

**IN THE SUPREME COURT OF INDIA  
CIVIL APPEAL NO.10856 OF 2016**

IN THE MATTER OF:

**BHUPINDER SINGH**

**...PETITIONER**

**VERSUS**

**UNITECH LIMITED**

**...RESPONDENT**

**CONVENIENCE NOTE FOR 17.02.2021**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Page No.</b>
1.	<b>PREAMBLE</b>	<b>1</b>
2.	<b>Part-I</b> Liabilities/ claims of stakeholders	<b>2</b>
3.	<b>Part-II</b> Notional balance sheet for the year ending 31.03.2019	<b>3 - 5</b>
4.	<b>Part-III</b> Possible realizable asset value	<b>6</b>
5.	<b>Part – IV</b> Forensic audit report- realizable amounts	<b>7</b>
6.	<b>Part-V</b> Categorization of projects as per Resolution Framework	<b>8 - 9</b>
7.	<b>Part-VI</b> Implementation Process	<b>10 - 11</b>
8.	<b>Part-VII</b> Funds Management	<b>12</b>
9.	<b>Part-VIII-A</b> Avoidable Transactions	<b>13 – 15</b>
10.	<b>Part-VIII-B</b> Avoidable Transactions – Alwal Land	<b>16</b>
11.	<b>Part VIII-C</b> Ld. Amicus Report dated 29.07.2020 regarding M/s Devas Global: Bangalore Land	<b>17 – 22</b>
12.	<b>Part VIII-D</b> Purchase of land by Priadarshni Foundations Private Ltd.	<b>23 - 24</b>
13.	<b>PART VIII-E</b> Sale of Unitech Power Transmission Limited to Sterling and Wilson Pvt. Ltd along with email dated 17.10.2020 and Undated letter	<b>25 - 31</b>

<b>Sr. No.</b>	<b>Particulars</b>	<b>Page No.</b>
14.	<b>Part-IX</b> NOIDA and GNOIDA	<b>32 - 35</b>
15.	<b>Part-X</b> Lands in Agra and Varanasi	<b>36</b>
16.	<b>Part-XI</b> Transactions with ARCs	<b>37</b>
17.	<b>PART XII</b> Discrepancies in refunds made to homebuyers along with Letters dated 03.04.2018, 28.11.2018, 07.01.2019, 21.07.2020, 06.08.2020, 16.09.2020 and 09.02.2021	<b>38 - 58</b>
18.	<b>Part – XIII</b> Release of funds deposited with the Registry	<b>59 - 60</b>
19.	<b>Part – XIV</b> Report Card on the major activities of the New Management	<b>61 - 74</b>
20.	<b>Part – XV</b> Directions sought from the Hon'ble Court	<b>75 - 78</b>



Anubha Agrawal

On behalf of New Board of Unitech Ltd

## **PREAMBLE**

Through this Resolution Framework (RF), the Board is attempting a challenging and complex task of finding a possible solution that would enable completion of projects and delivery of residential units (to about 15,000 homebuyers) to the extent possible within a reasonable time frame, while at the same time looking for an equitable settlement for other stakeholders, saving capital for all creditors (especially Homebuyers) and not driving the Company towards liquidation. This “salvage operation” is being undertaken with the broader public interest in mind rather than a profiteering motive. The proposed Framework is an integrated, inter-dependent, holistic resolution of the Unitech Group and has to be considered in totality. Piece-meal implementation of the RF would not be feasible.

The Company and its subsidiaries, joint ventures, associates and other Project Entities (“**Unitech Group**”) are in financial difficulties. Further, there is limited ability to make sales of any Unsold Inventory in the immediate period due to lack of confidence/ credibility in the general market in relation to ability of the Unitech Group to construct and deliver any units to Homebuyers. Keeping in view the aforesaid, the Board has deliberated on a Framework, which prioritizes deployment of Unitech Group’s limited resources for construction and delivery of homes and for meeting certain obligations of the Company to its serving and ex-employees. The Board is also cognizant that the proposed Resolution ought to ensure an equitable treatment of various stakeholders on the basis of their unique situation, alternatives available to them and their risk bearing abilities.

Consequent upon the orders dated 20.01.2020 of the Hon’ble Court, Union of India (in the Ministry of Corporate Affairs) issued appointment orders of the CMD on 21.01.2020, six other directors on 22.01.2020, and orders dated 03.02.2020 in case of appointment of Sh. Prabhakar Singh as Director after his superannuation on 31.01.2020. Notwithstanding the successive lock-outs and other constraints due to the COVID-19 pandemic, the Board held intense deliberations, both through physical and virtual meetings on various issues during the course of preparation of the Resolution Framework (RF). The Board finally approved the Draft Resolution Framework. Comments of the Ministry of Corporate Affairs were received on 12<sup>th</sup> July, which were incorporated in the Application dated 16<sup>th</sup> July, 2020 vide which the Resolution Framework was filed before the Hon’ble Court.

**PART – I: LIABILITIES/ CLAIMS OF STAKEHOLDERS**

Creditor	As on	Principal	Interest	Penal Interest	Other	Total (INR cr.)
Principal amount payable to homebuyers in case no construction is carried out (appox)	-		-	-	-	11,100*
Financial and other debt	31-Dec-19	3,579	1,809	24	-	5,413**
Public deposit (FD Holders)	31-Dec-19	580	374	-	-	954
Employee dues	31-Dec-19	45	-	-	-	45
Statutory dues (VAT, TDS & EPF)	31-Dec-19	280	213	27	58	577
NOIDA dues	31-Jan-20	2,708	3,163	704	1,489	8,064
Greater NOIDA dues	29-Feb-20	198	85	172	55	510
Haryana Authority dues	29-Feb-20	379	350	48	-	777
Operational liabilities	31-Dec-19	600	-	-	-	600
<b>Total key liabilities</b>		<b>8,369</b>	<b>5,994</b>	<b>975</b>	<b>1,602</b>	<b>28,040</b>
Estimated interest cost on any Priority Finance raised	-	-	-	-	-	c.500 – 1,000
<b>Total (including estimated interest cost)</b>		<b>8,369</b>	<b>5,994</b>	<b>975</b>	<b>1,602</b>	<b>28,540 – 29,040</b>

\* However, in case construction is carried out, estimated cost to complete the projects (as per clause 2.2.1 @ pg. 24 of RF) is Rs. 5,162.5 crores.

