



**TO WHOM SO EVER IT MAY CONCERN**

**SELF DECLARATION REGARDING TITLE CERTIFICATE**

We, Adani Estates Private Limited having administrative office at 601- Hallmark Business Plaza, Opposite Guru Nanak Hospital, Bandra (E) - 400051, Mumbai, Maharashtra, hereby declare that our Real Estate Project named "Western Heights" situated at J.P. Road, Opp. Gurudwara, Four Bungalows, Andheri (W), Mumbai - 400 058, Maharashtra, India bearing CTS no. 866/B/1 in all admeasuring 7547.51 Sq Mts, hereby declare that we have uploaded the "TITLE CERTIFICATE" dated 16<sup>th</sup> Oct'2014 obtained from Wadia Ghandy & Co. in 2 parts as described below due to size restriction:

1. Title Certificate Part 1 (Under Title Certificate Tab) Pg 1- 26
2. Title Certificate Part 2 (Under Others Tab) Pg 27-51

Place: Mumbai

Date: 06.07.2017

For Adani Estates Pvt Ltd

  
Authorized Signatory

Adani Estates Pvt Ltd  
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# WADIA GHANDY & Co.

ADVOCATES, SOLICITORS & NOTARY

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NL/DJM/10665/9882/14

## TITLE CERTIFICATE

To,  
**Adani Estate Private Limited**  
Adani House  
Nr. Mithakali Circle  
Navrangpura  
Ahmedabad 380009

**Re: All that piece or parcel of land admeasuring 7,547.51 square meters or thereabouts bearing Survey Number 111 A (part), 111 B (part), 111 C (part) and bearing CTS No. 866/B/1 (part) situated at Village Ambivali, Taluka Andheri, in the Registration District and Sub District of Mumbai Suburban ("the said Land").**

We have been requested by you to provide our Title Certificate in the above matter with regard to the title of Adani Estate Private Limited ("AEPL") in respect of the said Land.

### **A. STEPS:**

With respect to the investigation of title, we have undertaken the following steps:

- (i) Perused the original title deeds with respect of the said Land and list thereof is annexed hereto and marked as Annexure - "A".
- (ii) Caused to undertake searches at the office of Sub-Registrar of Assurances for a period of 61 years.
- (iii) Examined the 7/12 extracts, mutation entries and property register card with respect to the said Land.
- (iv) Cause to undertake searches at the Registrar of Companies ("ROC") for AEPL and HDIL (as defined below).
- (v) Examined Development Plan remark with respect to the said Land.

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- (vi) With respect to the facts which cannot be ascertained from the examination of the public records, (i) HDIL has furnished information in that regard and the same is also recorded in the Declaration dated March 20, 2012 given by HDIL to AEPL and (ii) AEPL has furnished information in that regard and the same is also recorded in the Declaration of even date given by AEPL and we have relied upon the same.
- (vii) We have issued a Public Notice in two newspapers both dated 11<sup>th</sup> January, 2012 with respect to the HDIL Land of which the said Land is a part thereof to invite objections and claims.

**B. CHAIN OF TITLE:**

**1. Flow of Title to the (i) Purshottam Branch (as defined hereinbelow) and (ii) Jamnadas Branch (as defined hereinbelow)**

- (i) The said Land originally formed part of a larger land bearing Survey No. 111-A, Survey No. 111 – B and Survey No. 111 – C and now bearing C.T.S. No. 866A, C.T.S. No. 866B, C.T.S. No. 866C and C.T.S. No. 866D totally admeasuring approximately 1,38,651.415 square meters as per Old P. R. Cards and as per the New Property Cards admeasures in aggregate 1,35,765.60 square meters and is situated at Village Ambivali, Versova Area, Taluka Andheri, Bombay Suburban District and as more particularly described in the First Schedule hereunder written (hereinafter referred to as "the said Larger Land").
- (ii) On and before 1927, one Jehangir Rustomjee Patel was the owner of the said Larger Land.
- (iii) By and under Indenture of Mortgage dated 10<sup>th</sup> September, 1922 registered with the office of the Sub Registrar of Assurances under Serial No 2592 ("Mortgage Deed"), the said Jehangir Rustomjee Patel, mortgaged the said Larger Land to one Meghji Vallabhdas, in the manner and on the terms and conditions as mentioned therein.
- (iv) On 3<sup>rd</sup> July, 1924, the said Meghji Vallabhdas expired leaving behind his last will and testament dated 16<sup>th</sup> August 1923 ("Will") which Will was probated vide order dated 13<sup>th</sup> September, 1924 passed by the Hon'ble High Court of Judicature, Bombay in favour of the executors; (i) Jamnadas Meghji, (ii) Purshottam Meghji, (iii) Bai Mattabai (iv) Bai Jamnabai and (iv) Velbai Chatrabhuj in their capacity as the surviving executors and executrices of the last Will and Testament of Meghji Vallabhdas wherein the said Meghji Vallabhdas had *inter-alia* recorded that the interests and

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benefits of the said Mortgage Deed were to be utilized in the manner as stated therein.

- (v) As per the terms of the said Will *inter- alia* the benefits arising out of the said Mortgage Deed (being the rest and the residue of the assets) were bequeathed to the grandsons of Meghji Vallabhdas by dividing the same, *per stripes*, on the date of the distribution (as provided in clause 10 of the said Will) being *inter – alia* later of the date on which the survivors of the sons of the said Meghji Vallabhdas expire and the youngest of the grand sons of the said Meghji Vallabhdas attain the age of majority being 18 years of age ("Distribution Date").
- (vi) Thereafter, in enforcement of the said Mortgage Deed, by and under Indenture dated 21<sup>st</sup> October, 1927 and registered with the office of the Sub Registrar of Assurances under Serial No. 903 of 1928 executed by and between the said Jehangir Rustomjee Patel of the One Part and (i) Jamnadas Meghji, (ii) Purshottam Meghji, (iii) Bai Muttabai and (iv) Bai Velbai in their capacity as the surviving executors and executrices of the last Will and Testament of Meghji Vallabhdas (hereinafter referred to as "the said Trustees"), the said Jehangir Rustomjee Patel conveyed all his right, title and interest in the said Larger Land to the said Trustees for the consideration and in the manner as recorded therein.
- (vii) By and under an Indenture dated 10<sup>th</sup> July, 1958 executed between Purshottam Meghji and Mrs. Velbai Chaturbhai (therein referred to as the party of the first part) and Mulraj Purshottam, Mrs. Narayanibai Purshottam, Mr. Ranjit Jamnadas and Mrs. Javerbai Jamnadas (therein referred to as the party of the second part), the party of the first part *inter-alia* in exercise of their powers vested in them by clause 4 of the will of Meghji Vallabdas and by virtue of the probate dated 30<sup>th</sup> September, 1924 of the said Will dated 16<sup>th</sup> August, 1923 and such other powers appointed the new trustees being Mulraj Purshottam, Mrs. Narayanibai Purshottam, Mr. Ranjit Jamnadas and Mrs. Javerbai Jamnadas being the party of the second part for such purposes and on such terms and condition as stated therein. The said Indenture dated 10<sup>th</sup> July, 1958, also records that the earlier co-trustees Bai Jamnabai, Bai Matabai and Jamnadas Meghji have expired.
- (viii) Pursuant to a family inter-se arrangement dated 10<sup>th</sup> October, 1970 executed between Purshottam Morarji Kabali, Narayanibai Premkuvar Purshottam Kabali, Mulraj Purshottam Kabali and Vijay Purshottam Kabali therein referred to as "the Purshottam Branch" of the One Part and Javerbai Jamnadas Thakkar, Mr. Ranjit Jamnadas Thakkar, Mr. Inderjit Jamnadas Thakkar and Ajit Jamnadas Thakkar therein referred to as "the

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Jamnadas Branch" of the Third Part ("Inter-se Agreement"), it was *inter-alia* recorded that an amicable settlement has been arrived between all the beneficiaries of the trust created under the said Will (except Chandrasinh Purshottam Kabali) and also of the trustee of the trust created under the said Will. It was *inter-alia* recorded therein that from the date thereof the following have become and shall remain the trustees of the trust created under the said Will being (i) Purshottam Meghji Kabali, (ii) Mulraj Purshottam Kabali and (iii) Vijay Kabali (therein referred to as "the Trustees from the Purshottam Branch") and (iv) Ranjit, (v) Indrajit and (vi) Veena (therein referred to as "the Trustees from the Jamnadas Branch"). It was *inter-alia* recorded therein that the (a) one-half undivided share in the entire trust estate created under the said Will belongs beneficially to Mulraj Purshottam Kabali, Vijay Purshottam Kabali and Chandrasingh Purshottam Kabali in equal shares and (b) the remaining one-half undivided share in the entire trust estate created under the said Will belongs beneficially to Ranjit, Indrajit and Ajit in the ratio of 16:42:42 respectively. The said Inter-se Agreement was executory in nature and further acts, deeds, matters and things were required to be undertaken to give effect to the same.

