

 <p>SL PARTNERS ADVOCATES & SOLICITORS</p>	<p><i>First Draft of PAA Agreement Kailash Parbhat Co-Operative Housing Society Limited Without Prejudice September 18, 2024</i></p>
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CONFIDENTIAL

PERMANENT ALTERNATE ACCOMMODATION AGREEMENT

BY AND AMONG

KAILASH PARBHAT CO-OPERATIVE HOUSING SOCIETY LIMITED

("SOCIETY")

M/S GALAXY DEVELOPERS

("DEVELOPER")

AND

("MEMBER")



**Advocates and Solicitors
BKC Office: 'One BKC', Unit No. 1617,
C Wing, Bandra Kurla Complex,
Bandra East, Mumbai 400 051.**

THIS PERMANENT ALTERNATE ACCOMMODATION AGREEMENT (“**Agreement**”) is made, entered and executed into at, Mumbai on this ___ day of _____ 2024;

BETWEEN

KAILASH PARBHAT CO-OPERATIVE HOUSING SOCIETY LIMITED, a Co-operative Housing Society registered under the provisions of the Maharashtra Co-operative Societies Act, 1960, bearing Registration No. **HSG./BOM./970 of 1965**, dated May 13, 1965 having **PAN: AAAAK2432P** situated at Plot No. 173 pt., Vidyanagari Marg, Kalina, Santacruz (East), Mumbai 400098, represented through its office bearers viz. Hon. Chairman, Mr. Mohammed Ismail Qureshi; Hon. Secretary, Mr. Mohammad Rashid Khan & Hon. Treasurer Mrs. Daulatkhanoo Noormohammed Zaver, authorized vide resolution dated February 07, 2022, (hereinafter referred to as the "**Society**"), which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include the Society, its members for the time being and from time to time and their respective heirs, executors, administrators, and assigns as also the successors, administrators and assigns of the Society);

AND

M/S GALAXY DEVELOPERS, a proprietary concern represented through its sole proprietor Mr. Abdul Rahim A. K. Barudgar, aged 62 years having PAN AABPB4786F and having his address at G/6, Rizvi Nagar, S. V. Road, Santacruz West, Mumbai – 400054 (hereinafter referred to as the "**Developer**"), deemed to mean and include his legal heirs, administrators, executors and assigns;

AND

[_____], aged [_____] years, an adult Indian Inhabitant of Mumbai and was residing at flat no. _____, on _____ floor of the building known as "**KAILASH PARBHAT CO-OPERATIVE HOUSING SOCIETY LIMITED**" (**Now demolished**) situated at Plot No. 173 pt., Vidyanagari Marg, Kalina, Santacruz (East), Mumbai 400098 (hereinafter referred to as the "**Member**"), having income tax PAN [_____], which expression shall unless the context otherwise mean and include his/her heirs, executors, administrators, nominees and assigns;

The Developer, the Society and the Member may, hereinafter, be jointly referred to as the "**Parties**" and severally as the "**Party**".

WHEREAS:

- A.** The Society is the owner of and is solely and absolutely seized and possessed of, or otherwise well and sufficiently entitled to all that pieces and parcel of land bearing CTS no. 7247, 7247/1 to 7247/4, old corresponding survey no. 173 (part)

Developer	Member	Society

and Plot No. 173 in aggregate admeasuring 6127.6 (Six Thousand One Hundred and Twenty-Seven point Six) Square Meters (*as per PRC*) and 6576.1 Sq. Mtrs. (Six Thousand Five Hundred and Seventy Six point One) Square Meters (*as per Deed of Conveyance*), which is lying and being situated at Mauje Kolekalyan, Taluka Bandra in Mumbai Suburban District and situated at Plot No. 173 pt., Vidyanagari Marg, Kalina Santacruz (East), Mumbai 400098, (hereinafter referred to as "**Land**") along with 3 (Three) buildings (*which are now demolished*) wherein, (i) Building A comprises of 3 (Three) wings namely, wing A1 consisting of ground plus 4 (Four) upper floors, wing A2 consisting of ground plus 4 (Four) upper floors and wing A3, consisting of ground plus 3 (Three) upper floors, aggregating to a total of 34 (Thirty Four) residential units in Building A ("**Building A**"); (ii) Building B comprises of 2 (Two) wings namely, wing B1 and wing B2, whereby each wing consists of ground plus 7 (Seven) upper floors, aggregating to a total of 67 (Sixty-Seven) residential and non-residential units in Building B ("**Building B**"); (iii) Building C comprises of 2 (Two) wings namely, wing C1 and wing C2, each wing consists of ground plus 3 (Three) upper floors aggregating to a total of 32 (Thirty-Two) residential units in Building C ("**Building C**"). Building A, Building B and Building C, known as "**Kailash Parbhat**", comprising of an aggregate of 133 (One Hundred and Thirty-Three) residential and non-residential flats which shall collectively be referred to as ("**Buildings**"). The Land and the Buildings shall jointly be referred to as the "**Property**".