\*\* The Debts (Banks and ARCs) are secured by the land bank of the company, which includes the land on which projects have to be completed and possession delivered to homebuyers and a large number of non-project land parcels, which are planned to be monetized.

**PART – II : NOTIONAL BALANCE SHEET FOR YEAR ENDING 31.03.2019**

Particulars	INR Crores	Particulars	INR Crores
<b><u>Equity and Liabilities</u></b>		<b><u>Assets</u></b>	
<b>Equity</b>		<b>Non-Current assets</b>	
(a) Equity Share Capital	523	Property, Plant and Equipment	87
(b) Other Equity	5,717	Capital Works in Progress	185
(c) Non-Controlling Interest	82	Other Intangible Assets	0
<b>Total Equity</b>	<b>6,322</b>	Goodwill (1)	741
<b>Liabilities</b>		<b>Financial Assets</b>	
<b>Non-Current Liabilities</b>		(i) Investments (3)	2,000
<b>Financial Liabilities</b>		(ii) Loans (8)	52
(i) Borrowing	1,802	(iii) Other Financial Assets	19
(ii) Other Financial Liabilities	16	Deferred Tax Assets (Net) (5)	369
Long Term Provisions	16	Other Non-Current Assets	2
Other Non-Current Liabilities	69		
<b>Total Non-Current Liabilities</b>	<b>1,902</b>	<b>Total Non-Current Assets</b>	<b>3,457</b>
<b>Current Liabilities</b>		<b>Current Assets</b>	
<b>Financial Liabilities</b>		Inventories (6)	2,967
(i) Borrowings	459	Financial Assets	
(ii) Trade Payables	1,035	(i) Investments	0
(iii) Other Financial Liabilities	8,356	(ii) Trade Receivables (4)	1,076
Other Current Liabilities	8,832	(iii) Cash and Cash Equivalents	61
Short Term Provisions	5	(iv) Bank Balance other than (iii) above (7)	60
		(v) Loans (8)	191
		(vi) Others	315
		Current Tax Assets (Net)	155
		Other Current Assets (2)	18,532
<b>Total Current Liabilities</b>	<b>18,686</b>	<b>Total Current Assets</b>	<b>23,356</b>
Liabilities directly associated with asset in disposal (group classified as held for sale)	224	Non-Current assets classified as held for sale	322
<b>Total Liabilities</b>	<b>27,135</b>	<b>Total Assets</b>	<b>27,135</b>

Though the figures in the above balance sheet have been taken from the consolidated audited financial statements for the year ending 31.03.2019 ( @ pg. 27 of RF), but the values stated therein are not indicative of the correct financial health of the Company. Examples:

- (1) Goodwill, shown as asset worth Rs. 741 crores, is completely eroded and rather in the negative.
- (2) 'Other current assets' shown at Rs. 18,532 crores are primarily the projects in progress i.e. the same land on which floors/ flats have to be constructed and possession delivered to homebuyers; advances to vendors; prepaid expenses; advances for purchase of land etc. These are not realizable assets.
- (3) 'Investments' of Rs. 2,000 crores are not known and erstwhile directors have failed to provide information despite request by the new Management. They are primarily unquoted investments in the associates, joint ventures and others and would not be realizable.
- (4) 'Trade receivables' of Rs. 1,076 crores are unsecured and for a period exceeding six months. Recovery of the same is highly doubtful.
- (5) 'Deferred Tax Assets' of Rs. 369 crores are not realizable assets and mainly comprise of provision for doubtful trade receivables/ advances; provision for employee benefits and unabsorbed depreciation, Business loss and tax allowance benefit carried forward.
- (6) 'Inventories' of Rs. 2,967 crores primarily consist of the land and land development rights.
- (7) Rs. 121 (60+61) crores shown as cash and bank balances was not available when the New Board was appointed by this Hon'ble Court and hence the said amounts are not available.
- (8) Loans of Rs. 243 (52+191) crores are unsecured, mostly given to joint ventures and associates and unrecoverable.
- (9) Hence, considering the above, the value of Balance Sheet at Rs. 27,135 crores is highly misleading and the amounts, which may be recovered after substantial time and efforts, may be not more than Rs. 3,500-4,000 crores.
- (10) As against huge liability of more than Rs. 28,000 crores, apparently realizable current assets as per books of accounts, at book value are approx. only Rs. 3,700 crores. Actual realization value of these assets, on a realistic estimate would be much lesser. Hence, in case the operations of Unitech were to be wound up on the date, the homebuyers, creditors and all the stakeholders would only be entitled to a

miniscule percentage of 13-15% of their claims and that too after number of years, as and when the assets would be realized after sale. Current assets, shown in books of accounts would still not be available for sale as these are the very same project lands, on which flats have been partially constructed and some homebuyers are already in possession and cannot be dispossessed irrespective of the Company continuing or being wound up. Further, sale of assets in such economic scenario, especially in view of Covid-19 pandemic, would also be financially not feasible, highly uncertain and considerably delayed beyond the normal period of 4-5 years.

- (11) Recently, in the insolvency proceedings of AIRCEL under IBC, against a total debt of Rs 58,670 crores of Aircel, the creditors would get only Rs. 6,630 crores. The resolution plan implies around 89% haircut for lenders, without any substantial amount to be paid upfront. The lenders will receive payments over five years through monetization of assets, realization of pending claims etc. Similar is the situation in the present case also. Hence, it is in the best interests of all the stakeholders that the Company resumes its operations, as laid down in the Framework.
- (12) Even the financial statements for the year ending 31.03.2020, which have been recently finalized and filed by the new Board shows that the financial position of the company is dismal, it has huge liabilities which have not been accounted for in the earlier books of account and assets portrayed are not realizable.

**PART – III: POSSIBLE SOURCES OF FUND FLOW**

Description	Estimated amount (INR Crores)
Funds lying with the Registry of the Hon'ble Court	508*
Balance receivables (Residential and Commercial Projects)	3,354**
Recovery from sale of land parcels (book value as per the records of the Company)	1,322***
Advances for purchase of land and projects pending commencements	1,216
Loans and Advances (including advance to vendors) and trade receivables	854
Inter-Corporate Deposit	294
Monetization of Unsold Stock (All Projects)	3,523**
Monetization of Unsold Inventory (after proposed plotted development of NOIDA land parcels)	5,641**
<b>Total</b>	<b>16,712</b>

\* The amount is as per the Company's own assessment, which is yet to be confirmed by the Ld. Amicus/ Registry.

