

AGREEMENT FOR JOINT VENTURE RE-DEVELOPMENT AND JOINT OWNERSHIP OF THE PROPERTY ON PLOT NO. 54 MSASANI ROAD – DAR ES SALAAM

THIS AGREEMENT is made on the26..... day of SEPTEMBER..... 2008

BETWEEN

NATIONAL HOUSING CORPORATION, a statutory Corporation established under the National Housing Corporation Act, No. 2 of 1990 of the Laws of the United Republic of Tanzania of Postal Office Box Number 2977, Dar es Salaam (hereinafter referred to as "NHC" which expression shall include when the context so admits its successors and assigns) of the one part.

AND

M/S QUICK PROPERTIES LIMITED a company registered under the Company Laws of the United Republic of Tanzania(Cap. 212) of Postal Office Box Number 77432, Dar es Salaam (hereinafter referred to as "**The Partner**" which expression shall include where the context so admits its successors and assigns) of the other part.

WHEREAS:

- A. This agreement revokes and replaces the earlier joint venture agreement signed on the 4th March 2008 between the NHC and M/S THE LIVING ROOM LTD regarding the redevelopment of Plot No. 54 Msasani Road within the Dar es Salaam City.
- B. By this agreement, all venture interests in the redevelopment endeavour of Plot No. 54 Msasani Road belonging to M/S THE LIVING ROOM LTD are hereby assigned to M/S QUICK PROPERTIES COMPANY LIMITED.
- C. All terms and conditions applicable to Joint Venture Agreement signed on the 4th March, 2008 between NHC and THE LIVING ROOM LTD, shall be applicable to this agreement.
- D. NHC is the registered owner of all that piece or parcel of land known as Plot No. 54 Msasani Road within Dar es Salaam City (hereinafter called "The Property") with Certificate Title No. 186035/13 (8683) and more particularly delineated on the sketch map attached herewith.
- E. NHC and the Partner are desirous of jointly developing the said property by constructing thereon twelve (12) maisonnettes.
- F. The NHC is willing to surrender 50% of its interest in the property to the Partner. Initially the NHC shall benefit from 25% and the Partner shall benefit from 75% of the interests in the said property upon the completion of the building. More specifically, the Partner shall hold the differed 25% shares belonging to the NHC in surrogacy for a period of twelve (12) years for the purpose of the covering his investment costs. After the expiry of the said period, the said 25% deferred shares shall freely and automatically revert to NHC so that each Partner holds 50% shares.

- G. For the purpose of this agreement, the completion date of the building shall commence on the date of handing over by the contractor part of, or the whole, building and such put into usage.
- H. The Partner promises to have such capability, capacity and access to the resources necessary to complete the project and undertakes to contribute 100% funding of the development of the said project.
- I. If without any reasonable cause, preparation for construction works shall not be completed within a period of two (2) years from the date of signing the joint venture agreement, then the same shall be taken to have been frustrated and determined without further notice.
- J. In the event of failure to commence and complete the preparations for construction works as stipulated above, the NHC shall not be responsible for any loss if any and it shall have the right to withdraw the offer for the re-development of the plot from the Partner and offer the same to any other investor.
- K. Upon obtaining vacant possession of the project land, the construction works shall be commenced and completed within a period of twenty four (24) months as provided in the project proposal submitted by the Partner for NHC's approval.
- L. In the event that the Partner shall not be able to complete the project as per schedule of works provided in **Clause I** above, thereby causing undue delays, the NHC shall have the right to take-over and complete the project in the manner it shall deem fit and appropriate. In this case, the costs already expended by the partner shall be ascertained against the bills of quantities by a professional Quantify Surveyor and these costs shall constitute his shares in the property.
- M. Pursuant to Clauses J, K and L above, the Partner shall be liable to compensate the NHC the unrealized rental income and interest charges accrued thereof at the going market rates for the whole period he failed to fulfill his contractual obligations.

NOW THEREFORE IT IS HEREBY AGREED as follows:

ARTICLE I

1.0 DEFINITIONS AND INTERPRETATIONS:

- 1.1 In this Agreement unless the context otherwise requires the following are the meanings:
- (a) "NHC" means the **NATIONAL HOUSING CORPORATION**, and/or its nominees.
 - (b) "**Partner**" means **M/S QUICK PROPERTIES LIMITED** and/or its nominees.

