Clarification No.1. **Release Date: 09.07.2019**

CLARIFICATION ISSUED ON BEHALF OF DOVE INFRASTRUCTURE PVT. LTD IN RESPECT OF THE MEETING OF UNIT BUYERS SCHEDULED ON 20.07.2019

Objective: **To dispel apprehensions amongst the Unit Buyers of Gateway Tower Project, Faridabad.**

To Unit Buyers of Gateway Tower Project, Faridabad

Sir,

We have received on 06.07.2019 a letter sent by Shri Rakesh Agarwal Ji on behalf of a group of Unit Buyers. It has also come to our knowledge that the said letter is being circulated amongst the Unit Buyers schedule to meet on 20.07.2019 to consider the Scheme proposed by Dove Infrastructure Pvt. Ltd. [hereinafter **"DIPL"**] for approval.

In the aforesaid letter various apprehensions/ concerns have been raised which are apparently arising out of misunderstanding or difference in perception.

To dispel the unwarranted apprehension this clarification is being issued. However, before clarifying the apprehensions raised by Shri Rakesh Aggarwal Ji we would like to remind Unit Buyers to be conscious of the opportunities offered under the Scheme. Any Unit Buyer should not shun the Scheme merely on the basis of imaginative apprehension.

ABW Infrastructure Limited [hereinafter "ABWIL"] is in liquidation. Everyone associated with ABWIL has suffered losses in one way or the other. DIPL proposes to takeout/ hive off the Gateway Tower Project from liquidation proceedings of ABW with consent of Unit Buyers.

We all are duty bound to mitigate our damages as far as possible. The Unit Buyers should not miss the opportunity to mitigate their losses arising out of liquidation of ABW Infrastructure Ltd.

We intend to dispel the apprehensions expressed in the said letter as follows.

1. **Apprehension / Misunderstanding No.1:**

   Shri Rakesh Agarwal Ji: "The Proposed Scheme has been floated by and with Vested Interests as opposed to Genuine Concern to revive the project."

   DIPL's Reply to Apprehension / Misunderstanding No.1:

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We do not have any vested interest. Our interest is transparent and obvious. DIPL is the licensee and the owner of the land, therefore, it is fulfilling its statutory obligation. The proposed Scheme is in line with the statutory provisions dealing with the liquidation of ABWIL.

Moreover, the Scheme provides for implementation of the scheme under supervision of a Committee of Class of Creditors (Gateway Towers) having sufficient representation from the Unit Buyers.

2. **Apprehension / Misunderstanding No.2:**

Shri Rakesh Agarwal Ji: "The Proposed Scheme is unjust upon 49% Unit Owners/buyers who have fully paid up and rather seeks to reward defaulters and introduce dummy persons to siphon off unsold areas."

DIPL's Reply to Apprehension / Misunderstanding No.2:

(i) The Scheme envisages inbuilt control over the contributions receivable from the Unit Buyers and their use by a Committee of Class of Creditors (Gateway Towers).

(ii) The contribution rates provided in Resolution No.2 is only a proposition by DIPL. The objective is to generate sufficient funds for completion of the project. **The Unit Buyers are entitled to propose and adopt any suitable method by a majority vote** which would eventually provide funds needed for completion of construction work.

The following **estimated costs** are known till date:

(i) Cost of remaining Constructions: *Rs. 66.27 crore.

(ii) Cost of Settlement with Alchemist: **Rs.12.00 crore

(iii) Cost of Penalties/Fines for regularization: "#___"

* Excluding GST component. The total burden of GST is likely to be Rs.7.94 crore.

** Our proposal is under consideration of Alchemist.

\# This cost is not fully known to us. As per our estimates it would vary from Rs.3.00 crore to Rs.6.00 crore.

(iii) DIPL would not have any say/objection if the amount of contribution in respect of any category of Unit Buyer is either

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reduced or increased provided the total contribution is sufficient enough to meet the aforesaid estimated costs.

(iv) DIPL is also not opposed to single rate of contribution by all unit buyers over and above their respective outstanding amount. However, this mechanism would give rise to the following issues:

(a) The contribution rate of each individual would be different depending on the amount paid by him/her and therefore collection of contribution and consequences arising out of non-payment would lead to an unviable commercial situation.

(b) In the event of default in timely payment of the contribution by any defaulting Unit Buyer(s), the remaining non-defaulting Unit Buyers would insist that the allotment of non-paying customers be cancelled and his/her/their unit/area be sold in the open market. The determination of rate at which it would be sold in the open market vis-à-vis non availability of the buyer at such rate would lead to further dispute. On the contrary if rates are categorised and fixed, DIPL would be in a position to arrange funds/ new buyers in the event of default by any of the existing buyer.

