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NL/DJM/11060/6181/2016

Kanakia Spaces Realty Private Limited

215, Atrium, 10th Floor

Next to Courtyard by Marriot Hotel

Opposite Divine Child High School

Andheri Kurla Road

Andheri (East)

Mumbai 400093

Maharashtra

India

REPORT ON TITLE

Re: All that piece or parcel of land or ground admeasuring approximately 7,215 square metres described more particularly in Part A of the First Schedule hereunder written ("the said Land") forming part of a notionally sub-divided plot of land admeasuring 36,600.39 square metres comprised in the Residential Zone as per the Letter No.CE/165/BPES/LOI dated 24th November, 2008 issued by the Municipal Corporation of Greater Mumbai and described more particularly in the Third Schedule hereunder written ("Residential Plot") which forms part of a larger land bearing Survey No. 38 and C.T.S. No. 101 admeasuring approximately 1,32,732.416 square metres as per title deeds and the 7/12 Extract and 1,23,046.60 square metres as per Property Register Card lying being and situate at Village Tirandaz in Taluka Kurla in the District of Mumbai Suburban and described more particularly in the Second Schedule hereunder written ("the Larger Land").

A. INTRODUCTION

We have been requested by our client, Kanakia Spaces Realty Private Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 215, Atrium, 10th Floor, Next to Courtyard by Marriot Hotel, Opposite Divine Child High School, Andheri Kurla Road, Andheri (East), Mumbai 400093, Maharashtra, India, to investigate their right, title and interest to the said Land described more particularly in **Part A of the First Schedule** hereunder written together with their right, title and interest to utilise, consume, construct and develop 3,88,008 square feet FSI described more particularly in **Part B of the First Schedule** hereunder written ("Kanakia FSI"), in accordance with the terms of the Development Agreement dated 31st March, 2016 registered before the Office of the Sub-Registrar of Assurances under Serial No.KRL-1-4024 of 2016 ("Kanakia DA") executed between (a) **Skyline Mansions Private Limited** (earlier known as Bahupriya Properties Private Limited), a company incorporated under the provisions of the Companies Act, 1956 and having its registered office address at Skyline 101, Near Ayyappa Temple, Behind Hiranandani Hospital, I.I.T., Powai, Mumbai 400076, Maharashtra, India, therein and hereinafter referred to as "**the Owner**", (b) **M/s. Skyline Great Hills**, a partnership firm formed and registered under the provisions of the Indian Partnership Act, 1932 and having its principal place

of business at 104, Opposite Prashant Apartments, near IIT Main Gate, Powai, Mumbai 400076, Maharashtra, India, therein and hereinafter referred to as "the Firm", (c) **Narottam C. Sharma** and **Chandan C. Sharma**, both executors of the estate of the late Chittranjan Sharma, both adults of Mumbai, Indian Inhabitants and having their office address at C-101, Prashant Apartments, Opposite IIT Maingate, Powai, Mumbai 400076, therein and hereinafter referred to as "the Confirming Party", and (d) Kanakia Spaces Realty Private Limited, therein referred to as 'the Developer'.

B. STEPS

We have undertaken the following steps whilst investigating the title of Kanakia Spaces Realty Private Limited to the said Land and their right and entitlement to utilise the Kanakia FSI,-

1. Perused the original title deeds with respect to the Larger Land (of which the said Land forms a part) at the office of M/s. Purnanand & Co., Advocates, Solicitors and Notaries, a list whereof is set out in **Annexure "A"** hereto. The documents listed at Serial Nos.1-9 of **Annexure "A"** hereto are deposited in escrow with M/s. Purnanand & Co., Advocates, Solicitors and Notaries, pursuant to the Escrow Agreement dated 31st March, 2016 executed between the Owner, the Firm, the Confirming Party, Kanakia Spaces Realty Private Limited and M/s. Purnanand & Co.
2. Perused photocopies of the deeds, documents and writings with respect to the Larger Land (of which the said Land forms a part) as listed in **Annexure "B"** hereto.
3. Caused searches to be undertaken of the records of the Offices of the Sub-Registrar of Assurances at Mumbai, Bandra, Chembur and Nahur for a period of 86 years commencing from the year 1929.
4. Caused searches to be undertaken at the website of the Ministry of Corporate Affairs of the Government of India at www.mca.gov.in of the records of the Office of the Registrar of Companies, in respect of the mortgages and charges created by Skyline Mansions Private Limited in respect of the Larger Land.
5. Caused searches to be undertaken of the records of the Office of the Registrar of Firms, in respect of the mortgages and charges created by the Firm in respect of the JDA Land (described in **Part A of the Fourth Schedule** hereunder written).
6. We have issued a public notice on 25th November, 2015 in (i) Times of India, Mumbai Edition (English) and (ii) Navshakti, Mumbai Edition (Marathi) inviting objections and/or claims from third persons with respect to the title of Skyline Mansions Private Limited and the Firm to the Residential Plot and their respective right, title, interest and entitlement to utilise FSI/TDR of the Larger Land. Save and except the claim received as detailed in paragraph L below ("**said Claims**"), we have not received any claims and/or responses to the said Public Notices. We have examined the said Claims, and our observations on the impact of the said Claims on the development of the said Land and utilisation of the Kanakia FSI, is contained at paragraph L below.
7. We have not raised General Requisitions on Title on Skyline Mansions Private Limited and the Firm. However, Skyline Mansions have responded to the specific requisitions we have raised from time to time.

8. With respect to the facts that we have not been able to independently ascertain from an examination of public records, we have relied upon the Declaration dated 22nd April, 2016 executed by Kanakia Spaces Realty Private Limited in our favour.
9. In connection with this Report on Title, it may be noted that,-
 - 9.1 This Report is restricted only to ascertain the title and the nature of rights held by Kanakia Spaces Realty Private Limited to the said Land and to the Kanakia FSI.
 - 9.2 For the purpose of issuing this Report we have caused searches to be conducted at the relevant Offices of the Sub-Registrar of Assurances at Mumbai, Bandra, Chembur and Nahur for a period of 86 years from the year 1929 upto the year 2016. We have been informed by our search clerk that for certain years, the records maintained by the Offices of the Sub-Registrar of Assurances are torn and mutilated and the Index-II records maintained in digital form have not been properly maintained. We have also been informed that certain records have been maintained in an untied and loose sheet form. Searches at the Offices of the Sub-Registrar of Assurances are subject to the availability of records and also to records being torn and mutilated and maintained in an improper condition. We therefore disclaim any responsibility for consequences which may arise on account of such non-availability of records or on account of records being torn and mutilated or maintained improperly.
 - 9.3 We have caused searches to be conducted at the website of the Ministry of Corporate Affairs of the Government of India to check the records of the Office of the Registrar of Companies pertaining to the mortgages and charges created by Skyline Mansions Private Limited in respect of the Larger Land. However, searches at the website of the Ministry of Corporate Affairs of the Government of India at www.mca.gov.in are subject to the availability of records on the website on the date of inspection. We therefore disclaim any responsibility for the consequences which may arise on account of such non-availability of records with the Ministry of Company Affairs on the date of inspection.
 - 9.4 We have caused searches to be conducted of the records of the Office of the Registrar of Firms pertaining to the mortgages and charges created by the Firm in respect of the JDA Land. However, searches of the records of the Office of the Registrar of Firms are subject to the availability and maintenance of records on the date of inspection. We therefore disclaim any responsibility for the consequences which may arise on account of such non-availability and/or non-maintenance of records with the Office of the Registrar of Firms on the date of inspection.
 - 9.5 The accuracy of this Report necessarily depends on the documents furnished to us and the information provided to us during the course of our discussions and responses to our requisitions, being true, complete and accurate, which we have assumed to be the case.