\*\* The amounts are not receivable as on date, but would become realizable only if the company proceeds with construction of projects and development of other assets.

\*\*\*The figures are based on historic book value and do not reflect the true market value, which is much lower and has been further impacted due to Covid-19.

**Note:**

1. In case, the company does not proceed with construction, the possible realizable assets at book value would be to the tune of Rs. 3,686 Crores (1,322 + 1,216 + 854 + 294).
2. Out of the above, an amount of Rs. 12,518 Crores (3,354 + 3,523 + 5,641) is likely to become realizable only if the company proceeds with construction of projects, development of other land and integrated development of the assets of the company.



#### **PART – IV: FORENSIC AUDIT REPORT- REALIZABLE AMOUNTS**

As per interim report of the Forensic Auditor (as recorded vide order dated 18.12.2019), major homebuyer funds have been diverted, which should be directed to be repaid:

1. Rs. 8,358.78 crores received from the homebuyers (out of total of Rs. 14,270 crores), which could not be traced by the Forensic Auditor (FA) and which were not utilized for construction of the projects.
  2. Rs. 1,267.36 crores received from financial institutions (out of total of Rs. 1,805.86 crores) which were not utilized for the projects or were not ascertainable.
  3. Rs. 1,745.81 crores made as investments in Cyprus, which were written off subsequently or which appear as equity investments.
  4. Rs. 294.47 crores written off in the books of its subsidiary Kortel Ltd.
  5. Rs. 493.72 crores receivable from sale of subsidiary companies to related parties.
  6. Rs. 273.63 crores given to Millennium Construction for purchase of shares, wherein no shares allotted till date.
  7. Rs. 108.92 crores from Arkhion Design
  8. Rs. 185.07 crores from Febiana Design as per difference between the amount shown as per MCA website.
  9. Rs. 446.40 crores from Trikar Group for sale of land which was not at arm's length.
  10. Rs. 224 crores transferred to related and undisclosed parties in Abu Dhabi and Dubai
  11. Rs. 126.43 crores given as loan to Platinum Buildmart Pvt. Ltd.
- ❖ Copy of Forensic Audit report is not available with the Management and above figures are based on interim forensic report, as recorded in order dated 18.12.2019.
  - ❖ That the directions for recovery of the diverted amounts would ensure receipt of substantial sums, which would be very crucial for the construction of flats of homebuyers and satisfaction of claims of other stakeholders.
  - ❖ It is prayed that a copy of the Forensic Report may also be kindly made available to the New Management.

## **PART - V – CATEGORIZATION OF PROJECTS AS PER RESOLUTION FRAMEWORK**

- ❖ The Resolution Framework identifies 78 residential and 13 commercial unfinished/incomplete projects, which are at different stages of construction. Based on the stage of construction, balance receivables from current homebuyers, value of unsold stock and balance works to be completed, the said projects have been categorized in following different categories:
- (i) **Category 1:** Ring Fenced Projects where receivables from existing Homebuyers are adequate to at least cover estimated Construction Costs and the Projects are likely to generate additional/ surplus cash-flows.
  - (ii) **Category 2A:** Projects where the receivables from existing Homebuyers together with potential receivables from sale of Unsold Inventory, are adequate to at least cover estimated Construction Costs of such Ring Fenced Projects. These Projects will need support through cash-flows generated at the level of other Projects/ Non-Project Assets/ corporate level, and/ or Priority Finance for completion of construction.
  - (iii) **Category 2B:** Projects where the receivables from Homebuyers, even when aggregated with potential receivables from sale of Unsold Inventory, will not be adequate to cover the estimated Construction Costs. Significant sales to homebuyers (say more than 50%) have already been made and hence these Projects would need to be completed even though they may not be viable. Would be required to be supported from the cash-flows generated at the level of other Projects/ Non-Project Assets/ corporate level.
  - (iv) **Category 2C:** Projects where the receivables from existing Homebuyers, even when aggregated with potential receivables from sale of Unsold Inventory, may not be adequate to cover the estimated Construction Costs, and wherein significant sales have not been made to Homebuyers (say less than 50%). Some of these projects may still have to be taken up for completion as substantial amounts have been spent at site (e.g. If a Tower has been constructed up to 4 or 5 storeys). The abandonment of such projects would amount to writing off the expenditure already incurred unless recourse is taken to sell the FSI of such projects on as-is-where-is basis.

- (v) **Category 3:** To be Abandoned Projects i.e. Projects which may or may not be sustainable, including those Projects, which have had limited/ no construction. The underlying assets of these Projects can be monetized, including through Plotted Development (wherever feasible). Homebuyers of such projects would be migrated to other projects.
- (vi) **Category “0”:** projects are the ones categorized or claimed as “completed” by the Company. These are projects in advanced stages of completion and recommended to be completed on priority by the Company.

- ❖ The category-wise summary of Projects and the number of Units falling in different categories is given below:

### **Residential**

Category	No. of Projects	Total no. of units	Sold units	Of which: to be offered for possession	Unsold units	Total units to be constructed
1	10	4,218	3,207	2,602	1,011	3,613
2A	20	6,602	4,199	3,322	2,403	5,725
2B	19	13,784	13,141	8,910	643	9,553
2C	-				-	-
“0”	24	9,658	9,629	146	29	175
Total	73	34,262	30,176	14,980	4,086	19,066
3	5	1,435	826	51	-	-

### **Commercial**

Category	No. of Projects	Total number of units	Sold units	Of which: to be offered for possession	Unsold units	Total units to be constructed
1	5	1,901	1,738	593	163	756
2A	3	664	457	157	207	364
2B	2	262	262	65	-	65
Total	10	2,827	2,457	815	370	1,185
3	3	93	51	51	-	-

- ❖ That about 60% of the total residential Units, of which possession is to be offered, fall in Category 2B.
- ❖ On revalidation of the projects and their categorization, the projects would be taken up based on construction priority drawn up according to the pending works.

