

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
AT MUMBAI**

COMPANY PETITION NO. 29 (MAH) OF 2016

**IN THE MATTER OF THE COMPANIES ACT,
2013 SECTIONS 241 AND 242.**

PL *[Signature]* *[Signature]* *[Signature]* *[Signature]*

- 1) Ramesh Shantilal Modi)
- 2) Bharat Shantilal Modi)

)..PETITIONERS

VERSUS

- 1) Modi Landscape Pvt. Ltd.,)
- 2) Ramesh Nanji Thakkar)
- 3) Mahesh Nanji Thakkar)
- 4) Chandrakant Shivajirao Ghule)

)..RESPONDENTS

CONSENT TERMS

- 1) The Petitioners herein, Jayaben Ramesh Modi, Sandeep Ramesh Modi, Sachin Bharat Modi and Geetaben Bharat Modi (hereinafter referred to collectively as "the Modi Group") and the Respondent Nos.2,, 3, Ketan Ramesh Thakkar and Rohan Mukesh Thakkar (hereinafter referred to jointly as "the Thakkar Group") and Respondent No.4 (hereinafter referred to as "the Ghule Group") have agreed to dispose of the instant Petition by way of these Consent Terms which record the terms and conditions of the amicable settlement arrived at between the Modi Group on the one hand and the Thakkar Group & the Ghule Group on the other hand:-

(a) Modi Landscape Private Limited [Respondent No.1 herein], which was formerly known as "Modi Milk & Agro Products Private Limited", is a company limited by shares incorporated under the provisions of the Companies Act, 1956 having its Registered Office at Flat No.117, Sterling Apartments, 1984, Convent Street, Pune 411001.

(b) The Authorised Share Capital of Respondent No.1 is Rs. 1,00,000/- (Rs One Lac Only) divided into 10,000 Equity Shares of the Face Value of Rs.10/- each.

(c) The Thakkar Group, the Ghule Group and the Modi Group herein hold the following fully Paid-up Shares of Respondent No.1.



(A) THAKKAR GROUP

- | | | |
|-------|--|--------------|
| (i) | Shri.Ramesh Nanji Thakkar | 1000 Shares. |
| (ii) | Shri.Ketan Ramesh Thakkar | 750 Shares |
| (iii) | Shri.Mahesh Nanji Thakkar | 1000 Shares. |
| (iv) | Shri.Rohan Mukesh Thakkar
(as the heir nominated by the
other heirs of the late
Shri.Mukesh Mahesh Thakkar
to hold such Shares]. | 750 Shares. |

(B) GHULE GROUP

- | | | |
|-----|-----------------------------------|--------------|
| (i) | Shri.Chandrakant Shivajirao Ghule | 2500 Shares. |
|-----|-----------------------------------|--------------|

(C) MODI GROUP

- | | | |
|-------|----------------------------|--------------|
| (i) | Shri.Ramesh Shantilal Modi | 1000 Shares. |
| (ii) | Shri.Bharat Shantilal Modi | 500 Shares. |
| (iii) | Sou.Jayaben Ramesh Modi | 1000 Shares. |
| (iv) | Shri.Sandeep Ramesh Modi | 500 Shares. |
| (v) | Shri.Sachin Bharat Modi | 500 Shares. |
| (vi) | Sou.Geetaben Bharat Modi | 500 Shares. |

(d) The Directors of Respondent No.1 are Shri.Ramesh Nanji Thakkar, Shri.Mahesh Nanji Thakkar, Shri.Chandrakant Shivajirao Ghule, Shri.Ramesh Shantilal Modi and Shri.Bharat Shantilal Modi.

2) Respondent No.1 holds as Owner thereof or holds the rights of purchase / development of various lands in or around Pune.

3)

- (i) As part of such lands held by Respondent No.1, Respondent No.1 holds the Amenity Space admeasuring 13486.04 sq.mtrs and Plot "A" admeasuring 8160 sq.mtrs out of the Sanctioned Layout in respect of land bearing



Survey No.78/1 to 6 +79/1 to 6, Village Manjri Budruk,
Taluka Haveli, District Pune.

- (ii) Vide two Agreements, both dated 16.08.2013, [the first Registered under Serial No.6874 of 2013 and the other Registered under Serial No.6876 of 2013 with the Sub-Registrar, Haveli XII, Pune], Respondent No.1 has agreed to work on a "principal – to – principal" basis with M/s.Saakaar Corporation, having its Office at LP Classics, Pune – Solapur Road, Hadapsar, Pune 411028 for development of the said Amenity Space and the said Plot "A" respectively out of the said Sanctioned Layout.
- (iii) Under the terms of the said Agreement dated 16.08.2013 entered into by Respondent No.1 with the said M/s.Saakaar Corporation in respect of the said Amenity Space Respondent No.1 is entitled to receive 45% of the Gross Sales Proceeds arising from the sale of Commercial Premises / Units constructed by the said M/s.Saakaar Corporation on the said Amenity Space and to receive certain built-up area in one Wing ("B") of the Building constructed thereon and whereas under the terms of the said Agreement also dated 16.08.2013 entered into by Respondent No.1 with the said M/s.Saakaar Corporation in respect of Plot "A" out of the said Sanctioned Layout, Respondent No.1 is entitled to receive 43.50% of the Gross Sales Proceeds arising from sale of Residential Flats by the said M/s.Saakaar Corporation in the Residential Complex to be constructed by the said M/s.Saakaar Corporation on the said Plot A.
- (iv) Under the terms of the said Agreements both dated 16.08.2013, Respondent No.1 has received sums of Rs.5,00,00,000/- (Rupees Five Crores Only) each from the said M/s.Saakaar Corporation [i.e. a sum of Rs.10,00,00,000/- in the aggregate] as and by way of an Interest Free Refundable Deposits.