C. CHAIN OF TITLE

1. By and under a Deed of Conveyance dated 30th March, 1964 registered before the Office of the Sub-Registrar of Assurances at Bandra under Serial No.BND-979 of 1964 ("said

Conveyance dated 30th March, 1964") executed between (a) Abdul Rehman Mohamed Yusuf ("said Abdul Yusuf"), Rabiabanu, daughter of Mohamed Yusuf Kt. ("said Rabiabanu") and Shabanu, daughter of Mohamed Yusuf Kt. ("said Shabanu"), being the Mutawalis of the trust known as the "Sir Mohamed Yusuf Trust" created under an Indenture of Wakf dated 29th April, 1929 registered with the Office of the Sub-Registrar of Assurances under Serial No.2051 of Book No. I on 13th May, 1929 executed between Sir Mohamed Yusuf Kt. ("Sir Mohamed Yusuf Kt."), therein referred to as 'the wakif and Sir Mohamed Yusuf Kt., Lady Khatun Mariam, wife of Mohamed Yusuf Kt. ("Lady Khatun"), the said Abdul Yusuf, Mohamed Eashaw Mohamed Yusuf ("Mohamed Eashaw"), Sherbanu, daughter of Mohamed Yusuf Kt. ("said Sherbanu") and the said Rabiabanu, therein referred to as 'the mutawalis' and collectively referred to as 'the first vendors' in the said Conveyance dated 30th March, 1964, (b) the said Sherbanu, in her capacity as Wakif and, the said Sherbanu, said Abdul Yusuf, the said Rabiabanu and the said Shabanu in their capacities as Mutawalis of the "Sherbanu Trust" created under an Indenture of Wakf dated 7th July, 1941 registered with the Office of the Sub-Registrar of Assurances under Serial No.2884 of Book No. I on 17th July, 1941 executed between the said Sherbanu, therein referred to as 'the wakif and the said Sherbanu, Sir Mohamed Yusuf Kt., Lady Khatun, said Abdul Yusuf, the said Rabiabanu, and the said Shabanu, therein referred to as 'the mutawalis', and collectively referred to as 'the second vendors' in the said Conveyance dated 30th March, 1964, (c) the said Rabiabanu, in her capacity as Wakif and, the said Rabiabanu, the said Abdul Yusuf, the said Sherbanu and the said Shabanu, in their capacities as Mutawalis of the "Rabiabanu Trust" created under an Indenture of Wakf dated 23rd April, 1941 registered with the Office of the Sub-Registrar of Assurances under Serial No.2083 of Book No. I on 21st July, 1941 executed between the said Rabiabanu, therein referred to as 'the wakif and the said Rabiabanu, Sir Mohamed Yusuf Kt., Lady Khatun, said Abdul Yusuf, the said Sherbanu and the said Shabanu, therein referred to as 'the mutawalis' and referred to as 'the third vendors' in the said Conveyance dated 30th March, 1964, (d) the said Shabanu, in her capacity as Wakif and, the said Shabanu, the said Abdul Yusuf, the said Rabiabanu and the said Shabanu, in their capacities as Mutawalis of the "Shabanu Trust" created under an Indenture of Wakf dated 8th July, 1941 registered with the Office of the Sub-Registrar of Assurances under Serial No.2885 of Book No. I on 21st July, 1941 executed between the said Shabanu, therein referred to as 'the wakif and the said Shabanu, Sir Mohamed Yusuf Kt., Lady Khatun, said Abdul Yusuf, the said Sherbanu and the said Rabiabanu, therein referred to as 'the mutawalis' and referred to as 'the fourth vendors' in the said Conveyance dated 30th March, 1964, (e) Chandrabhan Bhuramal Sharma, therein referred to as 'the purchaser' and hereinafter referred to as the "said Chandrabhan Sharma", and (f) Harishchandra Chandrabhan Sharma, Chittaranjan Chandrabhan Sharma, Pratapkumar Chandrabhan Sharma and Gopal Chandrabhan Sharma, therein referred to as the sub-purchasers and hereinafter collectively referred to as "H.C. Sharma, C.C. Sharma, P.C. Sharma & G.C. Sharma", the first vendors, second vendors, third vendors and fourth vendors therein conveyed and sold and the said Chandrabhan Sharma confirmed unto and in favour of H.C. Sharma, C.C. Sharma, P.C. Sharma & G.C. Sharma, all those pieces and parcels of land collectively admeasuring about 133 Acres 21.25 Gunthas situated in the Villages of Powai, Tirandaz, Paspoli and Tungwa, and more particularly described in the Second Schedule thereunder written and hereinafter referred to as "the Original Lands", for the consideration more specifically mentioned therein. The said Conveyance dated 30th March, 1964 records *inter-alia*,-

- 1.1 The said Mohamed Eashaw expired intestate on 21st March, 1934 and ceased to be a Mutawali of the Sir Mohamed Yusuf Trust.

- 1.2 By a Deed of Appointment of New Trustee dated 10th September, 1934 registered before the Office of the Sub-Registrar of Assurances at Bombay under Serial No.4098 of Book No.I on 7th February, 1935 executed between the surviving Mutawalis of the Sir Mohamed Yusuf Trust and Shabanu, daughter of Mohamed Yusuf Kt. ("said Shabanu"), the said Shabanu was appointed as a mutawali of the Sir Mohamed Yusuf Trust.
- 1.3 By an Indenture dated 6th July, 1938 registered before the Office of the Sub-Registrar of Assurances at Bombay under Serial No.3375 of Book No.I on 16th August, 1938 executed between (a) Mulji Haridas, therein referred as 'the mortgagor', (b) Jehangir Hormusji Modi, the trustee of the Deed of Arrangement dated 4th November, 1927, therein referred as 'the trustee', (c) The Central Bank of India Limited, therein referred as 'the bank', (d) the Mutawalis of the Sir Mohamed Yusuf Trust, (e) the said Sherbanu (in her personal capacity), (f) the said Rabiabanu (in her personal capacity), and (g) the said Shabanu (in her personal capacity), the said Mulji Haridas granted and conveyed and the trustee therein and the bank therein also granted and confirmed the lands described in the First Schedule to the said Conveyance dated 30th March, 1964, comprising of the entire Villages of Powai, Tungwa, Tirandaz, Saki, Compree and Paspoli ("the Powai Estate") in the following manner,-

- 1.3.1 3/6th undivided right title and interest in favour of the Mutawalis of the Sir Mohamed Yusuf Trust
- 1.3.2 1/6th undivided right title and interest in favour of the said Sherbanu
- 1.3.3 1/6th undivided right title and interest in favour of the said Rabiabanu
- 1.3.4 1/6th undivided right title and interest in favour of the said Shabanu

as tenants in common. We have examined a copy of the said Indenture dated 6th July, 1938 which records *inter-alia* that the entire Village Tirandaz was originally sold and granted by The East India Company in favour of Framji Cawasji Banaji under an Indenture dated 15th February, 1837 and that by diverse means and assignments ultimately culminating in the said Indenture dated 6th July, 1938, the entire Village Tirandaz admeasuring 558 Bighas was purchased and acquired by the Mutawalis of the Sir Mohamed Yusuf Trust, the said Sherbanu, the said Rabiabanu and the said Shabanu in the manner stated therein.

- 1.4 By an Indenture of Wakf dated 7th July, 1941 registered before the Office of the Sub-Registrar of Assurances under Serial No.2884 of Book No. I on 17th July, 1941 executed between the said Sherbanu, therein referred to as 'the wakif' and the said Sherbanu, Sir Mohamed Yusuf Kt., Lady Khatun, said Abdul Yusuf, the said Rabiabanu, and the said Shabanu, therein referred to as the mutawalis, the said Sherbanu granted and conveyed her 1/6th undivided right title and interest in the Powai Estate in favour of the Mutawalis of the Sherbanu Trust subject to the provisions thereof. We have examined a copy of this Indenture of Wakf dated 7th July, 1941 which permits, *inter-alia*, the wakif to sell and convey the properties of the Sherbanu Trust.

- 1.5 That by an Indenture of Wakf dated 23rd April, 1941 registered with the Office of the Sub-Registrar of Assurances under Serial No.2083 of Book No. I on 21st July, 1941 executed between the said Rabiabanu, therein referred to as 'the wakif' and the said Rabiabanu, Sir Mohamed Yusuf Kt., Lady Khatun, said Abdul Yusuf, the said Sherbanu and the said Shabanu, therein referred to as the mutawalis, the said Rabiabanu granted and conveyed her 1/6th undivided right title and interest in the Powai Estate in favour of the Mutawalis of the Rabiabanu Trust subject to the provisions thereof.
- 1.6 That by an Indenture of Wakf dated 8th July, 1941 registered with the Office of the Sub-Registrar of Assurances under Serial No.2885 of Book No. I on 21st July, 1941 executed between the said Shabanu, therein referred to as 'the wakif' and the said Shabanu, Sir Mohamed Yusuf Kt., Lady Khatun, said Abdul Yusuf, the said Sherbanu and the said Rabiabanu, therein referred to as the mutawalis, the said Shabanu granted and conveyed her 1/6th undivided right title and interest in the Powai Estate in favour of the Mutawalis of the Shabanu Trust subject to the provisions thereof. We have examined a copy of this Indenture of Wakf dated 8th July, 1941 which permits, *inter-alia*, the wakif to sell and convey the properties of the Shabanu Trust.
- 1.7 That Lady Khatun expired on or about 8th October, 1954 and ceased to be a mutawali/trustee of the Sir Mohamed Yusuf Trust, Sherbanu Trust, Rabiabanu Trust and Shabanu Trust.
- 1.8 That Sir Mohamed Yusuf Kt. resigned from the Sir Mohamed Yusuf Trust, Sherbanu Trust, Rabiabanu Trust and Shabanu Trust in the following manner,-
 - 1.8.1 From the Sir Mohamed Yusuf Trust vide his letter of resignation dated 9th June, 1956 which was accepted vide the Trust resolution dated 25th July, 1956;
 - 1.8.2 From the Sherbanu Trust vide his letter of resignation dated 17th July, 1961 which was accepted vide the Trust resolution dated 20th July, 1961;
 - 1.8.3 From the Rabiabanu Trust vide his letter of resignation dated 17th July, 1961 which was accepted vide the Trust resolution dated 20th July, 1961;
 - 1.8.4 From the Shabanu Trust vide his letter of resignation dated 17th July, 1961 which was accepted vide the Trust resolution dated 20th July, 1961.
- 1.9 That by and under an Agreement for Sale dated 20th July, 1961 executed between the Mutawalis of the Sir Mohamed Yusuf Trust, the Mutawalis of the Sherbanu Trust, the Mutawalis of the Rabiabanu Trust and the Mutawalis of the Shabanu Trust, the Original Lands were agreed to be sold and conveyed to Chandrabhan Bhuramal Sharma ("**said Chandrabhan Sharma**"), for the consideration and on the terms mentioned therein.
- 1.10 That the Sir Mohamed Yusuf Trust was registered as a public charitable trust under the provisions of the Bombay Public Trust Act, 1950 (under P.T. No. P