Therefore, DIPL has suggested method of categorization which provides for better financial manoeuvring in the event of default by some of the Unit Buyers.

(V) **PROPOSED RATES**

The computation of all proposed rates are based on given figures pertaining to each customers. Any variation in the given figures, upon verification of documents by the Committee of Class of Creditors (Gateway Towers) may lead to change in the amount of contribution in respect of each customer. However, as per our estimates, such increase/decrease in the rates are not likely to be more or less than 10% in respect of each Unit Buyers.

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DIPL would enter into agreement with each Unit Buyer only upon finalization of contribution receivable from all the Unit Buyers. The Unit Buyers would be required to contribute only upon signing of individual agreement as per schedule of payment fixed by the Committee of Class of Creditors (Gateway Towers) in consonance with the project schedule.

(a) **Proposed Rates of Contribution Under Option-I**

Table: Option-I			
Sl.	**Categories**	**Criteria for Categorization**	**Contribution psf.**
(i)	Category-I	Payment- Up to 100% [i.e. greater than or equal to 99.5%]	Rs.900/- psf.
(ii)	Category-II	Payment- Up to 60% [i.e. greater than or equal to 60% or 60% to 99%]	Rs.1200/- psf.
(iii)	Category-III	Payment- Up to 30% [i.e. greater than or equal to 30% or 30% to 59%]	Rs.1600/- psf.
(iv)	Category-IV	Payment- Up to 10% [[i.e. greater than or equal to 10% to 29%	Rs.2100/- psf.
Notes: *(i) Ordinarily the Customer who have paid less than 10% is not to be counted as Allottee*			

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(ii) However, it is seen that ABWIL have executed documents in some cases without receipt of minimum 10%. Therefore, considering various grievances/allegation, all the customers who have paid less than 10% but in possession of valid document of allotment may also be treated as Category-IV customer.

(b) **Proposed Rates of Contribution Under Option-2**

Table: Option-2			
Sl.	**Categories**	**Criteria for Categorization**	**Contribution psf.**
(i)	Category-I	Payment- Up to 100% [i.e. greater than or equal to 99.5%]	Rs.600/- psf.
(ii)	Category-II	Payment- Up to 60% [i.e. greater than or equal to 60% or 60% to 99%]	Rs.1300/- psf.
(iii)	Category-III	Payment- Up to 30% [i.e. greater than or equal to 30% or 30% to 59%]	Rs.2000/- psf.
(iv)	Category-IV	Payment- Up to 10% [[i.e. greater than or equal to 10% to 29%	Rs.2900/- psf.
Notes: *(i) Ordinarily the Customer who have paid less than 10% is not to be counted as Allottee*			

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(ii) However, it is seen that ABWIL have executed documents in some cases without receipt of minimum 10%. Therefore, considering various grievances/allegation, all the customers who have paid less than 10% but in possession of valid document of allotment may also be treated as Category-IV customer.

(c) **Proposed Rates of Contribution Under Option-3**

Table: Option-3			
Sl.	**Categories**	**Criteria for Categorization**	**Contribution psf.**
(i)	Category-I	Payment- Up to 100% [i.e. greater than or equal to 99.5%]	(i) Individual Outstanding rate: **NIL** **And/Plus** (ii) Rs.600/- psf.
(ii)	Category-II	All Other customers not falling in Category-I	(i) Individual Rate i.e Outstanding BSP divided by area. **And/Plus** (ii) Rs.600/- psf.
Notes: To avoid the complexities involved in this option DIPL does not recommend individual rates for each customer and prefers rates based on categorization. However, if the Unit Buyers ultimately approve this option, then DIPL would accept the same.			

3. <u>Apprehension / Misunderstanding No.3</u>:

Shri Rakesh Agarwal Ji: "Land owned by DIPL has already been attached in name of Unit Buyer(s) Mr. Suresh Ahuja and Ors., and therefore, DIPL has no subsisting rights on land."

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DIPL's Reply to Apprehension / Misunderstanding No.3:

(i) DIPL is already party to proceedings before the Hon'ble High Court of Punjab & Haryana wherein the said 2 orders dated 03.04.2018 are under challenge. The said order has been obtained in the absence of representation by DIPL. In any case, the said order pertains to only two customers namely

(a) Shri Rakesh Agarwal Ji- 3099 sq. ft.

(b) Mr. Suresh Kumar Ahuja- 5250 sq. ft.

(ii) It is not the case that entire land is attached. Moreover, DIPL itself is interested in conveying the right and interest in the land to the respective Unit Buyers after completion of the project.

4. **Apprehension / Misunderstanding No.4:**

Shri Rakesh Agarwal Ji: "The scheme does not provide as to how the project property is proposed to be de-attached from the Enforcement Directorate."