- (ix) Pursuant to the trust created under the said Will and the said Inter-se Agreement, on the Distribution Date, the following persons (being the grand sons of Meghji Vallabhdas) were entitled to the undivided beneficial rights, title and interest in the said Larger Land:-

Sr. No	Co-owners	Share in the said "Larger Land"
1.	Mulraj Purshottam Kabali ("Mulraj")	16.76%
2.	Chandrasingh Purshottam Kabali ("Chandrasingh")	16.67%
3.	Vijay Kumar Purshottam Kabali ("Vijay")	16.67%
4.	Indrajit Jamnadas Thakkar ("Indrajit")	21%
5.	Ranjit Jamnadas Thakkar ("Ranjit")	8%
6.	Ajit Jamnadas Thakkar ("Ajit")	21%

- (x) The said Chandrasingh Kabali (being one of the grandsons of Meghji Vallabhdas) was not made a party to the said Inter-se Agreement and thereafter the said Chandrasingh Kabali filed a Suit being Suit No. 9 of 1972 in the High Court of Judicature at Bombay against the said Purshottam Meghji Kabali, Mulraj Purshottam Kabali, Ranjit Jamnadas, Indrajit Jamnadas, Veena Merchant, Vijay Purshottam Kabali and Dilip C Kabali whereby the said Chandrasingh Kabali sought to *inter-alia* challenge the said Inter-se Agreement ("Chandrasingh Suit"). In the said

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Chandrasingh Suit, Purshottam Meghji Kabali had removed a Notice of Motion on August 1, 1972 for seeking the appointment of the court receiver with respect to the said Larger Land ("**Purshottam Meghji Notice of Motion**"). Thereafter, by and under Order dated 11<sup>th</sup> August, 1972 passed by the Hon'ble High Court, court receiver was appointed with respect to the said Larger Land. Subsequently, by and under its' Order dated 31<sup>st</sup> July, 1975, the Hon'ble High Court has dismissed the Suit No. 9 of 1972 for want of prosecution. The Court Receiver in the Suit also stood discharged and was inter-alia directed to hand over the possession of the Larger Land (from whom the Court Receiver has taken charge).

- (xi) It is pertinent to note that Naraindas Meghji (being one of the sons of Meghji Vallabhdas) died on 16<sup>th</sup> August, 1923, Jamnadas Meghji (being one of the sons of Meghji Vallabhdas) died on 30<sup>th</sup> September, 1966 and Purshottam Meghji (being one of the sons of Meghji Vallabhdas) died on 17<sup>th</sup> January, 1980. This fact is relevant since on the date of the demise of Purshottam Meghji (i. e 17<sup>th</sup> January, 1980) being one of the sons of Meghji Vallabhdas, the Distribution Date arrived in the trust created under the said Will since all the grandsons of Meghji Patel (being Mulraj Purshottam Kabali, Chandrasingh Purshottam Kabali, Vijay Kumar Purshottam Kabali, Indrajit Jamnadas Thakkar, Ranjit Jamnadas Thakkar and Ajit Jamnadas Thakkar) had attained majority on or before 17<sup>th</sup> January, 1980. These informations have come to our notice on the basis of the facts recited and recorded in papers and proceedings examined by us but the same is not independently ascertained or investigated by us.
- (xii) The said Chandrasingh expired intestate on or about 2<sup>nd</sup> October, 1986, leaving behind his legal heirs being (i) Dilip Chandrasingh Kabali ("**Dilip**"), (ii) Champabai Chandrasingh Kabali ("**Champabai**"), (iii) Gayatri Chandrasingh Kabali ("**Gayatri**"), (iv) Jayashri Chandrasingh Kabali ("**Jayashri**") and (v) Kamlakshi Chandrasingh Kabali ("**Kamlakshi**") ("**the said Heirs of Late Chandrasingh Kabali**"). These informations of the said Chandrasingh dying intestate and the information of the said Heirs of Late Chandrasingh Kabali being the only legal heirs of the said Chandrasingh have come to our notice on the basis of the facts recited and recorded in papers and proceedings examined by us but the same is not independently ascertained or investigated by us.
- (xiii) The said Ranjit expired, on or about 7<sup>th</sup> March, 1987 leaving behind (i) Sanjeev Ranjit Thakkar ("**Sanjeev**") and (ii) Mala Thakkar ("**Mala**") ("**the said Heirs of Late Ranjit Jamnadas Thakkar**"). These information of the said Ranjit dying intestate and the information of the said Heirs of Late Ranjit Jamnadas Thakkar being the only legal heirs of the said Ranjit have come to our notice on the basis of the facts recited and recorded in papers

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and proceedings examined by us but the same is not independently ascertained or investigated by us.

- (xiv) The said Vijay has thrown his 16.67% undivided right, title and interest in the said Larger Land in the common stock of Vijay Kumar Purshottam Kabali (HUF) wherein he was the Karta. On 1<sup>st</sup> July, 2003, the said Vijay expired leaving behind his legal heirs being (i) Pranav Vijay Kabali being his only son ("Pranav") and (ii) one Indumati Vijay Kabali ("Indumati") being his wife. Thereafter, the said Pranav continued as the Karta of Vijay Kumar Purshottam Kabali (HUF). Thereafter, in or around 2005 the said Indumati expired leaving behind Pranav as her only legal heir.
- (xv) These informations of the (i) the said Vijay throwing his undivided right, title and interest in the common stock of one Vijay Kumar Purshottam Kabali (HUF) (ii) Vijay and Indumati dying intestate and (iii) Pranav being the only legal heir of Vijay and Indumati, have come to our notice on the basis of the facts recited and recorded in papers and proceedings examined by us but the same is not independently ascertained or investigated by us.
- (xvi) In the circumstances as set out hereinabove at paragraph 1(viii) to (xv) above, the following persons became co-owners of the undivided right, title and interest in the said Larger Land in the following proportion:

Sr. No	Co-owners	Share in the said "Larger Land"
1.	Mulraj	16.76%
2.	Heirs of Late Chandrasingh Kabali	16.67%
3.	Pranav as Karta of Vijay Kumar Purshottam Kabali (HUF)	16.67%
(the said Mulraj, Heirs of Late Chandrasingh Kabali and Vijay Kumar Purshottam Kabali (HUF) are hereinafter collectively referred to as the "Purshottam Branch")		
4.	Indrajit	21%
5.	Heirs of Late Ranjit Jamnadas Thakkar	8%
6.	Ajit	21%
(the said Indrajit, Heirs of Late Ranjit Jamnadas Thakkar and Ajit are hereinafter collectively referred to as the "Jamnadas Branch")		

2. 1/6<sup>th</sup> undivided share of Vijaykumar Purshottam Kabali (HUF) in the Larger Land

- (i) By and under an Agreement dated 11<sup>th</sup> May, 1983 executed by and between the said Vijay as karta of Vijaykumar Purshottam Kabali (HUF)

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consisting of the said Vijay, his wife Indumati Vijaykumar Purshottam and his son Pranav Vijaykumar Purshottam of the One Part and one Sandeep Gupta of the Other Part ("**Sandeep Agreement**"), the said Vijay as karta of Vijaykumar Purshottam Kabali (HUF) had agreed to *inter alia*, sell and transfer all his undivided right, title and interest being his 1/6<sup>th</sup> undivided share in the said Larger Land in favour of Sandeep Gupta for the consideration and on the terms and conditions as set out therein.

