iii. In case of defect or deficiencies found in the new members flat or amenities during the joint inspection by the Office Bearers and the Developer, the Developer agrees to rectify the same to the satisfaction of the members, then the date on which the Developer rectifies the defects or deficiencies in the Members' New Flat or Amenities as the case may be or to the satisfaction of the PMC

46. Inspection of common Amenities. On completion of construction/provisions of the Common Amenities on the land as per the Approved Plans and specifications in terms of this agreement; including the layout of the utility and other connections in the land including water, electricity, gas lines, drainage, telephone lines, internet lines, etc, the Developer shall inform such completion to the Office Bearers. The Office Bearers shall within 7 days from the date of such intimation, inspect all the Common Amenities jointly with the representatives of the Developer & the PMC. If the Office Bearers and the PMC do not find any defect or deficiencies in the Common Amenities then they shall provide a letter to the Developer within 7 days confirming the same. If the offices Bearers find any defect in the completion of construction/provision of the Common Amenities, then the Office Bearers through the PMC shall inform the Developer accordingly and require Developer to rectify such defects or provide the Common Amenities, as the case might be. If the Developer agrees with the Office Bearers that there is a defect or that any of the Common Amenities is not provided, then the developer shall rectify such defects or provide such Common Amenities as the case may be.

47. DEVELOPERS' ENTITLEMENT

From the execution Date of this Agreement, the developer shall at its own costs and expenses be entitled, inter alia, to do the following acts, deeds, matters and things with respect to the property.

(a)To implement all decisions relating to the Redevelopment Rights in respect of the property in terms and in the manner as set out in this Agreement.

(b)To enter upon the property for the purpose of exercise of the Redevelopment Rights granted by the society unto the developer as aforesaid and subject to the terms of this Agreement, continue to remain on the property for the purpose of Redevelopment of the property till the completion of the Redevelopment of the property within the time period contemplated herein –and will be permitted

to enter the property thereafter only for sale of the developer's premises as per the terms of this Agreement.

(c) To carry out necessary infrastructure work and obtain permission and incur necessary cost to install common electrical substation with the prior permission of the Society.

(d) To bear and pay all out goings and statutory dues including municipal taxes ,rates, cess ,municipal fees, Deposits, development charges, taxes for land under construction, and other assessments and/or dues and or charges of any sort or in respect of and /or concerning the property to any Governmental Authority, including MCGM for the period from the commencement date till the completion of the project and obtaining Occupation Certificate and handing over possession of the New Flats to the member. The Developer shall continue to bear the aforesaid charges in respect of the Developer's Premises till sale of the Developers' Premises to prospective purchasers and the prospective purchasers becoming members of the society.

(e) To bear and pay the charges payable to the Reliance Energy/Tata Power/Mahanagar Gas or any other utility/entity for disconnecting as well as charges/deposits payable for Re-connecting of electric supply with meters, Mahanagar Gas connection with meters, Cable connection from the existing Flats to the Member's New Flats.

(f) To generally do any and all other acts, deeds, matters and things that may be required for carrying out the Redevelopment of the property in terms as aforesaid.

48. To put up its temporary hoarding and boards on the property and construct its temporary site office at such places as may be approved by the managing committee of the society on the date of execution of this Agreement and the Developer shall within 7 days of receipt of occupation certificate remove the same at their own costs and expenses and clean the site by removing unused material, debris, pipes tin drums ,boxes and such other things and make compound area clean before possession is offered to the members of the society. The Developers must, if required, obtain permission of the authorities concerned for the construction of such site office.

49. Simultaneously with the execution of this Agreement the Developer shall at its own cost and expenses are entitled, inter alia, to the following acts, deeds, matters and things with respect to the property:

a) To deal with and obtain all the necessary permits and consents from concerned Governmental Authorities with respect to the Redevelopment and /or Redevelopment of the property and apply for, deal with, appear before and obtain from the Governmental Authorities such orders, certificates, permission, extensions, modifications(subject to provisions of this Agreement as regards grant of modification), clearances, exemptions, concessions as may be necessary full, free, uninterrupted redevelopment of the property.

b) To carry out and comply with all the conditions in the Approvals/ Permissions as may be obtained from time to time.

c) To select and appoint architects/and other consultants/professionals for the development and/or Re-development of the property.

d) To conduct geotechnical investigation and topographical survey ;

e) To employ and/or engage labour, workmen, contractors, personnel skilled and un skilled to carry out the development work and to pay the wages, remuneration and salary of such labour, workmen, contractors and personnel and to comply with all laws and regulations from time to time in force in that behalf including taking out the requisite insurance policies including workmen's insurance.

f) To make payment and / or receive the refund of all deposits (except paid towards MGL Piped Gas and electricity and MTNL Re-connections), scrutiny fees and/or other charges, paid by the developer, to and from, respectively all Governmental Authorities relating to the development and /or redevelopment of the property in the manner envisaged herein.

g) In consideration of aforesaid the Developers shall be entitled to dispose of the flats available for sale under this Agreement on ownership basis in the manner they desire, to the prospective purchasers (excluding sixty flats of members and subject to the compliance of aforesaid clause no 8) and in that behalf to enter into and execute Agreement with them on ownership basis under the Maharashtra Ownership Flat Act, (Regulation of the promotion of construction, sale, Management and Transfer)Act 1963 (MOFA) And to stamp and register the same, to receive and appropriate the sale proceeds thereof and to put such allottees/Purchasers into possession of the said flats.

h) It is clarified that the Society or its office bearers shall not be liable/responsible in any manner whatsoever for any breaches/violations committed by the Developers in respect of those agreements executed under MOFA with prospective purchasers save and except the Society to discharge their obligations under this Agreement.

i) However the Developers shall hand over possession to their prospective purchaser only after expiry of 30 (Thirty) days from the date of intimation given by the Developers to the Society for possession of its 60 flats. The Society hereby in consideration of aforesaid, also irrevocably agrees to admit such prospective allottees'/ purchasers or their assignees as will be informed by the Developers to the Society, as its members, only after the developer obtain the full occupation certificate from the MCGM and providing all certified copies of the completed building's redevelopment related documents, correspondences, permissions etc, and on the Developers forwarding to the Society and on intimation with the required forms and documents and on fulfillment of requirements/conditions of the Byelaws of the Society to the Society for each premises of Developers' Premises.