221(B)) and that the Charity Commissioner sanctioned sale of the Original Lands under the said Agreement for Sale dated 20th July, 1962 by an Order dated 8th May, 1962.

- 1.11 That the minimum number of Mutawalis of the Sir Mohamed Yusuf Trust was reduced from 5 to 4 by and under a Decree dated 12th September, 1962 passed by the Bombay City Civil Court in Suit No.1982 of 1962 filed by the Mutawalis of the Sir Mohamed Yusuf Trust against the Charity Commissioner.
- 1.12 That an Order dated 30th November, 1962 passed by the Bombay High Court in T.P. No. 12 of 1962 in exercise of its inherent and extra ordinary jurisdiction permitted the Mutawalis of the Sir Mohamed Yusuf Trust to sell the Powai Estate for a consideration of Rs.30,00,000/- and subject to the terms and conditions of the said Agreement for Sale dated 20th July, 1961.
- 1.13 That the Sherbanu Trust, Rabiabanu Trust and Shabanu Trust permit the wakifs thereof to sell or exchange the wakf properties without the sanction of the Court, and that they are private trusts in the nature of Wakf-ul-Aulad. Further, the Mutawalis of the Sherbanu Trust, Rabiabanu Trust and Shabanu Trust have executed the said Agreement for Sale dated 20th July, 1961 at the direction of their respective wakifs.
- 1.14 That the Original Lands comprised in Village Tirandaz are as follows,-

Survey No.	Pot No.	Falnl No.	Area (A-G-A)
1(part)			1-0-0
4(part)			0-30-0
12			0-7-1
14		1	0-17-0
15		1	0-34-0
35		1	0-38-0
38		1	17-10-0
39		1	15-22-0
Total Area			36-22-1

- 1.15 That the conveyance of the Original Lands under the said Conveyance dated 30th March, 1964 is subject to the right and claim of the Government, if any, in respect of any part of the Original Lands which are declared as waste lands under the provisions of the Salsette Estate (Land Revenue Exemption Abolition) Act, 1951 ("**Salsette Act**"). While we have not examined any orders/papers/proceedings conclusively evidencing that the Larger Land is not 'waste land' under the Salsette Act and is not vested with the Government under the provisions thereof, Skyline Mansions Private Limited have represented that to the best of their knowledge, no part of the Larger Land has been declared as 'waste land' and/or reverted/resumed by/vested with the Government under the provisions of the Salsette Act. We also note that the revenue records examined by us (as detailed at paragraph J below), do not reflect any proceedings / declaration / acquisition / vesting with respect to the Larger Land or any part thereof under the provisions of the Salsette Act.

1.16 The Third Schedule to the said Conveyance dated 30th March, 1964 (original title deeds pertaining to the Powai Estate in respect of which the vendors have granted a covenant for production) reflects a Consent Decree dated 19th February, 1952 in Suit No. 1286 of 1951 (*Sir Mohamed Yusuf Kt. & Anr... Plaintiffs v/s Lady Khatun Mariam & Ors. ... Defendants*) with the Indenture of Wakf dated 29th April, 1929 annexed thereto.

1.17 The said Abdul Yusuf admitted execution of the said Conveyance dated 30th March, 1964 for himself and on behalf of the other Mutawalis of the Sir Mohamed Yusuf Trust, Sherbanu Trust, Rabiabanu Trust and Shabanu Trust. We have not examined a power of attorney in this regard and Skyline Mansions Private Limited have informed us that such power of attorney is not available with them.

Skyline Mansions Private Limited have informed us that none of the documents detailed at paragraphs C(1.2), C(1.5), C(1.9), C(1.11), C(1.12) and C(1.16) are available with them, and that they do not have any supporting documents with respect to what is stated at paragraphs C(1.1), C(1.7), C(1.8) and C(1.10) above.

2. By and under an Agreement of Lease dated 29th July, 1971 ("**Lease Agreement**") executed between H.C. Sharma, C.C. Sharma, P.C. Sharma & G.C. Sharma, therein collectively referred to as 'the lessors' and Chittaranjan Sharma, therein referred to as 'the lessee', the lessors therein agreed to lease all those pieces and parcels of land forming part of the Original Lands bearing Old Survey No.38 and Old Survey No.39 collectively admeasuring 32 Acres 32 Gunthas (equivalent to approximately 1,32,732.416 square metres) for a term of 98 years at a monthly rent of Rs.2,000/- and on the terms and conditions stated therein including *inter-alia*, that a registered indenture of lease would be executed in favour of Chittaranjan Sharma within a period of 1 year, that possession of the Larger Land would be given to Chittaranjan Sharma on the date of execution of the Lease Agreement and that Chittaranjan Sharma is permitted to use the Larger Land for agricultural and non-agricultural purposes. Skyline Mansions Private Limited have informed us that a registered indenture of lease has not been executed in favour of Chittaranjan Sharma and/or his legal heirs, executors or assigns pursuant to the Lease Agreement dated 29th July, 1971, that possession of the Larger Land was handed over to Chittaranjan Sharma in terms thereof and that there is no plan annexed to the Lease Agreement dated 29th July, 1971.
3. Subsequent to the said Lease Agreement, it appears that the Old Survey No.38 and Old Survey No.39 (agreed to be leased thereunder) were assigned a consolidated Survey No.38 admeasuring 32 Acres 32 Gunthas (equivalent to approximately 1,32,732.416 square metres) and which is described more particularly in the **Second Schedule** hereunder written and is hereinafter referred to as "**the Larger Land**". We have examined the Mutation Entry No. 89 dated 1st June, 1989 in this regard, and our observations are more particularly detailed in paragraph J(2.3) below.
4. By and under a Declaration of Trust dated 28th February, 1972 registered before the Office of the Sub-Registrar of Assurances under Serial No.BOM-R-846 of 1972 ("**Declaration of Manav Dharma Mission Trust**") executed between (a) H.C. Sharma, C.C. Sharma, P.C. Sharma & G.C. Sharma, therein referred to as the 'first declarants', (b) the said Chittaranjan Sharma, therein referred to as the 'second declarant', and (c) the said Chandrabhan Sharma and Durgadevi Chandrabhan Sharma, therein referred to as 'the trustees', H.C. Sharma, C.C. Sharma, P.C. Sharma & G.C. Sharma granted and conveyed all their right, title and interest in the lands described in Schedule 'A'

thereto (including the Larger Land) and Chittaranjan Sharma granted and conveyed all his right, title and interest in the lands described in Schedule 'B' thereto, both in favour of the Trustees of Manav Dharma Mission Trust and thereby declared the trust of the said properties to be held and administered in the name of "**Manav Dharma Mission Trust**", on the terms and conditions mentioned therein including, *inter-alia*, that the Trustees of Manav Dharma Mission Trust would hold and spend the net income and rents that may be received for charitable purposes including relief of poverty, distress, education, medical relief and advancement or other object of general public utility and to assist schools, colleges etc., and the power to sell, transfer and dispose of the properties of the Trust. We note that the copy of the Declaration of Manav Dharma Mission Trust examined by us does not evidence admission of execution before the Office of the Sub-Registrar of Assurances by Harishchandra Sharma