## **PART – VI: IMPLEMENTATION PROCESS**

1. **Use of readily available funds:** e.g. Funds deposited with the Registry to be used for on-going expenditure, construction, operation and generation of further income and not for disbursements at this stage.
2. **Delivery of possession:** would be in a phased manner, mostly within 3 years.
  - ❖ Within 1<sup>st</sup> 12 months: upto 2,500 units
  - ❖ Within 12-24 months: 5,000 additional units
  - ❖ Within 24-36 months: 5,000 additional units
  - ❖ Within 36-48 months: Balance units
3. **Homebuyers:**
  - ❖ The homes will be delivered at the booked price notwithstanding a lapse of 8-12 years and consequent escalations. No additional burden, by way of increase in costs, to be put on the homebuyers.
  - ❖ No interest to be charged from the homebuyers on account of their defaults in payment till the cut-off date;
  - ❖ However, given the above two major reliefs, the Company will not be in a position to pay any delay penalties and delay interest to the homebuyers notwithstanding any orders from the lower courts/ forums.
  - ❖ Balance unpaid amount to be paid as per updated payment plan in installments linked to the scheduled completion time.
  - ❖ Homebuyers of projects, to be abandoned, would be migrated on the basis of geo-proximity and more or less similar area.
  - ❖ Company website, [www.unitechgroup.com](http://www.unitechgroup.com), to be the primary medium of communication of demands, notices and other information.
  - ❖ Refund of monies is not envisaged, at this stage, as company is already in financial distress.
  - ❖ **Amalgamation of investment of homebuyers:** Subsequent to the submission of Resolution Framework, it has been proposed by the homebuyers of Burgundy (NOIDA) Project, which is also acceptable to the Board that investments of homebuyers be permitted to be amalgamated. Meaning thereby that, homebuyers of a project who do not want possession (and want refund) are

permitted to amalgamate their investments, without any refund by the Company. In such a case, they surrender their units to the Board without any refund and their investment is credited to the account of the amalgamated homebuyers. This is beneficial for all the parties since the homebuyers need not pay up anything upfront in case they collaborate with each other and the Company gets available stock for sale in the market.

4. **Fixed Deposit Holders:**

- ❖ Data indicates that FD holders with small amounts of deposits may be more or equally vulnerable via-a-vis the Senior Citizens (as held in order dated 12.12.2019). As such, the Hon'ble Court may decide the inter-se priority to be accorded within the FD holders.
- ❖ Further payments at this stage, may not be contemplated, as it would put further strain on the cash flows which are required for construction purposes.

5. **NOIDA and GNOIDA Authorities:**

- ❖ Huge amounts shown as recoverable on the basis of cumulated interest, penalty, extension charges etc., which are not recoverable.
- ❖ Authorities responsible for delay - did not give possession of complete land, litigation pending, delayed sanction of building plans, unilateral cancellation of lease etc.

6. **Banks and ARCs:**

- ❖ ARCs hold charge on valuable, revenue generating asset base of Unitech (including flats to be constructed), which therefore cannot be monetized.
- ❖ Majority of the projects assigned to the ARCs are surplus revenue generating projects. These funds are required for funding the deficit projects.
- ❖ Additional loans/ facilities have been granted for hefty management fees and at exorbitant rates of interest (upto 21.5% p.a. and penal interest 5% p.a.)
- ❖ It is prayed that the lands held by banks and ARCs shall be made free of charge and available to the company to monetize and ARCs be directed to handover contracts, agreements, bank accounts, monies etc.

## **PART VII - FUNDS MANAGEMENT**

An amount of Rs. 5,162.5 crores has been estimated to be required by the Company to complete construction of various projects and deliver possession to homebuyers. The firm requirements would be known only after the contracts are awarded. The said amounts are required over a period of 3-4 years, which can possibly be channeled as follows:

- Stage 1:** An amount of Rs. 3,300 crores is expected to be receivable from homebuyers, in case construction is started. However, there is a time gap between start of construction, generation of homebuyers' confidence and receipt of the amounts. Hence, for initial start of construction and related activities, the amount deposited before the registry of this Hon'ble Court would have to be released, which has also been accepted by this Hon'ble Court vide order dated 20.01.2020. Balance requirement may have to be met out of Priority Funding.
- Stage 2:** Amounts could be realized by monetization of land bank of the company, which is in the form of non-project assets. However, the lands cannot be readily sold, especially considering the prevalent market conditions and Covid-19 pandemic. Distress sale of assets is not in the interests of company as it would lead to wastage of assets of company and recovery of lesser amounts.
- Stage 3:** Major land bank of the company is held as charge by NOIDA, GNIDA, Banks and ARCs. The value of such lands held by them is much more than the amounts claimed as due from the company. The terms and conditions of such agencies would be required to be reconsidered so that the assets of the company can be monetized and amounts realized be utilized for completion of projects.
- Stage 4:** Amounts pending under litigations, sale under court directions, avoidable transactions, forensic auditor observations regarding diversion of funds etc. be directed to be deposited before the Registry of this Hon'ble Court in a time bound manner so that the funds so received can be utilized for timely construction and delivery of flats to homebuyers.

## **PART – VIII-A: AVOIDABLE TRANSACTIONS**

- ❖ Certain transactions were undertaken by the erstwhile management of Unitech, which resulted in diversion of funds belonging to the homebuyers.
- ❖ Such transactions are liable to be reversed by this Hon'ble Court in the best interests of the homebuyers and other stakeholders who have been adversely affected.
- ❖ Some instances of such transactions are as follows and detailed in further parts of this convenience note:
  - (i) Land rights have been created by the erstwhile management at certain locations, namely, Agra, Varanasi, Vizag, Chennai, in favour of certain companies (whose Regd. Office Address is the same as that of Unitech Limited), and which are promoted by Unitech Limited and its subsidiaries (Indian & Overseas) where the money trail needs to be established. A reference has already been made by the present management to the Serious Fraud Investigation Office (SFIO). Since these transactions have been referred to the SFIO for investigations and are yet to attain finality, no definite figures can be worked out.
  - (ii) 28 Plots of 450 sq mtrs and one plot of about 1,000 square meters were allotted to one Company known as Carnoustie Management Pvt Ltd ("CMP") in Sectors 96-97-98, NOIDA with date of booking being April 05, 2007, i.e. even before the layout plan was approved by NOIDA, at a rate of Rs. 24,750/- per square meters (Rs. 33.66 crore) against receipt of 90% of the price of the plots (Rs. 30.2940 cr). The first launch price of plots in these sectors was @ Rs. 51,000/- per square yard. The maximum rate at which a plot has been sold in this project is Rs. 1,40,000/- per square yard. The market rate today is believed to be upwards of Rs. 1.00 lakh per square yard as of date. Interestingly, Unitech Limited had also invested an amount of about Rs. 310.05 crore from 31.03.2008 to 31.03.2011 in this Company by subscribing to 13.49% of its shares at a huge premium of Rs. 990 (for 5,10,000 shares and at a premium of Rs. 1,490 for the remaining bulk quantity of 17,27,030 shares, which has no justified basis. Prima facie, it appears that as against the investment of Rs. 310.05 crore in this Company, an amount of Rs. 30.2940 crore was received back against the sale of plots allowed at highly discounted price. Not only that, the plots have also been allotted at huge discount, the whole transaction appears to be dubious given the scale of investment in this Company by Unitech Limited and the premium offered on the shares of CMP. Further, the Company has,