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- (c) **"Parties"** means (a) and (b) herein above.
- (d) **"Joint venture project"** means the association of the NHC and the Partner for the purpose of constructing twelve (12) maisonettes on **Plot No. 54 Msasani Road – Dar es Salaam**.
- (e) **"Venture interests"** means obligations, benefits and rights of the parties expressed on percentage basis determined in accordance with this Agreement.
- (f) **"The ownership"** means rights and benefits as a tenant in common.
- 1.2 Any reference to NHC and the Partner shall include their respective successors, transferees and assigns;
- 1.3 Words importing any gender shall include every other gender.
- 1.4 Headings are included in this Agreement for convenience only and shall not be deemed to affect the interpretation of this Agreement.

ARTICLE II

2.0 JOINT OWNERSHIP OF THE PROPERTY:

- 2.1. **The NATIONAL HOUSING CORPORATION, and M/S QUICK PROPERTIES LIMITED** shall have joint ownership of the said properties to be constructed on **Plot No. 54 Msasani Road** within the **Dar es Salaam** for the unexpired residual term.
- 2.2. The percentage of venture interests to be jointly owned by the Parties in the joint venture for re-development and ownership shall be 50% for each partner. More specific this ownership shall be as follows:
- (a) Initially the parties shall benefit from the completed buildings in accordance with the following share arrangement:
- **NATIONAL HOUSING CORPORATION (NHC) - 25%**
 - **M/S QUICK PROPERTIES LIMITED - 75%**
- (b) The other 25% NHC's shares shall remain under, and be operated by, the partner for the period of twelve (12) years in order to recover his investment costs in the project. The NHC shall automatically and freely acquire the additional 25% shares held in surrogacy by the Partner after the expiry of the said period of twelve (12) years from the date of completion of the project in accordance with Clauses D and E.
- (c) After the completion of the project, the title to the land shall be changed to reflect the new shareholding arrangement of 50% for the Partner and 50% for the NHC.

ARTICLE III

3.0 JOINT VENTURE PROJECT:

- 3.1 All parties hereto acknowledge that they are joint and several in respect of the joint venture project and their venture interests in the joint venture project are jointly and severally, separate and distinct and as at the date of this Agreement, the venture interests of the parties are in accordance with the proportions of their shares as indicated in Article 2.2 (a) to (c) above.
- 3.2 Nothing in this Agreement shall make NHC and the Partner the partners of the other, except as expressly provided in this Agreement, constitute any participant the agent of legal representative of the other or create any fiduciary relationship between the Parties.
- 3.3. The equity entitlement of the Parties shall in each case be several, separate and distinct in proportion to their venture interests from time to time and shall not be joint or joint and several.
- 3.4 The liabilities of the Parties shall in each case be several, separate and distinct in proportion to their venture interests from time to time and shall not be joint or joint and several.

ARTICLE IV

4.0 TRANSFER OF RIGHT OF OCCUPANCY:

- 4.1 NHC shall undertake to transfer the Right of Occupancy of the property to be in the joint names of NHC and the Partner **M/S QUICK PROPERTIES LIMITED** as per the venture interests. As provided in Article 2.2 (c) this transfer shall be effected upon completion of the building.
- 4.2 NHC shall make sure that before the Title to the property is partly surrendered from NHC to the Partner, the property shall be free from any encumbrances or conditions other than those conditions ordinarily contained in the Certificate of Title.
- 4.3 Land rent, service charges in connection with the transfer of the said property shall be cleared by the NHC.

ARTICLE V

5.0 MAIN FEATURES OF THE JOINT VENTURE:

- 5.1. The main features of the envisaged joint venture for ownership and development of the property shall, among others, include the following activities:-
- (a) preparation of Architectural drawings and designs;
 - (b) appointment of consultancy team and contractors;
 - (c) eviction of tenants currently in occupation;

- (d) demolition of the existing structures and cleaning of the site;
- (e) preparation of joint venture agreement for the ownership development and management of the property;
- (f) construction of twelve (12) maisonettes.
- (g) if deemed necessary, appointment of Estate Management Agent for managing and marketing of the property or formation of a joint venture company to manage the property if so agreed.

ARTICLE VI

6.0 FUNDING OF THE JOINT VENTURE PROJECT:

- 6.1. It is **HEREBY EXPRESSLY AGREED** that the Partner shall undertake the financing of the following activities:-
- (a) preparation of architectural drawings and designs of the property;
 - (b) costs of appointing consultancy team (professionals) and contractors;
 - (c) costs of demolishing of the existing structures and clearing of the site and;
 - (d) cost of constructing of twelve (12) maisonettes.
- 6.2 Subject to Clause 6.1 herein above, the Partner's obligation to finance the project shall be inclusive of NHC's contribution in the project.
- 6.3. NHC's contribution towards the envisaged project shall be the value of **LAND** and unexhausted improvements, which shall be taken to be 25% of the total project value. This contribution shall constitute NHC's initial venture interests in the completed property.

