enter upon the said Premises as licensee only to enable the Developer undertake development of the said premises in accordance with the plan which may be sanctioned by the authorities concerned. It is hereby expressly agreed by and between the parties hereto that the possession of the said Premises is not being given or 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.

13.4 Immediately after sanction of the said Plan and other permissions for undertaking construction is obtained the Developer shall -

- i) Immediately commence and/or proceed diligently to execute and complete the development and in this regard the Developer shall be entitled to demolish the existing building and/or structures standing thereon and all debris accruing therefrom shall belong to the Owners.
- ii) proceed diligently and execute and complete the development in a good and workmanlike manner with good quality materials details whereof will appear from the Second Schedule annexed hereto and/or as may be recommended by the Architect free from any latent or inherent defect.
- iv) execute and complete the development in accordance with the approved plan and shall obtain all permissions which may be necessary and/or required and shall comply with the requirements of any statutory or other competent authority and the provisions of this agreement.