in addition, also advanced an amount of Rs. 21.30 crore to CMP for the purchase of shares for which no shares have been issued so far by the CMP.

In view of the above, an amount of Rs. 301.056 crores (310.05-30.2940+21.30) is recoverable from CMP along with interest thereon. Further, sale of plots at highly discounted rates, of which the present estimated value is Rs. 170 crores, should be cancelled and included in the unsold inventory of the Company.

- (iii) CIG Realty Fund, was set up in 2005-06 for making investment in real estate sector, which was managed by Unitech Advisors (India) Pvt. Ltd., and appears to be a related party.
- (a) During 2006-07, the Company transferred 330.30 acres of land, of book value Rs. 390.11 crores, in Chennai, Kochi, Hyderabad and Gurugram, and 20 of its wholly-owned land-owning subsidiary companies to the CIG Realty Fund, for a consideration of INR 1,543 crores.
  - (b) During 2008-11, the Company repurchased 113.01 acres of land, book value Rs. 202.26 crores, and 10 land-owning companies (having total assets worth Rs. 1023.56 crores) from the CIG Realty Fund for Rs. 833.58 crores.
  - (c) Unitech also entered into Joint Development Agreements with CIG for development of projects on some of these land parcels wherein Unitech was to develop and market the projects, and CIG Realty Fund was to get certain number of units in these projects as its share of consideration.
  - (d) Unitech allocated/ ear-marked 864 residential units in various projects across Gurugram, NOIDA, Bangalore and Chennai and commercial space measuring about 1.07 lakh sq ft in commercial project 'Concourse' in Gurugram, to the CIG Realty Fund. The Company also sold 221 residential units for a total consideration of INR 57.07 crores in 2012 at a significant discount to the then prevailing market rates.
  - (e) As per the audited financial statements for the financial year 2019- 20 of Unitech Group, total investment made by Unitech Group in the Operational CIG Schemes was Rs. 255.73 crores.
  - (f) Details of other investors and transactions are not available with the Company. Mr. Deepak Bajaj, an erstwhile employee in one of the subsidiaries of the Company and who is related to Mr. Ramesh Chandra (Promoter of the



Company) is understood to have been involved in managing the affairs of the CIG Fund. Two servers, one desktop and two numbers of external drives, on which the CIG data was stored are found to have been unauthorizedly removed from the Company's Office sometime in the month of January 2020 at the instance of Mr. Deepak Bajaj, as reported by the then concerned employees, for which he was put to a legal notice. Mr. Bajaj has replied to the said notice denying such removal of the computer systems. His reply is under examination. He left the Company after the change of management on 28.04.2020.

(g) In view of the above the Hon'ble Court may kindly be pleased to issue following directions:

- (i) Direct erstwhile management, Mr. Deepak Bajaj and such other interested persons/ parties, claimants who may be in know of information/ details relating CIG Fund, to submit details to the Company in a time bound manner.
- (ii) Direct that pending retrieval of such information, allotment of flats and commercial space to CIG Fund be kept in abeyance and the Company be granted liberty to monetize those assets.
- (iii) Direct CIG Fund to pay balance purchase consideration for 221 residential units, at the then prevailing market rate and at the rate at which Unitech sold units and commercial space to any other-buyers.

### **PART – VIII-B: AVOIDABLE TRANSACTIONS – ALWAL LAND**

- ❖ A Master Collaboration Agreement dated 09.07.2019 was executed between M/s Dandamudi Estates (Owner-1) and Mr. Dandamudi Avanindra Kumar (Owner-2) with Unitech Limited (Developer) and Unitech Real Estate Builders Limited (as the Confirming Party) whereby numerous advances, **totaling INR 481.31 crore**, were made to the above parties from the Company's accounts in the form of 'interest-free adjustable security deposits' through two collaboration agreements executed by the erstwhile management, ostensibly for carrying out the development of land parcels falling in the revenue estates of Shamshabad and Moula-Ali (in Telangana), were ultimately re-adjusted as 'interest-free adjustable security deposits' vis-à-vis the development of the land parcels falling in another revenue estate of Alwal through the Master Collaboration Agreement ibid dated 09.07.2019. It has now been revealed that out of the total land measuring 81 acres and 05 guntas, sought to be developed, 60-acres and 05-guntas are owned by Owner-1 and Owner-2 in Alwal, Secunderabad, whereas the remaining 21 acres is owned by Unitech Limited. It is learnt that a sizable chunk of the impugned land is reported to be under encroachment. It has further been observed that the valuation of these land parcels is reportedly more than two times of its actual market value, which indicates that the valuation has been manipulated with some ulterior motives. Hence, the amount of consideration, camouflaged as 'interest-free adjustable security deposits', prima facie appears to be driven by ulterior motives and may be a well-devised mechanism to siphon off the public funds deposited by the homebuyers and other depositors. I.A. No. 97388 of 2020 has been filed seeking directions from the Hon'ble Court in the said regard.
- ❖ It is clear from the above facts that an amount of INR 481.31 crore was advanced by Unitech Limited as interest-free-adjustable-security deposit way back in 2007-08. The entire transaction, as it appears, was driven by ulterior motives to siphon off the public funds deposited by the homebuyers in Unitech Limited. Since the master collaboration agreement dated 09.07.2019 was ostensibly drafted and executed while the Unitech Limited's executant, namely, Mr. Ajay Chandra was still in Tihar Jail. Under normal circumstances, the document could not have been executed while he was in the jail and particularly in view of the fact that his authority to negotiate for the sale of un-encumbered land parcels had already been withdrawn by the Hon'ble Supreme Court on 09.05.2019. Hence, in view of the facts mentioned above, the entire amount which has been diverted in a clandestine manner is liable to be recovered, along with the interest thereof, in the interest of the homebuyers.