ARTICLE VII

7.0 EXISTING TENANTS

- 7.1 NHC in collaboration with the Partner, shall ensure the removal of the subsisting tenants in the property and hand-over vacant possession of the same to the Partner.
- 7.2 The costs of removing the subsisting tenants if any shall be borne by both parties.

ARTICLE VIII

8.0 APPOINTMENT OF CONSULTANCY TEAM AND CONTRACTORS

- 8.1 The Partner in consultation with NHC shall be responsible for the appointment of a Project Consultancy Team and Contractors.
- 8.2 The parties shall ensure all necessary approvals from various authorities are obtained before commencement of construction and provide sufficient

supervision and inspection of the construction works to ensure due, and proper performance of the project.

- 8.3. Commencement of the project shall be after the procurement of necessary document(s) from relevant authorities.
- 8.4. The Partner shall ensure that the site meetings are called regularly and the names of the partners, consultants and contractors appear clearly on sign board during the construction period in accordance with the Contractors Registration Board (CRB) directives.

ARTICLE IX

9.0 GENERAL PROVISION:

- 9.1 The parties agree that upon completion of the construction works, the property shall be owned by the parties in proportion to the percentage of their joint venture interests as provided under Clause D and Article 2 (a) – (b) of this agreement.
- 9.2 The Parties agree to contribute for the payment of land rent charges and property tax in proportion to the percentages of their venture interests after the completion of the project.
- 9.3 For avoidance of doubt, the ownership of the property shall be on complete maisonettes and in the following manner:
- (a) Initially, the NHC shall benefit from 25% of the residential apartments (maisonettes) while the Partner shall benefit from 75%. After twelve (12) years and as per Article 2 (a) – (b), the other 25% shares shall revert to the NHC to reach 50% shares of the said maisonettes.
 - (b) Initially, the maisonettes shall be divided in the manner that the Partner benefit from 75% and NHC 25%. Any change in the magnitude of the project shall follow the above sharing arrangement. This arrangement shall last only for a period of twelve (12) years after which both parties shall own 50% shares each.
 - (c) After a period of 12 years, when the NHC acquires its 25% additional shares as per Clause F and Article 2.2 (a) - (b) above, the ownership shall accordingly reflect the changes in shareholding. Any change in the magnitude of the project shall follow the sharing arrangement specified herein above.
- 9.4 (a) Occupation of the premises by the parties or leasing of the same shall commence at a time when the contractor shall hand-over any of the floor(s) to the parties.
- (b) The maisonettes that shall be handed over to the parties by the contractor in pursuance to the provisions of Article 9.3 (a) above or occupied prior to the completion of the construction works, shall be

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deemed to be jointly owned by both parties until construction of the whole buildings completed and divided among the parties in accordance with the provisions of Article 9.3 above.

- 9.5 The parties shall agree on the modalities of handling issues related to security, maintenance and general administration of the property.
- 9.6 Each party shall be free to deal with its share of joint venture interests without interference from the other provided each shall hold the other indemnified against any loss or damage resulting from the action of the other.
- 9.7 (a) If any party creates or permits to create any encumbrance such as a mortgage, charge or lien over the whole or part of its venture interests, that party shall give written notice thereof to the other party giving the particulars of the encumbrance.
- (b) It shall be a condition contained in any encumbrance created by either of the Party in accordance with this Clause that any exercise of rights by the Party taking the encumbrance shall be subject to compliance with the pre-emptive rights of the other party.
- 9.8 On completion of the project, the building shall be marked properly indicating the names of the Joint Venture Partners.

ARTICLE X

10.0 DEFAULT:

- 10.1 The party shall be a defaulting party in terms of this agreement if payment of any part of the monies due by that party in terms of this Agreement shall not be made when due and payable and such default shall continue unredeemed for a period of thirty (30) days after the due date.
- 10.2 A party shall also be a defaulting party in terms of this agreement if the said party shall default in the due observance of performance of any covenant, condition or provision contained in this Agreement other than the payment of money and such default shall continue for more than sixty (60) days after written notice from the other party specifying the default and demanding the same to be remedied.
- 10.3 Any such default if not remedied within the provided period, the matter may be referred to a court of competent jurisdiction upon terms and conditions as hereinafter provided in Article XVIII.

ARTICLE XI

11.0 NOTICES:

- 11.1 All notices, notifications, requests demands approvals, agreements or other communications to or by the respective parties shall be in writing and shall be deemed to be duly given or made as follows:-

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- (a) In the case of delivery in person when delivered and so evidenced by acknowledgment or receipt by the recipient;
- (b) In the case of prepaid post, on the fourteenth (14) business day after the date or posting; to the party to which such communication is required to be given under this Agreement addressed to its address as shown in this Agreement or at such other address as the relevant addressee may specify for such parties.