j) If the Purchasers of the premises from the Developer intent to dispose the premises before the Developer submits the necessary documents with Society for admission of membership, the Society shall admit directly such subsequent purchasers/ nominees of the first purchaser as direct member without insisting to first admit the first purchaser from the Developers without raising objection of any nature whatsoever and without charging any amount in that behalf and the Society hereby agrees to the same. However in Agreement between first purchaser and the second purchaser the Developer shall join itself as Confirming Party.

k) The Developers shall be entitled to enter and remain upon the said Property as a Licensee till the proposed building (project) is completed in all respect, possession of the new flats in the proposed building are handed over to the members and/or purchasers thereof and the purchasers from the Developers are admitted as members of the Society herein and the Society handover the Share Certificate to the Developers to enable the Developers to hand over the same to such purchasers of premises from the Developers. The Developers shall remain as licensee on the said Property for six months from the date of Occupation Certificate or till the last saleable flat is sold and purchaser is adopted as member of the Society whichever is earlier.

l) The Developers shall be entitled to grant the consent to the purchaser of the premises from the Developers sale component, to enable such prospective purchasers of premises from the Developers to raise the bank loan or loan from any other institution for purchase of the said premises and to make the payment to the Developers herein and the Society hereby grants N.O.C./consent to the prospective buyer for the same. However, at the time of admitting such purchasers as member

of the Society, the Developers/prospective buyers shall give appropriate intimation to the Society so as to enable the society to record such lien and/or mortgage in the records of the Society.

m) In consideration of the Developers undertaking at its own cost the aforesaid activities, right from the stage of demolition of the existing structure and putting up a new building on the said Property, the Society hereby permits and grants rights, powers and authorities to the Developers to enter upon the said Property with full, complete and irrevocable right to demolish the existing building develop, to construct new building and to sell on what is popularly known as the ownership basis the flats (Developer's premises) that may be constructed by using FSI of the said plot and utilizing outside T.D.R. and/or any other F.S.I. on the said Property, excluding the 60 flats reserved for the Society's existing members as per list attached, to its members as well as the flat retained by the society as specified in the aforesaid clause no 8 , and in accordance therewith the Developers shall have rights in the said Property.

n) However if there are any refundable deposits paid by the Developers to MCGM, or any concerned authority or for utilities (except the deposits of MTNL, electricity and piped gas connections) in relation to the development of the said property whether in the name of the Developer or in the name of the society, the developer alone shall be entitled to get the refund of the same, in the event, any of such deposit is refunded directly to the society by such authorities, and if the same is/are paid to or in the name of the Society, the Society shall reimburse the same to the Developers.

50. On achieving Members completion date (The Full O C), The Developer shall hand over the charge of the Members New Flats and the members Car Parking Spaces as stated above to the society (For and on behalf of the members) and shall be accepted by the society (For and on behalf of the members) in the following manner;

a) The Developer shall offer in writing to the society ,to hand over the charge of all the member's New Flats in the New Building together with fixtures, fittings and all the amenities as specified in the statement annexed hereto as **Annexure-L** ,together also with members car parking Spaces.

b) The society shall accept the charge for and on behalf of members.

c) The Developer shall simultaneously with each of the charge letters deliver the following to the society;

1. The Keys of the members New Flats ,and

2. Original /copy of the Occupation Certificate in respect of the Members New Flats thereof,
3. Documents evidencing the layout of utility and other connections including the Electricity, piped Gas lines, Drainage Telephone lines etc.
4. Upon the Developer handing over the charge to the society, the society shall be responsible to deliver possession of the members New Flats and members car parking spaces to the members.

51. NEW MEMBERS ADMISSION & ELIGIBLITY ETC

The prospective purchasers of the Developer's Premises shall be enrolled as Member/s of the Society, on compliance of all the following conditions and incorporation of the same wherever applicable in their respective MOFA Agreements.

(a) All the sale agreements for the developer's sale component shall be drafted strictly according to the section 4 of the Mahrashtra Ownership Act 1963 MOFA. Admission of all prospective members shall be at the sole discretion of the society.

(b) The developer shall provide a copy of the stamped and registered agreement of each prospective purchaser/member to the society before the admission of such purchaser as a member, along with all other requisite documents and the developer shall ensure that above prospective purchasers shall pay all the requisite statutory fees & charges.

(c) Admission to new buyers as members of the society strictly only after obtaining the full Occupation Certificate by the developer from the MCGM for the entire completed project and production of documentary evidence that all charges on behalf of this member had since been paid by the developer on the date of application for membership. Paper / form to be submitted by prospective member along with agreement with developer.

(d) Application for membership with an entrance fee as per the bye-laws of the society as the applicable membership fee;

(e) An undertaking to use the premises in question for purposes for which it is allotted and not to change the user thereof.

(f) Maintenance charges, outgoings dues and taxes of each of the sold flat from the developer's sale component shall be paid for the period of 3 months in advance;

(g) All such flat purchasers having been conferred the right to use and occupy their respective premises allotted to them by the Developer, shall be used for the residential purpose only and also not to make illegal alteration in their flat, and to abide by the bye-laws, rules and regulations of the Society and all relevant rules ;

(h) The developer shall procure from the prospective purchasers admission fees and share subscription money before giving them the possession in the new building /Society :

(i) Intimation by the Developer to enroll the purchasers as the Members of the Society, with the antecedents of the purchaser in concise form.

(j) The purchasers of the flats proposed for sale will have to become members of the existing society. The Developer will have to take appropriate care in documentation of the sale of the flats accordingly.

(k) The eligibility criteria for these buyers shall be as per byelaws of the said society. A copy of the byelaws of the said society will be given to the developer after signing of the Development Agreement.

(l) The existing capital /funds of the society on the date of occupation of the proposed new building shall belong to the existing members of the society. The prospective purchasers shall not have any claim in aforesaid society's existing capital/funds. Status of new members will rank pari-passu with existing members after payment of pro-rata society Fund, after taking over possession of the flat, after being adopted as a member as per the byelaws of the society.

(m) The developer shall incorporate suitable clauses with the clauses mentioned in this chapter of the agreement while drafting the developer's Sale Agreement meant for the prospective purchasers.