- B. On October 14, 2022, the Society executed a development agreement with the Developer, which was duly registered with the Sub-Registrar of Assurances Bandra under Serial No. BDR-4/10702 ("**Development Agreement**"), wherein the Society granted development rights to the Developer in respect of the Property, upon the terms and conditions as more particularly set out in the Development Agreement.
- C. Pursuant to the Development Agreement, the Society had also executed power of attorney dated October 14, 2022, ("**Power of Attorney**") in favour of the Developer, (*a proprietary concern*), which is registered with Sub-Registrar of Assurance, Bandra under Serial No. BDR-4/10703.
- D. In the meantime, the Buildings were declared as dilapidated by the Municipal Corporation of Greater Mumbai by the notice dated April 26, 2024 under Section 354 of The Mumbai Municipal Corporation Act, 1888 and therefore, demolished.
- E. However, due to some inadvertent errors being recorded under the Development Agreement, the Society and the Developer entered into an addendum dated September 09, 2024 registered with Sub-Registrar of Assurance, Bandra under Serial No. BDR-18/16347/2024 to rectify such errors ("**Addendum**").
- F. The Member was in a possession of flat no. _____ ("**Existing Premises**") in the Building.
- G. The Developer has now obtained Intimation of Disapproval ("**IOD**") dated _____ and procured approved plans in respect of the New Building. A copy

Developer	Member	Society

of the IOD has been attached hereto as **Annexure “[●]”**.

H. Based on the approved plan and IOD, the Member has been allotted a new self-contained residential flat on ownership basis, bearing no. _____ admeasuring _____ square feet RERA Carpet Area, on the ____ floor of the New Building ("**New Flat**") and _____ car parking spaces to the Member, in lieu of the Existing Premises to be developed on the Land. The New Flat and the New Car Parking Space shall collectively be referred to as "**New Area**" and is described in Second Schedule hereunder written.

Or

Based on the approved plan and IOD, the Member has been allotted a new self-contained non-residential unit on ownership basis, bearing no. _____ admeasuring _____ square feet RERA Carpet Area, on the ____ floor of the New Building ("**New Unit/ Area**"), in lieu of the Existing Premises to be developed on the Land. The New Unit is described in Second Schedule hereunder written.

I. In the circumstances, the Parties hereto are entering into this Agreement for the purpose of recording the terms and conditions agreed upon between themselves including, *inter alia*, to record the obligation of the Developer to hand over the New Area to the Member in the New Building to be constructed by the Developer on the Land and provide other benefits/entitlements/payments, as per the terms and conditions of the Development Agreement.

NOW THIS AGREEMENT WITNESSTH AND IT IS HEREBY AGREED, DECLARED, CONFIRMED AND RECORDED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. RECITALS

The Developer, Society and the Member hereby declare that the statements, declarations and representations on their respective parts as contained in the foregoing Recitals as also hereinafter contained are true to their own knowledge and are made by them conscientiously, believing the same to be true knowing full well that relying upon the said statements, declarations and representations to be true and correct, the Developer and the Member, as the case may be, have agreed to execute this Agreement in respect of the Property and to give/acquire, as the case may be, the development rights for valuable consideration and to undertake several obligations as herein set out.

It is clarified that all the defined terms shall carry the same meaning as defined in the Development Agreement.

2. PERMANENT ALTERNATE ACCOMMODATION AND OTHER

Developer	Member	Society

COMPENSATION

As per the terms and conditions of the Development Agreement, in consideration of the development rights granted by the Society in respect of the Land:

2.1 Permanent Alternate Accommodation:

The Developer hereby provides, on the ownership basis and free of all encumbrances, the New Area to the Member, free of all costs and charges, as a permanent alternate accommodation in lieu of the Existing Premises of the Member. The floor plan of the New Area with the New Area marked in the hash line is attached herewith as **Annexure "[●]"** hereto).

It is agreed by and between the Parties hereto that the New Area to be allotted and the New Building shall be in a good and tenantable conditions and the Developer shall provide amenities, fittings, fixtures as per **Annexure "[●]"** attached hereto in the New Area as agreed herein.

In addition to the free of cost Area, the Member further purchases an additional RERA Carpet Area admeasuring _____ Sq. Ft. RERA Carpet Area ("**Additional Area**"). The Table set out herein entails in detail the New Flat the Additional Area and total flat area together with consideration paid for the Additional Area.

Member Area - Current, entitled additional & additional purchased	RERA Carpet Area (Sq. Ft.)
Pre- Redevelopment -	Existing Flat bearing no. _____ Floor of the Building admeasuring ___ sq. ft. Carpet Area
Additional Re-developed Area entitled by Member to be provided by the Developer free of cost	_____ Sq. Ft. MOFA Carpet Area and _____ Sq. Ft. RERA Carpet Area on _____ floor of the New Building
Additional Area Purchased by Member from Developer	_____ Sq. Ft. MOFA Carpet Area and _____ Sq. Ft. RERA Carpet Area on _____ floor of the New Building for a consideration of Rs. _____ (Rupees)
Total consideration payable for Purchase Area	Rs. _____ (Rupees)

2.2 Other Compensations:

The Developer shall also pay the Monthly Displacement Compensation, Hardship Allowance, Relocation Cost, Brokerage, Reimbursement of Costs incurred towards the Leave and License Agreement of the Member and all other payments as agreed

Developer	Member	Society

upon in the Development Agreement, to the Member from the date of procurement of the IOD.