- (v) The said Residential Project [known as "ALMOND PARK"] on the said Plot "A" out of the sanctioned Layout has been physically completed by the said M/s.Saakaar Corporation and the Completion / Occupation Certificate in respect thereof has been issued by the Pune Metropolitan Region Development Authority.
- (vi) Implementation of the Commercial Project known as "SAAKAR CENTRUM"] on the said Amenity Space has just begun by the said Firm.
- (vii) Under the terms of the said Agreements, both dated 16.08.2013, it was contemplated and agreed that two separate Escrow Accounts [to be known as "Saakaar Modi Venture Escrow Account for the Gross Sales Proceeds received from sale of Flats in the Project on the said Plot A" and "Saakaar Modi Landscape Escrow Account" for receipt of the Gross Sales Proceeds from the said Project to be implemented on the said Amenity Space] be opened with any Bank and that the Gross Sales Proceeds received from the said Projects to be deposited in such Escrow Accounts wherefrom the respective shares in such Gross Sales Proceeds of Respondent No.1 and the said M/s.Saakaar Corporation be distributed.
- 4) Disputes arose between the Thakkar Group & the Ghule Group on the one hand and the Modi Group on the other hand and between the Modi Group and the said M/s.Sakaar Corporation and, as a result of such disputes, the said Escrow Accounts have not yet been opened by Respondent No.1 and the said M/s.Saakaar Corporation.
- 5) The Income Tax Authorities carried out a "Search and Seizure" operation in or around 18.11.2015 on Respondent No.1 and whereas the Final Income Tax Assessment of Respondent No.1 arising from such "Search and Seizure" operation has not yet been carried out by the Income Tax Authorities.
- 6) The Modi Group has filed the instant Petition in this Hon'ble Tribunal seeking certain reliefs against the Thakkar Group and the Ghule Group and whereas the instant Petition is pending hearing and final disposal before this Hon'ble Tribunal.

7) Pursuant to such amicable settlement arrived at by and between the parties hereto it has, , been agreed by and between the parties hereto as under:-

- (a) Within a period of Seven days of this Hon'ble Tribunal passing a Consent Order in terms of these Consent Terms and Respondent No.1 receiving permission under the provisions of Section 281 of the Income Tax Act, 1961 for the same, WHICHEVER IS LATER, Respondent No.1 shall convey a portion admeasuring 31,122 sq.mtrs out of the said portion admeasuring 71,500 sq.mtrs out of the land bearing Survey No.83 Hissa No.1, Village Manjri Budruk, Taluka Haveli, District Pune held by Respondent No.1 to the Thakkar Group and, in consideration therefor, the principal amount of the unsecured Loan of Thakkar Group with Respondent No.1 shall be appropriated by Respondent No.1 on the date of execution of such Deed of Conveyance of the said portion by Respondent No.1 in favour of the Thakkar Group or in favour of its assigns and nominees.
- (b) Within a period of Seven days of this Hon'ble Tribunal passing Consent Order in terms of these Consent Terms and Respondent No.1 receiving permission under the provisions of Section 281 of the Income Tax Act, 1961 for the same, WHICHEVER IS LATER Respondent No.1 shall convey a portion admeasuring 24,247 sq.mtrs out of the said portion admeasuring 71,500 sq.mtrs of the said land bearing Survey No.83 Hissa No.1, Village Manjri Budruk, Taluka Haveli, District Pune held by it to the Ghule Group and, in consideration therefor, the principal amount of unsecured Loan of the Ghule Group with Respondent No.1 and amounts due to Shri.Saurav C.Ghule shall be appropriated by Respondent No.1 on the date of execution of a Deed of Conveyance of the said portion by Respondent No.1 in favour of the Ghule Group or in favour of its assigns and / or nominees.
- (c) For use of the said unsecured Loan of the Thakkar Group by Respondent No.(1) Company and as and by way of compensation the Thakkar Group shall be entitled to receive

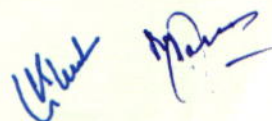
 

35% of the Share of Respondent No.1 in the Gross Sale Proceeds of the said Projects [known as "Almond Park" and Saakaar Centrum"] being implemented by the said M/s.Saakaar Corporation on the said Plot "A" and Amenity Space respectively out of the said Sanctioned Layout in respect of the land bearing Survey No.78/1 to 6 +79/1 to 6, Village Manjri Budruk, Taluka Haveli, District Pune and which Gross Sales Proceeds shall be receivable by Respondent No.1 on and after submission of these Consent Terms in this Hon'ble Tribunal. Further, the Thakkar Group or its assigns and / or nominees shall also be entitled to receive 35% in area of the built-up area in Wing "B" of the Commercial Building to be constructed by the said M/s.Saakaar Construction and which is to be handed over by the said M/s.Saakaar Corporation to Respondent No.1.