**PART–VIII-C: AMICUS REPORT DATED 29.07.2020 – DEVAS GLOBAL BANGALORE LAND**

1. Brief facts are that:

(i) In all, two Agreements to Sell (ATS) and two Memorandums of Understanding (MOUs) were executed to carry out the transaction of sale/ purchase of land in Devanhalli, Bangalore, as is tabulated below:

<b>Sr. No.</b>	<b>Date</b>	<b>Document</b>
1	27.09.2005	1 <sup>st</sup> ATS
2	14.07.2006	1 <sup>st</sup> MOU
3	13.07.2015	2 <sup>nd</sup> ATS
4	02.01.2018	2 <sup>nd</sup> MOU

(ii) The first agreement to sell was executed on 27.09.2005 between M/s Markwell Properties Private Limited (seller) having its registered office at 375, Judges Colony, RT Nagar, Bangalore, with Unitech Limited (buyer) for sale of approx. 36 acres of land in one lot at Village Kadiganahalli, Taluk Devanahalli, Bangalore. Various terms and conditions, governing the *ibid* agreement, are tabulated as under:

<b>Particulars</b>	<b>Rate (Rs. in Crore)</b>
Total Land	36 acres
1 <sup>st</sup> 7 acres (from NH-7 side)	INR 2.50 Crore per acre
Balance 29 Acres	INR 1.25 Crore per acre
Total Consideration	<b>INR 53.75 Crore Approx.</b>
Time period of transaction	05 months from date of signing of agreement
Advance paid to M/s Markwell Properties Pvt. Ltd. vide cheque dated 27.09.2005	INR 2.5 Crore

(iii) The 1<sup>st</sup> MOU was executed on 14.07.2006 among Unitech Limited (1<sup>st</sup> Party), Col. Mohinder Singh Khaira (2<sup>nd</sup> Party) and Markwell Properties Pvt. Ltd. (Confirming Party) whereby the 1<sup>st</sup> Party, through a BOD resolution dated 26.10.2005, authorized its wholly-owned subsidiary, Unitech Real Estate Developers Ltd. (URDL), to perform all actions contemplated under the impugned Agreement to Sell dated 27.09.2005, defined as the “Principal Agreement”, whereas URDL further authorized the 2<sup>nd</sup> Party with the consent of the Confirming Party to get the land admeasuring 36 acres registered in the name of 2<sup>nd</sup> Party.

- (iv) Clauses 9, 10 and 11 of the citations in the said MoU are reproduced hereunder:
- “9. *The FIRST PARTY has authorized the SECOND PARTY with the consent of the CONFIRMING PARTY to get the land registered in his name, on behalf of the FIRST PARTY, in respect of the land hereinabove mentioned.*
10. *After obtaining certificate/ permissions/ approvals of land conversion from present use to residential/ commercial the second party shall transfer the same in favour of the FIRST PARTY*
11. *The SECOND PARTY and the CONFIRMING PARTY, their heirs, successors, administrators, and legal representatives shall have no claim on the said land.”*
- (v) Clause No. 3 of the MOU dated 14.07.2006 clearly acknowledges that Unitech Limited had paid the total consideration amount of INR 53.75 Cr. which was admitted and acknowledged both by the 2<sup>nd</sup> Party & the Confirming Party.
- (vi) Clause 5 of the MOU declares the 1<sup>st</sup> Party (Unitech Limited) as the de-facto owner of the said land for all practical purposes while the 2<sup>nd</sup> Party and the Confirming Party were declared as the assignee for the 1<sup>st</sup> Party.
- (vii) The 2<sup>nd</sup> ATS was executed on 13.07.2015 amongst Col. Mohinder Singh Khaira (Now Vendor) and Mr. Naresh Kumar. K (Purchaser) and Unitech Limited (Confirming Party 1) and Markwell Properties Private Limited (4<sup>th</sup> Party). It is specifically mentioned in clause 3 of the 2<sup>nd</sup> ATS that out of 36 acres, as mentioned in the 1<sup>st</sup> ATS, an area of 26.19 acres was sold and registered in the name of Col. Mohinder Singh Khaira (now vendor) who has now become the absolute owner of the scheduled property. The Vendor (Col. Mohinder Singh Khaira) and the Confirming Party (Unitech Limited) agreed to sell the said parcel of land to Mr. Naresh Kumar K. whose particulars are given below:

Particulars	Description
Total area of land	26.19 acres
Rate per acre	INR 3,96,22,641/-
Total consideration	INR 105 Crore
Time Period	15 Months from the date of agreement i.e. 12.10.2016
Advance paid by the Purchaser i.e. Mr. Naresh Kumar K.	INR 0.50 + 2.0 + 1.0 = INR 3.50 Cr.
Schedule of balance payment	In three installments spread across 15 months. (The said installments were never paid.)

Particulars	Description
	Cost of obtaining approval of 'Change in Land Use (CLU)' was to be borne by the Purchaser i.e. Mr. Naresh Kumar K.