DIPL's Reply to Apprehension / Misunderstanding No.4:

There are only two orders passed by the ED and none of the order contains any information relating to attachment of land by the Enforcement Directorate. It may also be noted that the land was acquired by DIPL prior to induction of Mr. Atul Bansal as director of the Company. DIPL has already challenged attachment of a fixed deposit linked with Bank Guarantee of Rs.79.62 lacs issued in favour of the Governor of Haryana, DTCP on the ground, *inter alia*, that the money was not provided by Mr. Atul Bansal. The replies filed by ED is sufficient to establish that they have not attached the land.

5. **Apprehension / Misunderstanding No.5:**

Shri Rakesh Agarwal Ji: "The proposed scheme envisages transfer of rights from M/s ABW Infrastructure Limited in favour of M/s Dove Infrastructure Private Limited, the said transfer would further entrap the Owners/Buyers, the said transfer should be in favour of Owners/Buyers".

DIPL's Reply to Apprehension / Misunderstanding No.5:

(i) The ownership rights of land vests with DIPL. The property is presently encumbered by the acts and omissions of ABWIL.

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Upon completion of the project under the Scheme, sale deed in respect of each unit would be executed by DIPL. After execution of sale deed, the property would be governed under Haryana Apartment Ownership Act.

(ii) The right and interest arising out of Agreement dated 29.02.2008 stands terminated on account of default/ non-performance. DIPL has already served notice to the Official Liquidator under Section 435 of the Companies Act. The rights associated with the land always stood vested with DIPL and at no point of time it got transferred to ABWIL. The agreement dated 29.02.2008 stood unperformed. The legal consequences on account of non-performance of the agreement by ABWIL would not have an impact on the rights & interests of the Unit Buyers. Moreover, the question of getting trapped would not arise as the contribution received from the Allottee would be spent in supervision of the Committee of Creditors.

6. **Apprehension / Misunderstanding No.6:**

Shri Rakesh Agarwal Ji: "Dove Infrastructure Private Limited has not established as to how it will discharge the secured charge holders like M/s Alchemist ARC and what impact would that settlement have on the scheme as M/s Dove Infrastructure Private Limited has not been able to take consent of M/s Alchemist ARC in regards to its proposal. At page 22, clause 7.4, the proposed scheme proposes to Settle M/s Alchemist with Rs. 4.5 Crore, however, at clause 7 at page 9, it proposes to settle M/s Alchemist with Rs. 12 Crore."

DIPL's Reply to Apprehension / Misunderstanding No.6:

After approval of the Scheme, DIPL would enter negotiated settlement agreement with Alchemist. The initial proposal of settlement was based on the premise that Alchemist is in possession of a 3 acre farm land. Alchemist had rejected the proposal and it was also discovered that Alchemist is not in possession of the 3 acre farm land as the said land was also covered by the order of the Hon'ble Supreme Court dated 12.03.2018, and the now the ownership rights of said farm house vests with HSIDC.

7. **Apprehension / Misunderstanding No.7:**

Shri Rakesh Agarwal Ji: "Dove under this scheme is pursuing two ulterior agendas, (1) it seeks to unlawfully usurp unsold areas and introduce dummy

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buyers to pocket unlawful gains (2) it seeks to get the license renewed at cost of Owners/Buyers of Gateway Towers and take unlawful benefit on its own project of the renewed license as otherwise Director Town Planning will take over the entire project for completion............. Thus M/s Dove Infrastructure Private limited should get the license renewed at its cost. Furthermore, there is no requirement of renewal of license to construct the present project."

DIPL's Reply to Apprehension / Misunderstanding No.7:

(i) There are no unsold areas in the project. In fact, the project has been sold in-excess of the permitted inventory. A few customers may either be excluded or accommodated by decreasing their area. DIPL at this state cannot exclude any of the Unit Buyers from the Scheme.

(ii) It is a misunderstanding that 'renewal of license' is not needed for construction. No authorities would grant any approval / clearances unless and until the license stands renewed. Without approval/clearances the building would remain illegal.

(iii) The mere facts that customers are victim of wrong deeds of ABWIL would not exempt them from statutory obligations.

8. **Apprehension / Misunderstanding No.8:**

Shri Rakesh Agarwal Ji: "Dove Infrastructure has not disclosed as to how will it (a) determine the genuine owners/buyers, (b) the unsold area of the project, (c) has not accounted as to how it proposes to utilize the benefit of increase of FAR."

DIPL's Reply to Apprehension / Misunderstanding No.8:

(i) The Scheme envisage scrutiny of the documents. Before Commencement of the Scheme, it is essential that each customer would enter into an agreement with DIPL for payment towards cost of remaining construction. Upon commencement of the Scheme, the Committee of Creditors would verify the documents of each of the allottee.

