



# WADIA GHANDY & Co.

ADVOCATES, SOLICITORS & NOTARY

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NL-GG-10060/ 8577/2016

## TITLE CERTIFICATE

### TO WHOMSOEVER IT MAY CONCERN

Re: All those pieces or parcels of land or ground bearing Survey No 341 (part), corresponding to City Survey Nos. 649 and 649/1 to 48 of Village Bandra admeasuring 20149.40 square meters or thereabouts lying, being and situate at Gandhi Nagar, Bandra (East), Mumbai – 400 051 in Municipal “H” Ward East (“Land”) together with the 19 buildings standing thereon bearing nos. A-1, A-2, B-3, B-4, B-5, B-6, B-7, B-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15, C-16, D-17, D-18 and D-19 (since demolished) (“the said Buildings”) consisting of a total of 176 flats (“the said Flats”). The Land and the said Buildings are hereinafter referred to as “the said Property”.

#### A. INTRODUCTION:

Our client, Vishwaroop Estates and Developers Private Limited, a company registered under the provisions of the Companies Act, 2013 and having its registered office at One BKC 1401, Plot No. C-66, G Block, Bandra Kurla Complex, Bandra East, Mumbai 400051 (“the Company”), has instructed us to investigate its entitlement to construct and develop the said Property with MIG (Bandra) Realtors and Builders Private Limited (previously known as DB MIG Realtors & Developers Private Limited), a private limited company incorporated under the provisions of the Companies Act, 1956 and having its registered office at DB House, General A.K. Vaidya Marg, Goregaon (East), Mumbai 400063 (“the Developer”).

#### B. STEPS:

With respect to the investigation of its entitlement to construct and develop the said Property, we have undertaken the following steps, we have undertaken the following steps:

1. Inspected the original title deeds and documents in respect of the said Property listed in **Part A** of **Annexure “C”** at the Office of the Developer at DB House, Gen. A. K. Vaidya Marg, Goregaon (E), Mumbai – 400065 on 14<sup>th</sup> September, 2016; inspected the original title deeds and documents listed in **Part B** of **Annexure “C”** at the Office

of Yes Bank Limited at Indiabulls Finance Centre, Tower 2, 23rd Floor, Senapati Bapat Marg, Elphinstone (W), Mumbai – 400013 on 9<sup>th</sup> May, 2016 and inspected the original document listed in **Part C** of **Annexure “C”** at the office Indiabulls Housing Finance Limited at 448-451, Udyog Vihar, Phase – V, Gurgaon Haryana on 29<sup>th</sup> September, 2016 and inspected the original document listed in **Part D** of Annexure “C” at the office of IL&FS Financial Centre, Plot C- 22, G Block, Bandra Kurla Complex, Bandra (E), Mumbai 400 051 on 27<sup>th</sup> August, 2016 and inspected the original document listed in **Part E** of Annexure “C” at the office of Beacon Trusteeship Limited at Siddhivinayak Chambers, 4C & D, 4<sup>th</sup> Floor, Opposite MIG Cricket Club, Gandhi Nagar, Bandra (East) Mumbai 400051 on 27<sup>th</sup> August, 2016

2. Caused searches to be taken from the year 1960 to the year 2016 i.e. for a period of 56 (fifty six) years for the said Land at the offices of the Sub-Registrar of Assurances at Mumbai and Bandra. However, searches at the office of the Sub-Registrar of Assurances are subject to the availability of records and also to records being torn and mutilated. A list of documents reflected in the search report on title is annexed hereto as **Annexure “A”**.
3. Caused searches to be undertaken at the Registrar of Companies in respect of records of the Developer and the Company on 29<sup>th</sup> September, 2016. However, searches at the website of the Ministry of Corporate Affairs are subject to the availability of records with the Ministry of Company Affairs on the date of the search.
4. Perused copies of the property cards.
5. Perused the copies of the deeds, documents and writing with respect to the said Property, annexed hereto and marked as **Annexure “B”**.
6. With respect to facts, which cannot be ascertained on searches of public records, we have relied on (i) the Declaration dated 7<sup>th</sup> October, 2106 given by MIG (Bandra) Realtors and Builders Private Limited and (ii) the Declaration dated 10<sup>th</sup> October, 2016 given by Vishwaroop Estates and Developers Private Limited.

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7. Raised requisitions in respect of the said Property on the Developer and the Company from time to time.
8. We have issued a Public Notices in the Times of India (English) and in Maharashtra Times (Marathi) on 20<sup>th</sup> September, 2015 to invite objections if any from any third person/parties and we have not received and claims and objections pursuant to the same.