It is hereby agreed between the Parties that, such amounts towards the Monthly Displacement Compensation, Hardship Allowance, Relocation Cost, Brokerage Reimbursement of Costs incurred towards the Leave and License Agreement, so payable by the Developer shall be paid to the sole / single member directly. But in case of any joint member/s (being second, third, fourth etc), then in that event the rent shall be disbursed to the said joint members proportionately as per the ownership ratio in the flat/unit in accordance to their sale agreement. In the event of member appointed on the basis of nomination by deceased member (Nominee member) a nominee to take care of the estate, in that event the rent shall be disbursed to all the legal heirs of such deceased Member as decided by the Managing Committee within the provisions of the MCS Act, proportionately as per the ownership ratio and not only exclusively to the nominee member.

2.3 Stamp Duty, Registration Charges, Taxes, GST and Other Expenses:

It is clearly agreed, understood and confirmed by and between the Parties that save and except where a Member has availed additional area in terms of clause 4.10 of Development Agreement, all present and future stamp duty, cess, registration charges, GST, central or state, as may be applicable or any other taxes, levies duties payable on the Development Agreement, this Agreement Members Monthly Displacement Compensation, Hardship Allowance, all other monetary compensation as payable by the Developer in terms of clause 4 of the Development Agreement or any other addendum, supplementary or amendments to Development Agreement, or power of attorney pursuant to Development Agreement including, shall be borne and paid by the Developer only.

In case a bill is received after the receipt of Part OC/ OC for the New Building, but the amount pertains to a date prior to the Final Completion Date then in that case, the Developer shall be liable to pay such costs as long as the payment is of stage prior to receipt of the Final Completion Date, the Developer shall be liable to pay such costs provided such costs shall be intimated by the Society to the Developer after handing over the possession of the New flats/ units of existing members.

However, any deficient stamp duty and registration charges on any Existing Premises of any Member shall be borne by the respective Member of the Society.

However, in the event of any non-cooperating member i.e the member who did not sign and execute the Development Agreement, stamp duty and registration charges on this Agreement of such Member shall be exclusively borne and paid by the respective Member only. The Developer shall not bear or pay any costs, charges and expenses in terms of stamp duty or otherwise, including penalty or

Developer	Member	Society

increment thereof, if any.

3. SPECIFIC OBLIGATIONS OF THE DEVELOPER

- 3.1 The Developer agrees, declares and confirms that without prejudice to the generality of their overall obligation and responsibility to undertake and complete the redevelopment of the Property entirely at the Developer’s own costs, charges and expenses in all respects in terms hereof, the same shall include, but not be limited to, the obligations, responsibilities and liabilities set out hereinafter in this clause up to the period of issuance of OC for the New Building/(s).
- 3.2 The Developer shall take all precautions and safety measures in accordance with the various provisions of Applicable Laws (*as defined under the Development Agreement*) governing the development and construction work of the Property in terms of Development Agreement including, but not limited to, all firefighting and other installations and provisions for firefighting equipment and arrangements and indemnify the Society against all such claims.
- 3.3 The Developer shall undertake the said redevelopment and construct the New Building in compliance and accordance with the Vacation Approvals (*as defined under the Development Agreement*) and other Approvals issued by the MCGM; the **D.C. Rules/Regulations** (as amended from time to time); the provisions of the Maharashtra Regional Town Planning Act and the rules made there under; the Aviation Authority, the Regional Transport Office and any other applicable statutory provisions and the law governing redevelopment and construction work pertaining to the Property.
- 3.4 The Developer on executing this Development Agreement shall be liable for payment of all wages, salaries, Employee State Insurance Corporation, Provident Fund and other dues of the workmen employed for the purpose of carrying out the construction work in accordance with the provisions of all the applicable Labour Laws and Social Security Legislation in force. The Developer shall insure and/or cause its contractors to insure all the workmen employed/engaged in the construction work of the New Building (s) under the Workmen's Compensation Act or any other Act or law pertaining thereto and they alone shall be responsible for the liabilities in respect of the workmen so employed and indemnify and keep indemnified against Labour Law related issues as well as any claims from third party including neighbouring lands and the Society in respect of all claims made in that behalf. The Developer shall take third party insurance as may be thought appropriate and adequate by the Developer for the accident cover. Such insurance shall be under Workman Compensation Act as per relevant statutory act.
- 3.5 The Developer shall take insurance of the Project as per statutory requirement and in accordance with the rules of MCGM, with a reputed insurance company and other incidental cost, charges and expenses. A copy of such policy will be handed over to the Society and the Society will also be one of the beneficiaries to such insurance.
- 3.6 The Developer shall procure the OC and all other Approvals as envisaged in the

Developer	Member	Society

Development Agreement from the MCGM at his own risks and costs in accordance to the timelines as set out in the Development Agreement.

