

## **DEVELOPMENT AGREEMENT**

ARTICLES OF AGREEMENT made at Bombay this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ between (1) \_\_\_\_\_ and (2) \_\_\_\_\_ both of (city) Inhabitants hereinafter called "the Owners" (which expression shall unless it be repugnant to the context or meaning thereof, be deemed to include their respective heirs, executors and administrators) of the One Part and \_\_\_\_\_ of Bombay Indian Inhabitant carrying on business at \_\_\_\_\_ hereinafter called "the Developer" (which expression shall, unless it be repugnant to the context or meaning thereon be deemed to include his heirs, executors, administrators and assigns) of the Other Part:

**Whereas** the Owners are absolutely seized and possessed of or otherwise well and sufficiently entitled to all those pieces or parcels of land or ground situate lying and being at Bombay in the registration District and sub-District of Bombay City and Bombay Suburban admeasuring -- square metres or thereabouts and more particularly described in the Schedule hereunder written (hereinafter for the sake of brevity referred to as "the said property");

**And whereas** the said property is vacant save and except a portion thereof which is presently occupied and encroached upon by some unauthorised occupants or trespassers who have constructed some unauthorised structures/huts thereon and of which fact the Developer is aware, he having inspected the said property prior to the execution of these presents;

**And whereas** The Owners have represented to the Developer that a portion of the said property is under reservation under the sanctioned development plan and another portion of the said property is reserved under the draft Development plan and of which fact the Developer is fully aware;

**And whereas** All of the said property has been declared to the surplus vacant land by the Competent Authority under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976;

**And whereas** The Owners have agreed to grant to the Developer and the Developer has agreed to accept from the Owners exclusive rights of development of the said property upon the terms and subject to the conditions herein recorded.

### **NOW IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO as follows:**

1. The Owners hereby grant exclusive right to the Developers of development of the said property on what is known as "as is where is basis" and the Developer accepts the same for the consideration and subject to the terms and conditions herein provided.
2. It is specifically agreed that the Owners shall through the Developers" Architects submit plans for sanctioning of lay out for construction of buildings and/or other structures on the said property or any part or portion thereof.
3. The said plans shall be prepared by the Architects of the Developer and at the costs of the Developer and the Owners shall submit only such plans as are prepared by the Developer through their Architects and copy of the finally approved plan shall be given to the Owners.
4. Soon after the execution of this agreement, if so required, the Owners shall execute a Power of Attorney in favour of the Developer or any other person nominated by the Developer to approach all public authorities and to submit and obtain sanction of plans of lay-out and the buildings and structure/s to be constructed on the said property or any portion thereof from the Municipal Corporation of Greater Bombay and all other concerned authorities.
5. The Developer is aware that certain portions of the said property are under reservation under the sanctioned development plan. It is agreed that the Owners shall under no circumstances be liable to remove the said reservations nor shall the Developer be entitled to any reduction in the consideration payable hereunder on account of the said reservations. However, the Owner shall sign all applications, papers, writings, etc. as may be required by the Developer the purpose of removing such reservations.
6. In consideration of the Owners granting exclusive rights of development to the Developer under this Agreement, the Developer shall pay to the Owners a minimum consideration of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) (hereinafter called "the minimum consideration") or an amount calculated at the rate of Rs.50/- per square foot of the F.S.I. which may be sanctioned by the Municipal Corporation of Greater Bombay, whichever is higher and the said total consideration amount shall be paid in the manner following:

- a. Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) on the execution hereof being the earnest money or deposit (receipt of which sum the Owners do hereby admit and acknowledge).
- b. Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) being the balance consideration which shall be paid by the Developer to the Owners on the compliance of the following:

- iii. The Owners making out the marketable title to the said property free from all encumbrances and reasonable doubts.
- iv. The Appropriate Authority issuing its NOC under Section 269 UL(3) of the Income-tax Act, 1961.
- v. The Owners handing over complete vacant possession of the said property to the Developers under an irrevocable license.
- vi. Developer the owners giving irrevocable right to construct buildings on their own account and with right to sell the units in the said building/s to the prospective purchasers, on ownership basis or otherwise and to appropriate the Sale Proceeds to themselves although formal possession of the property shall be handed over to the Developer on execution of the Conveyance.