(d) For use of the said unsecured Loans of the Ghule Group by Respondent No.(1) Company and as and by way of compensation the Ghule Group shall be entitled to receive 25% of the Share of Respondent No.1 in the Gross Sale Proceeds of the said Projects [known as "Almond Park" and Saakaar Centrum"] being implemented by the said M/s.Saakaar Corporation on the said Plot "A" and Amenity Space respectively out of the said Sanctioned Layout in respect of the land bearing Survey No.78/1 to 6 +79/1 to 6, Village Manjri Budruk, Taluka Haveli, District Pune and which Gross Sales Proceeds shall be receivable by Respondent No.1 on and after submission of these Consent Terms in this Hon'ble Tribunal. Further, the Ghule Group or its assigns and / or nominees shall also be entitled to receive 25% in area of the built-up area in Wing "B" of the Commercial Building to be constructed by the said M/s.Saakaar Construction and which is to be handed over by the said M/s. Saakaar Corporation to Respondent No.1.

(e) Respondent No.1 shall buy back from the Thakkar Group the said Shares of Respondent No.1 held by the Thakkar Group "at Par".



(f) Respondent No.1 shall buy back from the Ghule Group the said Shares of Respondent No.1 held by the Ghule Group "at Par".

(g) The balance area of the said holding of Respondent No.(1) Company in the said land bearing Survey No.83 Hissa No.1, Manjri Budruk i.e. 16,131 sq.mtrs shall continue to be held by Respondent No.1 Company.

(h) Shri. Ramesh Nanji Thakkar, Shri. Mahesh Nanji Thakkar and Shri.Chandrakant Shivajirao Ghule shall resign as Directors of Respondent No.1 simultaneously on the said Shares of Respondent No.1 held by the Thakkar Group and the Ghule Group being bought back by Respondent No.1 and the Respondent No.1 conveying the said portions out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to / in favour of the Thakkar Group and the Ghule Group.

(i) The said portion admeasuring 31122 sq.mtrs out of the said holding of Respondent No.1 out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to be conveyed by Respondent No.1 in favour of the Thakkar Group is delineated on the Plan of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk annexed hereto as **Annexure "A"**. The said portion admeasuring 24,247 sq.mtrs out of the said holding of Respondent No.1 out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to be conveyed by Respondent No.1 in favour of the Ghule Group is delineated on the said Plan annexed hereto as **Annexure "A"**. The remaining portion admeasuring 16,131 sq.mtrs out of the said holding of Respondent No.1 out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to be retained by Respondent No.1 is delineated on the said Plan annexed hereto as **Annexure "A"**.

(j) Smt.Sarubai Kodre claims to be a Tenant under the provisions of the Bombay Tenancy & Agricultural Lands Act, 1948 of a portion out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk. To the knowledge of the parties hereto, such portion over which the said Smt.Sarubai Kodre claims Tenancy Rights falls within such portion admeasuring 16,131 sq.mtrs of

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the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to be retained by Respondent No.1. Shri.Tukaram Dhore and Others have claimed Tenancy Rights on a portion out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk. It is agreed by and between the parties hereto that within a period of ninety days from the date of submission of these Consent Terms to this Hon'ble Tribunal, the Modi Group shall procure surrender / relinquishment of such claims / rights of the said Smt.Sarubai Kodre and the said Shri.TukaramDhore and Others and that all costs, charges and expenses to be incurred for the said purpose shall be so incurred from the share of Respondent No.1 in the Gross Sales Proceeds of the said Project known as "Almond Park" and "Saakaar Centrum" received before submission of these Consent Terms to this Hon'ble Tribunal and which has been deposited in the said Escrow Account of the said Escrow Agent, Shri.Rajiv Patel as mentioned below. Similarly, if any other defect-in-title or outstanding encumbrance, charge, doubt or claim is found to exist on the said holding of Respondent No.1 in the said land bearing Survey No.83 Hissa No.1, Manjri Budruk, such defect-in-title / outstanding encumbrance, charge, doubt or claim shall be removed by the Modi Group within the time stipulated above and all costs, charges and expenses for the said purpose shall be so incurred from out of the said share of Respondent No.1 in the said Gross Sales Proceeds. The parties hereto have authorised the Modi Group to commit an aggregate sum not exceeding Rs.6,00,00,000/- (Rupees Six Crores Only) for procuring surrender of the said claims / rights of the said Sou.Sarubai Kodre, the said Shri.Tukaram Dhore and Others for clearing any other defects-in-title or encumbrances.