- 3.7 The Developer shall on the receipt of the first Commencement Certificate for the New building/s ensure that the Project is duly registered under RERA and shall comply with all the relevant provisions of the RERA or any of its amendments by the appropriate authority from time to time. However, it is hereby agreed between the Parties that, the Society or the Member however, shall not be responsible for any of its compliances under RERA
- 3.8 If the Society falls under the definition of Co-Promoter of the Project, all the obligations, responsibilities and liabilities casted upon the Co-promoters under RERA, shall be summarily transferred on the Developer. The Developer shall furnish the Indemnity Bond with effect to the same and shall indemnify the Society / Co-promoter of the Redevelopment Project, and thus taking all the responsibilities of the Co-Promoter / Society as if those were casted upon the Developer and are their own obligations and responsibilities. And by agreeing, affirming to and taking all these obligations, responsibilities and liabilities casted upon the Co-promoters under Real Estate (Regulation & Development) Act, 2016 ("**RERA**") or any statutory modification or re-enactment thereof. The Developer shall not ask for any money / cost / expenses / incidental expenses thereto and any sort of reimbursement either in terms of cash or kind.
- 3.9 The Developer shall be liable and responsible to the purchasers of premises in the proposed building exclusively and in any event the Member shall not be liable and responsible for fulfillment and compliance of the provisions on the part of the Developer with the purchasers of premises in any manner under the provisions of the RERA.
- 3.10 The obligation of the Developer to pay the agreed the Monthly Displacement Compensation is without prejudice to the other rights of the Member under this Agreement for delay/failure to complete the Project within the stipulated timelines. Without prejudice to the rights exercised by the Member, the Developer will be liable to pay the agreed the Monthly Displacement Compensation till the Final Completion Date (*as defined hereinunder*), irrespective of Force Majeure events.
- 3.11 The Developer alone shall bear and pay the entire cost of construction of the New Building(s) inclusive of, land under construction taxes, costs, charges and expenses for obtaining all permissions, Approvals, sanctions, statutory or otherwise, IOD, CC, Part OC and OC respectively for the New Building, as also payments to MCGM by way of scrutiny fees and other fees, all deposits (whether refundable or otherwise), security deposits (whether refundable or otherwise), premiums of any nature, and all other expenses for getting the plans approved and sanctioned from the Concerned Government Authorities, bills of the suppliers of building materials, charges for water and electricity consumed in construction of the New Building(s), additional sewerage charges levied during the construction period etc., and the Society and/or its Members will not be liable to contribute/pay for the same or any cost or expenses that relates to the project, whatever specifically mentioned here or otherwise. It is clarified that from the date

Developer	Member	Society

of IOD till the Final Completion Date, it is the obligation of the Developer to pay taxes outgoings, bills, charges, levies demands made on the Property or any other expenses relating to the building.

- 3.12 The Developer undertakes to carry out the above and all other obligations on their part to be carried out as mentioned in this Agreement and the Development Agreement solely at their own costs and consequences.
- 3.13 If there are any unsold flats out of the Developer’s Area remaining in the possession of the Developer after obtaining the OC from MCGM in respect of the Rehab Wing, then the Developer shall be liable to pay all the property taxes, levies and assessments, other charges due and payable to the Society as ‘Society dues’, in respect of the said unsold flats and the Developer shall pay the same to the Society. In case of default in payment of the amount pertaining to the property tax for the period of one year, then the Society shall be at liberty not admit the Developer as a member and further necessary proceedings under the Maharashtra Co-operative Societies Act and/or RERA will be ensued against the Developer. If the Developer retains multiple premises for itself, the Developer shall be entitled to only one vote in the general body of the Society, for all such premises retained, however share certificates for each premises will be issued separately by the Society. The Developer shall pay towards all cost of maintenance and taxes at par with other members regardless such premises are occupied or not as agreed hereinabove as per the Bye laws of the Society, MCS Act, 1960 & Rules made thereunder.
- 3.14 The Developer shall not transfer, encumber or assign the New Area or any other benefits under this Agreement and the Development Agreement to any third party, either directly or indirectly.
- 3.15 The Developer agrees that no person including the financier, contractors, suppliers, financiers, purchasers of saleable flats, architects or any other nominees of the Developer will have any lien, charge or claim on the construction material to be used in redevelopment of the Property and/or the New Building(s) standing or coming up thereon while construction is in progress or on the New Area or otherwise howsoever. However, the Developer is free to sell/allot and/or otherwise deal with the flats comprising of the Developer’s Area and developer’s car parking spaces to financiers, investors, contractors etc. as it may deem fit.
- 3.16 The Developer declares that it has full power and absolute authority to enter into this Agreement and there is nothing on record of the Developer to show otherwise and that there is no known legal impediment or restriction on the powers and authorities of the Developer from entering into this Agreement. The Developer has taken all necessary corporate, statutory approvals for entering into this Agreement and consummating the transaction contemplated thereby.
- 3.17 The Developer, at its own costs and expenses, shall be liable to settle any issues if any, raised by the neighboring societies on account of redevelopment of the Property.
- 3.18 The Developer shall strictly provide the construction schedule which shall be

Developer	Member	Society

approved by the Society in consultation with the PMC appointed by the Society. Prior to the commencement of work, the Developer shall discuss and document with the Society and PMC appointed by the Society the construction sequence and program in a bar chart format to achieve the successful completion of work as scheduled with tangible work milestones along with the severance conditions there from. Thereafter, the Developer shall, from time to time, at the request of the Society and at least once in 45 (Forty Five) days, hold along with the committee members from the Society, site meetings to review the progress of the construction work/redevelopment and maintain records of such meetings and proceedings thereat.

