

**Final Draft NCP 3.6.2023**

**MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** (hereinafter referred to as “MOU”) made and executed at Mumbai this \_\_\_\_\_ day of \_\_\_\_\_, 2023;

**BY AND BETWEEN**

**NUTAN AYOJAN NAGAR CO-OPERATIVE HOUSING SOCIETY LIMITED**, a Co-operative Housing Society registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961) under Registration No. BOM/HSG/PR/7486 of 1981 dated \_\_\_\_\_, and having its registered office at Liberty Garden Cross Road No. 4, Malad (West), Mumbai – 400 064, through its authorized office bearers (1) \_\_\_\_\_ (**Chairman**), (2) \_\_\_\_\_ (**Secretary**) and (3) \_\_\_\_\_ (**Treasure**) 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 its successors and assigns of the Society) of the **FIRST PART**;

**AND**

**ARKADE DEVELOPERS PRIVATE LIMITED**, a private limited company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 2<sup>nd</sup> Floor, Arkade House, near Children’s Academy School, A. S. Marg, Ashok Nagar, Kandivali (East), Mumbai 400101 hereinafter referred to as “**THE DEVELOPER**” (which expression shall unless it be repugnant to the context of meaning thereof be deemed to mean and include its successors-in-title) of the **OTHER PART**;

The Society and the Developer shall collectively be referred to as “*the Parties*” and individually as “*the Party*”.

**WHEREAS:**

1. The Society is absolutely seized and possessed of all those pieces and parcels of land bearing Survey No. 479/1 corresponding to CTS No. 225 admeasuring 6598.70 sq.mtrs., Survey No. 478 corresponding to CTS No. 223/4

admeasuring 139.20 sq.mtrs. and Survey No. 478/1 corresponding to CTS No. 224/A admeasuring 121 sq.mtrs. aggregating to total 6858.90 sq.mtrs. of Village Malad (South), Taluka Borivali, Mumbai Suburban District (hereinafter referred to as the "**said Land**") together with 8 (Eight) buildings having total 11 (Eleven) wings of the Society situated at Liberty Garden, Cross Road No.4, Malad West, Mumbai- 400 064 (hereinafter referred to as the "**said Existing Buildings**").

2. The said Existing Buildings thus comprises of total 11 (Eleven) wings having total 192 Flats and 6 shops. The said Land and the said Existing Buildings are hereinafter collectively referred to as "**the said Property**" which is more particularly described in the **SCHEDULE** hereunder written.
3. By following the requisite lawful process, the Society has appointed the Developer for redevelopment of the said Property and in pursuance thereof, the Society issued the Letter of Appointment (LOA) dated 14<sup>th</sup> February, 2023 in favour of the Developer. The said LOA read with this MOU *inter alia* contains the major terms and conditions subject to which the Society has agreed to grant the development rights in respect of the said Property in favour of the Developer for redevelopment of the said Property.
4. The Society has represented to the Developer that, although Society is in possession of the said Property, however, till date the Society has not got a formal Deed of Conveyance executed and duly registered in its favour. Therefore, on 23<sup>rd</sup> March 2023, the Society has applied for unilateral deemed conveyance in its favour by filing an Application under Section 11 (3) of Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale Management and Transfer) Act, 1963, before the Competent Authority i.e. District Deputy Registrar Co-operative Societies, Mumbai City-4 at Dadar (West), Mumbai- 400 028 ("**the said Application for deemed conveyance**") and the same is pending disposal.
5. In view of aforesaid, the Parties hereto discussed and mutually agreed to enter into this MOU to record the understanding between themselves with respect to redevelopment of the said Property, pending the disposal of the said Application for deemed conveyance.

6. In the meantime, the Parties hereto have discussed and finalized the draft of Development Agreement to be executed by the Parties alongwith the members of Society containing the detailed terms and conditions governing the redevelopment of the said Property as well as the draft of Power of Attorney to be executed by the Society in favour of the Developer and it is agreed that the aforesaid final drafts as mutually agreed between the Parties, shall be executed and registered within 30 (Thirty) days between the Parties hereto from the date of registration of the unilateral deemed conveyance in favour of the Society.
7. In view of aforesaid and pursuant to the negotiations between the Parties, it is agreed and decided by the Parties to execute the present MOU to clarify and record certain terms and conditions pertaining the redevelopment of the said Property.

**NOW THIS MEMORANDUM OF UNDERSTANDING WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

1. The recitals contained above form an integral and operative part of this Memorandum of Understanding as if the same are incorporated herein in verbatim.
2. It is clarified, agreed and confirmed that the final draft of Development Agreement to be executed by the Parties alongwith the members of Society containing the detailed terms and conditions governing the redevelopment of the said Property and the draft of Power of Attorney to be executed by the Society in favour of the Developer, as duly approved in Special General Body Meeting of the Society held on \_\_\_\_\_ are annexed hereto as **Annexure-A** and **Annexure-B**, respectively.
3. It is agreed between the Parties that in the event, the Competent Authority allows the said Application for deemed conveyance filed by the Society, then within 30 (Thirty) days from the date of registration of unilateral deemed conveyance of the said Property in favour of the Society, the Society and its members shall execute and admit execution of the Development Agreement

in terms of the draft annexed hereto Annexure-A as stated above, for the redevelopment of the said Property as described in the Schedule hereunder. Simultaneous to aforesaid, the Society shall execute and admit execution of the Power of Attorney in favour of the Developer, in terms of draft annexed hereto as Annexure-B.