5. The Manav Dharma Mission Trust was subsequently registered as a public charitable trust under the provisions of the Bombay Public Trust Act, 1950 under P.T.R. No. E-5242(BOM).
6. By and under an Order dated 30th May, 1995 passed by the Charity Commissioner, Maharashtra State, Mumbai under the provisions of Section 36(1) of the Bombay Public Trust Act, 1950, sanction was accorded to the trustees of the Manav Dharma Mission Trust to sell and convey the reversion in the Larger Land together with the structures standing thereon in favour of Bahupriya Properties Private Limited (as Skyline Mansions was earlier known) for the consideration specified therein. The said Order dated 30th May, 1995 passed by the Charity Commissioner records *inter-alia* that (a) Chittaranjan Sharma constructed his bungalow on the Larger Land and had quarry business, (b) 8.50 Acres of the Larger Land is reserved for recreation garden, (c) the west side of the Larger Land is covered by slums, and (d) Gopal Sharma had earlier objected to the proceedings before the Charity Commissioner and had withdrawn his objection *vide* his Letter dated 13th March, 1995. In this regard, Skyline Mansions have informed us that no portion of the Residential Plot (described in the **Third Schedule** hereunder written and in which the said Land is comprised) is affected by slums or any other encroachment. Skyline Mansions have also informed us that a copy of the Letter dated 13th March, 1995 addressed by Gopal Sharma to the Charity Commissioner is not available with them.
7. By and under a Deed of Conveyance dated 20th January, 1996 registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-3-200 of 1996 on 13th August, 2007 ("**said Conveyance dated 20th January, 1996**") executed between the then trustees of the Manav Dharma Mission Trust, therein referred to as 'the vendors' and Skyline Mansions (then known as Bahupriya Properties Private Limited), therein referred to as 'the purchaser', the trustees of the Manav Dharma Mission Trust conveyed the Larger Land together with the structures and bungalow standing thereon ("**the Larger Property**") (therein stated to have been constructed by Chittaranjan Sharma in the year 1962) in favour of Skyline Mansions, subject to the lease of the Larger Land agreed to be granted in favour of Chittaranjan Sharma under the Lease Agreement dated 29th July, 1971, which Larger Land is described more particularly in the **Second Schedule** hereunder written. The said Conveyance dated 20th January, 1996 records that 8.50 Acres of the Larger Land is reserved for "recreation of garden" and is already acquired by the MCGM, and in this regard, our detailed observations are captured at paragraph D below. Although the said Conveyance dated 20th January, 1996 is executed by Chittaranjan Sharma as the lessee and execution thereof also admitted by him, Chittaranjan Sharma is not mentioned in the cause title nor are any covenants/grants

issued by him thereunder. The said Conveyance dated 20th January, 1996 reflects *inter-alia*,-

- 7.1 That the Larger Land was in possession of Chittaranjan Sharma pursuant to the Lease Agreement dated 29th July, 1971,
- 7.2 A Certificate dated 9th August, 2007 issued under Section 41 of the Maharashtra Stamp Act, 1958 by the Collector of Stamps, Kurla that stamp duty of Rs.6,03,450/- was paid thereon. Although executed on 20th January, 1996, the said Conveyance is registered on 13th August, 2007.
- 7.3 That Mr. Niranjan Hiranandani admitted execution through a constituted attorney, Mr. J.B. Medon. Skyline Mansions Private Limited have informed us that they do not have a copy of a power of attorney in this regard.
- 7.4 A Letter dated 5th May, 1995 addressed by Skyline Mansions (which is an annexure to the said Conveyance dated 20th January, 1996) to the Charity Commissioner, stating that the area of the Larger Land is actually 27 Acres and that 8.50 Acres is under reservation of Garden.
- 7.5 The said Conveyance dated 20th January, 1996 is executed by S.R. Pillai, Niranjan Hiranandani, M.P. Pillai and Gopal Sharma, as trustees of the Manav Dharma Mission Trust. Skyline Mansions Private Limited have informed us that they do not have any Deeds of Retirement/Appointment of trustees recording the change in trustees of the Manav Dharma Mission Trust from 28th February, 1972 till 20th January, 1996.

8. **Firm Assignment Agreement & Development of the JDA Land:**

- 8.1 By and under an Agreement to Assign Lease dated 4th April, 2005 registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-3-2746 of 2006 read with a Deed of Rectification dated 6th May, 2010 registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-4453 of 2006 (collectively "**Firm Assignment Agreement**") both executed between Chittaranjan Sharma, therein referred to as 'the Assignor' and M/s. Skyline Great Hills, therein referred to as 'the Assignee' and being the Firm referred herein, Chittaranjan Sharma agreed to assign his rights with respect to a part of the Larger Land admeasuring approximately 32,262.68 square metres and described in **Part A of the Fourth Schedule** hereunder written ("**JDA Land**") to the Firm for the residual term of 98 years under the Lease Agreement dated 29th July, 1971 on the terms and conditions stated therein. The Firm Assignment Agreement records *inter-alia*,-
 - 8.1.1 That Chittaranjan Sharma put the Firm in possession of the JDA Land with authority to deal with and dispose of the JDA Land in such manner as the Firm may deem fit, subject to the terms and conditions of the Lease Agreement.
 - 8.1.2 That Chittaranjan Sharma is in actual physical possession of the remaining area of the Larger Land admeasuring 95,117.37 square metres after deducting therefrom the area of the Erstwhile Leased Land admeasuring 37,592 square metres (earlier leased vide 60 separate

indentures of lease and subsequently surrendered, as more particularly mentioned below).

- 8.1.3 That the JDA Land forms part of the balance Larger Land admeasuring 95,117.37 square metres
- 8.1.4 A covenant from the Firm to provide to Chittaranjan Sharma right of way from the JDA Land to the remaining portion of the balance Larger Land retained by Chittaranjan Sharma, without compensation.
- 8.1.5 A covenant from the Firm to allow use of infrastructure on the JDA Land by Chittaranjan Sharma, to enable him to develop the balance Larger Land retained by him in future.
- 8.1.6 That Chittaranjan Sharma would obtain the confirmation from Skyline Mansions that the Lease Agreement was still valid, and if required, a direct indenture of lease would be executed by Skyline Mansions in favour of the Firm also permitting the Firm to develop the JDA Land in the manner they deem fit. Skyline Mansions have informed us that a formal indenture of lease has not been executed in favour of the Firm with respect to the JDA Land.
- 8.1.7 That originally the Larger Land was in NDZ (No Development Zone) and the Competent Authority under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 ("ULC Act") confirmed that the provisions of the ULC Act were not applicable to the Larger Land
- 8.1.8 That subsequently, a part of the Larger Land was shown in Residential Zone and Chittaranjan Sharma has filed the Section 6 Statement under the ULC Act and is advised that the residential portion is not surplus vacant land as defined under the ULC Act, and that Chittaranjan Sharma shall in due course, apply for orders that the said residential portion is not surplus vacant land. In this regard, Skyline Mansions have not provided us with any such Section 6 Statement.
- 8.2 We also note that the Kanakia DA records a confirmation from Narottam C. Sharma and Chandan Sharma (i.e. the Confirming Party) of receipt of the entire consideration to be paid by the Firm to Chittaranjan Sharma under the Firm Assignment Agreement. The Firm is in possession of the JDA Land.
- 8.3 By and under a Joint Development Agreement dated 4th April, 2008 ("JDA") executed between the Owner (then known as Bahupriya Properties Private Limited), therein referred to as 'the owners/developers', and the Firm, therein referred to as 'the joint developers', the Firm granted to the Owner the right to jointly develop the JDA Land by consuming and utilising FSI and TDR thereon and with a right to amalgamate the same with a portion of the Larger Land admeasuring 29,500 square metres and described more particularly in **Part B of the Fourth Schedule** hereunder written in accordance with the terms and conditions set out therein, including *inter-alia*, a requirement that Skyline Mansions Private Limited provide constructed area in the form of residential flats, penthouses, commercial units, premises, parking spaces consuming 16,500 square metres FSI (equivalent to 1,77,540 square feet FSI) together with

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requisite number of parking spaces to the Firm in the manner and on the terms mentioned therein ("**Firm Constructed Area**").

- 8.4 By and under a Power of Attorney dated 4th April, 2008 executed by M/s. Skyline Great Hills, the Firm appointed and empowered Jaysinh Dave, Narottan C. Sharma, Jatin V. Daisaria and Khyallal M. Tater ("**JDA-POA**") to do the acts deeds matters and things specified therein with respect to the undertaking the development of the JDA Portion.
- 8.5 By and under a Deed of Confirmation dated 20th October, 2011 registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-8483 of 2011 executed between the Owner and the Firm, the parties agreed and confirmed that the JDA was valid, binding and subsisting.
- 8.6 By and under a Deed of Confirmation dated 20th October, 2011 registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-8484 of 2011 executed between the Owner and the Firm, the parties agreed and confirmed that the JDA-POA was valid, binding and subsisting.
- 8.7 It may be noted that the Kanakia DA records that the Firm Assignment Agreement and the JDA are subservient to the rights of Kanakia Spaces Realty Private Limited under the Kanakia DA.