(n) The Developer shall hand over to the society time to time the certified copies of duly stamped and registered Agreements executed between the Developer and the prospective purchasers of the saleable area of the developer's portion.

(o) The developer shall also make suitable documentation to prevent the prospective purchasers of the developer's premises , from use of any of the non-residential activities such as running the guest house ,tuition classes, using for religious activities , using it for corporate office and such uses which are inconsistent with the D C rules and regulation1991

(p) The society shall admit the Developer as a member of the society in respect of the unsold flats if the Developer are not able to sell /allot all the sale component flats within 6 months of occupation certificate.

(q) In the event, due to frequent incident of non compliance or violations of the terms and conditions of this agreement, by the developer or committing any severe breach of this contract , or abandon the project

and fail to achieve the project completion within the stipulated time period agreed, the society shall whatsoever manner have no obligations/responsibilities to fulfill any of the demands of the prospective purchasers and/ or to comply with any terms and conditions of the agreements signed between the prospective purchasers and the developer, over the developer's sale component. The developer shall solely be responsible and answerable to the prospective purchaser, in this regard.

(r) The prospective members shall, use the car park for their own parking purpose only; not to park Heavy Vehicle in the new building; not to park outside vehicle in the new building/ society compound.

52. SECURITY FOR DEFECTS LIABILITY:

i. Liability period for all the structural Defects appears in the building and the flats due to faulty constructions under the Re-development Agreement shall be 3 (three) years from the date of handing over the occupation Certificate in respect of the new building constructed on the property. In addition, the Developer agrees to rectify/repair on free of cost towards all water proofing works for the entire building for a period of Ten years from the date of full occupation certificate is obtained .If during the defect liability period any of the said works are found to be defective in any manner whatsoever, the Developer shall forthwith on receipt of notice in that behalf from the office bearers of the society, duly commence, execute and complete the work at its cost in every respect within a period of maximum 15 days from the date of intimation from the society. It is agreed that the society and members shall co-operate in all respect with the developer to enable the developer to rectify the said structural defects. Provided further that such defect liability shall not apply in case any unauthorized alteration and/or modification done by the Member/s to the basic structure as per the plan approved/sanctioned by MCGM and/or such defects are not caused due to negligence of the Members. The Developers shall also provide guarantee to the Members against any leakage from the common terrace and external walls for a period of 10 years from the date of procuring Occupation Certificate from MCGM.

ii. The Developers shall use only quality materials for the construction of new building and also guarantee that there is no leakage from the external walls over a period of Ten years from the date of occupation certificate as much as no leakage from the toilet blocks, kitchen and from the terrace for a period of ten years from the date of the

Occupation Certificate. Any such repairs to rectify the same will be totally at the cost of the Developers for the period as stated from the date of the Occupation Certificate Provided that the damage has not been caused by acts or negligence of the Members.

iii. In the event of the developer failing or neglecting to carry out the said rectification works of the defects, the same will be carried out by the society at risk and cost of the developer against the security deposit or Bank Guarantee retained with the society. It is clarified that the society will have the right to invoke relevant the security deposit and Bank Guarantees which may be in force among those provided to it in accordance with the provisions of this agreement. If the cost so incurred by the society exceeds the amount of Bank Guarantees, the difference between Bank Guarantees and the expenditure incurred by the society shall be recovered from the developer as dues of the society from the Developer. It is agreed between the parties hereto that the developer shall not be liable for any defect liability for work, if such defect is attributable to the members or if the members make any changes including structural and/or civil and/or unauthorized changes in members new flats ,which may cause the defect liability to be invoked.

iv. In case of any defect in the Developers premises (saleable component) the entire responsibility to rectify the defects lies with the developer.

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53. Insurance

A. The Developer shall procure a comprehensive all risk policy for adequate value from a reputed Insurance Agency to cover all the risks relates to the redevelopment of the property. The insurance cost shall be for the entire capital outlay of the project.

B. The insurance shall cover the entire construction period from the date of vacating of flats by the existing members to the Developers for the till the completion of the project (i.e. for a minimum of 24 months). The insurance shall also cover the existing building & loss of life, injury, if any due to the demolition and contraction activities.

C. The Developer shall procure insurance, effective from the date of vacating the existing building to the end of the project, as necessary for the following risks:

1. loss of or damage to any property in connection with this Agreement; and
2. personal injury or death to any person including Developer's agents, representatives, employees, contractor's employees,

workers, members, society's agents, representatives, employees, contractors ,visitors , any person or persons of the neighboring society building/complex and the passersby on the adjoining street /road etc.

3. Any structural failure or distress during the construction or after completion of the project.
4. Photo copies of the policies for insurance shall be delivered by the Developer to the office bearers immediately on obtaining thereof.
5. If the Developer fails to effect and keep in force the insurance referred as above or any other insurance with the Developer may be required to effect under the terms of this Agreement , the office bearers shall be entitled to procure such insurance and deduct such cost from the security deposit and/or Bank Guarantee of the Developer.
6. Alterations to the terms of insurance shall not be made without the approval of the society.
7. The Developer shall comply with the conditions of the insurance policies.

54. The Developers shall comply with all the instructions of the Office Bearers for achieving proper control on the quality and progress of the project. The work shall be treated as completed only after on satisfactory completions of the works in all respect and clearance of the site and after the Developer obtain Full Occupation Certificate, from MCGM, /Government Authorities/Local Bodies.

The Office Bearers with assistance of PMC/Structural Engineers/ adviser and Architect appointed by the society shall audit and approve the R.C.C./Structural designs prepared by the Developer's Consultants.

55. The Office Bearers, with the assistance of Architectural Adviser /Project Management Consultant appointed by the society shall scrutinize and approve plans prepared by the Developer within 7 days from the date of their submission by the Developer to the Office Bearers of the Society. The Developer after getting approval of the Office Bearers and Society's PMC shall obtain necessary approval from the Government Authorities/MCGM.

56. The Approved Plans signed by three Office Bearers of the Society and the Society's Project Management Consultant on one part and the Developer of the on the other part shall become a part of this Agreement.

57. The Office Bearers shall co-ordinate all the activities pertaining to the execution of the Project concerned with the Developer/other government authorities/Society's consultants as may be necessary and shall exercise overall control on the execution of work.