- 3.19 The Developer shall ensure that neither the Society nor any of its Members including members of its managing committee, chairman, secretary and treasurer are held liable in any manner whatsoever for breach or non-observance of any rules, regulations or statutes governing the construction activity including all laws relating to the employment of labour and their welfare, direct tax laws, arising out of the development etc.; and shall indemnify and keep indemnified and saved harmless the Society and its Members and managing committee against the same and all costs, charges and expenses in respect thereof.
- 3.20 The Developer shall not be entitled to handover possession of the Developer's Area prior to handing over possession of the Members' Area to the Members.
- 3.21 The Developer shall provide for refuge apartment/area in the New Building(s) as per prevailing D.C. Rules/Regulations.
- 3.22 The Developer hereby agrees and undertakes to abide by all its obligations as contained in the Development Agreement including the timelines for construction and completion in fact and in law of the New Building.
- 3.23 The Developer shall not amalgamate /sub-divide the Land with any of adjoining land/lands without prior written permission of the Society.
- 3.24 The Developer shall provide common Amenities as per Annexure list annexed as ___ to be provided in the New Flats/Units for accommodating the Members of the Society and prospective Purchasers of the Developer's Area.
- 3.25 The Developer hereby agrees and undertakes to pay additional deposit if demanded by MCGM at its own costs and expenses for water connection, electricity supply agency, MGL or any other concerned agencies as per the norms of the respective competent authorities till the date of handing over the possession of the New Area by the Developer.
- 3.26 The Developer also undertakes to provide space to the electricity supply agency for commissioning and installing new electric heavy duty transformers in the proposed substation (if required) for supply of electricity to the New Building(s) as may be sanctioned and approved by the Concerned Government Authorities at its own costs and expenses. It is agreed by the Society that in case substation is

Developer	Member	Society

required the Society shall provide such requisite area/plot/land.

- 3.27 During or after the redevelopment process, the Developer shall not be entitled to use the Rehab Wing or any part thereof including the external wall, terrace or any other space for the purpose of letting it out to some third parties for commercial use of the space or for any other purpose.
- 3.28 The Developer shall ensure the safety and security of the Property of the Society and shall prevent tress-passers, unauthorized encroachments and shall not do act of commission/omission whereby the interest of the Society and its Members is adversely affected during the period of redevelopment.
- 3.29 Subject to planning of the New Building, the Developer shall provide trees as per the regulations of tree authority and also as per the norms of MCGM.

4. DECLARATIONS AND OBLIGATIONS OF THE MEMBER

- 4.1 The Member is seized and possessed of and/or otherwise well and sufficiently entitled to the Existing Premises, more particularly described in the Schedule.
- 4.2 The Member has not entered into any agreement or arrangement, oral or written, with regard to the sale of the Existing Premises and/or any part thereof and/or assignment of their rights in the Existing Premises and/or any part thereof and the Existing Premises is free from all mortgages, charges or encumbrances.
- 4.3 There are no proceedings instituted by or against the Member in respect of the Existing Premises and pending in any Court or before any authority and the Existing Premises is not subject to lis pendens.
- 4.4 No notice from any Government, Municipal Corporation or any other public body or authority or any notice under any law including the Land Acquisition Act, the Town Planning Act, the Municipal Corporation Act, the Urban Land Ceiling Act or any other statute has been received or served upon the Member in respect of the Existing Premises or any part thereof which restricts or may restrict the execution of this Agreement.
- 4.5 There is no injunction or any other order from any Court, Collector, Revenue Authority, Municipal Corporation for any taxation or other dues disentitling or restraining the Member from dealing with the Existing Premises or entering into this Agreement.
- 4.6 The Member shall not at any time demolish or cause to be done any additions or alterations of whatsoever nature in the New Area or any part thereof without obtaining prior written permission of the Society. The Member shall keep the New Flat/Unit, columns, beams, RCC structure, external façade, Walls, partitions, walls, sewers, drains, pipes and appurtenances thereto in good and tenantable repair and conditions and in particular the New Building to be constructed on the Land other than his/her/their New Area. The Developer shall not permit any alterations in the outside elevations and/or the outside color scheme of the

Developer	Member	Society

premises to be allotted to the existing Member.

- 4.7 Upon completion of the redevelopment project, the Member agrees and undertakes to remain a member of the Society as agreed under the Development Agreement.
- 4.8 The Member shall maintain the New Area at his own cost and in good and tenable condition from the date on which the possession of the New Area was taken by him.
- 4.9 The Member shall not store in the New Area any goods which are of hazardous, combustible or dangerous nature or are so heavy as to damage the construction or structure of the New Building in which the New Area is situated or storage of which goods is objected by the concerned local or other authority.
- 4.10 The Member shall not throw dirt, rubbish, rags, garbage or other refuse or permit the same to be thrown from the New Flat/Unit in the compound or any portion of the New Building in which the New Flat/Unit is situated.