9. **Erstwhile Leased Land:**

- 9.1 Skyline Mansions together with the consent of Chittaranjan Sharma, granted lease of various notionally sub-divided layout plots comprised in the Larger Land admeasuring in the aggregate 37,592 square metres and described in **Part C of the Fourth Schedule** hereunder written and referred to as the "**Erstwhile Leased Land**", by and under 60 (sixty) registered indentures of lease, in favour of various persons.
- 9.2 Certain original lessees of the plots comprised in the Erstwhile Leased Land transferred/gifted their rights in respect thereof in favour of certain persons by and under certain gift deeds.
- 9.3 The erstwhile lessees of the various layout plots comprised in the Erstwhile Leased Land surrendered all their respective right, title and interest therein in favour of Skyline Mansions, by and under 60 (sixty) separate Deeds of Surrender. The details of the indentures of lease, the gift deeds and the deeds of surrender with respect to the Erstwhile Leased Land are stated in **Annexure "C"** hereto. In consideration of the surrender of the Erstwhile Leased Land, Skyline Mansions Private Limited agreed to construct and deliver 25,600 square feet carpet area in the form of constructed area together with certain car parking spaces on the terms and conditions more particularly described in the deeds of surrender identified in **Annexure "C"** hereto ("**Area Obligation**").
- 9.4 We note that the deed of surrender detailed at Serial No. 23 in the table at **Annexure "C"** hereto, has been executed by Jatin Daisaria on behalf of Rohan J. Daisaria who was a minor at the time. We have not examined any orders/permissions obtained from the Hon'ble Bombay High Court sanctioning execution of such deed of surrender. We note however, that the Deed of

Surrender dated 29th July, 2010 requires the Owner to construct and deliver 1,600 square feet carpet area along with 2 (two) car parking spaces to Rohan J. Daisaria. Further, on attainment of majority, Rohan J. Daisaria has confirmed the transaction as embodied in the Kanakia DA and the same is recorded in the Letter dated 31st March, 2016 executed by *inter-alia* Rohan J. Daisaria in favour of Kanakia Spaces Realty Private Limited.

10. **Chittaranjan Sharma Land:**

10.1 By and under a Deed of Conveyance dated 31st December, 2009 registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-7-5728 of 2010 executed between Skyline Mansions Private Limited (then known as Bahupriya Properties Private Limited), therein referred to as 'the vendor' and Chittaranjan Sharma, therein referred to as 'the purchaser', Skyline Mansions Private Limited conveyed their reversionary rights in respect of a portion of the Larger Land admeasuring 10,125.92 square metres and described more particularly in **Part A of the Fifth Schedule** hereunder written ("**Chittaranjan Sharma Land**") together with the structures standing thereon in favour of Chittaranjan Sharma on the terms and conditions stated therein together with the benefit of infrastructure development on the remaining portion of the Larger Land including road, storm drain, sewerage line, electricity line etc. without any payment, save and except proportionate maintenance cost. However, the Kanakia DA dated 31st March, 2016 clarifies that the Confirming Party is not entitled to use any infrastructure development within the Residential Plot or the said Land or to use the R.G. area as well as any amenities and facilities that may be provided by the Owner/Firm or Kanakia Spaces Realty Private Limited and is also not entitled to the benefit of common amenities and infrastructure development on the said Land or any part thereof including road, storm drain, sewerage line, electricity line etc. within the said Land.

10.2 Skyline Mansions Private Limited and the Firm have agreed to grant a necessary right of way/means of access to the late Chittaranjan Sharma and the Confirming Party to use certain internal roads in the layout of the Larger Land passing through Sub-Plot A, Sub-Plot B and Sub-Plot B-1 as identified on the plan annexed to the Layout Approval dated 24th November, 2008 and as may be modified from time to time ("**Internal Road**"), to enable the Confirming Party to access the remaining area of the Larger Land. We further note that until direct access is not available to the area of the Larger Land in occupation of the Confirming Party, the Confirming Party is entitled to use the Internal Road and use storm water drain, sewerage line, electricity line laid in the Internal Road and enhance the capacity thereof.

11. **Right of Way & Access to the Larger Land:**

11.1 By and under an Order dated 15th February, 2010 read with an Order dated 20th October, 2010 passed by the Charity Commissioner, Maharashtra, Mumbai, under Section 36(1)(a) of the Bombay Public Trusts Act, 1950, the Charity Commissioner permitted Navjivan Hospital Trust to grant a right of way for public purpose in favour of Skyline Mansions and Rajesh Estates and Nirman Limited over an access passage running across the land of the Navjivan Hospital Trust (adjacent to the western boundary of the Larger Land), for an aggregate consideration of Rs.5,50,000/- out of which Rs.50,000/- was to be paid by Skyline

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Mansions and the balance Rs.5,00,000 was to be paid by Rajesh Estates and Nirman Limited, on the terms and conditions mentioned therein.

11.2 By and under a Deed of Grant of Right of Way dated 16th November, 2010 registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-7-8549 of 2010 executed between Navjivan Hospital Trust, therein referred to as 'the grantors' and Skyline Mansions (then known as Bahupriya Properties Private Limited), therein referred to as 'the grantee', Navjivan Hospital Trust granted to Skyline Mansions, a right of way in perpetuity over a passage of approximately 60 feet width strip running across the land owned by Navjivan Hospital Trust bearing C.T.S. No.103 at Village Tirandaz which is described more particularly in **Part B of the Fifth Schedule** hereunder written ("**Larger Land ROW**") for the consideration and on the terms and conditions mentioned therein, including *inter-alia*, a covenant from Skyline Mansions to grant a right of way through the Larger Land to the Navjivan Hospital Trust, if any of the trustees or their family members decide to develop any properties in the adjacent Village Hariyali (lying to the east), without charging any premium or compensation, on the terms and conditions mentioned therein including *inter-alia*,-

11.2.1 That the Owner shall make the passage a pucca road. The Owner has informed us that this covenant has not been complied with till date;

11.2.2 That the Owner shall build, construct, repair and maintain the passage and keep the same in working order at its own costs and expenses, and will ensure that the passage is not encroached upon and shall be kept open and clear in all respects for both the parties;

11.2.3 That Navjivan Hospital Trust shall ensure the passage is not encroached upon and is kept open and clear in all respects; and

11.2.4 That Navjivan Hospital Trust alone shall be entitled to compensation and/or FSI benefits in lieu of compensation and/or TDR benefits or otherwise in respect of the right of way on its land.

12. **Expiry of the late Chittaranjan Sharma:**

12.1 The late Chittaranjan Sharma expired on or about 4th August, 2010 in Mumbai, leaving behind a Last Will and Testament dated 25th August, 2006 ("**Sharma Will**"), whereby he *inter-alia* appointed Narottam Chittaranjan Sharma ("**Narottam Sharma**") and Chandan Chittaranjan Sharma ("**Chandan Sharma**") i.e. the Confirming Party, as the executors of the Sharma Will, and he devised and bequeathed all his right, title and interest in lands held by him at Village Tirandaz on tenure other than ownership, in favour of Narottam Sharma and Chandan Sharma, being his sons, in equal proportion. The Sharma Will also states that Chittaranjan Sharma is in possession of the Larger Land as a lessee, and that he was (at the time) residing on a portion of the Larger Land known as 'Hanuman Tekdi' in a bungalow, and that Chandan Sharma would not have any claim since he was residing with him.

12.2 The Sharma Will does not explicitly clarify whether Chandan Sharma does not have any claim merely upon the portion on which Chittaranjan Sharma and Chandan Sharma were residing, or upon the entire Larger Land. It may be noted

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that the Sharma Will also devises and bequests the residue of the estate of the late Chittaranjan Sharma in favour of Narottam Sharma and Chandan Sharma in equal proportion.