58. It is agreed that to prevent any delays and disputes and as a matter of convenience, the Developer shall deal only with the Office Bearers for the time being, representing the society in all matters concerning the re-development of the property. At present the following persons, 1) Mr. Janardan T. Mulki, Chairman and (2) Mr. Manuel J. Mandonca, Hon. Secretary are the office bearers of the said managing committee of the society and have been authorized by the General Body In the Special General Body Meeting held on14 January 2015 to sign and execute this Development Agreement,(a copy of the said resolution is annexed hereto as Annexure-Q) and to do all acts, deeds, matters and things relating to the Re-development. If the office Bearers changes any of its office bearers or members and or appoint any new member/office Bearer in case of any vacancy caused, then the Developer shall be informed the in writing about the same .

59. The Society shall be represented by the Office Bearers .The Developer shall be represented by its Directors (1) Shri Pravin C Jain and (2) Shri Dwarkesh D Sheth and (3) Shri Ajaypal B Rawal. These representatives shall hold at site meetings once every month commencing from the date hereof to discuss and review the overall progress any issues or matters concerning the terms and provisions of this agreement and any other matter that may have arisen in respect thereof.

60. COMPLIANCE WITH LAWS

It shall be the responsibility of the Developer to comply with all the laws and regulations and to obtain all approvals/permissions necessary for the project and maintaining all records in relation to the same. If there is any breach of law then in that event the developer shall be responsible for the same.

61. <u>COVENANTS BY THE SOCIETY</u>

The Society Covenants with the Developer that they shall or shall cause to be (As the case may be):

a. Render to the Developer and its contractors and Architects, Engineers full co-operation for development and/or re-development of the property and in the New Building to be constructed on the Property, provided

however, that the society and members shall not be liable or responsible for any compliance by the Developer.

b. Do all the necessary acts, deeds, matters and things and execute and register all the necessary deeds documents and writings to protect the Re-development Rights upon the Developer and enable the Developer in the re-development of property , as envisaged in this Agreement ;and

c. Neither the society or the developer shall do any act of commission or Omission which will affect or jeopardize the work of re-development any manner whatsoever.

62. FORCE MAJEURE:-

(a) If at any time during the subsistence of this Agreement, any party (Affected Party) is not able to perform its material-obligations under this Agreement due to any of the following events or circumstances as mentioned below which are beyond its reasonable control of the society/the Developer, which prevents or impede the performance of the contract (and not due to its own fault),the Affected party shall be entitled to get and the other party shall grant to the affected party an extension of the time till such time the Force Majeure continues, to comply with its obligations under this Agreement, provide the notification of such event is given as set out herein below.

i. War or Hostility (whether declared or undeclared) invasion, armed conflict, or act of foreign enemy, blockade, embargo, revolution, riots terrorist or militant action, sabotage or civil commotion, of the threat of any the forgoing.

ii. Epidemic, famine

iii. Riot or Civil commotion or any such national emergency

iv. Acts of GOD and Earthquake, Flood, Tempest, Lighting, or any other such natural disaster.

v. Accident, Fire, or Explosion on the site, not caused by the negligence of the Developer .Any injunction or any other order is passed by any Court or any government authority restraining the Developer from Re-development the property.

vi. Law or Order of any Government or Government department, which imposes or delays the work, such as any change in policy of the government etc.

i. Denial of the use of any Railway, Port, Airport, Shipping services, or any other means of public transport. A mere shortage/non availability of materials, utilities or labour shall not constitute Force Majeure, unless such circumstances are created due to any of the above Force Majeure.

ii. Any internal disputes arises between the developer and their contractors/subcontractors on any count, shall not be term the same under the force majeure.

(b) Upon the occurrence of any act of Force Majeure comes into operation & thereby delay or prohibits the Society / developer from enforcing specific performance of the contract, then either of them shall give a written intimation to the other party, giving details of the circumstances constituting the Force Majeure provided such intimation is given within 7 days from the operation of the force. In such circumstances the other party to the contract shall condone the delay in specific performance of the contract.

(c) Upon the occurrence of an event of Force Majeure, as stated above neither parties shall be liable for any of failure or delay in complying with any obligation imposed on such party under this Agreement to the extent such failure or delay arises directly from a force Majeure and the time limit for the performance of the acts and obligations of the Affected party, under this Agreement, shall stand extended till the event of the Force Majeure, continues.

(d) Immediately upon the cessation of the Force Majeure event, the affected party shall intimate the other party of the same and shall thereafter recommence the performance of its obligations under this Agreement.

(e) In relation to any obligations by the Force Majeure event each party shall exercise its rights under this Agreement in good faith.

(f) The Affected Party shall use all reasonable endeavors to mitigate the effect or limit damage to the other party arising out of or as a result of the occurrence of such Force Majeure and cure the same with due diligence.

63. GENERAL TERMS:-

a. The parties hereby agree that all cost, charges and expenses for getting the Consent/NOC/permission from the Govt. Authorities by the Society of the said Property for development of the said

Property the expenses and cost if any for obtaining the same permission shall be paid by Developer only.

b. Each party shall pay and discharge their respective liabilities and obligations that may arise on account of the redevelopment of the said Property. The Society and the Developer will indemnify and keep each other indemnified from and against any liability on account of Income Tax and other liabilities for direct and/or indirect taxes.

c. This Agreement shall not be treated as a partnership or a joint venture between the Society/Members and the Developers.

d. The Developer shall bear all market risks and the financial burden due to any future changes in legislation and rules and regulations involving extra cost in fulfilling his obligations under this Agreement. Provided that any extra benefits of FSI etc. due to future legislative changes or changes in rules and regulations on the property shall be shared, between the Society and the developer on a 50:50 proportion as agreed (please read in conjunction with clause No31 heretofore). The premium on increased FSI (over & above 2.7) and construction cost shall be borne and paid by the developer alone.

e. The Developer shall incur/ bear all costs of the legal matters or any other expenses ,of the society that might affect it ,during the course of this project till the time of the providing possession with to existing and all the prospective members admitted in the society, with a full occupation certificate obtained from the MCGM and hand over the completed building to the society , by settling all the dues of MCGM, and the developer's contractors ,workers ,architects and all other professionals involved in the construction , and of all other government authorities as per the terms of this agreement . The society shall not be responsible to pay or settle any financial obligations of the or to the developer in any manner.