(ii) Notices convening Meetings have been sent on the basis of some of the basic documents gather by DIPL viz. DIPL is also in possession of ledger account of individual/associates.

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(iii) DIPL would not enter into an agreement with any person unless his name is approved by the Committee of Creditors or as per direction of the Court, if any.

(iv) There is no unsold area in the Gateway Tower. In fact, there is a shortage of area. A list of customer/voter along with the supporting document would be made available to the Chairman/Alternate Chairman of the Meeting and would be available for inspection by any Unit Buyers.

(v) Though, increase in FAR under TOD policy have not been ruled out, the grant of such approval is highly dependent on the discretion of the authorities and timely revitalization of the project. Sufficient scope has been provided in the Scheme to pass on the benefit arising out of such increase in area if granted.

9. Apprehension / Misunderstanding No.9:

Shri Rakesh Agarwal Ji: "The Proposed Scheme states that the ABW Project has 6,51,390/- square feet of sellable area (Para 9, page 10), according to the Proposed Scheme the Assured Return Owners are 40%, the Construction Linked Owners are 30% and the Fully Paid persons who made Full Down Payment but did not opt Assured Return are 2% (page 3). Thus, the remaining 28% is either unsold or was merely booked by persons who are defaulters and as per Builder buyer Agreement is to be forfeited. Thus, 28% is actually unsold inventory which is 1,82,389 square feet.

The Proposed Scheme seeks to implement TOD policy, under which the 3,44,586 square feet FSI/FAR would belong to the Project, from which 54%, i.e. 1,80,076 square feet FSI/FAR would come to ABW project, which would translate into a further sellable area of 2,35,900 square feet for ABW Project. Thus, the total unsold inventory is 4,18,289 square feet. Considering the selling price as per proposed Scheme of Rs. 5,000 per square feet, the Project generates about Rs. 210 Crore, which will cover the cost of construction and completion of project and would honour the commitment of Assured Returns. The excess amounts should belong to the Buyers/Owners of Gateway Towers."

DIPL's Reply to Apprehension / Misunderstanding No.9:

(i) All the Unit Buyers are only a creditor of ABWIL in the eyes of law.

(ii) The Builder-Buyer agreement between the Unit Buyer and ABW Infrastructure Limited cannot be performed on account of liquidation of ABWIL. DIPL is not privy to contract. Therefore,

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DIPL can neither consider the terms of the said agreement nor act upon the said agreement. The agreements are only relevant for the purpose of identification of the customers and reference in future agreement.

(iii) DIPL cannot distinguish and give priority to any specific creditor. However, the committee of creditor, by majority vote may fix any rate which is justified and equitable.

(iv) DIPL has proposed to avail enhancement of the FAR under TOD Policy, if granted by DTCP. However, for availing such facility, it is essential that project is revitalized first.

(v) The customers are advised to consider the Scheme without taking into consideration the TOD Policy, because the same is contingent upon many factors.

10. Apprehension / Misunderstanding No.10:

Shri Rakesh Agarwal Ji: "The Four Categories proposed under the Proposed Scheme is flawed and has been made with the sole purpose to introduce dummy persons so as to siphon off unsold areas. The fact is that genuine Assured Return Owners/Buyers who are 40% in number have paid 100% and the genuine Construction Linked Owners/Buyers who are 30% in number have paid 60%. The Proposed Scheme is seeking to further recover @ 900 per square feet from persons who have already fully paid 100% and is seeking to give Category III & IV persons Units @ 2100 per square feet, when their Units are liable to be forfeited under the MoU/Space Buyer Agreement Terms. (refer page NO. 10 and 11 (point 9) of the proposed scheme)."

DIPL's Reply to Apprehension / Misunderstanding No.10:

(i) This is similar to Apprehension /Misunderstanding No. 2 and reply thereof is reiterated.

(ii) Allottee group can propose to modify the rates and enhance the rate for category IV Unit Buyers and reduce the rates applicable to Category-I buyers.

11. Behind DIPL a few people are working hard to improve the situation. We need to make consolidated efforts in achieving common goals. Unwarranted apprehension should be avoided and we should not miss the opportunity available before us. The following quote is relevant in the present circumstances.

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> ***"The truth knocks on the door and you say, "Go away, I'm looking for the truth," and so it goes away.***
> ***--Robert M. Pirsig***

We hope that Unit Buyers would find the aforesaid clarifications satisfactory.

Thanking you.

Yours faithfully,
For **Dove Infrastructure Pvt. Ltd.**

DOVE INFRASTRUCTURE PVT. LTD.
NEW DELHI

Yogesh Gupta
Director