- (ii) Thereafter, disputes had arisen between the said Vijay as karta of Vijaykumar Purshottam Kabali (HUF) and the said Sandeep Gupta whereupon the said Vijay has *inter-alia* terminated the Sandeep Agreement *vide* the Letter dated 20<sup>th</sup> June, 1984 addressed by M/s Payne and Co, Advocates and Solicitors of the said Vijay to the said Sandeep Gupta.
- (iii) Thereafter, the said Sandeep Gupta has instituted a suit being Suit No.1680 of 1987 in the Hon'ble High Court of Judicature, Bombay against the said Vijay seeking specific performance of the said Sandeep Agreement ("**Sandeep Suit**"). Thereafter, by and under Order dated 8<sup>th</sup>/ 9<sup>th</sup> November 1989, passed by the Hon'ble High Court of Bombay in Notice of Motion No. 2847 of 1987 in the said Sandeep Suit, the Hon'ble High Court *inter- alia* restrained by an injunction, from in any manner disposing of or parting with possession or alienating or encumbering or transferring the 1/6<sup>th</sup> undivided right, title and interest of Vijay Kumar Kabali HUF in the said Larger Land ("**Injunction Order 1**").
- (iv) Subsequently, Vijay Kumar Kabali HUF filed an Appeal being Appeal No.1497 of 1989 in Notice of Motion No.2847 of 1987 for challenging the said Injunction Order 1. By and under its Order dated 5<sup>th</sup> February 1993 the Division Bench of the Hon'ble High Court dismissed the said Appeal No. 1497 of 1989.
- (v) In the meantime, by and under a separate Agreement dated 28<sup>th</sup> October, 1994 executed by and between the said Vijay of the One Part and one M/s. Lok Housing, a partnership firm, through the hands of its partners (i) Mr. Lalit Gandhi, (ii) Omprakash Monga (iii) Naina Shah (iv) Tarak Lalit Gandhi and (v) Darshan Lalit Gandhi of the Other Part ("**Lok Vijay Agreement**"), the said Vijay had agreed to *inter alia*, transfer all his undivided right, title and interest being his 1/6<sup>th</sup> undivided share in the said Larger Land in favour of M/s. Lok Housing subject to the said Sandeep Agreement, for the consideration and on the terms and conditions as set out therein. It appears that pursuant to the provisions of Section 566 of the Companies Act, 1956 and by and under Certificate of Incorporation dated 5<sup>th</sup> July, 2001 and bearing reference no. U 45201 MH 2001 PLC 132 625, the said

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M/s. Lok Housing being a partnership firm got converted to a limited company being Lok Housing and Construction Limited and accordingly all the rights, title and benefits of the said M/s. Lok Housing got transferred to and stood vested in Lok Housing and Construction Limited. The term "Lok" shall for the purposes of this certificate, mean and refer to either M/s. Lok Housing or Lok Housing and Construction Limited as the context may so require.

- (vi) Thereafter, a Notice of Motion No.452 of 1995 was taken out by Sandeep Gupta in the said Sandeep Suit against the Vijaykumar Purshottam Kabali (HUF) and the partners of M/s Lok Holding; whereupon Sandeep Gupta sought a restraint from in any manner taking further steps in implementation of the Lok Vijay Agreement, in light of the Injunction Order 1. Pursuant to the said Notice of Motion No. 452 of 1995, by and under Order dated January 24, 1995 passed by Justice Dhanuka, (i) a Court Receiver was appointed who took juridical possession of the 1/6<sup>th</sup> undivided right, title and interest of Vijay Kumar Kabali HUF in the Larger Land and (ii) Vijaykumar Purshottam Kabali (HUF) and the partners of M/s Lok Holding were restrained from taking any further steps with respect to the said Lok Vijay Agreement ("Injunction Order 2").
- (vii) In the meanwhile by and under an Agreement dated January 18, 2005 executed by and between Lok and HDIL, Lok agreed to *inter- alia* transfer all its rights, title and benefits under the said Lok Vijay Agreement to HDIL for the consideration and in the manner as set out therein ("Lok-HDIL Agreement 1"). Thereafter, by and under an Agreement dated August 12, 2005 executed by and between Lok and HDIL, the parties thereto have *inter - alia* modified the consideration payable by HDIL to Lok under the Lok-HDIL Agreement 1 for the assignment of the rights and interest of Lok under the Lok Vijay Agreement ("Lok-HDIL Agreement 2"). Under the Lok-HDIL Agreement 1 and Lok-HDIL Agreement 2, there are references to (i) pre-existing memorandum of understanding executed between Lok and one Rajkumar Sharma and (ii) a joint development memorandum of understanding executed with one Shobit Rajan's companies and deposited with Kanga and Co. We have been provided with a copy of the letter dated 25<sup>th</sup> February, 2006 addressed by Mr. Raj Kumar Sharma to HDIL under which Mr. Raj Kumar Sharma has *inter alia* stated that all the claims of any nature whatsoever of Mr. Raj Kumar Sharma in respect of land bearing Survey Nos. 111A, 111B, 111C and 111D corresponding to C.T.S. 866 of Village Ambivali, Versova Area, Taluka Andheri, Mumbai has been withdrawn by Mr. Raj Kumar Sharma and further that Mr. Raj Kumar Sharma has no claim in respect of the said property or on M/s. Lok Holdings & Constructions Limited or Mr. Lalit Gandhi or upon HDIL. Further, we have been provided with the copy of the letter dated 17<sup>th</sup>
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March, 2012 addressed by Mr. Shobhit Rajan to HDIL, under which Mr. Shobhit Rajan has *inter alia* confirmed that there was no MOU executed between him or his company and Lok Holding and Constructions Limited in respect of the joint development of the said Larger Land and deposited with Kanga and Co. as aforesaid and any other writing in respect of the said Larger Land, if existed is treated cancelled and terminated.

- (viii) Under the said Lok-HDIL Agreement 1 and Lok-HDIL Agreement 2, the consideration to be paid by HDIL to Lok, with respect to the share of Vijaykumar Purshottam Kabali (HUF) was based on lumpsum consideration which was agreed to be the full and final consideration. However under the said Lok-HDIL Agreement 1 and Lok-HDIL Agreement 2, the consideration to be paid by HDIL to Lok with respect of undivided 1/6<sup>th</sup> share of Mulraj Kabali in the said Larger Land and with respect to 1/6<sup>th</sup> share of Chandrasingh Kabali in the said Larger Land was computed on the basis of the utilisation of FSI of 1.8 with respect to the Larger Land. It was also recorded that HDIL shall furnish all sanctioned plans, IOD and CC to Lok to enable Lok to ascertain the FSI/ TDR that is to be utilized for the development of the Larger Land.
- (ix) Further, by and under an Indenture of Assignment dated 11<sup>th</sup> May 2006 executed by and between the said Pranav as Karta of the Vijay Kumar Purshottam Kabali (HUF) of the One Part and HDIL of the Other Part ("HDIL Agreement-1") and registered with the office of the Sub-Registrar of Assurances under Serial No. 4416/2006, the said Vijay Kumar Purshottam Kabali (HUF) assigned all his right, title and interest arising out of the said Sandeep Suit in favour of HDIL, for a consideration of Rs. 1,33,00,000/- (Rupees One Crores Thirty Three Lakhs only) paid by HDIL to Vijay Kumar Purshottam Kabali (HUF). By and under Power of Attorney of even date, Vijay Kumar Purshottam Kabali (HUF) granted the powers to (1) Mr. Rakesh Wadhawan and (2) Waryam Singh, being the nominees of HDIL (earlier known as Housing Development and Improvement India Limited) to undertake acts, deeds and things pursuant to the said HDIL Agreement-1 and which includes power of substitution ("HDIL POA-1").
- (x) Pursuant to the Injunction Order 2, further proceedings were initiated by the parties to the said Sandeep Suit and accordingly the matter travelled to the Hon'ble Supreme Court. Thereafter, by and under its Order dated 5<sup>th</sup> May, 2008 passed by the Hon'ble Supreme Court, in Interim Application Nos. 2-3 in Civil Appeal Nos. 20- 21 of 2008 read with Interim Application No.2 in Civil Appeal No. 22 of 2008 ("Interim Applications") filed by Vijaykumar Purshottam Kabali (HUF) against Sandeep Gupta, herein HDIL was added as a party defendant, Consent Terms ("Sandeep Consent Terms") were filed between (i) Vijaykumar Purshottam Kabali (HUF) (ii)
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Sandeep Gupta and (iii) HDIL, whereby Sandeep Gupta released and discharged his rights, claims and interests under the said Sandeep Agreement and accordingly the said Sandeep Suit together with the Interim Applications stood disposed of. It is pertinent to note that, the said Sandeep Consent Terms recorded the following:

- (a) that all the right, title, interest and claim in the Sandeep Agreement are given to Respondent No.2 (being HDIL) for a consideration of Rs. 40,11,00,000/- (Rupees forty crore and eleven lakhs only);
  - (b) that Respondent No.2 (being HDIL) is now absolutely entitled to the suit property (being the 1/6<sup>th</sup> undivided right, title and interest in the said Larger Land) and is entitled to deal with the same in the manner it deems fit and proper;
  - (c) It was also recorded that by virtue of the HDIL Agreement-1 being Agreement dated 11<sup>th</sup> May, 2006 executed by and between Pranav as Karta of the Vijay Kumar Purshottam Kabali (HUF) and HDIL, all the benefits of the said Appellant being Sandeep Gupta stand assigned to HDIL;
  - (d) It is also recorded that the Appellants being Vijay Kabali HUF shall execute such document of transfer of the suit property (being the 1/6<sup>th</sup> undivided right, title and interest in the said Larger Land) in favour of HDIL or its nominees as may be desired by HDIL.
- (xi) Thereafter, by and under an Order dated August 11, 2008 passed by the Hon'ble Bombay High Court in the Sandeep Suit, the Hon'ble Bombay High Court *inter alia* took note of the Sandeep Consent Terms and the aforesaid Order dated 5<sup>th</sup> May, 2008 passed by the Hon'ble Supreme Court and decreed the Sandeep Suit in terms of the Sandeep Consent Terms.

### 3. 1/6<sup>th</sup> Undivided Share of Mulraj in the said Larger Land

- (i) By and under an Agreement dated 17<sup>th</sup> April, 1995 executed by and between Mulraj of the One Part and M/s. Lok Housing, a partnership firm through the hands of its partners (i) Mr. Lalit Gandhi, (ii) Omprakash Monga (iii) Naina Shah (iv) Tarak Lalit Gandhi and (v) Darshan Lalit Gandhi of the Other Part ("Lok Mulraj Agreement"), the said Mulraj had agreed to *inter alia*, sell and transfer all his undivided right, title and interest being his 1/6<sup>th</sup> undivided share in the said Larger Land to M/s. Lok Housing, for a lumpsum consideration of Rs.11,66,66,666/- (Rupees

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Eleven Crores Sixty Six Lakhs, Sixty Six Thousand, Six Hundred and Sixty Six only) and in the manner as set out therein.

- (ii) Thereafter, by and under Agreement dated 9<sup>th</sup> February 2005 executed by and between (i) the said Mulraj, (ii) the said Lok as the first confirming party (iii) i) Mr. Lalit Gandhi, ii) Mr. Lalit C. Gandhi (HUF) iii) Naina Shah iv) Darshan Lalit Gandhi v) Tarak Lalit Gandhi and vi) Chicory Finance & Investments Private Limited vii) Cisco Finance & Investments Private Limited viii) Lok Interdesigners Private Limited ix) Utkarsh Hotels & Resorts Private Limited and x) Lok Holiday Resorts Private Limited, being the then shareholders of the said Lok ("Lok Shareholders") and (iii) HDIL ("HDIL Agreement-2") and registered with the office of the Sub Registrar of Assurances at Serial No. 1666 of 2005, (a) the said Mulraj agreed to sell and transfer all his rights, title and interests being his 1/6<sup>th</sup> undivided share in the said Larger Land in favour of HDIL and (b) the said Lok together with the said Lok Shareholders confirmed and consented to the sale and transfer of all the right, title and interest of the said Mulraj being his 1/6<sup>th</sup> undivided share in the said Larger Land in favour of HDIL; for a total consideration of Rs. 10,33,76,000/- (Rupees Ten Crores Thirty Three Lakhs Seventy Six Thousand only) paid by HDIL in the manner as set out in the said HDIL Agreement-2 and in the manner as set out therein.
- (iii) By and under Power of Attorney dated 9<sup>th</sup> February 2005, the said Mulraj granted the powers to (1) Mr. Rakesh Kumar Wadhawan and (2) Waryam Singh, being the nominees of HDIL (earlier known as Housing Development and Improvement India Limited) to undertake such acts, deeds and things pursuant to the said HDIL Agreement-2, including the power to *inter-alia* execute a conveyance with respect to the undivided 1/6<sup>th</sup> share of Mulraj in favour of HDIL and to admit registration thereof before the Sub-Registrar of Assurances and power to appoint substitutes ("HDIL POA-2").
- (iv) By and under the said Lok-HDIL Agreement 1 read together with the said Lok-HDIL Agreement 2, Lok agreed to *inter- alia* transfer all its rights, title and benefits under the said Lok Mulraj Agreement to HDIL for the consideration and in the manner as set out therein.

#### 4. 1/6<sup>th</sup> Undivided Share of Heirs of the Late Chandrasingh Kabali

- (i) By and under an Agreement dated 15<sup>th</sup> July, 1995 executed by and between the Heirs of the Late Chandrasingh Kabali being (i) Dilip, (ii) Champabai, (iii) Gayatri, (iv) Jayashri and (v) Kamalakshi of the One Part and M/s. Lok Housing, a partnership firm through the hands of its partners i) Mr. Lalit Gandhi, ii) Omprakash Monga iii) Naina Shah iv) Tarak Lalit

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Gandhi and v) Darshan Lalit Gandhi, of the Other Part ("Lok Chandrasingh Agreement-3"), the said Heirs of the Late Chandrasingh Kabali had agreed to *inter alia*, sell and transfer all their undivided right, title and interest being  $1/6^{\text{th}}$  undivided share in the said Larger Land in favour of Lok, for a lumpsum consideration of Rs. 11,66,66,666/- (Rupees Eleven Crores Sixty Six Lakhs, Sixty Six Thousand, Six Hundred and Sixty Six only) and in the manner as set out therein.

- (ii) Thereafter, disputes and differences arose between the said Heirs of the Late Chandrasingh Kabali on the One Part and the said Lok of the Other Part and consequentially, Lok Holding and Constructions Ltd filed a suit being Suit No. 1429 of 2005 against 1) the said Heirs of the Late Chandrasingh Kabali being (i) Champabai Chandrasingh Kabali, (ii) Dilipkumar Chandrasingh Kabali, (iii) Gayatri Chandrasingh Kabali, (iv) Jayashree Chandrasingh Kabali, (v) Kamla Chandrasingh Kabali 2) the Court Receiver, High Court Bombay, as a necessary party defendant (since the Court Receiver was appointed with respect to the said Larger Land in Suit No. 907 of 1975 and Suit No. 1118 of 1984; for *inter-alia* seeking a specific performance of the said Lok Chandrasingh Agreement.
- (iii) Thereafter, it seems that discussions took place between the Heirs of the Late Chandrasingh Kabali, the said Lok and HDIL, to enter into a comprise and settle their disputes, pursuant to which by and under Agreement dated 16<sup>th</sup> August 2005 executed by and between the (i) Heirs of the Late Chandrasingh Kabali, (ii) the said Lok as the First Confirming Party (iii) the said Lok Shareholders and (v) HDIL ("HDIL Agreement-3") and registered with the office of the Sub Registrar of Assurances at Serial No. 08458 of 2005, (a) the said Heirs of the Late Chandrasingh Kabali agreed to sell and transfer all his rights, title and interests being his  $1/6^{\text{th}}$  undivided share in the said Larger Land in favour of HDIL and (b) the said Lok together with the said Lok Shareholders confirmed and consented to the agreement to sell and transfer of all the right, title and interest of the said Heirs of the Late Chandrasingh Kabali being his  $1/6^{\text{th}}$  undivided share in the said Larger Land in favour of HDIL; for a total consideration of Rs. 9,66,66,666/- (Rupees Nine Crores Sixty Six Lakhs Sixty Six Thousand Six Hundred and Sixty Six only) paid by HDIL in the manner as set out in the said HDIL Agreement-3 and in the manner as set out therein.
- (iv) It is pertinent to note that under Clause 9 of the said HDIL Agreement-3, the parties to the said HDIL Agreement-3 had *inter-alia* agreed that (i) in the event upon the determination of the area of the said property (as set out there) there is an increase in the area then the consideration amount would stand increased in the manner as set out therein and (ii) HDIL shall

pay liquidated damages for and on behalf of Lok in the manner as set out therein.