f. All approvals by the society whenever required to be given by the society by itself or through its consultants shall be given within 14 working days.

g. This Agreement supersedes all prior documents ,writings, letters, letters of intents, drafts etc, entered into executed ,issued made or exchanged by or between the society and the Developer, and all discussions, deliberations and negotiations held between them from time to time before the date of this Agreement.

h. Neither this Agreement nor any term hereof shall be changed, waived, discharged or terminated orally, except that any term of

this Agreement may be amended and the observance of any such term may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the society (as provided in its General Body Meeting) and the Developer ; provided however ,that no such waiver shall extended to or affect any obligation not expressly waived or impair any right consequent thereupon. Except as specifically otherwise provided herein ,no delay or omission to exercise any right ,power or remedy accruing to any party hereto shall impair any such right, power or remedy of such party , nor shall it be construed to be a waiver of any such right power or remedy, nor shall constitute any course of dealing or performance hereunder.

i. Except as otherwise provided in this Agreement it is agreed that the Office Bearers will decide on all matters in connection with this Project except in the event there are "Major Amendments", in which event the prior approval of the General Body of the Society will be required and The Developer may proceed only upon the Office Bearers producing the relevant General Body authorization.

j. The Developer for the purpose of allocating flats to existing members that each existing member are allocated flats as per the location of the old flats i.e. existing members with flats facing road /street/internal service road are allocated similar new flats, and existing members with existing flats facing rear side of the plot compound are allocated similar rear facing flats, except otherwise mutually agreed by the Developer and the members or members purchasing additional floor space will be subject to availability of new flats as per the plans.

k. In the event of any breach or default by the Developer in observing and performing its obligations under this Agreement, the society shall be entitled to initiate the necessary proceedings in law against the Developer, including for enforcement of society's rights for causing the Developer to specifically perform its obligation herein.

l. It is agreed by and between the parties hereto that since on the basis of this Agreement, the Developer shall have to incur expenditure and fulfill several obligations (including financial obligations as herein mentioned) and the Society and /or the vacating Members will have to vacate the respective Existing Flats and will have to go out of the building to the temporary accommodation, to enable the Developer to demolish the existing building and construct the new building.

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m. In the event from that from the Execution Date and till the Project Completion Date, if any Member wishes to transfer his/her membership and/or such membership is subject to transmission on account of death, etc, then the Member shall cause the person proposed to be admitted to the membership of the Society in place of that existing Member (prior to being registered as a Member by the Society), to (i) recognize and confirm in writing this Agreement and (ii) agree to be bound in writing, by the provisions of the individual Agreement and, if applicable, the Such provision shall also form part of the Individual Agreement. However, any Stamp Duty and or cost of transfer will be borne and paid by the transferee and the Developer shall not be liable to bear and pay the same. This agreement and the tender terms and conditions embody the entire agreement or the understanding between the parties relating to the subject matter of this Agreement and no other terms or promise or conditions or obligation, oral or in writing shall be pleaded as agreed upon between the parties relating to the terms of this agreement.

n. The society shall be entitled to permit Vacating Members to remove furniture, fixtures fittings from their respective existing flats.

o. The Developer undertake not to enter into any agreement or create any third party rights with any mobile service provider for installation of signal tower or signal booster or any kind of installation either on the top of the terrace of the new building or any other part of the building. The Developer shall not put use of terrace for any other purpose.

p. It is hereby agreed, declared and confirmed by the parties herein that on execution of this Agreement, the Developer shall enter into separate and individual tri parte agreement, with the Society as well as with the existing members of the Society for providing the Existing Members with flats and car parking, in lieu and in exchange of their present flats by way of **Permanent Alternate Accommodation** in the proposed building free of costs ,under the terms and conditions more particularly agreed herein.

q. It is hereby agreed, declared and confirmed by the parties that the parties herein, shall get executed separate and Individual Permanent Alternate Agreements with the existing members of the society and get registered & stamp duty paid the same at Developer's cost and expense with the concerned Sub Registrar of Assurance and hand over the Original permanent alternative

agreement to the respective flat owners and copy of the same shall be retained by the society and the Developer.

r. The developer shall construct open terrace above the top floors of the proposed new buildings. The said open terrace should be in one uniform level and possession and owner ship of the said open terrace shall belong and remain exclusively with the Society and the Developer shall have no share ,right, title, interest, claim or demand of any nature whatsoever into or upon the same or any part thereof .

s. The Developer will take all precautions and safety measures in accordance with the various provisions of law, rules and regulations governing the development and construction work including all fire fighting and other installations and provisions for firefighting equipment and arrangement (as per the norms of the MCGM) and indemnify the Society against all claims whatsoever by any authority arising out of the work done by the Developer during the period of construction.

t. The Developer shall carry out the development work related to the said property strictly in accordance to the rules and regulations and sanctions laid down in the DC Rules, MCGM Act, National Building code 2005, and/or in any other acts, law's provisions as directed by the concerned authorities and under no circumstances the Developer shall contradict the same or carry out any irregularities in the development work.

u. The Developer shall pay Maharashtra VAT and service taxes, if applicable, at actual as may be found payable at relevant time.

v. As required by the Income Tax (sixteenth amendment) Rules 1998; (1) The permanent account no (PAN) allotted to The Society is AACA2142H and a copy of the PAN card is annexed hereto as **Annexure -O**. (2) The Permanent Account Number (PAN) No allotted to M/s Kamla Homes and Lifestyles Pvt Ltd, the Developer is AADCK 4563 C. A copy of its PAN card is annexed hereto as **Annexure-P.**

w. The Developer shall provide a temporary office at the site for the use of the society to conduct its periodical meetings and meeting with developer time to time. Such office shall have a door with lock and key to enable the society to store its furniture and records.

x. The carpet area entitlement of the members in the proposed building and the carpet agreed to be provided to the members in the proposed building shall be as per **annexure-K**. However if due to planning requirements, the carpet area becomes more than the

area what is committed then the member owning such flat shall not be liable to pay any amount to the developer for such additional carpet area, and if the area becomes less then what is committed then the developer shall pay compensation at the market rate per sq.ft carpet area of less area to the aggrieved existing member within period of 15 (fifteen) days from the date of joint survey of flats of the exiting member along with PMC.