5. APPROVALS AND CONSTRUCTIONS MILESTONES

- 5.1 Based on the tentative plan submitted by the Developer, the Society has already identified the Members’ Area, the Car Parking Spaces, Lien on Developer’s Area and the visitors car parking spaces and allocated the New Area to all the Members. Such tentative allocation by the Society is described in the Development Agreement.
- 5.2 Subject to Force Majeure events, the Developer shall, as per the MCGM rules, obtain the first CC for the Rehab Wing within 3(Three) months from demolition of the Building.
- 5.3 The Developer subject to Force Majeure events and/or delays on account of the Society and/or the Members and/or Society’s consultants (architect, PMC, etc. appointed by the Society), has agreed to complete construction of the Rehab Wing and has agreed to complete Redevelopment of the Society within a period of 36 (Thirty-Six) months plus 6 (Six) months grace period from the procurement of first CC for the Rehab Wing (“**Maximum Completion Period**”), with all the agreed Amenities and procure OC from the MCGM. The timeline to be put by the Developer in RERA registration application for completion of the Rehab Wing, should not in any case be beyond the Maximum Completion Date as defined in this Agreement.
- 5.4 As soon as the Developer applies for the procurement of the OC from the MCGM, the Developer shall, send a notice to the Society about application of the OC. Upon receipt of such notice, the Society and/or its PMC within 15 (Fifteen) days from the date of such notice will have a right to inspect the completed Amenities and verify the adherence to the Development Agreement and building construction norms/laws. Upon completion of the inspection, the Society will issue a confirmation that the Rehab Wing is completed as per the provisions of this

Developer	Member	Society

Agreement and building construction norms/laws. If any deficiency is found by the Society after the last inspection, the same shall be intimated to the Developer, which shall be immediately (but in any case, not later than 30 (Thirty days) rectified by the Developer. In case the Developer is unable to rectify the defect within 30 (Thirty) days, the affected Member shall be entitled for the amount equivalent to rectify such defect.

- 5.5 Within 30 (Thirty) days from the receipt of the OC for the Rehab Wing or within 15(Fifteen) days of the Society confirming the completion of the Rehab Wing to their satisfaction or within 15(Fifteen) days of the Developer rectifying the deficiency within the aforesaid stipulated time, whichever is later ("**Final Completion Date**"), as the case maybe, the Members shall take possession of their respective New Area in the Rehab Wing. It is hereby clarified that if any defect or deficiency is found in one or more New Area, but otherwise the Rehab Wing is complete in view of the Society, the Final Completion Date will remain pending only for such New Area and the balance Members shall occupy their respective New Area upon receipt of the OC.
- 5.6 The Developer shall not offer possession of the additional dwelling unit/flats/stilt/available to them for the sale to prospective buyers till the existing Member/members of Society are offered possession of the New Area as the permanent alternate flats/non-residential units agreed to be allotted in writing after completion of the New Building within the period stipulated above and further the duty and restrictions placed on the Developer in this regard will, however, be fully satisfied after the Final Completion Date.
- 5.7 The Developer hereby agrees and undertakes to comply with all that obligations towards the existing Member as contained in this Agreement and the Development Agreement.

6. Formation of New Society exclusively for non-residential units and Admission of New Members in existing Society

- 6.1 Upon the completion of the Re-development and the grant of the OC by MCGM for the New Building, the Developer may form and register one or more new society(ies) for the Sale Wing, subject to the new Sale Wing completely and entirely consists of non-residential premises and not otherwise. If the Sale Wing consists of part residential premises and part non-residential premises then, the Purchasers of the Developers Area in the Rehab Wing & in the Sale Wing in the New Buildings will join and become members of the Society. The Society will admit the new flat purchasers in the Rehab Wing and in the Sale Wing of the New Building as the members of the Society upon payment of the Entrance fees and Share Capital as provided under this Clause and as provided under the Bye Laws of the Society. Incase there is one or more society for separate building/wing exclusively consisting of non-residential units, such society/(ies) will be given lease of the proportionate land on a mutually agreed terms and conditions.
- 6.2 It is further agreed between the Parties, that the Developer shall not admit any new member in the Developer’s Area unless the Developer has procured OC for

Developer	Member	Society

the Rehab Wing.

7. CONSEQUENCES OF DEFAULT

In case of any default in completing the construction or procuring the requisite approvals by the Developer as set out in Development Agreement, the consequence set out in the Development Agreement including Clause No. 21 (*Default and Remedies*) therein will follow. In case of (i) termination of the Development Agreement and/ (ii) appointment of another developer/contractor, in terms of Clause No. ___ of Development Agreement, this Agreement shall stand assigned to the Society who may appoint a new contractor or the new developer, as the case may be.