- (k) The Modi Group shall, at its own cost, and within a period of Ninety Days from the date of submission of these Consent Terms to this Hon'ble Tribunal, procure by way of a duly Registered Deed a 18 Meter wide Right of Way over the holding of Shri.Balkrishna Tukaram Khavale and Others out of the said Land bearing Survey No.83 Hissa No.1, Manjri Budruk, as a means of access from the respective holding of Respondent No.1, [Modi Group], the Thakkar Group and the Ghule Group in

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the said Land bearing Survey No.83 Hissa No.1, Manjri Budruk to and from the Old Pune – Solapur Road. The Modi Group shall at its costs also procure a 18 Meter wide Right of Way over the land bearing Survey No.82, Manjri Budruk from the Pune-Solapur Highway as a means of access to the said portions out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to be conveyed by Respondent No.1 to the Thakkar Group and the Ghule Group. The Modi Group shall procure such access over that portion of the Land bearing Survey No.82, Manjri Budruk which is earmarked to fall under the 18 Metre Wide Road under the Regional Plan for Pune Metropolitan Region. However, on the 18 Meter wide Road under the Regional Plan for Pune Metropolitan Region [which is earmarked to pass through the lands bearing Survey Nos.82 and 83/1, Manjri Budruk on a North-South axis] becoming operational / usable such Right of Way held by the Thakkar Group and the Ghule Group shall stand released/ surrendered by them. It is clarified that procurement by the Modi Group of such Right of Way over the said Land bearing Survey No.82, Manjri Budruk shall not be a condition precedent for conveyance of the said portions out of the said Land by Respondent No.1 in favour of the Thakkar Group and the Ghule Group or their assigns and Transfer of Shares of Respondent No.1 held by the Thakkar Group and the Ghule Group to Respondent No.1 etc. All costs, charges and expenses for procuring surrender / relinquishment of such claims / rights of the said Sou.Sarubai Kodre and the said Shri.Tukaram Dhole and Others for clearing / removing any other defect-in-title or any outstanding encumbrance on the holding of Respondent No.1 in the said land bearing Survey No.83 Hissa No.1 Manjri Budruk shall be borne and paid by the Thakkar Group, Ghule Group and Respondent No.1 in the proportion 43.5%, 31.8% and 24.7% respectively.

- (I) Simultaneously with the execution of Deeds of Conveyance of the said portions out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk by Respondent No.1 in favour of the Thakkar Group and the Ghule Group, Respondent No.1 shall

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put the Thakkar Group and the Ghule Group in vacant and peaceful possession of their said respective portions.

(m) The said portions out of the holding of Respondent No.1 in the said land bearing Survey No.83 Hissa No.1, Manjri Budruk so conveyed to the Thakkar Group and the Ghule Group shall be admeasured and demarcated by the Taluka Inspector of Land Records, Haveli, Pune and the parties hereto shall fully co-operate in having such demarcation and admeasurement carried out.

(n) Within a period of Seven days of this Hon'ble National Tribunal passing a Consent Order in terms of these Consent Terms or within a period of Seven days of Respondent No.1 receiving the permission under Section 281 of the Income Tax Act, 1961, WHICHEVER IS LATER, the following steps shall be taken by the parties hereto:

- i. Respondent No.1 shall convey the said portion out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to / in favour of the Thakkar Group by execution and registration of a Deed of Conveyance and Respondent No.1 shall put the Thakkar Group in vacant and peaceful possession of the said portion.
- ii. Respondent No.1 shall convey the said portion out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to / in favour of the Ghule Group by execution and registration of a Deed of Conveyance and Respondent No.1 shall put the Ghule Group in vacant and peaceful possession of the said portion.
- iii. The Thakkar Group shall transfer the said Shares of Respondent No.1 held by it to Respondent No.1.

RI *PH* *BSM* *Chh. H. H.*

iv. The Ghule Group shall transfer the said Shares of Respondent No.1 held by it to Respondent No.1.

v. Shri.Ramesh Nanji Thakkar, Shri.Mahesh Nanji Thakkar, Shri.Chandrakant Shivajirao Ghule will resign as Directors of Respondent No.1.

(o) Till Respondent No.1 so buys back Shares of the Thakkar Group and the Ghule Group and the said portions out of the said land are conveyed in favour of the Thakkar Group and the Ghule Group and the Directors belonging to the Thakkar and Ghule Group resign as Directors of Respondent No.1, the Modi Group shall not be entitled to deal with / alienate / dispose of / create any third party right or interest on any of the other immoveable Properties of Respondent No.1 including to appropriate any benefits arising from any of such Immoveable Properties. However, after the events listed in this sub-clause have taken place, the Modi Group and Respondent No.1 shall be at liberty to so deal with / alienate / dispose of / create any third party rights or interest in such immoveable Properties as they deem fit and proper without recourse or reference to the Thakkar Group and Ghule Group.

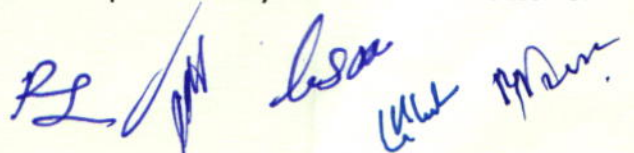
(p) Simultaneously with the parties hereto submitting these Consent Terms to this Hon'ble Tribunal, the Thakkar Group and the Ghule Group have executed the necessary documents for transfer of their respective Shares to Respondent No.1 and the said Documents have been kept in escrow with Shri Rajiv Patel, Advocate, Pune as the mutually appointed Escrow Agent for the purpose. On the conditions precedent for such transfer of the respective Shares of the Thakkar and Ghule Groups being complied with, the said Escrow Agent shall hand over the said Documents to the Modi Group who will thereafter be entitled to have the present Share Capital of Respondent No.1 reduced accordingly.