64. NOTICES

Notices, demands or other communications required or permitted to be give or made under this Agreement shall be in English, in writing and signed and be delivered by hand or sent by registered post acknowledgement due or courier or facsimile, addressed/sent to the intended recipient at its registered address/facsimile number set forth below, or to such other address /facsimile number as either party may from time to time, duly notify to others.

For attention of:

Developers: M/s Kamla Homes & Lifestyles Pvt. Ltd

Address: 101, Mayur Tower, Junction of Chandavarkar Road & Eksar Road,Borivali (west) Mumbai-400092.

For attention of:

Society: Borivali Lucky Apartment Co-Operative Housing Society Ltd.

Address: Dr. Kalpana Chawla Road, Near Shanti Ashram, Borivali (west) Mumbai-400103.

Any such notice, demand or communication shall unless the contrary is proved, be deemed to have been served at the time of delivery in the case of services by delivery by post or courier, and at the time of transmission in the case of services by facsimile.

The Agreement will not be amended, altered or modified except by the written instrument signed by each of the parties.

65. RESOLUTION OF DISPUTS: - If any dispute and differences arises between society &developer in connection with this Agreement, including the interpretation of any term or condition hereof during the subsistence of this Agreement then both the parties will have to sit together along with PMC and Legal Advisor & discuss the issues & try to resolve the same amicably, prior to going to court. When any dispute

does not get resolve as stated in the above clause within a period of 30 days from the date of such reference to the senior Management of the developers and office bearers of the society then in that event it will be subject to Bombay High Court Decree/order.

66. All the existing society members and commit that they have read and understood all the provisions and conditions stipulated in this agreement and its annexure and they shall abide with these provisions till the time they remain as member of the society.

67. SAFETY:

(i) Continuous & adequate protection from damage & loss to the neighboring Society's Moveable & immovable property & any third person including passersby must be provided by the Developer, & in case of any such loss or damage the same must be made good by the Developer at his own cost.

(ii) The Developer shall carry out his operation in a professional manner & take all the necessary precautions to ensure that accidents are prevented at site, both to his personnel as well as to the society's neighboring societies & any third person's including passerby's property. He shall arrange to provide adequate safety equipment including safety belts & helmets to his personnel, and ensure that they are used at all times.

(iii) The Developer shall ensure that the scaffolding that he ties is firm & sound & does not buckle or sway during the course of work. He shall also provide adequate safety nets at the 1st floor level subsequently to ensure that any flying or dropping debris does not cause any damage to life / limb / property. He shall cordon of the area in which his work is being carried out.

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(iv) The Developer shall maintain a fully equipped first aid box at site to take care of any small untoward accident. The developer as the precautionary measures shall provide mandatory fire fighting arrangement at the construction site.

68. STAFF/ PERSONNEL:-

The Developer shall have one or more full time Experienced Senior Engineer to supervise the day to day activities & this Senior Engineer will have to be

continued till the end of the contract period, to ensure continuity of work & to avoid repetition of instruction from the society.

The DEVELOPER shall employ adequate number of properly trained & experienced Junior Engineers & Supervisors to ensure continuous supervision of the entire works simultaneously.

69. WORK FORCE:-

The DEVELOPER shall employ sufficient number of people on site to ensure that the speed of work is not hampered, & that the progress is maintained. In case of slow progress the Society shall give notice to the Developer in writing/ giving him 7 days to improve the speed of work failing which the society reserve the right to appoint a third party to expedite the work & the expenses paid to such third party will be debited from the Developer's Security Deposit, at his risk & cost.

70. STAGEWISE INSPECTION:-

All critical works like tying of steel for the RCC framework, concreting of RCC frame work, brick mortar work/, waterproofing etc, which are carried out in stages, should be subjected to inspection by the society, at every stage of work.

71. The developer's representations and warranties

The Developer doth hereby declare, represent and warrant to the society as follows:-

(a) This Agreement has been duly executed and delivered by the duly authorized representatives of the Developer and constitutes a legal, valid and binding obligation of the developer enforceable against the Developer in accordance with its terms

(b) It is duly organized and validly existing under the laws of India, with power to own its assets , conduct its business as presently conducted, enter into, comply with, perform the obligations as set out in this Agreement and is not entitled to claim for itself or any of its assets, immunity from suit, execution, attachment or other legal process.

(c) The execution , delivery and performance of the Agreement and all instruments or Agreements required hereunder by the Developer does not contravene, violate or constitute a default of or require any consent under the provisions of law ,any other Agreement or instrument to which the developer are bound including the

constitutional documents thereof, or any order , judgment ,decree or injunction of any court of law.

(d) It has the full authority to enter into this Agreement to execute this Agreement and to perform its obligations and observe the terms and conditions hereof;

(e) No order has been made or petition presented for insolvency/bankruptcy protection, winding up or dissolution of the developer;

(f) No legal proceedings are pending or/initiated against the Developer before any court, tribunal or authority, which restrain or enjoin the Developer's performance or observance of the terms and conditions of this Agreement or which do or may in any other manner question the validity ,binding effect or enforceability of this Agreement against the Developer.

(g) It has requisite funds and capabilities to undertake and perform its obligations under this Agreement.

(h) By signing this Agreement the Developer commit that they have read and understood all the provisions and conditions stipulated in this Agreement and it's all annexure and they shall abide with these provisions, agree and accept to all the conditions till the satisfactory completion of the new building by obtaining the full Occupation Certificate of the society's New Building, from the MCGM.

72. INDEMINITY

The Developer will indemnify and keep indemnified the society from any claim, liability, loss or damages on account of their respective income tax, sales tax and any other liabilities of direct and /or indirect taxes as well as on account of any breach, default, noncompliance, nonobservance, nonperformance of any of the terms, conditions, representations, warranties and covenants stipulations or provisions hereof. It is clarified that the re-development of the property and the Developer's premises (sale component) shall not be liable and/or affected in any manner whatsoever, by reason of any income tax liability on the Society.