- (v) By and under Power of Attorney dated 16<sup>th</sup> August, 2005, the said Heirs of the Late Chandrasingh Kabali granted the powers to (1) Mr. Rakesh Wadhawan and (2) Waryam Singh, being nominees of HDIL (earlier known as Housing Development and Improvement India Limited) to undertake such acts, deeds and things pursuant to the said HDIL Agreement-3, including the power to *inter-alia* execute a conveyance with respect to the undivided 1/6<sup>th</sup> share of the Heirs of the Late Chandrasingh Kabali in favour of HDIL and to admit registration thereof before the Sub-Registrar of Assurances and power to appoint substitutes ("HDIL POA -3").
- (vi) By and under Supplemental Agreement dated 17<sup>th</sup> August 2005 executed by and between the (i) Heirs of the Late Chandrasingh Kabali, (ii) the said Lok as the First Confirming Party (iii) the said Lok Shareholders and (v) HDIL, a sum of Rs. 19,83,33,334/- (Rupees Nineteen Crores Eighty Three Lakhs Three Thousand Thirty Three Hundred and Thirty Four) was recorded as paid by HDIL to the Heirs of the Late Chandrasingh Kabali for and on behalf of the said Lok as liquidated damages computed due to delays made by Lok in completing the transaction as set out under the HDIL Agreement-3.
- (vii) By and under the said Lok-HDIL Agreement 1 read together with the said Lok-HDIL Agreement 2, Lok agreed to *inter- alia* transfer all its rights, title and benefits under the said HDIL Agreement-3 to HDIL for the consideration and in the manner as set out therein.
- (viii) Pursuant to the execution of the said HDIL Agreement-3 and Supplemental Agreement dated 17<sup>th</sup> August 2005, one of the party defendants to the Suit No. 1429 of 2005 being Defendant No. 4 i.e. Ms. Jayshree Kabali, removed a Notice of Motion in Suit No. 1429 of 2005, for *inter – alia* seeking a dismissal of the Suit No. 1429 of 2005 in view of the compromise arrived at between the parties to the said suit and which compromise has been recorded in terms of the said HDIL Agreement-3.
- (ix) Thereafter, by and under an Order dated 28<sup>th</sup> November 2006 passed by His Lordship the Hon'ble Mr. Justice R.S. Mohite, the said suit being Suit No. 1429 of 2005 was dismissed.

(The said HDIL Agreement-1, HDIL Agreement-2 and HDIL Agreement-3 shall hereinafter collectively be referred to as "the said HDIL Agreements").

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(x) Dispute between HDIL and Lok

- (a) Disputes have arisen between HDIL and Lok with regard to the said Lok-HDIL Agreement 1 read together with the said Lok-HDIL Agreement 2 and the same was referred to the arbitration of the Hon'ble Mr. Justice S. N. Variava (Retired).
- (b) We have been provided with the copy of Arbitration Award dated September 10, 2011 passed by the Hon'ble Mr. Justice S. N. Variava (Retired) ("**Award**") in the matter of arbitration between Lok and HDIL.
- (c) On perusal of the Award it emerges that Lok has claimed that it is entitled to a sum of Rs. 31,00,00,000/- (Rupees thirty one crore only) from HDIL as per clause 5 of the Lok-HDIL Agreement 2 together with interest thereon at 18% p.a. in respect of the credit given to HDIL in respect of TDR. However, HDIL contended that under the Clause 5 of the Lok-HDIL Agreement 2, the additional consideration is payable if free TDR in the form of FSI was made available by the State Government or MMRDA or MCGM, which has not happened. It also emerges that HDIL has also filed a counter-claim against Lok for the recovery of Rs. 5,00,00,000/- (Rupees five crore only) together with interest thereon for the advances paid by HDIL to Lok in anticipation of the allotment of free of cost TDR by the State Government or MMRDA or MCGM.
- (d) Pursuant to the submissions made by Lok and HDIL in the arbitration proceedings, inter-alia the following issues were framed for by the Hon'ble Arbitrator:
  - (I) Whether the Claimant (Lok) is entitled to recovery a sum of Rs. 31,00,00,000/- (Rupees thirty one crore only) from the Respondent (HDIL) under the Lok-HDIL 2 Agreement dated 12<sup>th</sup> August 2005 together with interest thereon at 18% p.a.?
  - (II) Whether the Respondent (HDIL) is entitled to recover a refund of a sum of Rs. 5,00,00,000/- (Rupees five crore only) from the Claimant (Lok) under the Lok-HDIL 2 Agreement together with interest thereon at 9% p.a.?
- (e) The Hon'ble Arbitrator answered the issue (i) in negative and held that Lok is not entitled to recovery of a sum of Rs. 31,00,00,000/- (Rupees thirty one crore only) together with interest thereon at 18% p.a. from HDIL.



- (f) In respect of the issue (ii) as mentioned above, the Hon'ble Arbitrator has passed an order directing Lok to refund to HDIL the sum of Rs. 5,00,00,000/- (Rupees five crore only) within one month of the said Award and further directed that HDIL will not be entitled to any interest on this amount.
- (g) Pursuant to the issuance of our public notice, we have received claim from M/s. Pravin Mehta and Mithi and Co., Advocates and Solicitors of Lok, wherein Lok has claimed that they are inter-alia entitled to (i) a sum of Rs. 82,25,80,800/- (Rupees eighty two crores only) and (ii) also for additional consideration in terms of Lok-HDIL Agreement 2. It is also stated therein that Lok has an unpaid vendor's charge under the Lok-HDIL Agreement 2. It is also informed to us that Lok has challenged the Award by filing Arbitration Petition No. 1063 of 2011 in the Hon'ble Bombay High Court ("Arbitration Petition").
- (h) By and under an Order dated 16<sup>th</sup> December, 2013 passed by the Hon'ble Bombay High Court in the Arbitration Petition, the Arbitration Petition has been rejected. We have been informed by AEPL that so far Lok has not filed any appeal against the said Order dated 16<sup>th</sup> December, 2013.
- (i) However, the additional consideration may become payable under the said Lok-HDIL Agreement 1 read together with the said Lok-HDIL Agreement 2 only in case of any free TDR in the form of FSI is made available by the State Government or MMRDA or MCGM.

5. 50% Undivided Share of the said Jamnadas Branch

- (i) By and under Agreement dated 23<sup>rd</sup> March 2005, executed by and between the said Indrajit of the One Part and Ecstasy Realty Private Limited ("Ecstasy") of the Other Part and registered with the office of the Sub Registrar of Assurances at Serial No. 3177 of 2005 ("Ecstasy Agreement-1"), the said Indrajit *inter-alia* agreed to transfer all his undivided right, title and interest being his 1/6<sup>th</sup> undivided share in the said Larger Land in favour of Ecstasy, for the consideration and on the terms and conditions as set out therein.
- (ii) By and under Agreement dated 28<sup>th</sup> June 2005, executed by and between the said Ajit of the One Part and the said Ecstasy of the Other Part and registered with the office of the Sub Registrar of Assurances at Serial No. 6118 of 2005 ("Ecstasy Agreement-2"), the said Ajit *inter-alia* agreed

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to transfer all his undivided right, title and interest being his 1/6<sup>th</sup> undivided share in the said Larger Land in favour of Ecstasy, for the consideration and on the terms and conditions as set out therein.

- (iii) By and under Agreement dated March 23, 2006, executed by and between the Heirs of Late Ranjit Jamnadas Thakkar of the One Part and the said Ecstasy of the Other Part and registered with the office of the Sub Registrar of Assurances at Serial No. 2354 of 2006 ("Ecstasy Agreement-3"), the said Heirs of Late Ranjit Jamnadas Thakkar inter-alia agreed to sell and transfer all their undivided right, title and interest being 1/6<sup>th</sup> undivided share in the said Larger Land in favour of Ecstasy, for the consideration and on the terms and conditions as set out therein.

(The said Ecstasy Agreement-1, Ecstasy Agreement-2 and Ecstasy Agreement-3 shall hereinafter collectively be referred to as "the said Ecstasy Agreements").