- (q) Apart from the unsecured Loans due to the Thakkar Group and Ghule Group by Respondent No.1, unsecured Loans and interest thereon, if any, of Ritz Farms Private Limited, Quantum Realtors Private Limited and Mindspace Realty Private Limited are shown outstanding in the Books of Respondent No.1. The Modi Group and the Thakkar Group shall alone be responsible for having the unsecured Loan with interest, if any of the said Ritz Farms Private Limited repaid / satisfied and the Ghule Group shall not in any way be concerned or liable for the same. As regards the said unsecured Loans with interest thereon, if any, of Quantum Realtors Private Limited and Mind Space Realty Private Limited, the same shall be repaid / satisfied by the Modi Group from out of its own funds.
- (r) The Balance Sheets for F.Y. 2015-16 and 2016-17, Profit and Loss Account of Respondent No.1 and all statutory compliances should be finalized jointly by the respective Chartered Accountants of the Modi Group, the Thakkar Group and the Ghule Group and filed with the concerned Authorities. The above includes Forms and Returns to be filed with the Registrar of Companies.
- (s) Respondent No.1 has received an aggregate sum of Rs.1,71,00,000/- (Rupees One Crore Seventy One Lacs Only) or thereabouts towards its share of the Gross Sales Proceeds received by the said M/s.Saakaar Corporation from sale of Flats / Units in the said Projects known as "ALMOND PARK" and "SAAKAR CENTRUM". As per the figures provided by the said M/s.Saakaar Corporation, a further sum of Rs.18,43,28,352/- (Rupees Eighteen Crores Forty Three Lacs Twenty Eight Thousand Three Hundred and Fifty Two Only) in the aggregate [representing the share of Respondent No.1 in the Gross Sales Proceeds of the said Projects received upto 31.07.2017 is presently held by the said M/s.Saakaar Corporation because the "Escrow Accounts" mentioned above have not yet been opened. It is agreed between the parties hereto that the said sum of Rs.18,43,28,352/- shall be transferred to an "Escrow Account" opened in the name of the mutually agreed Escrow Agent of the parties hereto, Shri.Rajiv Vishvesh Patel,

Advocate, East Street, Pune.. Such amount / s so transferred to the said Escrow Account is hereinafter referred to as "the Escrow Fund". The said Escrow Fund shall be invested by the said Escrow Agent in one or more Fixed Deposits as directed by the said Groups and the said Escrow Fund, together with the interest accrued thereon, shall be exclusively applied for the purposes mentioned hereinbelow that is to say:-





- i. Towards payment of the Income Tax Liabilities of Respondent No.1 for F.Y.2015-16 and F.Y. 2016-17.
- ii. Amount to be paid to the Income Tax Authorities, if any, arising from the Search and Seizure Operation carried out by the Income Tax Authorities on 18.11.2015. The appropriate decisions to be taken pertaining to the stand to be taken before the Income Tax Authorities shall be taken as per the joint advice of the Chartered Accountants of the Modi Group, the Ghule Group and the Thakkar Group.
- iii. For procuring release / relinquishment of the claims / rights of the said Smt.Sarubai Kodre and Shri.Tukram Dhore and Others in respect of the said holding of Respondent No.1 out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk and to clear all other defects-in-title, encumbrances, charges, doubts or claims on or in respect of the said holding of Respondent No.1 so as to make the title of Respondent No.1 to the same free, clear and marketable.
- iv. The Professional Costs / Charges of Shri.Rajendra Shah, Shri.Vivek Purohit and Shri.Swapnil Shaha, Chartered Account for all the Services provided by them in the matter of



amicable settlement arrived at by and between the parties hereto, pertaining to search and seizure operation carried out by the Income Tax Authorities on 08.11.2015 shall be borne and paid by Respondent No.(1), the Thakkar Group and the Ghule Group in the proportion 40:35:25 respectively. Similarly, the charges of Shri.Rajiv Patel, Advocate in relationship to all the advice given and drafting undertaken for the documents recording such amicable settlement and incidental documents shall also be borne and paid by Respondent No.(1), the Thakkar Group and the Ghule Group in the proportion 40:35:25 respectively. The Escrow Fees of Shri.Rajiv Patel in his capacity as Escrow Agent shall be borne by Respondent No.(1), the Thakkar Group and the Ghule Group in the proportion 40:35:25 respectively.