- Notwithstanding anything contained in the preceding clause it is specifically agreed by and between the parties hereto that after execution hereof the Developer shall be entitled to put up fencing around the said property or any portion or portions thereof, for the purposes of preventing further encroachments but subject to the existing encroachments, and shall also be entitled to put up fencing around the portions of the property in occupation of the unauthorised occupation as hereinabove provided. The Developer shall also make arrangements for guarding the said property and preventing any further encumbrance or encroachment by trespassers or unauthorised persons upon the said property or any part or portions thereof. All costs, charges and expenses in respect of the above shall be borne and paid by the Developer alone. The Owners shall not be liable to remove and/or vacate the encroachments or unauthorized occupants who are already occupying portions of the said property nor shall they be liable in respect of any further encroachment or unauthorised occupation on the said property.
- As from the date hereof, the Developer shall be solely entitled at his own risk to deal and/or negotiate with the unauthorised occupants and/or trespassers on the said property and to take any proceedings against them and/or to arrive at any arrangement or agreement with them at the costs, charges and expenses of the Developer alone. However, the Owners shall empower and authorize the Developer and/or his nominees under the Power of Attorney to be executed as aforesaid to effectively deal and/or negotiate with the trespassers or unauthorized occupants and to receive the possession of the respective area occupied by such trespassers or unauthorized occupants subject to the consideration having been paid to the Owners for the said property as mentioned hereinabove. The Developer shall also be entitled to hand over, on behalf of the Owners, any area of the said property, which falls under reservation and/or set-back and/or requisition or acquisition to the relevant authorities in the event the same becomes necessary on receiving proper notice from the authorities and for that purpose, the Owners shall grant suitable powers and authorities in the said Power of Attorney to be granted to the Developer and/or his nominee.
- The Owners declare that:
  - The Owners are the absolute owners of the said property described in the Schedule hereunder written which is also shown on the plan hereto annexed and marked "A" and thereon shown surrounded by a red colored boundary line and that the said property is vacant save and except the portions thereof, which are at present occupied and/or encroached upon by the unauthorized occupants and portions whereof are under reservations as aforesaid.
  - Subject to the Competent Authority granting permission and/or sanction under the provisions of the said ULC Act, the Owners have good right, full power and absolute authority to grant exclusive rights to develop the said property described in the Schedule hereunder written to the Developer and the Developer shall be entitled to develop the said property subject to the terms and conditions herein contained.
  - They have not created prior to the date hereof nor shall they create hereafter during the pendency of the Agreement any right or encumbrance of any nature whatsoever in respect of the said property or any part thereof.
- 2. Simultaneously with the execution hereof, the Owners shall deposit all the title deeds relating to the said property described in the Schedule hereunder written with their Advocates until the completion of the transaction herein. The said Advocates shall after examining the title as mentioned in the previous clause, send, against an accountable receipt all the title deeds to the said Advocates of the Developer for perusal, as and when required by the said Advocates. On the

completion of the transaction herein the Owners through their said Advocates hand over to the Developer all the said title deeds against an ordinary receipt.