- 12.3 Narottam Sharma filed a Testamentary Petition No.467 of 2012 before the Bombay High Court ("**Probate Petition**") for grant of probate of the Sharma Will and the properties and credits of Chittaranjan Sharma. The Probate Petition discloses that Chittaranjan Sharma expired leaving behind the following legal heirs,-
- 12.3.1 Premkumari Chittaranjan Sharma, his widow
 - 12.3.2 Kanina Rajdaksh Sharma, his married daughter
 - 12.3.3 Narottam Sharma, his son and an executor of the Sharma Will
 - 12.3.4 Chandan Sharma, his son and an executor of the Sharma Will
 - 12.3.5 Navalkishore Chittaranjan Sharma ("**Navalkishore Sharma**"), his son.
- 12.4 Navalkishore Sharma filed a Caveat Application in the Probate Petition stating *inter-alia* that certain properties of the late Chittaranjan Sharma were bequeathed in various proportions to certain beneficiaries, and that he apprehended that the petitioners had exercised undue influence and would not distribute proportionate shares amongst the beneficiaries of the Sharma Will. Pertinently, the execution of the Sharma Will itself was not disputed. The Probate Petition was thereafter converted into Testamentary Suit No. 98 of 2012 ("**Probate Suit**").
- 12.5 Narottam Sharma and Chandan Sharma filed a Notice of Motion No. 19 of 2013 in the Probate Suit seeking dismissal of the Caveat Application filed by Navalkishore Sharma. Navalkishore Sharma filed an Affidavit in Reply dated 16th March, 2013 to the Notice of Motion No. 19 of 2013 stating *inter-alia* that a Deed of Family Settlement was executed by him sometime in the months of November/December, 2011 to settle the disputes between him and Narottam Sharma and Chandan Sharma. We have not examined a copy of any such Family Settlement.
- 12.6 Pursuant to a Chamber Order No. 578 of 2013 filed by the Advocate representing Navalkishore Sharma in Notice of Motion No. 19 of 2013 in the Testamentary Suit No. 98 of 2012 in the Testamentary Petition No. 467 of 2012 stating *inter-alia* that Navalkishore Sharma had informed him that the disputes between him and Narottam Sharma and Chandan Sharma were being settled and instructing him to prepare consent terms in this regard, but not giving any further instructions, an Order dated 30th September, 2013 was passed by the Bombay High Court allowing the Chamber Order No. 578 of 2013 and discharging the Advocate for Navalkishore Sharma for the reasons mentioned therein.
- 12.7 By and under an Order dated 3rd February, 2014 passed by the Bombay High Court, the Notice of Motion No. 19 of 2013 was made absolute in terms of prayer clauses (a) and (b) therein and the Caveat Application and Affidavit in Support thereof filed by Navalkishore Sharma were dismissed.

12.8 By and under an Order dated 29th May, 2015 passed by the Bombay High Court in the Probate Petition (Testamentary Petition No.467 of 2012) in exercise of its Testamentary and Intestate Jurisdiction, the Sharma Will was proved before the Bombay High Court and Probate of the Sharma Will and the properties and credits of Chittaranjan Sharma was granted in favour of Narottam Sharma on the terms and conditions mentioned therein including *inter-alia* a reservation of the right of Chandan Sharma to come in and apply for Probate of the Sharma Will later on.

12.9 Further,-

12.9.1 We have examined Affidavits dated 6th August, 2014 filed by Premkumari Chittaranjan Sharma, the widow of the late Chittaranjan Sharma, and Kanina Rajdaksh Sharma, the married daughter of the late Chittaranjan Sharma, stating their respective no-objection and granting consent to the issuance of Probate in favour of Narottam Sharma and Chandan Sharma.

12.9.2 We have examined an Affidavit dated 10th December, 2014 filed by Chandan Sharma, stating his no-objection and granting consent to the issuance of Probate in favour of Narottam Sharma.

13. It appears that the Owner has been granted rights by the MCGM to cross a pipeline along the western boundary of the Larger Land on foot and vehicle and in this regard, we have examined a barely legible rent receipt issued by the Hydraulic Engineers Department of the MCGM, levying ground rent of Rs.2,520/- (Rupees Two Thousand Five Hundred and Twenty). We have however, not examined any documents executed between the MCGM and the Owner with respect to this right of way / right of access.

14. **Kanakia DA:**

14.1 By and under the Kanakia DA, Kanakia Spaces Realty Private Limited has been granted development rights to develop, construct and utilise the Kanakia FSI on the said Land in the manner, for the consideration and on the terms and conditions stated therein. The Owner, the Firm and the Confirming Party have also executed a Power of Attorney dated 31st March, 2016 registered before the Office of the Sub-Registrar of Assurances under Serial No.KRL-1-4025 of 2016 ("the Kanakia POA") in favour of Kanakia Spaces Realty Private Limited empowering and authorising them to exercise various powers in relation to the development of the said Land and Kanakia FSI in the manner and on the terms and conditions mentioned therein.

14.2 Under the Kanakia DA, the Owner and the Firm have also granted the following to Kanakia Spaces Realty Private Limited,-

14.2.1 A license to enter upon the Residential Plot and exercise its rights and entitlements in accordance with the terms of the Kanakia DA;

14.2.2 The benefit of use of the Larger Land ROW to access the Residential Plot and the said Land and also the right to use the Internal Road in the layout of the Larger Land (which is also granted to *inter-alia* persons

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that may own, occupy, possess or use the said Land, the Kanakia FSI and/or any units/premises comprised therein).

15. In view of what is stated above,-

15.1 Skyline Mansions Private Limited are the owner of a portion of the Larger Land admeasuring 1,12,920.68 square meters as per the Property Register Card and 1,22,606.496 square metres as per the said Conveyance dated 20th January, 1996 and 7/12 Extract subject to what is stated at paragraph D below, out of which,-

15.1.1 The JDA Land admeasuring 32,262.68 square meters is owned by the Owner and the same is agreed to be developed by the Owner jointly with the Firm being the lessee thereof on and subject to the terms and conditions contained in the JDA;

15.1.2 The Erstwhile Leased Land admeasuring 37,592 square metres is owned by the Owner as the absolute owner thereof; and

15.1.3 The balance portion admeasuring 43,066 square meters as per the Property Register Card and 52,751.816 square metres as per the said Conveyance dated 20th January, 1996 and 7/12 extract is owned by the Owner and the Confirming Party is in possession thereof pursuant to the Lease Agreement dated 29th July, 1971.

15.2 Narottam Sharma and Chandan Sharma i.e. the Confirming Party, are the joint owners of the Chittaranjan Sharma Land admeasuring 10,125.92 square meters.

16. The Kanakia DA records that the said Land admeasuring 7,215 square metres and described in **Part A of the First Schedule** hereunder written is comprised within the Residential Plot described in the **Third Schedule** hereunder written, falls within the Residential Zone as per the NDZ Conversion Notification, is identified as Sub-Plot B in the Layout Approval dated 24th November, 2008 and is permitted to be used for non-agricultural purposes under the N.A. Order.

D. ACQUISITION OF 8.50 ACRES OF THE LARGER LAND BY THE MCGM

1. The trustees of the Navjivan Hospital Trust were desirous of securing a release of a portion of land admeasuring about 6.91 Acres bearing C.T.S. Nos. 102(part) and 103(part) from the reservation of garden by which it was affected under the sanctioned Development Plan for Mumbai City. They proposed that the reservation of garden be shifted and relocated onto a portion of the Larger Land admeasuring 8.50 Acres comprised in Survey No. 38(part) ("**the Acquired Land**"). It appears that the reservation of garden was relocated onto the Acquired Land and the aforesaid land admeasuring 6.91 Acres was permitted to be developed for a hospital.

2. We have examined a Possession Receipt dated 9th July, 1982 issued by the MCGM stating that possession of a portion of the Larger Land admeasuring 8.50 Acres equivalent to 34,397 square metres has been taken by the MCGM for the purpose of a Nature Cure Centre / Garden ("**Acquired Land**").

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3. We have also examined certain letters and correspondence exchanged between various departments and officers of the MCGM evidencing that subsequent to taking over possession of the Acquired Land, certain officers of the MCGM felt that it would be difficult to develop the Acquired Land as a nature cure centre / garden and to build a compound wall to protect it, on account of its hilly terrain and changes in elevation. The MCGM also requested the trustees of the Manav Dharma Mission Trust for access to the Acquired Land, and we have examined a letter dated 30th October, 1990 addressed by Chittaranjan Sharma to the MCGM agreeing to grant access to the Acquired Land through the balance Larger Land. We have also examined a Letter dated 18th March, 1992 addressed by the MCGM to Chittaranjan Sharma, stating that a mere access would not be sufficient, and that the access to the Acquired Land would need to be conveyed in favour of the MCGM. We have examined correspondence addressed by the trustees of the Manav Dharma Mission Trust to the MCGM and other authorities (the latest such letter being dated 17th May, 2012), requesting that the necessary acts be undertaken for development of the Acquired Land as a nature cure centre and for conveyance of the Acquired Land in favour of the MCGM. We have also examined a Letter dated 21st September, 2011 addressed by Mr. Balvir Singh, Chairman, Powai Vikas Pratishtan, addressed to Mr. Mohammad Arif (Nasim) Khan, inquiring as to why the Acquired Land was not developed as a reservation for more than 29 years.
4. We have not examined an indenture of conveyance whereby the Acquired Land has been formally conveyed in favour of the MCGM. We have also not examined any documents evidencing that the MCGM has released/reconveyed any part of the Acquired Land to the trustees of Manav Dharma Mission Trust / Skyline Mansions / any of their assigns or successors-in-title. A detailed list of documents examined by is in this regard, is included in Annexure "B" hereto.
5. It appears that the portion of the Larger Land identified as Sub-Plot D admeasuring 29,440.38 square meters and designated as a Nature Cure Centre in the Layout Approval dated 24th November, 2008 forms part of the Acquired Land admeasuring 8.50 Acres. However, the Layout Approval does not specifically identify the balance area of the Acquired Land admeasuring 1.225 Acres. To this extent the Layout Approval will have to be amended to exclude the Sub-Plot D admeasuring 29,440.38 square meters and designated as a Nature Cure Centre and provision will have to made for the balance area of the Acquired Land admeasuring 1.225 Acres (to be handed over to the MCGM).