- (viii) The 2<sup>nd</sup> MOU was executed on 02.01.2018 among Col. Mohinder Singh Khaira (Seller/ Vendor), Unitech Limited (Confirming Party 1), Markwell Properties Private Limited (Confirming Party 2) and Mr. Naresh Kumar. K (Confirming Party 3) and Devas Global Services LLP (Purchaser) whose particulars are given below:

Particulars	Description
Area of land	24 acres 08 guntas
CLU done for from agricultural to residential/ commercial use	13 acres 10 guntas
Balance land remaining under agricultural use	10 acres 18 guntas
Rate per acre	INR 7.80 Crore
Total consideration	INR 188.76 Crore
Advance Paid	INR 12 Crore <i>Out of which INR 5 Crore was deposited in the Registry whereas the balance amount of INR 7 Crore has been shared between Col. Khaira (Seller) &amp; Mr. Naresh (Confirming Party No. 3) as mentioned in the Sale Deed for the 1<sup>st</sup> lot of 12 acres.</i>

- (ix) The 2<sup>nd</sup> MOU dated 02.01.2018 was placed before this Hon'ble Court on 14.05.2018 for the sale of un-encumbered assets. The Hon'ble Court was pleased to direct the Committee headed by Justice (Rtd) S. N. Dhingra to supervise the process vide its order dated 05.07.2018.
- (x) Out of 13 acres 10 guntas of land for which CLU had been obtained, a parcel of 12 acres of land was sold to M/s Devas Global Services LLP by Col. Khaira as Seller and Unitech Limited, Naresh Kumar & M/s Markwell Properties Pvt. Ltd. as Confirming Parties. The deed of absolute sale was registered in their favour on 25.07.2018.
- (xi) Out of the present transaction, purportedly Unitech Limited's share i.e. 12 acres x 3.96 Crore = INR 47.52 Crore was deposited in the Registry of the Hon'ble Supreme Court. After this transaction, the balance land to be handed over to M/s Devas Global Services LLP as per the 2<sup>nd</sup> MOU dated 02.01.2018 remains 12 acres 8 guntas, whereas, on the other hand, as per the Hon'ble Supreme Court's order dated 10.02.2020, the balance land which remains to be transferred to M/s Devas

was 14 acres (26-12) acres out of which 10.5 acres have been converted from agricultural to residential/ commercial use as per the declaration submitted by the vendor (Col. Khaira) and the confirming parties (Unitech Limited, Mr. Naresh Kumar & Markwell Properties).

- (xii) After the above transaction of first lot for 12 acres of land, no further consideration was deposited by M/s Devas in the Registry of the Hon'ble Supreme Court for the balance land. The Hon'ble Court, accordingly, vide its order dated 20.01.2020 directed M/s Devas to deposit the balance consideration along with 12% interest within a period of 4 weeks i.e. by 29.02.2020.
- (xiii) On 10.02.2020, the Hon'ble Court took cognizance of the delay in depositing the payment of the amount in the Registry by M/s Devas Global LLP, as directed. The Hon'ble Court was pleased to pass the following order:

*“...As on date, out of the balance of 14 acres, 10.5 acres of land has been converted with change of land use and land conversion having been approved. We accordingly order and direct that the registration formalities for transfer of 10.5 acres of land shall be completed within a period of four weeks from today. M/s Devas Global LLP undertakes to hand over a demand draft representing the share of Unitech Limited for the area ad-measuring 10.5 acres to the Justice Dhingra Committee. The demand draft shall be drawn in the name of the Registrar, Supreme Court of India and upon receipt, Justice Dhingra Committee shall transmit it over to the Amicus Curiae for being deposited in the Registry of this Court. M/s Devas Global LLP has also undertaken that together with the payment of the share of Unitech Limited, it shall make due payment of the respective shares to the other parties in terms of the MOU.”*

- (xiv) M/s Devas Global LLP filed an application with the Hon'ble Supreme Court on 23.02.2020 requesting for grant of extension for another 4 weeks citing the delay by their lenders as the reason.
- (xv) On 31.07.2020, continued non-compliance of order passed by the Hon'ble Court dated 10.02.2020 against M/s Devas Global LLP was taken up wherein the following direction was issued:

*“...Despite the order dated 10 February 2020, directing Devas Global LLP to deposit the balance consideration payable to Unitech Limited, together with interest at 12% per annum within a period of four weeks, the order of this Court has not been complied with. An undertaking of Devas Global LLP was recorded by the Court. Devas Global LLP filed an application on 23 February 2020 for an extension of time. Even the extended period which was sought has expired. Contempt Petition (Civil) No 442 of 2020 has been filed for non-compliance.*

*“Based on the facts which have emerged before this Court, we are prima facie of the view that a case has been made out for initiating contempt proceedings against Devas Global Services LLP for breach of the undertaking. Accordingly, we issue notice to Devas Global Services LLP and its partners, returnable on 24 August 2020. The partners of Devas Global shall remain present before this Court on the next date of listing on the video conferencing facility to show cause why they should not be proceeded against.*

*“In order to enable Devas Global Services LLP and its partners to demonstrate their bonafide, we grant them time until 21 August 2020 to deposit the balance consideration in accordance with the order dated 10 February 2020. We clarify that this will not amount to an extension of time which was granted earlier since the time has already expired. This opportunity is being granted in order to demonstrate their bona fides.”*

(xvi) M/s Devas Global Services LLP, on 23.08.2020, registered land admeasuring 9 acres 21.5 guntas and paid the share of Unitech Limited i.e. INR 37.50 crore to the Registry of the Hon’ble Apex Court and the balance INR 37.50 crore was paid to M/s Markwell Properties Pvt. Ltd. and Mr. Naresh, which itself is suspicious.

(xvii) **Pending Issues:**

- (a) As on date, 4.67 acres of land {2.67 acres (in terms of MoU)} + 2 acres of land (under litigation), are yet to be purchased by M/s Devas Global LLP for a total consideration of INR 36.426 crore {@ INR 7.80 crore per acre}, out of which Unitech is being paid only @ INR 3.96 crore per acre whereas the balance INR 3.84 crore per acre is being shared between Col. Mohinder Singh Khaira and Mr. Naresh without any justification or relevance. Intriguingly, no such arrangement has either been defined or agreed among the 3 parties.
- (b) Unitech Limited has been deprived of its lawful consideration for the sale of 21.53 acres (12 + 9.53 acres) @ INR 7.80 crore per acre. As against Rs. 7.80 crore per acre, Unitech Limited has been paid @ INR 3.96 crore per acre. Hence, Unitech Limited needs to be paid an amount of Rs. 82.704 crore (21.53 acres x INR 3.84 crore per acre), after reclaiming from Col. Mohinder Singh Khaira and Mr. Naresh.
- (c) M/s Markwell Properties Private Limited needs to return INR 29.24 crore paid as advance for acquiring the balance 9 acres of land out of a total of 36 acres.

2. The above events clearly show that the amounts due to the account of Unitech are sought to be diverted. It is prayed that the Hon'ble Court may kindly direct Devas Global to place all the relevant documents and direct that no third-party rights be created on the land already registered and restore the same to the account of Unitech.