8. VARIATION IN AREA OR DEFICIENCY

The Developer shall ensure that the RERA Carpet Area of the New Flats/New Units comprised in the Members’ Area to be constructed on the Land shall be provided exactly as agreed herein and there shall not be any variation or deficiency in the Amenities as agreed herein. Within 15 (Fifteen) days from the Developer notifying the Society to take possession of the Members’ Area, the Society shall be entitled to physically measure the New Flats/New Units comprised in the Members’ Area. If any variation above 0.5% (point Five) percent (+/-)in the area or deficiency in the Amenities is found, the Society shall forthwith notify the Developer with a certificate from the PMC/an Architect and in such an eventuality, the Developer shall be liable to compensate and pay to the concerned Member in whose New Flat/New Unit (i) there may be variation above 0.5% (point Five) percent (+/-) in the residential flat a sum of Rs. 28,000 (Rupees Twenty-Eight Thousand Only) and non-residential unit, Rs. _____(Rupees _____Only), (ii) there is deficiency in the Amenities, the amount equivalent to cost of such Amenities as may be valued by the PMC. It is also agreed that if any excess area is found in the New Flats/New Unit, then in such an eventuality, the concerned Member shall not be liable to compensate to the Developer. Any delay by the Society in giving notice shall not be construed as waiver of any of the existing Members’ right set out herein. It is, however, clarified here that in no circumstances, such variation in the area of the New Flat/New Unit, to be allotted to the Members, will be more than 1% (One percent).

9. DEFECT LIABILITY

9.1 The Developer shall be liable to rectify/repair any construction related and structural defects/deficiencies in workmanship, quality or provision of services or Amenities and includes;

- i. equipment such as electrical and plumbing fixtures, lifts, vehicular ramps, car lifts, generator, motors, Sewerage Treatment Plant, transformers, gym equipment; except normal wear and tear, in the Rehab Wing that will be pointed out by the Society and/or the existing Members for a period which

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will be set out as per the contract with the suppliers/service providers;

- ii. any defects/deficiencies in the RCC construction works, internal and external finishing items and structural defects for a period of 5 (Five) years after obtaining the OC;
- iii. the defect liability period for the leakages and the waterproofing works will be for 10 (Ten) years from the date of the OC (collectively (i), (ii) and (iii) shall be referred as "**Defect Liability Period**").

9.2 The Society shall serve a notice to the Developer, upon coming in to notice of such defect/deficiency and within 30(Thirty) days of receipt of such written notice, the Developers will be liable to rectify such defect/deficiency within a period 30(Thirty) days from the date of receipt of such notice. If such defect/deficiency has occurred on account of any additions/alterations made by any Member in his/her New Flat/New Unit, the Developer and/or the Developer shall not be liable to carry out repairs thereto. Subject to what is stated above in this Clause, the Developer alone shall be responsible for attending to any structural, construction or any other defects in the construction is found during the Defect Liability Period and shall also attend to all the water proofing defects in construction as may be pointed out by the concerned Member or the Society.

10. INDEMNITY

The Developer hereby indemnifies and keeps indemnified and saved harmless the Society and its existing Members and committee members against breach in compliance forming a part of the liabilities of the Developer with the terms and conditions of this Agreement and/or the sanctioned plans and the IOD, CC and OC for the New Building issued by the MCGM; the D.C. Regulations; the provisions of the Maharashtra Regional Town Planning Act, 1966 and the rules made there under; the Labour Law and the Municipal law and the law governing Direct & Indirect Tax liability of the Developer and against all lawful claims, demand, legal action, suit, complaint, prosecution, or other legal proceedings in respect thereof, or arising there from, or connected therewith or in any way incidental thereto and for all costs, charges and expenses in respect thereof or pertaining thereto, to the extent of the loss that may be suffered by the Society and/or its existing Members and/or committee member.

11. NOTICE AND COMMUNICATION

All notices and other communications to be given under this Agreement shall be in writing and delivered (i) by hand against a written acknowledgement of receipt,

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or (ii) by Registered Post A. D., and addressed to the parties hereto as follows:

SOCIETY

Address:
Contact No:
Email id:
Kind attn.: [•]

DEVELOPER

Address:
Contact No: [•]
Email id: [•]
Kind attn.: [•]

THE MEMBER

Address:
Contact No:
Email id:
Kind attn.: [•]

or at such other address as is from time to time designated (in writing) by the party to whom the communication is addressed. Any communication that is delivered in accordance herewith shall be deemed to be received when delivery is received or wrongly refused, as the case may be.

12. Jurisdiction

It is expressly agreed by and between the Parties hereto that any suit, application and/or any other legal proceeding with regard to any matter, claims, differences and for disputes arising out of this Agreement shall be filed and referred to the courts at Mumbai for the purpose of jurisdiction.

13. Arbitration

14.1 All disputes, claims and questions whatsoever which may arise with respect to this Agreement between the Parties hereto touching or relating to or arising out of these presents or the construction or application thereof or any clauses or thing herein contained or in respect of the duties responsibilities and obligations of either party hereunder or as to any act or omission of any party or as to any other matter in anywise relating to these presents or the rights, duties and liabilities of either party under these presents shall be primarily referred to a joint panel of legal advisors of the Developer and the Society. In the event the joint panel fails to resolve the issue, the same will be referred to arbitration under the Arbitration and Conciliation Act, 1996 or any statutory modification and/or re-enactment thereof

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in the following manner:

- 14.2 The Society and the Members as one Party and the Developer as the other Party may forward a panel of names to facilitate the task of selection of the Sole Arbitrator, and a Sole Arbitrator shall then be appointed jointly by the Society and the Developer, failing which the same shall be appointed as per the provisions of the Arbitration and Conciliation Act, 1996;
- 14.3 The venue of arbitration shall be Mumbai;
- 14.4 The Award of the Arbitrator shall be final and binding on the Parties to the reference.
- 14.5 Unless other directed by the Court or Arbitration Tribunal, the existence or subsistence of a dispute between the Parties, or the commencement or continuation of the arbitration proceedings, shall not, in any manner, prevent or postpone the performance of those obligations of Parties under this Agreement, which are not in dispute, and the arbitrators shall give due consideration to such performance, if any, in making a final award.
- 14.6 The cost of arbitration shall be decided by the Arbitration Tribunal.