C. **OBSERVATIONS:**

**Title**

1. Maharashtra Housing Board ("**MHB**"), a predecessor in title of Maharashtra Housing and Area Development Authority ("**MHADA**") was the owner of the said Land.
2. Between the years, 1962 and 1964, MHB constructed the said Buildings comprising of the said Flats on the said Land and allotted and sold the said Flats under the said "Middle Income Group Housing Scheme". MHB had allotted the said Flats in the said Buildings to the allottees on a "Hire-Purchase" basis ("**the said Allottees**"). This fact is evidenced in the said Development Agreement (as defined hereinbelow).
3. Pursuant to the introduction of the Maharashtra Housing and Area Development Act, 1976 and Government Notification dated 5<sup>th</sup> December, 1977, MHB stood dissolved and MHADA was constituted in its place and accordingly, all the property, rights, liabilities and obligations of the MHB arising under any agreement or contract became the property, rights, liabilities and obligations of the MHADA. Hence, MHADA became entitled to the said Property that previously was owned by MHB.
4. On 14<sup>th</sup> September, 1977, the 'Middle Income Group Co-operative Housing Society Limited' was registered as a co-operative housing society under the provisions of the Maharashtra Co-operative Societies Act, 1960 under Registration No. BOM/HSG/5201 and having its

registered office at Shed, behind D-17, M.I.G. Colony, Bandra (East), Mumbai 400 051 ("**the Society**"). The said Allottees and/or their successors/assigns of the Existing Flats became members of the Society.

5. As recorded in the said Development Agreement (as defined below), the Society presently has 176 members ("**the Members**") having occupancy right title and interest in their respective said Flats and has paid up share capital of Rs. 44,000/-comprising of 880 fully paid up shares of the face value of Rs. 50/-each.
6. The Society conducted an Annual General Meeting of all its members on 28<sup>th</sup> May 2006 and the members of the Society passed a resolution on the same day, whereby it resolved to develop the said Property. Accordingly, by and under a bid enquiry dated 23<sup>rd</sup> August 2006 ("**the said Bid Enquiry**"), the Society invited tenders for redevelopment of the said Property. Pursuant to the Bid Enquiry, one Bombay Dyeing and Manufacturing Company Limited ("**BDMC**") had submitted its tender for redevelopment of the said Property. The Society issued a letter of intent in favour of BDMC on 2<sup>nd</sup> November, 2006. However, the letters of acceptance were issued by L & T Bombay Developers Private Limited, joint venture between BDMC and L & T Urban Infrastructure Limited, through BDMC. The above facts are evidenced from the said Development Agreement (as defined below).
7. By and under an Indenture of Lease dated 24<sup>th</sup> December, 2008 executed between MHADA and the Society and registered with the office of Sub-Registrar of Assurances, Bombay at Bandra under Serial No. BDR1-00112-2009 ("**Residential Land Lease Deed**"), MHADA granted unto the Society the lease of all that piece and parcel of land bearing Survey No 341 (part), corresponding to C.T.S Nos. 649 (part) and 649/1(part) to 48(part) of Village Bandra comprising of land underneath and appurtenant to the said Buildings admeasuring 10,373.54 square meters and tit-bit land admeasuring 5533.78 square meters, together admeasuring 15907.32 square meters lying, being and situate at Gandhi Nagar, Bandra (East), Mumbai – 400 051 in Municipal "H" Ward East ("**the Residential Land**"), for a term of 90 years

commencing from 16<sup>th</sup> May, 1977, in the manner and on the terms and conditions recorded therein.

8. Simultaneously with the execution of the Residential Land Lease Deed, by and under Deed of Sale executed between MHADA and the Society and registered with the office of Sub-Registrar of Assurances, Bombay at Bandra under Serial No. BDR1-00113-2009 ("**Buildings Sale Deed**"), MHADA conveyed, granted and assured unto the Society the said Buildings to have and hold the said Buildings as owner for residential use, in the manner and on the terms and conditions recorded therein.
9. Thereafter certain disputes between the said BDMC, L & T Urban Infrastructure Limited, L&T Bombay Developers Private Limited and the Society pursuant to which the said BDMC filed Petition under Section 9 of the Arbitration and Conciliation Act, 1996 before the Bombay High Court pursuant to which an order of injunction was granted by the Bombay High Court against the Society on 29<sup>th</sup> March, 2010. The aforesaid Order dated 29<sup>th</sup> March, 2010 was challenged by the Society before a Division Bench of the Bombay High Court by and under Appeal No. 192 of 2010 and by and under Order dated 27<sup>th</sup> April, 2010, the appeal was admitted and the said Order dated 29<sup>th</sup> March, 2010 was set-aside. Thereafter, the said BDMC and L& T Bombay Developers Private Limited challenged the aforesaid Order dated 27<sup>th</sup> April, 2010 passed in Appeal No. 192 of 2010 before the Supreme Court of India by and under Special Leave Petition (Civil) No. 13985 of 2010 ("**the said SLP**").
10. The parties thereafter, jointly referred the dispute before Mr. Rahul Rao as the Sole Arbitrator under their joint letter 24<sup>th</sup> August, 2010 ("**the said Arbitration**"). However, a settlement was arrived between the Parties and consent terms were duly executed between the parties to the said Arbitration on 9<sup>th</sup> September, 2010 ("**the Consent Terms**") and on the same day an Award was passed by the said Sole Arbitrator in terms of the Consent Terms dated 9<sup>th</sup> September, 2010 whereunder it was recorded, *inter-alia*, that ("**the said Award**"):