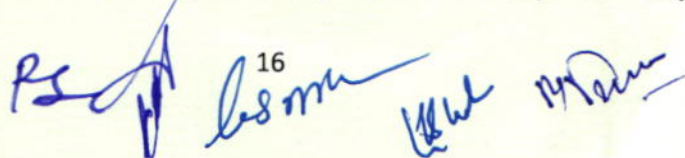
- v. For meeting all Statutory Liabilities and all other costs, charges and expenses to be incurred in pursuance hereof, apart from / except the costs and expenses to be borne and paid by any of the parties hereto.
- vi. The residue, if any, in the said Escrow Account together with interest accrued thereon, if any, shall be apportioned by the Escrow Agent between Respondent No.1, Thakkar Group and the Ghule Group in the proportion 40:35:25 respectively.

(t) All decisions regarding representation of Respondent No.1 for assessment of the said Search and Seizure Operations of the Income Tax Authorities for 6 years (Block period) shall be taken by the Modi Group, the Ghule Group and the Thakkar Group jointly after consultation with Shri.Swapnil Shaha, Shri.Rajendra Shah, and Shri.Vivek Purohit, Chartered Accountants, jointly and any other Consultant as may be jointly appointed.

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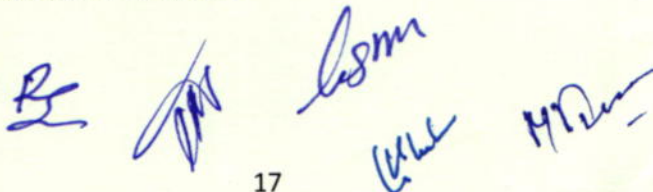
- (u) The Modi Group shall bear and pay all liability towards payment of Income Tax arising from the sale by Respondent No.1 of the said portions out of the said holding of Respondent No.1 out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to the Thakkar Group and the Ghule Group.
- (v) Respondent No.1, the Thakkar Group, the Ghule Group and the Modi Group shall enter into Agreements supplemental to the said two Agreements both dated 16.08.2013 with the said M/s Saakaar Corporation recording the modifications in the terms of the said Agreements consequential on the terms of these Consent Terms. On and from the date of submission of these Consent Terms in this Hon'ble Tribunal the original shares of Respondent No.1 [i.e. 43.50% of the Gross Sales Proceeds of the Project known as "ALMOND PARK" and 45% of the Gross Sales Proceeds of the said Project known as "SAAKAR CENTRUM"] in the Gross Sales Proceeds of the said Projects known as "ALMOND PARK" and "SAAKAAR CENTRUM" shall be deposited in the Account opened in the name of the mutually agreed Escrow Agent, Shri.Rajiv Patel of the Modi Group, the Thakkar Group and the Ghule Group . This is in supersession of Clauses 13 and 12 of the said Agreements pertaining to the said Amenity Space and the said Plot "A" respectively earlier entered into by the said M/s.Saakaar Corporation.
- (w) The Income Tax liability, if any, of the Thakkar Group and the Ghule Group arising from transfer of their Shares of Respondent No.1 to/in favour of Respondent No.1 shall be borne and paid by the Thakkar Group and the Ghule Group respectively and the Income Tax Liability, if any, arising in the hands of Respondent No.(1) and the Modi Group shall be borne and paid by the Modi Group alone.
- (x) Within a period of Seven days from the date of submission of these Consent Terms in this Hon'ble Tribunal, the parties hereto shall open a Current Account in the name of Respondent No.1 with any Bank of the choice of the Modi Group and such Current Account shall be operated by the Modi Group alone. The said Current Account shall only be utilised for transactions pertaining to the day to day running of

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Respondent No.1 and for making withdrawals to meet the day to day expenses of the said Company and also for meeting the costs for clearing the title of Respondent No.(1) Company to the other Immoveable Properties held by Respondent No.(1) Company. However, it is hereby clarified that Respondent No.(1) Company / the Modi Group shall not be entitled to create any third party rights or interest on any of such immoveable Properties till the Shares of the Thakkar Group and the Ghule Group are transferred to Respondent No.(1) Company.

- (y) On transfer of the said Shares of the Thakkar Group and the Ghule Group in favour of Respondent No.1 and transfer of the said portions of the said Land bearing Survey No.83 Hissa No.1, Manjri Budruk in favour of Thakkar and Ghule Groups, all bank accounts of Respondent No.1 will be operated by the Modi Group alone, except that the modified arrangement regarding the Escrow Accounts in respect of receipts from M/s Saakaar Corporation shall be continued.
- (z) The Agreements both dated 16.08.2013 earlier executed by and between Respondent No.1 and M/s Saakaar Corporation whereby Respondent No.1 granted rights of development of the Amenity Space and Plot out of the sanctioned layout in respect of land bearing Survey No.78/1 to 6 +79/1 to 6, Village Manjri Budruk to M/s.Saakaar Corporation shall continue to subsist on the terms contained therein except that the time stipulated therein for completion of the Projects (known as "Almond Park" and "Saakaar Centrum") under implementation by M/s Saakaar Corporation shall be extended.
- (aa) Respondent No.1, the Thakkar Group and the Ghule Group shall execute and register an Agreement Supplemental to the above recited two Agreements both dated 16.08.2013 between Respondent No.1 herein and the said M/s.Saakaar Corporation recording the mutually agreed period for completion of the said Projects by the said M/s.Saakaar Corporation and terms incidental thereto.