6. Writ Petition No. 1944 of 2007

- (i) In and around the year 2007, Mulraj Kabali filed a Writ Petition being Writ Petition No. 1944 of 2007 ("the Writ Petition") against (1) State of Maharashtra, (2) Additional Collector, Competent Authority, (3) Mr. Chandrasingh Kabali, (4) Mr. Vijay Kabali, (5) Mr. Ranjit Thakkar, (6) Mr. Indrajit Thakkar (7) Mr. Ajit Thakkar (8) HDIL, (9) Ecstasy and (10) Mumbai Metropolitan Regional Development Authority ("MMRDA"). The Writ Petition was filed to challenge a notice dated 9<sup>th</sup> August 2007 issued by the Additional Collector, Competent Authority (being Respondent No.2) ("the said Notice") and the proceedings conducted pursuant to the said Notice by the State of Maharashtra (being Respondent No.1) in exercise of its powers under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 ("the ULC Act").
- (ii) Subsequently, by and under the Consent Terms dated 4<sup>th</sup> August 2008 executed by and between the Parties to the Writ Petition read together with order dated 4<sup>th</sup> August 2008 passed by the Hon'ble High Court of Judicature at Bombay in the Writ Petition ("MMRDA Consent Terms"); the Parties thereto agreed and confirmed as follows:-
- (a) The Purshottam Branch being the Petitioner and Respondent Nos. 3(a) to 3(e) and Respondent No.4 in the Writ Petition confirmed the said HDIL Agreements and confirmed that they have granted the development rights or have agreed to transfer or transferred to HDIL in aggregate undivided one half of the Larger Land.

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- (b) The Jamnadas Branch being the Respondent Nos. 5(a), 5(b), 6 and 7 in the Writ Petition confirmed the said Ecstasy Agreements and confirmed that they have granted the development rights or have agreed to transfer or transferred to Ecstasy in aggregate undivided one half of the Larger Land.
- (c) The said Purshottam Branch and the said Jamnadas Branch declared and confirmed that HDIL and Ecstasy are entitled to rights and interests in the said Larger Land as co-owners in the manner as set out therein.
- (d) The State of Maharashtra being Respondent No.1 and MMRDA being Respondent No.10 agreed that HDIL and Ecstasy, as owners, are entitled to develop a portion of the said Larger Land being an area admeasuring 1,24,436.50 square meters and as more particularly described in the Second Schedule hereunder written ("Vacant Writ Land") inter-alia on the following terms and conditions:
  - (i) 75% of the Vacant Writ Land being an area admeasuring 93,327.375 square meters and as more particularly described in the Third Schedule hereunder written ("MMRDA Land") to be handed over to MMRDA free of cost in the manner as set out therein and it was agreed that the Jamnadas Branch, Purshottam Branch, HDIL and Ecstasy shall, within 60 days from the date of the Consent Terms, convey or otherwise transfer, free of cost and free from all encumbrances, the MMRDA Land to MMRDA.
  - (ii) 25% of the Vacant Writ Land being an area admeasuring 31,109.125 square meters and as more particularly described in the Fourth Schedule hereunder written ("Retained Land") to be retained by Ecstasy and HDIL for undertaking development and construction activities.
  - (iii) HDIL and Ecstasy are entitled to develop and construct, FSI of 93,327.375 square metres ("Retained FSI") on the said Retained Land being 75% FSI of the Vacant Writ Land and MMRDA shall be entitled to use 25% FSI of the Larger Land on the MMRDA Land.
  - (iv) HDIL and Ecstasy are entitled to transferable development rights benefits equivalent to 1,24,436.50 square metres to be utilized on the said Retained Land as receiving land.

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- (v) An internal 16 metres wide road (as proposed in the brown wash on the plan annexed thereto) on the Retained Land shall be provided by HDIL and Ecstasy as right of way to MMRDA and the same shall be kept open.
- (vi) The Petitioner (Mulraj), Respondent Nos. 3 (a) to 8 (including HDIL) and 9 (Ecstasy) to convey or otherwise transfer, free of cost, and free from all encumbrances to MMRDA the said MMRDA Land as more particularly described in the Third Schedule hereunder written within the time stipulated therein. It is informed to us that the formal conveyance in favor of MMRDA has not been executed.
- (vii) All the terms and conditions of the MMRDA Consent Terms shall be required to be complied with by the parties to the Writ Petition and also by AEPL consequent upon the execution of the Indenture of Conveyance dated 31<sup>st</sup> December, 2013 between HDIL, AEPL and the Kabali Family as set out in paragraph 16(iv) below.
- (e) HDIL and Ecstasy shall be entitled to take from the Court Receiver, the encroached portion admeasuring 14,253 square metres as the transferee of the said Purshottam Branch and the said Jamnadas Branch and thereafter develop the same without being subject to any reservation.
- (f) As provided in the MMRDA Consent Terms, HDIL and Ecstasy has handed over possession of land bearing CTS No. 866C admeasuring 9463.80 square meters to MMRDA and whereupon HDIL and Ecstasy became entitled to utilize the basic FSI of 7068.30 square meters of CTS No. 866C and Transferable Development Rights ("TDR") of 100% of C.T.S. No. 866C (being 9463.80 square metres) to be utilized in accordance with the terms of the MMRDA Consent Terms. In view of the addition of the FSI of C.T.S. No. 866C, the term "Retained FSI" shall mean FSI of 1,00,395.675 square meters.
- (g) In view of the above, HDIL is inter-alia entitled to one-half of the Retained Land admeasuring 15,554.6 square meters ("HDIL Land") and is entitled to develop the same by utilisation of one-half development potential of the Larger Land which presently as per the applicable law and Consent Terms is 1,17,147.98 square meters comprising of (i) 50,197.83 square meters (approximately)

FSI being one-half of the Retained FSI ("HDIL FSI") and (ii) 66,950.15 square meters (approximately) FSI by purchase of FSI from Government of Maharashtra (under any prevalent law) or purchase of TDR ("HDIL Additional FSI") permitted to be utilised on the said Retained Land.

7. Revenue Records:

- (i) We have reviewed the Property Register Card with respect to CTS No. 866/B/1. The area stated therein of the CTS No. 866/B/1 is 15,554.60 square meters and the names of Mr. Mulraj Purshottam, Mrs. Narayanibai Purshottam, Mr. Ranjit Jamnadas, Mrs. Javerbai Jamnadas and HDIL as the developer are reflected as the holder/owner thereof. Further, the Property Register Card reflects the name of AEPL as the holder in respect of the said Land i.e. to the extent of 7,547.51 square meters being the portion of CTS No. 866/B/1. The tenure of the said Land is "C" (paying assessment to the Government under the Maharashtra Land Revenue Code, 1966). The Property Register Card also reflects an entry of the subdivision order dated 21<sup>st</sup> April, 2009 as mentioned above and an order dated 17<sup>th</sup> June, 2009 under which the non agricultural assessment for the said Land has been prescribed at the rate of Rs.900/- (Rupees nine hundred only) for each of 100 square meters for residential use and Rs. 2700/- (Rupees two thousand seven hundred) for each of 100 square meter commercial use for the period from 31<sup>st</sup> July, 2011.
- (ii) We have reviewed the 7/12 extract dated 26<sup>th</sup> May, 2008 with respect to Survey No.111 Hissa Number A, Survey Number 111 Hissa Number B and Survey Number 111 Hissa Number C and the names of the Purshottam Meghji, Mulraj Purshottam, Narayanibai Purshottam, Ranjit Jamnadas, Javerbai Jamnadas have been reflected as the owners/ holders thereon. With respect to Survey Number 111 Hissa Number A, Survey Number 111 Hissa Number B and Survey Number 111 Hissa Number C the name of Shreedhar Choube is reflected in the "other rights column". The 7/12 extract needs to be updated as it records the name of the trustees of the trust created under the Will of Meghji Vallabhdas (as stated in paragraph 1(iv) above) by the deletion of the name of the trustees thereof since the Distribution Date has arrived and the HDIL Land stood vested in the said Purshottam Branch and the said Jamnadas Branch and consequently in view of the Conveyance Deed (as defined below), the said Land has stood vested in AEPL. The 7/12 needs to be further updated to record the name of the said Purshottam Branch and the said Jamnadas Branch, as the formal owners of the balance portion of the HDIL Land (other than the said Land) and also the name of AEPL (with respect to the said Land). In view of the outcome of the Choube Suit (as detailed hereinbelow), the 7/12

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extract also needs to be updated to delete the name of Shreedhar Choube from the "other rights" column.