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73. TERMINATION OF THE AGREEMENT

The developer agrees and undertakes that they shall complete the entire project with an Occupation Certificate within the prescribed time stipulated in the Development Agreement .In the event , if the developer fails to achieve Project Completion Date as agreed under this agreement of maximum agreed period

of 30 months and the subsequent 60days under the notice and with payment of liquidated damages, if the developer still fail to achieve the completion date within the agreed stipulated period, the society shall invoke the Bank Guarantees, sell the flats retained (mortgaged) by it and adjust the Amount retained as the interest free initial security deposit received from the Developer and recover all the expenses suffered by the society's till that date , and this Agreement shall stand terminated without any further notice to the Developers. In that event the Developer shall not be allowed to enter the property and the society shall complete the remaining balance work of the project by appointing a new contractor to complete the remaining work with the amount of the irrevocable Bank Guarantee.

It is agreed that subject to the force Majeure and provided there is no default on the part of the society and/or its Members, of its or their obligations as contained herein, if the developer commits the material breach of this Agreement, in that event the society shall be entitled to terminate this Agreement in any of the following manner:

A. Has failed to honour his financial commitments towards the society as per the provisions of this Agreement or

B. Has abandoned the contract, or has failed to commence the works, or has without any lawful excuse under this conditions, suspended the progress of the works for fifteen days after receiving from the society ,written notice to proceed, or

C. Has proceeded without written approval of the society wherever such approval is required as per the provisions of the Redevelopment Agreement or has submitted for approval of MCGM, approving authorities plans which are not approved by the society in writing, or

D. Has concealed from society important information pertaining to the constitution of their organisation or criteria used for selection of the developer, or

E. Has failed to remove defective materials from the site or to pull down and replace the faulty work within fifteen days after receiving from society written instructions that the said material/work were condemned & rejected by the society, or

F. Has changed his constitution/ transferred the contract of Redevelopment project/introduced another partner or entered into a joint venture with another agency for this redevelopment project without the express written consent of the society, then in any of the aforesaid cases the society, after consulting the PMC and the Legal

Consultant and subject to the written consent of the PMC and the Legal Consultant, may issue a notice to developer citing the breach and indicating that the same may lead to their termination. Within seven days from the receipt of such notice ,the developer shall write to society explaining the causes for the breach and recourse he intends to take to remove/redress the breach, if the developer does not respond in the specified duration, or if the society, after consulting the PMC and the Legal Consultant , is not satisfied with Developer's reply, the society may, notwithstanding any previous waiver, determine the contract after giving seven days notice of termination in writing to the developer. On termination of the contract, the society shall be free to invoke the bank guarantee and use the amount to complete the Society's Rehab Portion. It is clarified that in such an event, the society shall not have any liability towards the Developer or new purchasers of the developer's free sale portion and the Developer shall not have any right or interest in the said property or any part thereof. The right of the society to terminate this agreement is without prejudice to any other right that it may have against the Developer under this Agreement or under law or otherwise

(i) In the event of termination of this agreement on aforesaid grounds /reasons, the Developer shall be liable to pay society the damages for the loss, which may be suffered by the Society by reason thereof;

(ii) Upon such termination, to disallow the Developer, their contractors, workmen etc to enter the said land for the purpose of the construction or otherwise however, unless the breach or breaches, of the terms hereof, are made good by the Developer to the entire satisfaction of the society. As regards the question as to whether there is satisfactory compliance of the terms hereof or not, the decision of the society shall be final and binding on the Developer.

(iii) To take possession of the structures, till then constructed by the Developer, as also the Machinery, construction material etc. and by way of charge/lien in or towards the claim of the damage, which may be payable by the Developer to the society under the terms hereof.

(iv) The Developer hereby expressly agrees and undertakes that the Developer shall not deal with, dispose of, encumber, or create the third part rights of any nature whatsoever in, to or upon the said land or any part thereof, in any manner whatsoever.

(v) The Developer shall give complete updated information and details

to the society, regarding the sale of the flats of the Developer's premises (sale component), in the proposed building as and when sale happens.

(vi) In the event of the termination of this Agreement, under any of the terms hereof, on the question as to quantum of damage caused thereby, as certified by government approved valuer, the decision of the society shall be final and binding on the Developer. The requisite amount of damage as may be determined by the Society would be liable to the appropriated from the security deposit/bank guarantee, given by the Developer aforesaid.

(vii) The Developer hereby irrevocably and unconditionally authorises the society to set off and/or appropriate any debts, dues claims, demands, damages etc, which may become payable by the Developer to the Society as per, the terms thereof, at any time and/or from time to time ,against the amount of security deposit/bank guarantee. It is agreed that all such appropriations made by the society shall be final and binding on the Developer.

G. On termination of this agreement, the Society reserves the right to utilise /sell/dispose balance TDR/FSI at the sole discretion of the General Body of the society.

(a)Utilize TDR/FSI to the extent of construction and completion of existing members flats as enumerated under **Annexure-K** or

(b)Utilize TDR/FSI to the extent of assuming all the obligations of the purchaser of the Developers premises including completion of the Developer's premises and developer's car parking spaces, handing over possession of the Developer's premises and Developer's car parking under the provision of MOFA. The Developer shall stand discharged of all obligations of the purchasers of the Developer's Premises and Developer's car parking spaces subject to all payment received by the developers for Developer's Premises and Developer's Car Parking from purchasers are deposited with society by the developer and the same are confirmed by the purchasers and NOC and undertaking from the purchasers that all further payments will be deposited with society by the Purchasers of the Developers Premises and Developer's Car Parking.

(c)In the event the amount under the Bank Guarantee and other amounts received towards developers share from the developer and/or the purchasers towards developer's premises and developer's Car Parking is not sufficient to complete the project including developers entitlement the Society is authorised and

hereby empowered by the developer under this agreement to sell in part or full developers Premises/entitlement under this agreement to meet the additional expenses to complete the project.

H. It is agreed by the party that till the Agreement is terminated on the aforesaid grounds in the manner as stated hereinabove the rights and obligations of the parties shall continue.

I. On termination of this Agreement all power of attorney will stand cancelled.

J. Violation of any terms and condition of this presents, by the developer will attract an appropriate action against the developer, that may even lead up to a termination of the contract .