4. It is agreed between the Parties that the Society shall diligently pursue the Application for deemed conveyance filed before Competent Authority and shall do the needful to get the deemed conveyance registered in its favour at the earliest. The costs and expenses in respect of the aforesaid Application for deemed conveyance including Advocates' fees for obtaining the deemed conveyance shall be borne and paid by the Developer, whereas the stamp duty and registration charges for registration unilateral deemed conveyance in favour of the Society shall be borne and paid by the Society or its members with respect to their respective flat/shop purchase Agreement.
5. The Society agrees to keep the Developer informed/updated as to the steps/compliance undertaken post filing of the said Application for deemed conveyance and progress/status thereof from time to time.
6. It is agreed between the Parties that with an intent to undertake/commence the redevelopment of the said Property, in the most expeditious manner, the Developer shall submit the tentative plans of proposed new building for approval of the Society and its members within 15 days from the date hereof.
7. After considering the suggestions/comments of the Society and its members, the said tentative plans of proposed new building shall be mutually finalized between the Parties hereto and such finalized plans shall be confirmed, approved and accepted by the Society by passing a resolution in Special General Body Meeting of the Society within 90 (Ninety) days from the date of submission of such tentative plans to the Society as provided in the clause no. 6 hereinabove.
8. The Society hereby agree, confirm and permit the Developer to submit the aforesaid mutually accepted tentative plans of proposed new building to Municipal Corporation for Greater Mumbai ("MCGM") in the name of Society and other concerned authorities and obtain approval/sanction

thereof in the name of the Society. For the said purpose, the Society shall appoint Architect or any other consultants as may be designated/nominated by the Developer to obtain the all the requisite permissions/sanctions/approvals such as Intimation of Disapproval, Concessions, etc. for the redevelopment of the said Property in the name of Society and shall sign/execute all such papers, documents, writings, letters, applications etc. as may be required in that behalf, at the costs, expenses, charges of the Developer. It is clarified that the Developer is attempting to facilitate the procurement of initial approvals, sanction and permissions in advance for redevelopment project of the Society, with an intent to expedite the redevelopment project of the Society pending execution and registration of Development Agreement and Power of Attorney, however actual timelines for redevelopment project of the Society shall be as provided in the draft Development Agreement annexed hereto as Annexure-A.

9. In the event, the Competent Authority allows the said Application for deemed conveyance and registers the deemed conveyance of the said Land in the name of the Society, and that the Developer is ready and willing to pay the stamp duty on the Development Agreement as well as General Power of Attorney and to execute the same, and if the Society fails to execute the Development Agreement and Power of Attorney in favour of the Developer within the time hereinabove stipulated in this behalf in clause 3, upon being called upon to do so by the Developer, then the Developer shall be entitled to claim/seek specific performance of this MOU.
10. All disputes, claims and questions whatsoever which may arise with respect to this MOU or any other agreement to be executed 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 referred to the arbitration of a Sole Arbitrator. In the event the Parties fail to agree on a Sole Arbitrator within 30 days from the date of the dispute, the appointment of the Arbitrator will be made in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modification or amendment or re-enactment thereof. The arbitration proceedings shall be

governed by the Arbitration and Conciliation Act, 1996 or any statutory modifications or amendments or re-enactments thereof. The venue and seat of the arbitration shall be Mumbai and the arbitration proceedings shall be conducted in English. Professional fees of Arbitrator shall be shared equally between the Parties.

**THE SCHEDULE ABOVE REFERRED TO**

**(the said Property)**

All those pieces and parcels of land bearing Survey No. 479/1 corresponding to CTS No. 225 admeasuring 6598.70 sq.mtrs., Survey No. 478 corresponding to CTS No. 223/4 admeasuring 139.20 sq.mtrs. and Survey No. 478/1 corresponding to CTS No. 224/A admeasuring 121 sq.mtrs. aggregating to total 6858.90 sq.mtrs. of Village Malad (South), Taluka Borivali, Mumbai Suburban District (“said Land”) together with 8 (Eight) buildings of Nutan Ayojan Nagar Co-operative Housing Society Limited situated at Liberty Garden, Cross Road No.4, Malad West, Mumbai- 400 064 (“said Existing Buildings”)

**IN WITNESS WHEREOF** the Parties hereto have hereunto set and subscribed their respective hands and seals the day and year first hereinabove written.

THIS COMMON SEAL OF the Withinnamed “ <b>SOCIETY</b> ”  “ <b>NUTAN AYOJAN NAGAR CO-OPERATIVE HOUSING SOCIETY LTD.</b> ” in pursuance of the Resolution dated _____, 2023 passed in the Special General Body Meeting held on _____, 2023	Signature and Thumb Impression	Photograph
(1) (Chairman)		

(2) (Secretary)		
(3) (Treasurer)		

<p>SIGNED AND DELIVERED by the Withinnamed <b>"DEVELOPER"</b> <b>"ARCADE DEVELOPERS PRIVATE LIMITED"</b></p> <p>Through the hands of its Director under Board Resolution dated _____, 2023</p> <p>MR. _____</p>	<p>Signature and Thumb Impression</p>	<p>Photograph</p>
---	---------------------------------------	-------------------

-----  
DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023  
-----

NUTAN AYOJAN NAGAR CO-OPERATIVE  
HOUSING SOCIETY LTD.

AND

ARKADE DEVELOPERS PRIVATE LIMITED

MEMORANDUM OF UNDERSTANDING