(iii) Mutation Entry Nos. 715, 213, 151, 753, 1583, 837 and 1640 are reflected in Survey Number 111 Hissa Number A, Survey Number 111 Hissa Number B and Survey Number 111 Hissa Number C. The details of the aforesaid Mutation Entries are mentioned below:-

- (a) Mutation Entry No. 213 dated 16<sup>th</sup> December, 1931: This Mutation Entry records that as per Aakar Phod Patrak of the year 1929 the names of Jamnadas Meghji, Purshottam Meghji, Matabai Meghji and Belabai Chatturbhuj were recorded as holders with respect to Survey Number 111 A, 111 B and 111 C.
- (b) Mutation Entry No. 715 dated 5<sup>th</sup> January, 1956: This mutation entry records that the land bearing Survey Number 111 was temporarily acquired and under No. LAQ 204 dated 3<sup>rd</sup> January 1945, the same was handed over to the land owner and the same has been noted under order number LAQ. 5R 203 dated 16<sup>th</sup> June, 1955.
- (c) Mutation Entry No. 753 dated 4<sup>th</sup> June, 1958: By and under this entry, the names of Jamnadas Meghji and Mrs. Matabai Meghji were deleted because of their demise and the names of Purshottam Meghji, Mulraj Purshottam and Chandrasingh Purshottam were included in the records of rights
- (d) Mutation Entry No. 837 dated 28<sup>th</sup> September, 1961: This Mutation Entry records that the Survey Numbers 134, 111A, 111B and 111C was transferred by Mr. Purshottam Meghji and Mrs. Vellabai Chatturbhuj to Mr. Mulraj Purshottam and Mrs. Narayanibai Purshottam, Ranjit Jamnadas and Mrs. Zaverbai Jamnadas.
- (e) Mutation Entry No. 1583 dated 6<sup>th</sup> February, 1979: This mutation entry records that by and under the application and statement dated 5th January, 1979 and statement dated 22<sup>nd</sup> January, 1979 the name of Shreedhar Choube who is in possession for more than 20 years is included by deleting the names of Purshottam Meghji, Mulraj Purshottam, Narayanibai Purshottam, Ranjit Jamnadas and Zaverbai Jamnadas. However vide Order bearing No. RTS/DISPWS/371/179 dated 13<sup>th</sup> July, 1979 by the Tehsildar, the said Mutation entry was cancelled.

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- (f) Mutation Entry No. 1640 dated 15<sup>th</sup> October, 1982: This mutation entry records that pursuant to the Order bearing No. RTS/DISP/WS/371/179 dated 13<sup>th</sup> July, 1979 by the Tehsildar and Order No. C/RTS/A/73/80 dated 14<sup>th</sup> September, 1982 from the office of the Deputy Collector (Appeal) name of Shreedhar Choube was taken into the "other rights" column.

8. MMRDA

- (i) As per the development plan remark dated 24<sup>th</sup> April, 2009 bearing reference No.CHE/72/DPWS/K/W issued by MCGM with respect to the Larger Land the same is falling within the residential zone and the same is affected by reservation in respect of sewage purification works, government staff quarters, housing for dishoused, recreation ground and retail market.
- (ii) By an under the Notification dated 12<sup>th</sup> July, 2005 bearing reference No.TPB4304/1430/CR15/05/UD11 issued by the Urban Development Department, Mantralaya, Mumbai, in exercise of the powers vested under Section 37(2) of the Maharashtra Regional and Town Planning Act, 1966, the Government of Maharashtra sanctioned the modification in the development plan by deleting the aforesaid reservations and inserted the reservation for "MRTS Car Depot/Workshop and Allied Activities and Commercial use" in respect of the Larger Land bearing C.T.S. No. 866, Survey Nos.111-A/B/C, Village Ambivali, Taluka Andheri and the said Notification dated 12<sup>th</sup> July, 2005 *inter alia* provided that a buffer zone of 30 meter width shall be kept around the periphery of the Larger Land so as to avoid the noise pollution and only tree plantation shall be allowed in the buffer zone.
- (iii) By and under order dated 17<sup>th</sup> July, 2008 of the Government of Maharashtra (which is passed as directives under Section 154 of the MRTP Act, 1966) ("Government Directives"), the Government of Maharashtra *inter alia* referred to the aforesaid Notification dated 12<sup>th</sup> July, 2005 and directed that MCGM shall initiate modification to Regulation 9 (Table 4) of the D. C. Regulations, 1991 ("DCR") by *inter alia* providing for the acquisition/ development of lands which are under the reservation of MRTS Car Depot/ Workshop and Allied Activities and Commercial use. Under the said Order dated 17<sup>th</sup> July, 2008, the modification to the DCR as aforesaid *inter alia* provides that the owner may develop such land provided *inter alia* that (i) the appropriate authority agrees with the shape, size and location of the said plot (ii) the owner shall hand over 75% of the land free of cost from all encumbrances to the appropriate authorities (iii) the owner shall be allowed to retain the minimum of 25% of the land for

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development (iv) the owner may use maximum 75% of the normal permissible of the gross plot on the land so owned by the owner (v) for TDR calculation total area of the plot under reservation shall be considered, however, permissions to use the TDR shall be obtained from the appropriate authority provided that the total consumption on the entire reservation plot including TDR shall not exceed 2.0 and the restriction of 100% FSI to be exceeded in case of TDR so loaded shall not be applicable. Under the said Order dated 17<sup>th</sup> July, 2008, the relevant directions as mentioned below have been given:

- (a) MCGM shall initiate the aforesaid modification to DCR by adding the modification as mentioned in schedule thereto which *inter alia* includes the modification as stated above.
- (b) After the completing the legal procedure as laid down in Section 37(1) of MRTP Act, the modified proposal shall be submitted to the Government for final sanction.
- (c) That pending sanctions to these modifications by Government under Section 37 (2) of MRTP Act, the aforesaid modification shall come into effect forthwith.
- (iv) It is pertinent to note that the entire process of the modification of DCR and the final sanction of the Government of Maharashtra under Section 37(2) is not yet completed.
- (v) It seems that based on the Government Directives, the MMRDA Consent Terms were entered into and recorded (as provided in clause 6 above).
- (vi) Subsequently, in accordance with the Government Directives and the MMRDA Consent Terms, MMRDA Land has been handed over to MMRDA and the same is recorded vide Possession Receipt dated 4<sup>th</sup> August, 2008.
- (vii) By and under letter dated 15<sup>th</sup> September 2011 addressed by Dy. Secretary, State of Maharashtra to the Commissioner, MCGM, the Dy. Secretary referred to aforesaid Order dated 17<sup>th</sup> July 2008 and the Dy. Secretary requested MCGM to present status in respect of the objections which may have been received pursuant to the public notice published in Government Gazette and/or newspaper.
- (viii) By and under letter dated 15<sup>th</sup> October 2011 addressed by Chief Engineer (Development Plan) of MCGM to the Principal Secretary, Urban Development Department, Government of Maharashtra, the Chief Engineer (Development Plan) stated that (a) the Corporation vide its

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Resolution No. 991/15/12/08 sanctioned the modification proposal to Regulation 9, Table 4 by adding the provision in respect of MRTS car depot/ workshop and allied activities and commercial use as more particularly set out in the Schedule therein; (b) the Corporation empowered the Municipal Commissioner of Greater Mumbai to take further action under Section 37(1) of the MRTP Act and also empowered to approach the State Government for seeking its final sanction under Section 37(2) of the MRTP Act and accordingly the notification under 2 local newspaper (Navakal and Asian Age) and in Government Gazette was published inviting suggestion/ objection from the members of public on the aforesaid modification proposal; and (c) In response to the notification issued, no suggestion and/or objections were received from the general public. In view of the above, under the aforesaid letter dated 15<sup>th</sup> October, 2011, the Chief Engineer requested the Principal Secretary Urban Development Department, Government of Maharashtra, to move the Government in Urban Development Department to accord sanction under Section 37(2) of the MRTP Act to add provision in Table 4, D.C. Regulation 9 in DCR 1991.