74. STAMP DUTY AND REGISTRATION:

The stamp duty and registration charges, if any, payable on this Development Agreement, the Power of Attorney and other ancillary documents including the individual agreements (i.e. Permanent Alternate Accommodation Agreement) to be entered into by the Developers with Members for additional area shall be borne and paid by the Developers. However, the members shall pay the stamp duty and registration charges in respect of excess/additional area purchased by the individual member from the Developers.

75. JURIDICTION

The parties hereto agree that Mumbai only shall have exclusive Jurisdiction in respect of all matters, whatever arising out of this agreement.

76. NO JOINT VENTURE OR PARTNERSHIP

It is agreed and understood that nothing contained in these presents shall be deemed to constitute a partnership or a joint venture or association of persons between parties hereto. It is hereby agreed and declared that each party hereto has undertaken obligations and has rights specified hereinabove on its own account and principle- to- principle basis and not on behalf of, or on account of or as agent of any of them or anyone else.

77. RISTRICTIONS AGAINST TRANSFER AND ASSIGNMENTS

The Developer shall not be entitled to assign or transfer the benefit of this Agreement to any third party at any time.

78 .TAXES AND DUTIES.

The liability on account of Work Contract Act, Service Tax and VAT concerned with the construction activities covered under this Agreement

shall be borne by the Developers excluding for additional area as may be purchased by the individual members from the Developers.

The Developers shall display at the prominent place the following Board during demolition and reconstruction period till building Occupation Certificate is obtained from M.C.G.M.

79. The following **Annexure** shall form part of this agreement:

Annexure- A	Certified copy of the order issued in favour of the society by the DDR (4) Mumbai towards unilateral deemed conveyance
Annexure- B	Copy of unilateral conveyance deed registration Receipt and index-II
Annexure- C	Certified copy of property card of the society.
Annexure- D	List of existing members with detail of their existing share cert.nos with distinctive no and existing carpet area in possession.
Annexure- E	Certified copy resolution of SGM dated 14october 2012, resolved to opt the Redevelopment of the society building in complaisance with the Govt: Resolution dated 3.9.2009
Annexure- F	Certified copy of appointment letter handed over to the developer dated 27.01.2014
Annexure- G	Certified copy of Developer's acceptance letter dated 28.1.2014 of offer of the society
Annexure- H	Certified copy of the Resolution of SGM dated 05.01.2014 confirming the Selection of the Developer M/s Kamla Homes and Life style in the presence of the Representative of the Joint Registrar R/N ward Borivali Mumbai
Annexure -I	Certified copy of the letter (NOC for redevelopment) dated 07.1.2014 received from the Joint Deputy Registrar of co-operative societies R/N ward Mumbai.
Annexure- J	Copy of the final offers made by the developer till 20.8.2015
Annexure-K	The detail of existing area of the members + free of cost offered additional area (30%of the existing carpet area in possession) =Total receivable area of each exiting Member).
Annuxure-L	List of approved Amenities to be provided by the Developer as per this Agreement.

Annxure -M	List of existing Members and the details of their Hardship compensation receivable by the existing members
Annexure -N	List of the existing members and details of their Amount of Displacement compensation receivable by each existing Member in advance for 33 months at the time of vacating their respective flats as per this Agreement.
Annexure -O	Certified copy of society's and office bearers PAN cards.
Annexure-P	Certified copy of PAN cards of M/s Kamla Homes&Lifestyles P Ltd and the directors Shri Pravin C. Jain & Shri Dwarkesh D. Sheth and Shri Ajaypal B. Rawal
Annexure-Q	CertifiedCopy of the SGM Resolution passed authorizing the office bearers of the society to sign and execute the Development Agreement with the Developers M/s Kamla Homes &Lifestyles P.Ltd on behalf of Borivali Lucky Apt Co-op Hsg Society Ltd.
Annexure-R	Copy of authority letter from M/s Kamla Homes &Lifestyles P.Ltd authorizing its directors to sign and execute the Development Agreement on its behalf with Borivali Lucky Apartment towards the Redevelopment of its land and building
Annexure-S	Certified Copy of latest Property Tax Bill from MCGM
Annexure-T	Copy of society's registration certificate from the registrar of co-op societies dated 30-12-1987

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

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THE SCHEDULE ABOVE REFERRED TO:

ALL THAT piece and parcel of land or ground together with the building standing thereon and known as **BORIVALI LUCKY APARTMENTS CO-OPERATIVE HOUSING SOCIETY LTD.,** on plot bearing C.T.S. no. 1509/A admeasuring 2178.80 sq. mtrs. or thereabout in the registration sub-district of Bandra in Mumbai City Suburban of Village Borivali, Taluka Borivali District Mumbai Suburban and bounded as follows:

On or towards the East : By 13.40 Mtr. Wide D.P. Road

On or towards the West : By C.T.S. no. 1513 & C.T.S. no. 1514.

On or towards the North : By C.T.S. no. 1508A & C.T.S. no. 1500A/2

On or towards the South : By C.T.S. no. 1515.

SIGNED AND DELIVERED by the within named)

BORIVALI LUCKY APARTMENTS CO-OPERATIVE)

HOUSING SOCIETY LTD.,)

Through its Office Bearers)

Shri Janardhan T. Mulki , Hon.Chairman)

Shri Manuel J. Mendonca, Hon.Secretary)

Smt. Sumati N Prabhu, Hon.Treasurer)

In the presence of.....)

TUSHAR GANDHI

V.K. Retnakara Panicker







THE SEAL OF THE SUB REGISTRAR BORIVALI-5 MUMBAI SUBURBAN DIST. (BANDRA)

STAMPS

SIGNED AND DELIVERED by the Within named)

DEVELOPERS M/S. KAMLA HOMES &)

LIFESTYLES PVT.LTD.)

Through its Directors)

Shri Pravin C. Jain)

Shri Dwarkesh D. Sheth)

Shri Ajaypal B. Rawal)

In the presence of.....)

For KAMLA HOMES & LIFESTYLES PVT. LTD.

DIRECTOR



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2016

For KAMLA HOMES & LIFESTYLES PVT. LTD.

DIRECTOR



Arjun Thakur

V.K. Retnakara Panicker

Rajinkoshy Asatal

For KAMLA HOMES & LIFESTYLES PVT. LTD.

DIRECTOR