- (a) Memorandum of Understanding dated 9<sup>th</sup> September 2010 ("**the said MOU**") has been executed between the Society and L & T Bombay Developers Private Limited, with respect to the re-development of the said Property and the disputes a between the Society and L & T Bombay Developers Private Limited have been settled in terms of the said MOU;
  - (b) Claimant Nos. 1 and 3, being the said BDMC and L & T Urban Infrastructure Limited, do not have any claim of any nature whatsoever against the Society and the Society does not have any claim against the Claimant Nos. 1 and 3;
  - (c) Claimant Nos. 1 and 2, being the said BDMC and L & T Bombay Developers Private Limited have agreed to withdraw the Arbitration Petition No. 624 of 2010 and the said SLP No. 13985 of 2010.
11. Simultaneously with the execution of the said MOU, the Society has also executed a Power of Attorney on 9<sup>th</sup> September, 2010 in favour of L & T Bombay Developers Private Limited to undertake all deeds, matter and things stated therein. For the purposes of executing the aforesaid MOU and filing consent terms in the said Arbitration, the Society, in its Special General Body Meeting held on 9<sup>th</sup> June, 2010, had passed resolution under which the Managing Committee of the Society was empowered to negotiate, finalise and execute the MOU and to file consent terms in the said Arbitration in the manner provided therein. Thereafter, pursuant to the resolution passed in the Special General Body Meeting of the Society, the Members had approved the draft and authorised two members to discuss and finalise the same with the Developer and also authorised the Chairman, Secretary and the Treasurer sign the MOU.
12. The Developer (as defined below) has informed us that in terms of the said Award and the Consent Terms both dated 9<sup>th</sup> September, 2010, the said BDMC and L & T Bombay Developers Private Limited the Arbitration Petition was disposed on 13<sup>th</sup> September, 2010 and said SLP has been disposed-off on 18<sup>th</sup> October, 2010.



13. In the meanwhile, pursuant to the aforesaid resolution passed by the Society in its Special general body meeting held on 9<sup>th</sup> June 2010, the Society allowed DB Realty Limited, a public limited company incorporated under the provisions of the Companies Act, 1956 and having its registered office at DB House, General A K Vaidya Marg, Goregaon (East) Mumbai Maharashtra -400063, to take over the 100% shareholding of the L & T Bombay Developers Private Limited. Accordingly, DB Realty Limited has taken over 100% shareholding of L & T Bombay Developers Private Limited from BDMC and L & T Urban Infrastructure Limited. This fact has been recorded in the Development Agreement (as defined below).
14. The name of L & T Bombay Developers Private Limited was been subsequently changed to DB MIG Realtors & Developers Private Limited on 1<sup>st</sup> October, 2010. Thereafter, name of the said DB MIG Realtors & Developers Private Limited has been changed to MIG (Bandra) Realtors and Builders Private Limited ("**the Developer**") on 24<sup>th</sup> February, 2014.
15. Subsequently, by and under a Deed of Supplementary Lease dated 11<sup>th</sup> October, 2010 executed between MHADA and the Society and registered with the office of Sub-Registrar of Assurances, Bombay at Bandra under Serial No. BDR4-09970-2010 ("**RG Plot Lease Deed**"), MHADA granted unto the Society the lease of all those pieces and parcels of land designated as 'Recreation Ground' and bearing Survey No. 341 (part), corresponding to CS No. 649, 649/1 to 649/48 admeasuring 4,242.08 square meters lying, being and situate at Gandhi Nagar, Bandra (East), Mumbai – 400 051 in Municipal "H" Ward East ("**the RG Plot**") in the manner and on the terms and conditions recorded therein and in the Residential Land Lease Deed.
16. Accordingly, the Society became a lessee in respect of the Residential Land under the Residential Land Lease Deed and RG Plot under the RG Plot Lease Deed and has become owner of the said Buildings under the Buildings Sale Deed. The said Land comprises of the Residential Land and the RG Plot. The Developer has furnished to us a receipt

dated 18<sup>th</sup> July, 2016 addressed to the MHADA recording the payment of rent for and on behalf of the Society.