E. CONVERSION OF NDZ TO PARTLY RESIDENTIAL ZONE:

1. By and under a Notification bearing No. CMS/TPB-4302/224/CR-257/02/UD-11 dated 18th August, 2004 issued by the Urban Development Department, Government of Maharashtra ("U.D.D.") under Section 37(2) of the Maharashtra Regional and Town Planning Act, 1966 and published in the Maharashtra Government Gazette on 26th August, 2004 ("**NDZ Conversion Notification**"), the zoning of a portion of the Larger Land admeasuring 24 Acres (about 97,121 square metres) was converted from NDZ (No Development Zone) to Residential Zone along with proposed reservations for School, Playground, Community Hall and Library, and Shopping Center, each admeasuring 1 Acre, and road network. We have not examined the Report of the Deputy Director of Town Planning, Greater Mumbai submitted to the U.D.D. on 5th August, 2004 as referred therein.
2. By and under an Order dated 13th July, 2005 issued by the U.D.D. to the Municipal Commissioner, MCGM, a stay was ordered on the conversion of zoning of lands detailed

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in the statement annexed thereto, which also includes the conversion of the part of the Larger Land effected under the NDZ Conversion Notification. Information was also sought on the action undertaken till date with respect to *inter-alia* the conversion under the NDZ Conversion Notification. The said Order dated 13th July, 2005 records an area of 12 Acres with respect to the Larger Land, as opposed to 24 Acres recorded in the NDZ Conversion Notification.

3. By and under an Order dated 5th April, 2008 issued by the U.D.D. to the Municipal Commissioner, MCGM, intimation was given that the stay granted under the said Order dated 13th July, 2005 was vacated.

F. ULC

By and under a Letter dated 29th July, 2004 issued by the Office of the Additional Collector and Competent Authority, (ULC) Greater Mumbai, no-objection was granted for the transfer of the Larger Land since the Larger Land was in NDZ and lands under NDZ are non-vacant and non-buildable lands under the ULC Act, and therefore, the provisions of Part III of the ULC Act do not apply to the Larger Land. Skyline Mansions Private Limited have informed us that barring the said Letter dated 29th July, 2004, they do not have any other orders / permissions / correspondence issued and/or exchanged under the provisions of the ULC Act.

G. DEVELOPMENT PLAN & REMARK:

1. We have examined the Development Plan Remark dated 7th June, 2014 bearing reference no. CHE/158/DPES/S issued by the MCGM with respect to the said Land bearing C.T.S. No.101 which reflects *inter-alia*,-

- 1.1 The said Land is affected by the reservation of Nature Cure Centre as shown on the plan;
- 1.2 The said Land is in NDZ and the conversion of the NDZ to Residential Zone together with the other reservations as effected under the NDZ Conversion Notification dated 18th August, 2004;
- 1.3 The said Land does not appear to have access from any Municipal Road
- 1.4 The said Land abuts/is affected by pipe line and hence specific remarks from the competent authority is required to be obtained before any development thereon

2. We have examined the Survey Remark dated 29th April, 2008 bearing reference no.C.E./1193/BPES/AS issued by the MCGM with respect to the said Land bearing C.T.S. No.101 which reflects *inter-alia*,-

- 2.1 The said Land falls in NDZ
- 2.2 The said Land is partly reserved for Nature Cure Centre
- 2.3 NOC from Geologist is required
- 2.4 Plot is near pipeline and specific remarks required in this regard

- 2.5 The nearby C.T.S. No. is marked as "दमद खाण" and specific remarks from competent authorities are necessary
- 2.6 Specific remarks from the EE(DP)ES concerning reservations, D.P. Roads, Zone Segregating Distance, Relocation of Reservations is necessary

H. APPROVALS

1. **Layout Approval:**

1.1 The MCGM sanctioned the layout of the Larger Land under its Letter No. CE/165/BPES/LOS dated 24th November, 2008 and plan annexed thereto ("**Layout Approval**") on the terms and conditions mentioned therein including *inter-alia*,-

1.1.1 A notional sub-division of the Larger Land into the following sub-plots was effected,-

1.1.1.1 **Sub-Plot A:** NDZ (I) admeasuring 15,719.64 square metres

1.1.1.2 **Sub-Plot B:** Residential Zone admeasuring 36,600.39 square meters i.e. the Residential Plot which is described in the **Third Schedule** hereunder written;

1.1.1.3 **Sub-Plot B-1:** Shopping Centre admeasuring 4,046.82 square meters;

1.1.1.4 **Sub-Plot B-2:** Community Hall & Library admeasuring 4,046.82 square meters;

1.1.1.5 **Sub-Plot B-3:** School admeasuring 4,046.82 square meters;

1.1.1.6 **Sub-Plot B-4:** Playground admeasuring 4,046.82 square meters;

1.1.1.7 **Sub-Plot B-5:** D.P. Road admeasuring 5,127.79 square meters;

1.1.1.8 **Sub-Plot C:** NDZ (II) (Hilly Land) admeasuring 19,971.12 square meters; and

1.1.1.9 **Sub-Plot D:** Nature Cure Centre admeasuring 29,440.38 square meters

1.1.2 1 Commercial Building is proposed, designated as 'Proposed Building No. 1' and 5 Residential Buildings are proposed, designated as 'Proposed Building Nos. 2 to 6'.

1.2 We have examined the Terms and Conditions of the Layout of the Larger Land registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-8571 of 2008 on 17th November, 2008 ("**Layout Terms and**

Conditions") executed by Bahupriya Properties Private Limited (as the Owner was then known) in favour of the MCGM, stating, confirming and agreeing to the terms upon which the layout of the Larger Land would be sanctioned by the MCGM, including *inter-alia*,-

- 1.2.1 That the land comprised in the D.P. Road admeasuring 5,127.79 square metres is to be kept open and unbuilt upon and if access to the plots is required from the D.P. Road, then, a road of width 18.30 metres will be constructed as per MCGM specifications providing lights, drains etc. and a portion of the 18.30 metre road will be handed over to the MCGM free of cost, for which, 100% FSI can be granted if the additional FSI is restricted to 80% of the FSI of the remaining Larger Land provided the land in the road portion is handed over to the MCGM;
 - 1.2.2 The FSI for the road portion will be distributed on a pro rata basis over the various plots;
 - 1.2.3 Land/plots admeasuring 11,198.95 square metres or 25% of the layout area, whichever is greater, shall be kept open and unbuilt upon and shall be developed as Recreation Ground / Amenity Open Space and shall be properly maintained by all sub-divided plot holders;
 - 1.2.4 The plots reserved for School, Shopping Centre, Playground, Community Hall and Library each admeasuring 4,046.82 square metres will be kept unbuilt and will be handed over to the MCGM as and when required.
- 1.3 We have requested Skyline Mansions Private Limited for the following documents reflected in the Layout Terms and Conditions,-
- 1.3.1 Letter No.C/Desk VI/LND/H/B/865 dated 4th August, 1983 issued by the Additional Collector;
 - 1.3.2 Letter No.C/Desk I/LND/CR-8 dated 1st October, 1984 issued by the Additional Collector;
 - 1.3.3 Letter No.PTZ/2584/42049/T.S.18 dated 25th May, 1984 issued by the Assistant Secretary, Technical Education Department, Maharashtra State
 - 1.3.4 Letter No.CHE/536/DPES dated 16th August, 2008 issued by the Dy.Ch.E.(D.P.)
 - 1.3.5 NOC from Executive Health Officer for proximity of the plot from cemetery.

Skyline Mansions Private Limited have not provided us with the documents listed in sub-paragraphs 1.3.1 to 1.3.5 above.