9. Sub-Division Order:

- (i) The District Collector after reviewing various plans and reports, by and under an order dated 31<sup>st</sup> October, 2008 bearing reference number C/Off-2C/Sec-135/SR-351 passed by the District Collector, Mumbai Suburban District, *inter-alia* held (i) that the area with respect to the said Larger Land i.e. C.T.S No 866 shall be 1,35,765.6 square meters and (ii) sub-division of C.T.S No 825 to be undertaken to demarcate an area admeasuring 2257 square meters which was allotted to Ratnagar (Neelgagan) Co-operative Housing Society.
- (ii) By and under an order dated 1<sup>st</sup> December 2008 ("**First Sub-Division Order**") passed by the Office of the Collector; the said Larger Land (originally bearing CTS No 866) got sub-divided into (i) CTS No.866A (admeasuring 93327.375 square meters being the said MMRDA Land); (ii) CTS No. 866B (admeasuring 31,109.125 square meters being the said Retained Land), (iii) CTS No.866C (admeasuring 9463.8 square meters) and (iv) CTS No.866D (admeasuring 1865 square meters). CTS No.866C and CTS No.866D together constitute the said Encroached Land (as defined in the MMRDA Consent Terms).
- (iii) Subsequently, by and under its Order dated February 3, 2009 ("**Second Sub-Division Order**"), the office of the Collector has sub-divided the said Retained Land into (i) CTS No.866/B/1 (admeasuring 15,554.6 square meters) being the HDIL Land and as is more particularly described in the Fifth Schedule hereunder written which *inter-alia* records the name of

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HDIL (as developer) ("the HDIL Land"); and (ii) CTS No.866/B/2 (admeasuring 15,554.6 square meters) being the one-half equal portion of the Retained Land inter-alia records the name of Ecstasy Realty Private Limited (as developer) ("Ecstasy Land").

10. CTS No. 866-C:

By and under Possession Receipt dated 13<sup>th</sup> August, 2009, HDIL and Ecstasy handed over possession of CTS No. 866-C admeasuring 9463.80 square meters to MMRDA, whereupon HDIL and Ecstasy became entitled to utilize the basic FSI of 7068.30 square meters of CTS No. 866-C and Transferable Development Rights ("TDR") of 100% thereof on the said Retained Land, to be utilized in accordance with the terms of the MMRDA Consent Terms.

11. Approvals:

- (i) By and under its letter dated 3<sup>rd</sup> February, 2009 addressed by the Municipal Corporation of Greater Mumbai to M/s Bidco Engineering Division, MCGM granted it's no objection for the development work of Car Depot/Workshop and allied activities and Commercial use on land bearing C.T.S No. 866/B (i.e. 25% of the land under reservation for commercial use admeasuring 31,109.25 square meters as per the Consent Terms) as per the provisions contained in D.C.R 1991, amended upto date and as per recent modification under Section 37(1) to be read with Section 154 of MRTP Act, 1966 to Regulation 9 Table 4, Clause IV of the DCR under no. TPB/4308/674/CR-146/08/UD-11 dated 14<sup>th</sup> July, 2008 subject to such terms and conditions as stated therein.
- (ii) Vide its sanction dated September 24, 2010 bearing Reference No. CE/9509/WS/AK, the Municipal Corporation of Greater Mumbai ("MCGM"), has approved the amended layout plan and building plan for the development of the HDIL Land ("Sanctioned Layout") whereby HDIL became entitled to develop a total FSI of 52,120.65 square meters on the HDIL Land (which includes 37,082 square metres of FSI and 15,110 square metres of TDR).
- (iii) As per the Sanctioned Layout (i) FSI of 39,643.93 square meters has been sanctioned to be utilised for the construction of residential building on the portion of the HDIL Land and (ii) FSI of 12,470.72 square meters has been sanctioned to be utilised for the construction of the commercial building on the portion of the HDIL Land.
- (iv) As per the proposal submitted by HDIL to the MCGM, HDIL proposed for the development of residential building comprising of four level basement

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for parking and still plus one podium for parking plus 29 (twenty nine) upper floors of three wings for the residential use ("HDIL Building") and the development of commercial building comprising of three level basement for parking plus shopping on ground floor to 2<sup>nd</sup> floor (including multiplex of four screen on the 2<sup>nd</sup> floor) plus podium parking on 3<sup>rd</sup> to 5<sup>th</sup> floors and offices on 6<sup>th</sup> to 17<sup>th</sup> floor and service floor on 18<sup>th</sup> floor and service apartment on 19<sup>th</sup> to 22<sup>nd</sup> floor ("the said Building").

- (v) By and under a Letter dated 20<sup>th</sup> May, 2009 bearing Reference No. CE/9509/WS/AK issued by the MCGM read with the Letter dated 24<sup>th</sup> September, 2010 Reference No. CE/9509/WS/AK ("CC"), MCGM *inter alia* granted its approval to HDIL to commence the construction of the commercial building on the C.T.S. Nos. 866-A and 866-B. By the last endorsement on 7<sup>th</sup> March, the CC has inter-alia been extended for the construction of A1 wing of the said Building (as per the approved plan dated 6<sup>th</sup> March, 2014) and the validity of CC is extended upto 19<sup>th</sup> May, 2014. By and under a letter addressed by BIDCO Engineering Division to the Executive Engineer, Building Proposal MCGM, BIDCO Engineering Division has requested MCGM to revalidate the CC till 20<sup>th</sup> May, 2015. BIDCO Engineering Division has also paid the revalidation fees and a receipt dated 20<sup>th</sup> May, 2014 thereof has been issued by the Brihanmumbai Mahanagarpalika, D.P. Department.
- (vi) By and under its Letter dated 13<sup>th</sup> February, 2009 addressed by Municipal Corporation of Greater Mumbai (Deputy Engineer Traffic) to BIDCO Engineering Division, the MCGM has sanctioned the parking layout on the HDIL Land from the perspective of maneuverability and operational condition only on such terms and conditions as stated therein. We have been informed that however subsequently the parking layout scheme was not pursued.
- (vii) By and under its letter dated 12<sup>th</sup> May, 2009 addressed by the Government of Maharashtra to HDIL, the Government of Maharashtra has accorded and granted the environment clearance for the proposed residential and commercial complex at Village Ambivali, Andheri West, Mumbai being total plot area of 1,24,436.50 square meters and the proposed FSI being 2,17,688.42 square meters i.e. total built up area being 2,17,688.42 square meters on the strict compliance of the terms and conditions as stated therein ("Environment Clearance"). Subsequently, by and under its letter dated 2<sup>nd</sup> May, 2013 addressed by Government of Maharashtra, Environment Department to HDIL, certain amendments to the Environment Clearance have been permitted on the terms and conditions as mentioned therein ("Revised Environment Clearance").

- (viii) By and under its letter dated 2<sup>nd</sup> February, 2011 addressed by Airport Authority of India to BIDCO Engineering Division, Airport Authority of India granted height clearance till 103.32 meters from ground level on such terms and conditions as stated therein.
- (ix) By and under a Letter dated 16<sup>th</sup> March, 2009 addressed by Maharashtra Pollution Control Board ("MPCB") to HDIL, MPCB provided its 'consent to establish' to HDIL in respect of C.T.S. No. 866/B of Village Ambivali, Andheri.
- (x) We have been furnished by HDIL, copies of the Development Right Certificates ("DRCs") as mentioned below:
  - (a) Development Right Certificate dated 20<sup>th</sup> November 2010 bearing No. SRA 920/Const./TDR/SLP/ES/L-10 standing in the name of HDIL for an FSI credit of built up area of 63,150 square meters, which is arisen from certain land situated at Village Kurla-II. The details of utilization and transfer in respect of the aforesaid DRC, it is *inter alia* stated that an FSI of 21,630 square meters have been sanctioned under NO.DIR/ES&P/4012/I on 7<sup>th</sup> February 2011 on the land bearing CTS No. 866/B/1 of Village Ambivali, at J.P. Road, Andheri (W).
  - (b) Development Right Certificate dated 3<sup>rd</sup> July 2010 bearing No. SRA 887/Const./TDR/SLP/ES/L-10 standing in the name of HDIL for an FSI credit of built up area of 40,910 square meters, which is arisen from certain land situated at Village Kurla-II. The details of utilization and transfer in respect of the aforesaid DRC, it is *inter alia* stated that an FSI of 15,110 square meters have been sanctioned under NO.DIR/ES&P/1929/I on 17<sup>th</sup> August, 2010 on the land bearing CTS No. 866/B/1 of Village Ambivali, at J.P. Road, Andheri (W).
- (xi) We have been informed by AEPL that HDIL, through their architect BIDCO Engineering Division's letter dated 3<sup>rd</sup> September, 2012 addressed to the Executive Engineer, Building Proposal Department, K/W Ward, *inter-alia* submitted amended plans in respect of the HDIL Land and requested the same to be sanctioned.

## 12. Litigation:

- (i) INDRAJIT JAMNADAS THAKKAR

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