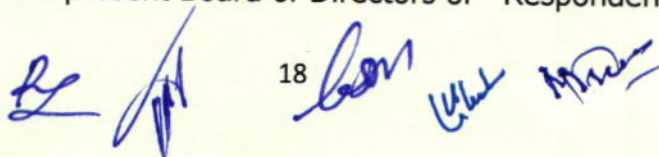


(bb) The parties hereto confirm that all outstanding disputes by and between them have been amicably resolved by them on the terms contained herein. Similarly, the Modi Group confirms that all its disputes with the said M/s Saakaar Corporation also stand settled. The Modi Group shall unconditionally withdraw Regular Civil Suit No.1851 of 2016 earlier filed by it in the Court of the Civil Judge, Junior Division, Pune at Pune without reserving any right to file against the same cause of action under Order 2 Rule 2 of the Civil Procedure Code, 1908. The Modi Group, the Thakkar Group and the Ghule Group shall ensure that all their obligations towards the said M/s.Saakaar Corporation under the terms of the said two Agreements both dated 16.08.2013 read with the Agreements Supplemental thereto are duly performed. Each of the parties hereto confirm that they shall not raise any claim or grievance arising from any act or omission done or omitted to be done by any of the parties hereto upto the date of execution of these Consent Terms.

(cc) All the present Directors of Respondent No.1 shall take all steps to comply with all statutory obligations of Respondent No.1 jointly upto the date Shri.Ramesh Nanji Thakkar, Shri.Mahesh Nanji Thakkar and Shri.Chandrakant Shivajirao Ghule resign as Directors of Respondent No.1.

(dd) Simultaneously with the transfer of its Shares by the Thakkar Group and Ghule Group in favour of the Respondent No.1, the Registered Office of Respondent No.1 shall be shifted from its present location at 117, Sterling Apartments, 1984 Convent Street, Pune 411001 to any location of the choice of the Modi Group. All the Books and Records of Respondent No.1 are presently with the Modi Group and the said Group shall be entitled to retain the same.

(ee) Respondent No.1 has joined in the execution of these presents to confirm the terms of the said amicable settlement arrived at by and between the Thakkar Group, Ghule Group and the Modi Group on the terms recorded herein. Before execution hereof, the draft of the Consent Terms has been approved by the present Board of Directors of Respondent No.1.

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(ff) Apart from the obligations to be performed/ cost to be shared/ liabilities to be incurred by the Thakkar Group and the Ghule Group as set out herein, from the date of execution hereof, all statutory and contractual obligations of Respondent No.1 shall be performed/ discharged by the Modi Group alone at its cost and the Modi Group shall indemnify and keep indemnified, saved, defended and harmless the Thakkar Group and the Ghule Group from or against all loss or damage suffered or incurred by the said Groups or either of them as a result of the Modi Group failing and/or neglecting to perform/ discharge all such contractual and statutory liabilities of Respondent No.1.

(gg) The parties hereto agree that the chronology / sequence of the steps to be taken by the parties hereto from the date of execution of these Consent Terms to implement/ give effect to the terms of the amicable settlement arrived at by and between themselves are/ is as under:

- i. Execution by Shri.Ramesh Shantilal Modi or Shri.Bharat Shantilal Modi, Shri.Ramesh Nanji Thakkar and Shri. Chandrakant Shivajirao Ghule of Twenty Five Agreements for Sale of Flats in "ALMOND PARK" forwarded by the said M/s Saakaar Corporation to parties hereto and admitting execution thereof before the Sub-Registrar, Taluka Haveli, District Pune and execution and registration of Agreements Supplemental to the above recited two Agreements both dated 16.08.2013 between Respondent No.1 herein , the Thakkar Group, the Ghule Group and the said M/s.Saakaar Corporation recording the agreed / consequential modifications in the terms of the said two Agreements dated 16.08.2013 as a result of the amicable settlement arrived at by and between the parties hereto.
- ii. Causing the said mutually agreed Escrow Agent, Shri Rajiv Patel to open an "Escrow Account" as mentioned hereinbelow and opening a Current Account in the name of Respondent No.(1) to be

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operated by the Modi Group as mentioned in Clause 7 (x) above.

- iii. Transfer of the amounts (aggregating to Rs.18,43,28,352/-) held by the said M/s Saakaar Corporation as the share of Respondent No.1 in the Gross Sales Proceeds of Flats/ Commercial Premises in "ALMOND PARK" and "SAAKAAR CENTRUM" to the said Escrow Account opened by the said Escrow Agent.
- iv. Make payment of the outstanding Income Tax liability of Respondent No.1 for the Financial Years 2015-16 and 2016-17.
- v. Having the Income Tax liability of Respondent No.1 arising from the said "Search and Seizure" Operation carried out by the Income Tax Authorities crystalized and making payment/ discharging the said liability out of the said Escrow Fund and procuring the permission of the Income Tax Authorities under the provisions of Section 281 of the Income Tax Act, 1961 for transfer of the said portions out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to / in favour of the Thakkar Group and Ghule Group.
- vi. To have the title of Respondent No.1 to its said holding out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk investigated by an Advocate to be jointly appointed by the parties hereto so as to determine/ ensure that, subject to the said claims of the said Sarubai Kodre and Shri.Tukaram Dhore and Others, no other person or party has any claim, right, title or interest on the said holding of Respondent No.1 in the said Land.
- vii. The Modi Group procuring surrender / relinquishment of the said claims / rights of the said Sou.Sarubai Kodre, Shri.Tukaram Dhore and Others removing / clearing any other defect-in-title on or in respect of the present holding of Respondent No.1 in the said land and Procuring the said Eighteen Meter Wide

access over the said holding of the said Shri.Balkrishna Tukaram Khavale in the said Land bearing Survey No.83 Hissa No.1, Manjri Budruk as aforesaid.