17. Pursuant to a Special General Body Meeting of the Society held on 9<sup>th</sup> October, 2010, the Society approved the drafts of the Development Agreement, Power of Attorney, Consent Letter, Bank Guarantee and Indemnity in the manner provided therein and authorised any two of the following office bearers mentioned therein to execute and registered the Development Agreement on behalf of the Society in favour of the Developer:
18. Thereafter by and under a Development Agreement dated 31<sup>st</sup> October 2010 executed between the Society and the Developer and registered with the Office of Sub-Registrar of Assurances, Bombay at Bandra under Serial No. BDR4-02477-2011, the Society granted development rights in respect of the said Property to the Developer, in the manner and on the terms and conditions mentioned therein ("**the Development Agreement**").
19. In compliance of the terms of the Development Agreement, out of 176 members of the said Society, 174 Members executed Consent Letters in favour of the Society and the Developer confirming the terms of the said Development Agreement and agreeing to the re-development of the said Property as contained in the Development Agreement. This fact has been recorded in the Deed of Modification (as defined below).
20. By and under a Deed of Indemnity dated 4<sup>th</sup> May, 2011, executed by the Developer in favour of the Society, the Developer has agreed to indemnify the Society in the manner as stated therein.
21. In the meanwhile, by and under a resolution passed in the Special General Meeting of the Society held on June 23, 2013, the plan submitted by the Developer (as defined below) for the FSI of 3.181 with the height of 72.5 meters were approved in the manner and on the terms and conditions stated therein.





22. In the meanwhile pursuant to the resolution passed by the Society in its Special General Body meeting held on 25<sup>th</sup> May, 2014, the Society and the Developer have modified certain terms of the Development Agreement by and under the Deed of Modification dated 23<sup>rd</sup> August, 2014 executed between the Society and the Developer ("**Deed of Modification**"), in the manner provided therein. The Deed of Modification was not registered within the timelines prescribed under the India Registration Act, 1908, hence by and under a Deed of Confirmation executed between the Society and the Developer on 29<sup>th</sup> September 2015 and registered with the office of Sub-Registrar of Assurances under Serial No. BDR-17/8114 of 2015, the Society and the Developer have confirmed the terms and conditions of the Deed of Modification in the manner provided therein ("**Deed of Confirmation**"). It appears that the Society and the Developer inadvertently attached only page 1 (out of 5 pages) of Annexure 8 and page 1 (out of 4 pages) of Annexure 9 to the original Deed of Confirmation to the Deed of Modification. Therefore, by and under a Deed of Rectification to the Deed of Confirmation executed between the Society and the Developer on 30<sup>th</sup> September 2015 and registered with the office of Sub-Registrar of Assurances under Serial No. BDR-17/8119 of 2015, the Society and the Developer confirmed the balance 4 pages of Annexure 8 and balance 3 pages of Annexure 9 to the Deed of Modification dated 23<sup>rd</sup> August 2014 as though the same were always part of the Deed of Modification dated 23<sup>rd</sup> August 2014, in the manner provided therein ("**Deed of Rectification**").
23. Under the Development Agreement and the Deed of Modification read with the Deed of Confirmation and the Deed of Rectification, it is *inter-alia* provided that:
- (a) in consideration of the grant of redevelopment rights, the Developer will provide (a) Rehabilitation Premises together admeasuring 2,51,040 square feet carpet area together with Amenities and Common Areas to the members of the Society (in the manner as provided therein), (b) upgrade of Members in their respective premises by way of purchase of additional carpet area by concerned Member (as provided therein); (c) the Society Car

- Parking Spaces and the Visitor Car Parking to the Society (as described therein); (d) Hardship Compensation to the Members in the manner provided therein (as described therein); and (d) Corpus amount to the Society as stated therein;
- (b) the Developer has also agreed to handover 450 parking spaces located in the Project to the Existing Members ("**Members Parking Spaces**") and 112 car parking spaces shall be handed over by the Developer to the Society for its visitors and guests ("**Visitors Parking Spaces**") and 1270 car parking spaces shall be allotted by the Developer to the purchasers of premises in the Project ("**Developers Parking Spaces**"). The excess parking spaces over and above the aforesaid 1832 car parking spaces being the Members Parking Spaces, Visitors Parking Spaces and the Developers Parking Spaces shall be shared between the Developer and the Society in the ratio of their respective parking spaces;
- (c) the Developer is entitled to redevelop the said Property by utilizing the FSI/TDR as may be permitted under the D. C. Regulations and more particularly under Regulation 33(5) of the D. C. Regulations and MHADA Regulations on the said Property (subject to a maximum of 9,75,992 square feet FSI together with fungible FSI available as on date of the Deed of Modification under D. C. Regulations) ("**the Project**") and to receive the realisation on such marketing of the Developer's Premises (as defined in the Development Agreement) on its own account and for its own benefit, subject to the terms and conditions provided under the Development Agreement. The term Developers Premises has been defined as the area not exceeding the difference between 9,75,992 square feet FSI as defined in Article 2.1 and the Rehabilitation Premises of 2,51,040 square feet Carpet Area, available to the Developer for exploitation in terms of the Development Agreement;
- (d) the Developer is entitled to undertake the marketing of the Developer's Premises by way of sale ultimately under



Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (“MOFA”) and enter into writings/Agreements with such Purchasers and on such marketing and receive the full and complete proceeds in its own name and for its own benefit on such Marketing and give effectual receipts and hand over possession of the Developer’s Premises to the Purchasers. The definition of Marketing under the Development Agreement means and include the fixation and receipt of price by the Developer of the Developer’s Premises and the ultimate sale on ownership basis under the provisions of the MOFA and the Rules made thereunder and to receive, accept and appropriate to itself the Realisations thereof and give full and effectual discharge for the payments received and to execute necessary deeds, documents, writings, agreements in this regard.

24. Under the aforesaid resolution passed by the Society in its Special General Body meeting held on 25<sup>th</sup> May, 2014, the revised plans submitted by the Developer as approved by the Architect of the Society were approved in the manner provided therein.
25. The Developer has informed us that on 26<sup>th</sup> August, 2014, the Developer issued a notice to vacate to 176 members of the Society calling upon them to vacate their respective flats and tenements in the manner provided therein.
26. Under the Development Agreement it was agreed that the Developer shall handover to the Society, the cheques of the amounts mentioned as 2<sup>nd</sup> and 3<sup>rd</sup> installments of the hardship compensation payable to the Members simultaneously with the issuance of the Notice to Vacate in the manner as provided in the Process Note attached as Annexure -10 to the Deed of Modification with a condition that the Society shall deliver the cheques towards the 3<sup>rd</sup> Installment to the respective Members only upon 150 members vacating and depositing keys of their respective flats with the Society. However, by and under Letter dated 29<sup>th</sup> November 2014 addressed by the Developer to the Society, the Developer has permitted the Society to deliver the cheques towards the



3<sup>rd</sup> instalment to the Members simultaneously with the deposit of their respective keys of their flats with the Society instead of delivering the cheques only after 150 Members vacating and depositing their respective keys with the Society.

27. Also under the terms of the Development Agreement, it was agreed that upon 150 flats being vacated, the Developer was required to furnish the Performance Guarantee. However, by and under Letter dated 11<sup>th</sup> February, 2015, the Developer has waived the provision requiring the Developer to furnish the performance guarantee only upon 150 Members vacating their respective flats and depositing their keys with the Society and stated, *inter-alia*, that the Developer is ready and willing to furnish the performance guarantee at this stage without 150 Members vacating their respective flats and depositing their keys with the Society as provided in the Deed of Modification.
28. By and under Letter dated 12<sup>th</sup> February, 2015 addressed by the Developer to the Society, the Developer, *inter-alia*, requested the Society to extend the date for obtaining the offer letter from MHADA for utilisation of upto FSI of 4.5 from December 31, 2014 (as required under the Deed of Modification) to December 31, 2015.
29. The Society has, in its Special General Body meeting held on 19<sup>th</sup> April, 2015, resolved to grant consent in respect of the said request made by the Developer for extension of time for obtaining offer letter from MHADA in respect of 4.5 FSI and also the dilution of condition vis-à-vis delivering the cheques simultaneously with the deposit of their respective keys of their flats with the Society.
30. The Developer has informed us that the Society has, in its Special General Body meeting held on 19<sup>th</sup> April, 2015, duly undertaken allotment of the flats to be constructed in the Project to the Members and on 14<sup>th</sup> May, 2015 has given letters of allotment to all the Members in respect of their respective premises in the Project and the Developer has confirmed such allotment made by the Society.