2. **Intimations of Disapproval:**

2.1 We have examined the Intimation of Disapproval dated 1st December, 2008 bearing reference no.CE/1193/BPES/AS ("IOD for Residential Building No.2"), whereby the MCGM sanctioned the IOD for Proposed Residential Building No. 2 comprising of Stilt + 5 upper floors on the terms and conditions stated therein, including *inter-alia*,-

2.1.1 Total area of the Residential Plot is 36,238.12 square metres (post deduction of 15% RG Area and addition of 5,127.79 square metres as 100% DP Road area)

2.1.2 Permissible FSI is restricted to 0.75

2.1.3 Permissible floor area is 27,178.59 square metres

2.1.4 Proposed built up area for the Proposed Residential Building No.2 is 2,057.49 square metres

2.1.5 Proposed built up area of the Proposed Residential Building Nos.3, 4, 5 and 6 is 8,229.96 square metres, which taken together with the built up area for Proposed Residential Building No.2, translates to 10,287.45 square metres equivalent to 0.33 FSI

2.1.6 25 tenements are proposed in Residential Building No.2 and 100 tenements are proposed in Residential Building Nos.3-6

2.1.7 85 car parking spaces are proposed to be provided as opposed to 55 minimum requisite car parking spaces

2.1.8 Prior to granting Plinth C.C.,-

2.1.8.1 The reservation/D.P. Road is required to be handed over to the MCGM

2.1.8.2 Full width of Right of Way is to be ensured

2.1.8.3 Separate P.R. Cards for sub-divided plots, roads etc. is to be submitted

2.1.8.4 Conditions mentioned in the Letter dated 16th August, 2008 bearing reference no.ChE/536/DPES issued by the MCGM are to be complied with

2.1.8.5 The low-lying plot is to be filled up to a reduced level of atleast 92 T.H.D. or 6" above the adjoining road level whichever is higher, prior to grant of C.C.

2.1.8.6 NOC from the Ministry of Civil Aviation of the Government of India is required prior to granting Further C.C.

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2.2 We have examined the following Intimations of Disapproval (which together with the IOD for Residential Building No.2 are collectively referred to as "the IODs") whereby the MCGM sanctioned the development of Residential Building No.3, Residential Building No.4, Residential Building No.5 and Residential Building No.6 respectively, each comprising of Stilt + 5 upper floors and 25 tenements, on terms, conditions and parameters identical to those mentioned in the IOD for Residential Building No.2,-

2.2.1 Intimation of Disapproval dated 1st December, 2008 bearing reference no.CE/1194/BPES/AS for Residential Building No. 3;

2.2.2 Intimation of Disapproval dated 1st December, 2008 bearing reference no.CE/1195/BPES/AS for Residential Building No. 4;

2.2.3 Intimation of Disapproval dated 1st December, 2008 bearing reference no.CE/1196/BPES/AS for Residential Building No. 5; and

2.2.4 Intimation of Disapproval dated 1st December, 2008 bearing reference no.CE/1197/BPES/AS for Residential Building No. 6.

3. Commencement Certificates:

3.1 We have examined the following Commencement Certificates permitting construction of Residential Building No.2 and Residential Building No.3 upto stilt slab as per the relevant Intimation of Disapproval mentioned above ("C.C."),-

3.1.1 Commencement Certificate No.CE/1193/BPES/AS dated 1st February, 2011 issued in respect of Residential Building No.2; and

3.1.2 Commencement Certificate No.CE/1193/BPES/AS dated 1st February, 2011 issued in respect of Residential Building No.3.

3.2 Both the C.C. were valid until 31st January, 2012. Our client has informed us that Skyline Mansions Private Limited have applied for revalidation of the C.C. and we have examined a receipt dated 5th December, 2015 issued by the MCGM for a sum of Rs.3,300/- (Rupees Three Thousand Three Hundred) towards revalidation fees. However, we have not examined the application for revalidation or the revalidated C.C.

4. Development of Reservations:

The Kanakia DA records that the Owner applied to the MCGM for development of area under reservations for Community Hall and Library and Shopping Centre respectively under Regulation 9 of the DCR and that by an Order dated 16th June, 2010, the MCGM permitted the Owner to develop the aforesaid areas under reservations subject to the Owner providing free of cost built-up area to MCGM as recorded therein. We have not examined a copy of the Order dated 16th June, 2010 issued by the MCGM.

5. Environmental Clearance:

5.1 Kanakia Spaces Realty Private Limited have informed us that Skyline Mansions Private Limited have applied for Terms of Reference to The State Level Environmental Impact Assessment Authority of the State of Maharashtra on 27th

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November, 2015 under Proposal No. SIA/MH/NCP/4640/2015 under Category 8(b) (*Townships and Area Development Projects*) of the Environment Impact Assessment Notification No.S.O.1533 dated 14th May, 2006 issued by the Ministry of Environment, Forests & Climate Change of the Government of India.

5.2 We have not examined any Environmental Clearance issued to Skyline Mansions with respect to the development of the Larger Land under the provisions of the Environment (Protection) Act, 1986 or the Rules and Regulations made thereunder.

6. Undertakings executed in favour of the MCGM:

6.1 We have examined the following Undertakings executed by Bahupriya Properties Private Limited (as the Owner was then known) in favour of the MCGM stating, confirming and agreeing to form a co-operative housing society and register the same before requesting the grant of Occupation Certificate or Building Completion Certificate, whichever is earlier, in respect of the following buildings,-

6.1.1 Undertaking registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-9485 of 2008 on 18th December, 2008 with respect to the Proposed Residential Building No. 2;

6.1.2 Undertaking registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-9483 of 2008 on 18th December, 2008 with respect to the Proposed Residential Building No. 4;

6.1.3 Undertaking registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-9482 of 2008 on 18th December, 2008 with respect to the Proposed Residential Building No. 5; and

6.1.4 Undertaking registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-9481 of 2008 on 18th December, 2008 with respect to the Proposed Residential Building No. 6.

6.2 We have examined an Undertaking registered before the Office of the Sub-Registrar of Assurances under Serial No.BDR-13-9604 of 2008 on 22nd December, 2008 executed by Bahupriya Properties Private Limited (as the Owner was then known) in favour of the MCGM with respect to the Proposed Residential Building Nos. 2, 3, 4, 5 and 6, stating, confirming and agreeing that the advantage of the area of the land falling in D.P. Road has been claimed by them and their undertaking to hand over the D.P. Road free of cost to the MCGM as and when called upon.

7. Hydraulic Engineer NOC:

By and under a Letter dated 15th September, 2010 issued by the Office of the Hydraulic Engineering Department of the MCGM, NOC was granted to the layout of the Larger Land sanctioned under the Layout Approval dated 24th November, 2008 on the terms and conditions mentioned therein.

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I. **N.A. ORDERS**

By and under an Order dated 31st July, 2009 issued by the Office of the Collector, Mumbai Suburban District under the provisions of Section 44(1) of the Maharashtra Land Revenue Code, 1966, permission was granted for non-agricultural use of the Residential Plot admeasuring 36,600.39 square metres comprised in C.T.S. No.101 on the terms and conditions stated therein, including *inter-alia* that approval of the Office of the Collector, Mumbai Suburban District would be required for any sub-division of the Residential Land. Skyline Mansions Private Limited have informed us that a Sanad under Schedule VI to the Maharashtra Land Revenue (Conversion of Use of Land & Non-Agricultural Assessment) Rules, 1969 has not yet been executed with respect to the Residential Plot.

J. **REVENUE RECORDS**

1. **7/12 Extracts (Village Form No. VII-XII):**

The 7/12 Extract dated 1st November, 2015 issued in respect of Survey No.38(part) reflects an area of 32 Acres 32 Gunthas equivalent to approximately 1,32,732.416 square metres, and reflects Narottam Sharma, Managing Director of Bahupriya Properties Private Limited as the owner/holder thereof. Chittaranjan Sharma is also reflected as a lessee of the entire land comprised therein under an Agreement dated 29th July, 1971 i.e. the Lease Agreement.

2. **Mutation Entries (Village Form No. VI):**

We have examined all the Mutation Entries reflected on the 7/12 Extract dated 1st November, 2015 issued in respect of Survey No.38(part) admeasuring 32 Acres 32 Gunthas and reflecting Narottam Sharma, Managing Director of Bahupriya Properties Private Limited as the owner/holder thereof. Our observations on certain pertinent Mutation Entries are as follows,-

2.1 Mutation Entry No.38 dated 5th February, 1968 records the purchase and acquisition of the Larger Land by H.C. Sharma, C.C. Sharma, P.C. Sharma and G.C. Sharma under the said Conveyance dated 30th March, 1964. A remark dated 2nd February, 1973 records that this Mutation Entry has been cancelled.

2.2 Mutation Entry No.40 also dated 5th February, 1968 records the purchase and acquisition of *inter-alia* the land bearing Old Survey Nos. 38 and 39 equivalent to New Survey No.38 collectively admeasuring 39 Acres 3 Gunthas by H.C. Sharma, C.C. Sharma, P.C. Sharma and G.C. Sharma under the said Conveyance dated 30th March, 1964. However, the Mutation Entry No.40 identifies the Larger Land as Survey No.38 admeasuring 39 Acres 3 Gunthas (equivalent to approximately 1,58,125.584 square metres) as opposed to Survey No.38 admeasuring 32 Acres 32 Gunthas (equivalent to approximately 1,32,732.416 square metres), leading to an area discrepancy of about 6 Acres 11 Gunthas.

2.3 Mutation Entry No.89 dated 1st June, 1989, records the amalgamation of the Old Survey No.38 and Old Survey No.39 into the New Survey No.38 admeasuring 32 Acres 32 Gunthas.