14. PAN CARD

As required by the Income-tax (Sixteenth Amendment) Rules, 1998:-

- a. The Member’s Permanent Account Number is _____, and a copy of his PAN Cards are annexed hereto.
- b. The Society’s Permanent Account Number is AAAAK2432P and a copy of its PAN Card is annexed hereto.
- c. The Developer’ Permanent Account Number is AABPB4786F and a copy of its PAN Card is annexed hereto.

15. MODIFICATION

This Agreement may be modified or amended only by a writing making specific reference to this Agreement duly executed by the Parties.

16. INVALIDITY AND SEVERABILITY

Any provision of this Agreement, which is invalid or unenforceable, shall be ineffective to the extent of such invalidity or unenforceability, without affecting in any way the enforceability or validity of the remaining provisions of this Agreement, which shall remain in full force and effect to the maximum extent

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permitted by law.

17. FURTHER ASSURANCES

Each of the Parties shall co-operate with the others and execute and deliver to the other such instruments and documents and take such other actions as may be reasonably requested, from time to time, in order to carry out, give effect to and confirm their rights and intended purpose of this Agreement.

18. COUNTERPARTS ORIGINALS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

19. SPECIFIC PERFORMANCE

Either Party will be entitled to seek specific performance of this Agreement against the other Party.

THE FIRST Schedule ABOVE REFERRED TO:
(Description of the Property)

ALL THAT all that pieces and parcel of land bearing CTS no. 7247, 7247/1 to 7247/4, old corresponding survey no. 173 (part), and Plot No. 173 in aggregate admeasuring 6127.6 (Six Thousand One Hundred and Twenty-Seven point Six) Square Meters (*as per PRC*) and 6576.1 Sq. Mtrs. (Six Thousand Five Hundred and Sevent Six point One) Square Meters (*as per Deed of Conveyance*), which is lying and being situated at Mauje Kolekalyan, Taluka Bandra in Mumbai Suburban District and situated at Plot No. 173 pt. Vidyanagari Marg, Kalina Santacruz (East), Mumbai 400098, along with 3 (Three) buildings (*which are now demolished*) wherein, (i) Building A comprises of 3 (Three) wings namely, wing A1 consisting of ground plus 4 (Four) upper floors, wing A2 consisting of ground plus 4 (Four) upper floors and wing A3, consisting of ground plus 3 (Three) upper floors, aggregating to a total of 34 (Thirty Four) residential units in Building A; (ii) Building B comprises of 2 (Two) wings namely, wing B1 and wing B2, whereby each wing consists of ground plus 7 (Seven) upper floors, aggregating to a total of 67 (Sixty-Seven) residential and non-residential units in Building B; (iii) Building C comprises of 2 (Two) wings namely, wing C1 and wing C2, each wing consists of ground plus 3 (Three) upper floors aggregating to a total of 32 (Thirty-Two) residential units in Building C and therefore, all the Buildings comprises of an aggregate of 133 (One Hundred and Thirty-

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Three) residential and non-residential flats. The Land is bounded by:

On or towards East: Parighkhadi (Mithi River)

On or towards West: 13.40 Meter Road

On or towards North: C. T. S. No. 7356

On or towards South: CST Road 45.75 Meter Road

THE SECOND Schedule ABOVE REFERRED TO:
(Description of the New Flat and Car Parking)

A residential flat on ownership basis, bearing no. _____ admeasuring _____square feet (RERA Carpet Area), on the ____ floor of the Rehab Wing and _____ [●] car parking space in the car parking.

OR

A commercial unit on ownership basis, bearing no. _____ admeasuring _____square feet (RERA Carpet Area), on the ____ floor of the Rehab Wing.

IN WITNESS WHEREOF the Parties hereto have hereunto set and subscribed their respective hand and seal the day and year first hereinabove written

<p>COMMON SEAL of the within named the "SOCIETY" KAILASH PARBHAT CO-OPERATIVE HOUSING SOCIETY LIMITED, has been hereunto affixed pursuant to the resolutions passed by the members of the Society at its Special General Body Meeting held on February 07, 2022 by the hands of</p> <p>(1) Mr. _____,</p> <p>In the presence of (any one of the office bearers):</p> <p>SIGNED, SEALED AND</p>		

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<p>DELIVERED BY the within named "DEVELOPER" M/S GALAXY DEVELOPERS,</p> <p>Mr. Abdul Rahim A. K. Barudgar Proprietor</p> <p>In the presence of:</p> <p>Signed, Sealed And Delivered By) The within named "MEMBER"</p> <p>Mr. _____</p>	

Developer	Member	Society