31. By and under a Bank Guarantee dated 8<sup>th</sup> May, 2015, executed by Yes Bank Limited in favour of the Society at the request of the Developer, Yes Bank has undertaken to pay a sum not exceeding Rs.60,00,00,000/- (Rupees Sixty Crore) to the Society upon a demand made by the Society in respect of amounts due to failure of the Developer to undertake and perform the agreed and confirmed obligations of the Developer under the Development Agreement ("**the Performance Guarantee**"). On 20<sup>th</sup> June, 2015 the Developer handed over the Performance Guarantee to the Society and simultaneously, the Society handed over keys in respect of 149 units to the Developer.
32. In the meanwhile, 20 members of the Society along with 3 other residents filed Suit No 434 of 2015 ("**the said Suit**") before the Bombay High Court against, inter-alia, the Developer and the Society seeking prayers as mentioned therein. The Plaintiffs in the said Suit also took out a Notice of Motion No. 840 of 2015 seeking prayers as mentioned therein. By and under Order dated 23<sup>rd</sup> March, 2015 passed by the Hon`ble Bombay High Court the ad-interim reliefs as sought by the Plaintiffs were rejected. Subsequently, the disputes were settled between the Developer and the Plaintiffs and Consent Terms were filed before the Bombay High Court on 3<sup>rd</sup> July, 2015 and pursuant to the same, the said Suit has been withdrawn.
33. On the date of filing of the Consent Terms, the said 20 members of the Society and 2 (two) other Members have accepted the Notice to Vacate issued by the Developer, on account of which, the Developer has informed that, a total of 174 Members out of 176 Members have accepted the Notice to Vacate. The Developer has informed us that all the 22 Members have vacated their respective flats by 14<sup>th</sup> September 2015 and handed over the same to the Developer.
34. The Developer has filed Suit (L) No. 758 of 2015 seeking, inter-alia, a declaration that the Development Agreement dated 31<sup>st</sup> October 2010 read with Deed of Modification dated 23<sup>rd</sup> August 2014 for redevelopment of the said Property is valid and binding on the Defendant Nos. 2, 3, 4 and 9 therein who are the only members in respect of Flat Nos. A2/13, B5/40 and D19/164 and the occupants

thereof who were yet to vacate and handover possession of their respective flats to the Developer to enable the Developer to commence redevelopment of the said Property as envisaged under the said Development Agreement and Deed of Modification. The Developer also took out a Notice of Motion (L) No. 2046 of 2015 in the said Suit praying for such reliefs as more particularly stated therein. By and under Order dated 6<sup>th</sup> August, 2015, as modified by further Orders dated 10<sup>th</sup> August, 2015 and 19<sup>th</sup> August, 2015, the Bombay High Court has, inter-alia, directed the members and the occupants of the said Flat Nos. A2/13, B5/40 and D19/164 to vacate the flats no later than 7<sup>th</sup> September 2015, or earlier, if possible. The said Suit (L) No. 758 of 2015 is pending. The Developer has informed us that by 7<sup>th</sup> September 2015, all the occupants of Flat Nos. A2/13, B5/40 and D19/164 have handed over vacant possession of their respective Flats to the Developer.

35. We have been informed that post execution of the Development Agreement and the Deed of Modification certain members of the Society have exercised the option to upgrade their respective Rehabilitation by utilizing 15,324 square feet carpet area out of the Developers Premises (as reflected in Annexure "5" to the Deed of Modification).
36. By and under Agreement Relating to Redevelopment dated 31<sup>st</sup> March, 2016 executed between the Developer and the Company and registered with the office of Sub-registrar of Assurances of Mumbai at Andheri-6 under Serial No. 3691/2016 read with Letter of even date executed between the Developer and the Company and the Supplemental Agreement dated 26<sup>th</sup> August 2016 registered with the office of Sub-registrar of Assurances of Mumbai at Andheri-2 under Serial No. BDR-4/7678/2016, the Developer has agreed to undertake redevelopment of the Project with the Company, in the manner and on the terms and conditions recorded therein ("**the said Agreement**").

#### Property Register Cards

37. We have perused Property Register Cards dated 10<sup>th</sup> August, 2016 in respect of the said Land, the details whereof are set-out in **Annexure**



'D' hereto. The area shown under Property Register Card for CTS No. 649 is 22595.10 square meters while the area shown under Property Register Card for CTS No. 649/1 to 649/48 aggregates to 2711.20 square meters. The Property Register Cards in respect of the said Land reflects the name of MHADA. The Developer has informed us that in view of the error in the areas reflected in the Property Registered Cards, the Society has made an application before the City Survey Officer for rectification in the Property Register Cards which is pending.