- viii. Procuring a Consent Order in terms of these Consent Terms from this Hon'ble Tribunal. The parties hereto are aware that the Consent Order may be passed by the Tribunal at any stage.
- ix. Simultaneously with the submission of these Consent Terms, the Thakkar Group and the Ghule Group have executed the necessary Documents for transfer of their respective shares in favour of Respondent No.1 and deposited the same with the Escrow Agent, Shri.Rajiv Patel.
- x. Within Seven Days of the Hon'ble Tribunal passing Consent Order in terms of these Consents Terms and the parties hereto procuring the permission of the Income Tax Authorities under the provisions of Section 281 of the Income Tax Act, 1961 for the same WHICHEVER IS LATER, Respondent No.1 shall convey the said portions out of its said holding out of the said land bearing Survey No.83 Hissa No.1, Manjri Budruk to/in favour of the Thakkar Group and the Ghule Group and putting the said Groups in vacant and peaceful possession of their said respective portions.
- xi. Shri Rajiv Patel, the said Escrow Agent, handing over the said Documents executed by the Thakkar Group and the Ghule Group for the purpose of transfer of their Shares to Respondent No.1 and the parties hereto complying with all requirements under the Companies Act, 2013 for transfer of the said Shares to/in favour of Respondent No.1 and recording such transfer with the Registrar of Companies, Maharashtra.
- xii. The said Escrow Agent distributing the residual amount in the said Escrow Account together with interest accrued thereon between the Thakkar Group,

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the Ghule Group and the Modi Group in the proportion 35:25:40 respectively.

- xiii. The said Thakkar Group, the Ghule Group and the Modi Group apportioning the said built-up area in Wing "B" of the Building being constructed by the said M/s Saakaar Corporation on the said Amenity Space between themselves in the proportion 35:25:40 respectively and receiving possession of such Premises from the said M/s Saakaar Corporation on completion thereof.
- xiv. The Stamp Duty and Registration Charges payable on the Deeds of Conveyance to be executed by Respondent No.1 of the said portions out of the said Land bearing Survey No.83 Hissa No.1, Manjri Budruk in favour of the Thakkar Group and the Ghule Group shall be borne and paid by the respective purchasers thereof.

8) The Petitioners and Respondents have, simultaneously with the execution of these Consent Terms, signed three Duplicates thereof. The Modi Group, the Thakkar Group and the Ghule Group will each hold one of such Duplicates. The original of these Consent Terms and each of such Duplicates shall have equal Evidentiary Value.

9) The Company Petition stands disposed of.

10) All parties to bear their own costs.

11) Certified copy of the Order expedited.

Mumbai :

Date : 21/08/2017.

1. 

2. 

3.

PETITIONERS



ADVOCATE FOR THE
PETITIONERS

1. *P. Smith L. Smith* *U. Smith*
2. *L. Smith*
3. *M. Smith*
4. *U. Smith*

RESPONDENTS

ADVOCATE FOR RESPONDENTS

Loesly

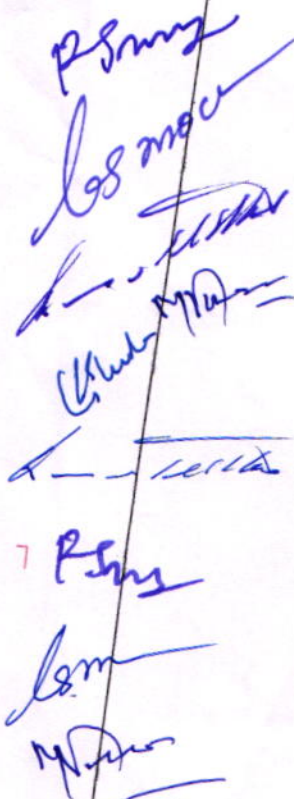
Annexure I

CP 29

Fr Baum

Permitted to
By Bank 60% must
the certificate with 2-1 copy
at Per 100 Per 100
Company

**PROPOSED LAYOUT FOR MODI LANDSCAPE PVT. LTD.
ON S.NO.83(p), MANJRI,PUNE.
FOR MR. GHULE, MR. MODI AND MR. THAKKAR.**



NOTE : 1. ALL AREAS ARE INCLUDING R.P. ROAD AND ARE APPROXIMATE SUBJECT TO ACTUAL SURVEY.
2. ALIGNMENT OF ROAD AS PER ACTUAL.
3. DRAWING NOT TO SCALE.