3. Upon the Competent Authority under ULC Act granting the requisite permission and/or sanction for the development of the said property and on sanction of the plans by the Municipal Corporation of Greater Bombay and all other concerned authorities as aforesaid the Developers shall after full payment of the consideration amount to the Owners be entitled to commence construction on the said property, for which license to enter upon would be given by the Owners to the Developer pursuant to this Agreement. The development to be carried out by the Developer shall be in accordance with the permissions granted by the Competent Authority under said ULC Act and shall also be in accordance with the sanctioned plans. The Developer shall also be entitled in his own right to enter into agreements on what is popularly called Ownership basis or otherwise and/or arrangements with any person or persons of their choice for the purpose of selling, allotting, and/or transferring any of the flats/shops/ premises/garages/units, etc. to be constructed by the Developer on the said property or any portions thereof in accordance with the terms and conditions laid down by the Competent Authority and in the sanctioned plans and to receive and appropriate the consideration payable in respect thereof and/or any part thereof for their own benefit and use. Such agreements and/or arrangements shall be entered into by the Developer in his own name and at his own costs and risk and no risk or liability of any kind shall be incurred by the Owners in any manner.
4. After the receipt of the full consideration by the Owners from the Developers, the Owners shall execute one or more Deeds of Conveyance as may be desired by the Developers but at the costs and expenses in all respects being borne and paid by the Developer including stamp duty and registration charges, in respect of the said property or portions thereof, as the case may be, in favour of a Co-operative Society or Societies or Association of persons or other body Corporate who have agreed to acquire flats/shops/garages/premises/units etc. from the Developer.
5. On receipt of the full consideration amount by the Owners, if for any reason the Developers do not desire to obtain the Conveyance of the said property, then the Owners shall, at the request of the Developers, simultaneously with the payment of the said balance amount, execute an irrevocable Power of Attorney in favor of the Developer and/or his nominees or nominee or representatives empowering and authorizing the said Attorneys, inter alia, to execute one or more Deeds of Conveyance in respect of the said property or any portions thereof in favour of the Developer or in favour of Co-operative Society or Societies or association/s of persons to be formed and/or incorporated and/or nominated by the Developer herein. No further consideration shall be required to be paid by the Developer to the Owner for execution of such Deed or Deeds of Conveyance.
6. Prior to the execution of one or more Deeds of Conveyance in respect of the said property or any portions thereof in the manner mentioned herein, the Owners shall produce the requisite Certificate under the provisions of Section 230A of the Income-tax 1961 for effectively vesting the said property in favor of the Developer or in favour of the person or persons nominated by the Developer. It is further agreed that in the event the said Deed or Deeds of Conveyance or any of them are not executed at the time of payment of the balance consideration amount an amount representing 10% of the total consideration amount shall be retained by the Owner's Advocates until the production of the said Certificate/s under the provisions of Section 230A of the Income-tax Act.
7. The Owner shall pay and discharge all assessments, outgoings, taxes, etc. payable in respect of the said property up to the date the possession of the said property is handed over by them to the Developer. Thereafter, the same shall be paid and borne by the Developer alone. The Developer shall pay and discharge all outgoings, assessments, taxes, etc. for the entire property after possession of the same whether whole or in part is handed over to the Developer. If necessary, the same shall be apportioned between the parties hereto.
8. The Owner declares that no notice of acquisition or requisition issued by the Municipal Corporation of Greater Bombay or under the Epidemic Diseases Act or any other statute has been served upon them or anyone on their behalf. If however, any notice or requisition of the Municipal Corporation or other public body is issued in respect of the said property after the date of execution of these presents but before the completion of the transaction the Owners shall comply with the same at their costs and expenses. The Owners hereby declare that at present no notice or requisition has been served by the Government of Maharashtra or Municipal Corporation of Greater Bombay for requisition or acquisition or set-back in respect of the said property or any part thereof and that so far as they are aware no such requisition or acquisition or set-back is contemplated. Provided always that if the Owners have concealed any such notice issued, inter alia, under any of the Acts as aforesaid, the Developer will be entitled to cancel this Agreement and on such cancellation to receive forthwith the earnest money and all other payments made, if any.
9. All disputes and differences that may arise between the parties hereto relating to or in connection with the matter of this agreement or between the parties or their representatives shall be referred to the sole and final arbitration of Mr. \_\_\_\_\_ or failing him Mr.

- \_\_\_\_\_ as the sole Arbitrator whose decision shall be final and binding on both the parties. The Arbitrator shall have summary powers.
10. All out-of-pocket expenses of and incidental to this agreement including the expenses for Deed/s of Conveyance and other documents and writings including stamp duty and registration charges shall be borne and paid by the Developer alone. The parties shall bear and pay their respective Advocates' professional costs.
  11. The Developer shall be entitled to develop the said property either by himself and/or through his nominees including a firm, wherein he is a partner or a company wherein he is a Director, provided however, all the obligations and liabilities undertaken by the Developer under this Agreement shall remain in full force and be personally binding upon the Developer, and in particular his liability for payment of all amounts under this Agreement to the Owners.
  12. The Owners hereby declare that they have not entered into with any person or persons Agreement to Sale or Lease or created any third party rights in favour of any person or persons in respect of the said property.

In Witness whereof the parties hereto have hereunto set and subscribed their respective hands the day and the year first hereinabove written.

Signed and Delivered by the }  
 withinnamed : Owners }  
 (1) \_\_\_\_\_ and }  
 (2) \_\_\_\_\_ }  
 in the presence of }  
 Signed and Delivered by the }  
 withinnamed : Developer }  
 \_\_\_\_\_ }  
 in the presence of }  
 RECEIVED the day and year first }  
 hereinabove written from the }  
 withinnamed Developer a sum of }  
 Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ }  
 \_\_\_\_\_ only) being the }  
 amount of deposit to be paid }  
 by him to us by a Pay Order }  
 bearing No. \_\_\_\_\_ and }  
 dated on \_\_\_\_\_ }  
 Bank \_\_\_\_\_ }  
 Branch \_\_\_\_\_ }

Witnesses: We say received.

- 1.
2. Owners