### Mortgages

#### **Mortgages Created by the Developer**

38. By and under a Deed of Mortgage dated 28<sup>th</sup> December, 2015 executed between the Developer (as Borrower 1), Goan Hotels & Realty Private Limited (as Borrower 2) and Yes Bank Limited (as Lender) and registered with the Office of Sub-Registrar of Assurances, Mumbai at Bandra-4 under Serial No. 10097/2015, the Developer has created mortgage in respect of a portion of Developer's Premises corresponding to carpet area admeasuring 4,77,576 (Four Lakh Seventy Seven Thousand Five Hundred Seventy Six) square feet to be developed on the said Property and more particularly described in Schedule III thereto, in the manner and on the terms and conditions stated therein ("**the Yes Bank Mortgage**").
39. By and under Deed of Supplemental Mortgage cum Rectification dated 18<sup>th</sup> April, 2016 executed between Developer (as Borrower 1), Goan Hotels & Realty Private Limited (as Borrower 2) and Yes Bank Limited (as Lender) and registered with the Office of Sub-Registrar of Assurances, Mumbai at Bandra-4 under Serial No. 3584/2016, in view of errors in the details of the mortgaged properties stated in Schedule I, II and III of Deed of Mortgage dated 28<sup>th</sup> December, 2015, the Parties have, inter-alia, restated Schedule I, II and III of the Deed of Mortgage dated 28<sup>th</sup> December, 2015, in the manner provided therein.
40. Also, by and under Deed of Further Supplemental Mortgage Deed dated 19<sup>th</sup> September, 2016 executed between Developer therein referred to as "Borrower 1", Goan Hotels & Realty Private Limited



therein referred to as "Borrower 2" and Yes Bank Limited therein referred to as "Lender" and registered with the Office of Sub-Registrar of Assurances, Mumbai at Bandra-4 under Serial No. 8347/2016, the Parties have revised the mortgaged properties in view of the Supplemental Agreement dated 26<sup>th</sup> August 2016 executed between the Developer and the Company.

#### **Mortgages Created by the Company**

41. By and under a Debenture Trust Deed dated 16<sup>th</sup> June, 2016 registered with the Office of the Sub Registrar of Assurances under No. BDR-4-5474 of 2016 executed by and between the Company (therein referred to as the 'Company') of the First Part, Mr. Sanjay Chhabria (therein referred to as the 'Promoter') of the Second Part and IL&FS Trust Company Limited (therein referred to as the 'Debenture Trustee') of the Third Part, the Company, inter-alia, issued 7,49,995 secured, unrated, unlisted, non-convertible debentures of face value Rs. 1000/- each aggregating to Rs. 74,99,95,000/- (Rupees Seventy Four Crore Ninety Nine Lakh Ninety Five Thousand) and mortgaged 25 (Twenty Five) units to be constructed on the said Land having an aggregate carpet area of 27,134 square feet equivalent to 45,054 square feet saleable area along with amenities/facilities provided along with each of these units more specifically described in Annexure -2 therein. ("**ICICI Prudential Mortgage**").
  
42. By and under a Debenture Trust Deed dated 24<sup>th</sup> June, 2016 registered with the Office of the Sub Registrar of Assurances under No. BDR-4-5750 of 2016 executed by and between the Company (therein referred to as the 'Issuer') of the First Part, Mr. Sanjay Chhabria (therein referred to as the 'Promoter') of the Second Part and Beacon Trusteeship Limited (therein referred to as the 'Debenture Trustee') of the Third Part, the Company, inter-alia, issued 400 fully paid up unlisted, unrated, secured, redeemable, tradable, non-convertible debentures having a face value Rs. 10,00,000/- each aggregating to Rs. 40,00,00,000/- (Rupees Forty Crore) and mortgaged 14 (Fourteen) units to be constructed on the said Land having 14,458 square feet carpet area equivalent to saleable area of 24,000 square feet along with right to use 28 car parking spaces ("**Trust Capital Mortgage**").



43. By and under a Mortgage Deed dated 30<sup>th</sup> August, 2016 registered with the Office of the Sub Registrar under Serial No. BDR-4-7784 of 2016 executed by and between the Company (therein referred to as the 'Mortgagor') and Indiabulls Housing Finance Limited therein referred to as the 'Lender', the Company mortgaged in favour of Indiabulls Housing Finance Limited a first ranking and exclusive charge and mortgage over 100% of all the future shares, entitlements, rights, title and/or interest of the Company in the project to be developed on the said Land including the 269 units under construction having 5,40,482 square feet built up area i.e. 3,25,502 square feet carpet area together with 538 car parking spaces and proportionate undivided share, right, title and/or interest in the said Land, common areas and common facilities ("**Indiabulls Mortgage**").
44. As per the search conducted at the website of the Ministry of Corporate Affairs as on 29<sup>th</sup> September, 2016, save and except the Yes Bank Mortgage, the ICICI Prudential Mortgage, Trust Capital Mortgage and the Indiabulls Mortgage (hereinafter collectively referred to as "**the said Mortgages**"), there are no other mortgages, charges or encumbrances affecting the said development rights in respect of the said Property.

#### Development Plan Remarks

45. By and under letter dated 1st October, 2010 bearing No. CHE/931/DPWS/H/E, issued by the MCGM in respect of land bearing C.T.S. No. 649 of Village Bandra-East, it is reflected that land bearing C.T.S. No. 649 of Village Bandra-East is situated in the Residential Zone and there are no reservations or designations affecting and abutting the land and there are no D.P. Roads affecting the land.