ARTICLE XII

12.0 ASSIGNMENT:

- 12.1 No party shall be allowed to assign or purport to assign any of its right, title, interests or obligations under this Agreement without prior consent from the other party which consent shall not be unreasonably withheld by such party.

ARTICLE XIII

13.0 WAIVER

- 13.1 No delay or omission to exercise any right, power or remedy accruing to any party upon any breach or default by any other party under this Agreement shall impair any such right, power or remedy nor shall it be construed to be a waiver of any such breach or default thereafter occurring nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default.
- 13.2 Any waiver, agreement, consent, default, breach or approval of any kind or character on any provisions or conditions of this agreement must be in writing and shall be effective only if it is in writing.

ARTICLE XIV

14.0 SEVERABILITY OF PROVISIONS:

- 14.0 Should one or more of the provisions of this Agreement prove to be invalid and/or unenforceable, this shall not affect the validity and/or enforceability of the other provisions of this Agreement. In case of such invalidity and/or unenforceability the parties to this Agreement shall replace such invalid and/or unenforceable provisions.

ARTICLE XV

15.0 AMENDMENTS AND ALTERATIONS

- 15.1 All or any of the provision of this Agreement may be amended, altered, added to or replaced by the parties by mutual agreement.

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ARTICLE XVI

16.0 DETERMINATION OF THE JOINT VENTURE AGREEMENT:

16.1 This Agreement shall be determined if any or all of the following circumstances occur:-

- (a) In the event that the construction works shall not commence without any reasonable cause on the expiry of three (3) years from the day of execution of this Agreement and in accordance with the terms provided herein. Under these circumstances loss if any shall lie where it falls.
- (b) In the event of occurrence of "*force majeure*". In such event, the Party concerned shall immediately inform the other party in writing and necessary steps to minimize the loss shall be taken.
- (c) For avoidance of doubt in this Agreement "*force majeure*" shall mean any event beyond the control of either party that shall cause or delay the performance of the Agreement and these shall include:-
 - (i) An act of God;
 - (ii) War or hostility whether declared or not;
 - (iii) Civil commotion or riot;
 - (iv) Earthquake, flood, fire or other natural disasters;
 - (v) Strikes, lockouts or other industrial actions (other than among the parties, own employees); and
 - (vi) Any Government order prohibiting performance of this Agreement.

In the event of *force majeure*, loss if any shall lie where it falls.

ARTICLE XVII

17.0 GOVERNING LAW:

17.1. This Agreement shall be governed by and construed in accordance with the laws for the time being in force in the United Republic of Tanzania.

ARTICLE XVIII

18.0 DISPUTE SETTLEMENT:

18.1 All disputes and controversies arising out of, or relating to, the performance of this Agreement which cannot be settled mutually by the parties hereto shall be referred to the court of competent jurisdiction.

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IN WITNESS WHEREOF

The parties hereto have duly executed these presents by the hands of their duly authorized representatives on the day, month and year first above written and hereinafter appearing.

SEALED with the Common Seal of the said
NATIONAL HOUSING CORPORATION and
DELIVERED in the presence of us
On10th.....day of September.....2008

FULL NAME:MARTIN G. MADEKWE.....
SIGNATURE:.....Madewe.....
POSTAL ADDRESS:.....Box 2977 DSM.....
QUALIFICATION:.....DIRECTOR GENERAL.....

FULL NAME:Victoria B. Maudlan.....
SIGNATURE:.....Victoria.....
POSTAL ADDRESS:.....Box 2977 DSM.....
QUALIFICATION:.....Corporation Secretary.....

SEALED with the Common Seal of the
M/S QUICK PROPERTIES LIMITED
and DELIVERED in the presence of us
On day of 2008

FULL NAME:.....DILIP VRAJLAL KANABAR.....
SIGNATURE:.....MUHAMMAD.....
POSTAL ADDRESS:.....P.O-Box 77432, DAR-ES-SALAAM.....
QUALIFICATION:.....MANAGING DIRECTOR.....

FULL NAME:.....KIRTIDA DILIP KANABAR.....
SIGNATURE:.....Kirtida Dilip Kanabar.....
POSTAL ADDRESS:.....P.O-Box 77432, DAR-ES-SALAAM.....
QUALIFICATION:.....DIRECTOR.....

Drawn By:

Legal Unit
National Housing Corporation
P.O. Box 2977
DAR ES SALAAM.