#### Pending Litigations

46. The details with respect to the pending litigation proceedings are set-out hereinbelow:-
- (i) **Suit (L) No. 758 of 2015 filed before the Bombay High Court by the Developer**

As described in paragraph 35 above, the said Suit (L) No. 758 of 2015 filed before the Bombay High Court by the Developer is pending.

- (ii) **Dispute No. CC/II/490 of 2010 filed before the Hon'ble Co-operative Court No. II, Mumbai in the matter of: Shaila Palekar and Ors. V. Middle Income Group CHSL (Group 1) and Ors.**

On 8<sup>th</sup> October, 2010 Ms. Shaila Palekar, being the Disputant, filed a complaint in the Hon'ble Co-operative Court, Mumbai, bearing Dispute No. CC/11/492 of 2010 against the said Society being Opponent No. 1, Mrs. Medha Palekar being Opponent No. 2, MHADA being Opponent No. 3 and the Developer being Opponent No. 4 therein. In the aforementioned complaint Ms. Shaila stated she is one of the owners and joint members in respect of Flat No. A-2/13 on the 2<sup>nd</sup> Floor situated in MIG Colony, Gandhi Nagar, Bandra (E) and she made payment of Rs. 7,404 as earnest money and Rs. 251.50 in monthly installments per months for 15 years to the Maharashtra Housing Board. Ms. Shaila Palekar has *inter-alia* prayed before the Hon'ble Co-operative Court, Mumbai that the Share Certificate with respect to the said Flat be issued exclusively in her name and that Opponent No 1 and 3 be directed amend the Sale Deed dated 24<sup>th</sup> December, 2008 to the effect that it reflects the names of the Disputants. The Hon'ble Co-operative Court, Mumbai has not passed any order with respect to the aforementioned Complaint and therefore the Complaint is still pending.

The Bombay High Court has, under aforesaid Order dated 6<sup>th</sup> August, 2015, as modified by further Orders dated 10<sup>th</sup> August, 2015 and 19<sup>th</sup> August, 2015 passed in Notice of Motion (L) No. 2046 of 2015 in the Suit (L) No. 758 of 2015, directed, *inter-alia*, that the said Shaila and other two sisters being Shalini Palekar and Prabodhini Palekar will be entitled to temporary alternative accommodation as the same rate as is being made available to all other occupants in the Society; the Corpus amount will be deposited in the High Court and the entitlement to the same shall be subject to decision of the Co-operative Court No. II in the above dispute; and the allotment of the permanent alternate accommodation will be made in favour of the Court Receiver who will put the said Shaila, Shalini Palekar and Prabodhini Palekar in possession as the agents of the Court Receiver without payment of any compensation.



(iii) **Writ Petition (L) 3526 of 2015 filed before the Bombay High Court**

The Developer has filed Writ Petition (L) 3526 of 2015 filed before the Bombay High Court for, inter-alia, challenging the levy of (i) off-site Infrastructure charges in a sum of Rs. 13,74,96,144/- (Rupees Thirteen Crore, Seventy four Lakh Ninety Six Thousand One Hundred and Forty Four Only), levied by MHADA under its revised offer letter dated 21<sup>st</sup> August 2015; and (ii) development charges in a sum of Rs.11,53,32,650/- (Rupees Eleven Crores Fifty Three Lakhs Thirty Two Thousand Six Hundred and Fifty Only) levied by MCGM under its letter dated 21<sup>st</sup> January, 2016.

By and under Order dated 22<sup>nd</sup> December, 2015, the Bombay High Court has stayed the demand of the off-site Infrastructure charges in a sum of Rs. 13,74,96,144/- (Rupees Thirteen Crore, Seventy four Lakh Ninety Six Thousand One Hundred and Forty Four Only), levied by MHADA. Also by and under order dated 10th February, 2016, the Bombay High Court has stayed levy of the development charges and has directed the Respondents to process the applications for development of the said Property, including IOD, CC, OC. This Writ Petition is pending.

(iv) **Writ Petition (L) 758 of 2016 filed before the Bombay High Court**

The Developer has filed Writ Petition (L) 758 of 2016 filed before the Bombay High Court for, inter-alia, challenging clause 10 of the IOD issued by MCGM which states "*that the Registered Agreement with the existing tenant along with the list will not be submitted before the CC*". By and under Order dated 15th April, 2016, as modified by Speaking to the Minutes dated 20th April, 2016, the Bombay High Court directed MCGM to proceed with the application for Commencement Certificate without insisting on Clause 10 of the IOD preferably within a period of three weeks therefrom. This Writ Petition is pending. However, as recorded below, MCGM has issued Commencement Certificate on 25th April, 2016.