3. Unitech has filed I.A. No. 88960 of 2020 before the Hon'ble Court, bringing on record gross irregularities in the sale and for directions to deposit the amounts before this Hon'ble Court. It has also come to the notice of Unitech that Devas Global, while executing the sale deeds for the remaining land, did not make Unitech a party to it, making the entire transaction void ab initio.



**PART VIII-D- PURCHASE OF LAND BY PRIADARSHNI FOUNDATIONS PRIVATE LIMITED - CHENNAI LAND SALE**

- (i) Priadarshini Foundations Pvt. Ltd [‘Priadarshini’] had entered into an MOU with Unitech Limited under the purview of Justice Dhingra Committee for purchase of approx. 380.38 acres of land at Sriperumbudur, Chennai at the rate of INR 82.00 lakh per acre i.e. for a total consideration of INR 311 crore, in phases.
- (ii) As on date, Priadarshini has paid an amount of INR 60 crore to the Registry. Land worth INR 25 crore has already been registered in favour of Priadarshini and, hence, the balance amount of INR 35 crore (60 - 25) is lying with the Registry of the Hon’ble court as earnest money. As such, a total amount of Rs. 251 crore (311 - 60) is recoverable from Priadarshini on account of principal amount. The Hon’ble Court is requested to order for the payment of the balance sale consideration, along with interest thereon.
- (iii) Land was to be registered in the name of Priadarshini in phases on the receipt of the respective amounts, as mentioned below:

Sr. No.	Date of Payment	Amount INR crore	Land to be registered (in acres)
1.	Advance to SC Registry	5.00	NIL
2.	On or before 15 days of the signing of MOU	45.00	30.50
3.	On or before 30 <sup>th</sup> April 2019	25.00	30.50
4.	On or before 31 <sup>st</sup> July 2019	25.00	30.50
5.	On or before 31 <sup>st</sup> Oct 2019	35.00	42.70
6.	On or before 31 <sup>st</sup> Jan 2020	35.00	42.70
7.	On or before 30 <sup>th</sup> April 2020	35.00	42.70
8.	On or before 31 <sup>st</sup> July 2020	35.00	42.70
9.	On or before 31 <sup>st</sup> Oct 2020	71.85	118.00
10.	Total	311.85	380.30

- (iv) Priadarshini had earlier issued post-dated cheques of INR 15 crore (balance in lieu of 2<sup>nd</sup> Instalment). These cheques were presented to the bank by the Registry of the Hon’ble Court on 19.10.2019 but the same were dishonored due to insufficient balance.

- (v) Priadarshini was to get the ownership of the land of its choice registered subject to the approval of the Committee on payment as per MoU. But since no payment was made, the proposed land was not registered.
- (vi) The Hon'ble Court, vide its order dated 20.01.2020, directed Priadarshini to deposit the balance consideration (INR 110 crore overdue as on 31.01.2020) along with interest @ 12% within a period of 4 and 8 weeks i.e. by 29.02.2020 (50%) and by 31.03.2020 (50%).
- (vii) The Hon'ble Apex Court took cognizance of the delay on the part of Priadarshini and was pleased to issue the following direction vide its order dated 31.07.2020:

*“In this view of the matter, we are of the view that having due regard to the previous order and persistent default of Priadarshini Foundations Pvt Ltd, the earnest money of INR 30 crores should be forfeited and the balance land be put up for sale again. However, we grant time to Priadarshini Foundations Pvt Ltd to pay the balance on or before 21 August 2020, failing which the earnest money of INR 30 crores shall stand forfeited without further reference to the court and the land shall be put up for sale again.”*

- (viii) Therefore, a total amount of Rs. 251 crore (311-60) is recoverable from Priadarshini, on account of balance sale consideration. The Hon'ble Court is requested to order for the payment of the balance sale consideration, along with interest thereon.
- (ix) It is relevant to point out that the amount of Rs. 30 crores as referred in the order dated 31.07.2020 is based on the figure supplied by the Ld. Amicus Curiae inadvertently in his status report dated 29.07.2020. This amount has been relied upon by the Justice Dhingra Committee in its report dated 20.07.2020. This figure, in fact, should have been Rs. 35 crores.
- (x) In view of the above, Priadarshini may either deposit the entire outstanding amount, alongwith interest, in a stipulated time period or the amount of Rs. 35 crores deposited with the Registry be forfeited in view of order passed by this Hon'ble Court. Timely payments to be made to Unitech are crucial for carrying out the operations and constructions of flats. Hence, no further extension of time can be granted. Priadarshini is already in default since 2019 and has blocked substantial asset of the Company without payment of any amounts.
- (xi) It is relevant to mention that as per Clause 1.3 of the MOU dated 14.12.2018, the Buyer was entitled to get the land transferred only after the payment of a particular tranche, whereas, the Priadarshini has remained in complete default on this account. Hence, there is no omission on Unitech Limited's part to transfer the land.

**PART VIII-E: SALE OF UNITECH POWER TRANSMISSION LIMITED TO STERLING AND WILSON PVT. LTD.**

1. Pursuant to a report by the Ld. Amicus, the Hon'ble Court had approved sale of Unitech Power Transmission Limited (UTPL) in favour of Sterling and Wilson Pvt. Ltd. for an amount of Rs. 105 crores, vide order dated 15.02.2019.
2. It was proposed that Rs. 68.40 crores were to be deposited with the Registry of this Hon'ble Court after fulfilment of conditions laid in the term sheet and balance amount would be backed up by a bank guarantee issued in favour of an escrow agent. However, it seems that the term sheet or the Agreement entered into the parties were never placed on record for consideration of the Hon'ble Court.
3. No amount has been deposited by Sterling and Wilson before the Registry of this Hon'ble Court till date, despite having blocked the substantial asset saleable asset of Unitech for more than 1½ years. Sterling & Wilson are under notice from this Hon'ble Court.
4. Now, by an undated letter, along with email dated 17.10.2020, Sterling has stated that it is not in a position to perform the agreement and has no objection if Unitech wants to sell its shareholding in UPTL to any other buyer. A copy of email dated 17.10.2020 along with undated letter is attached herewith.
5. In view of the above circumstances, it is humbly prayed that Unitech may be permitted to explore other potential buyers for sale of its shareholding in UPTL and the Board of Directors may finalize the same.

**From:** BURZIN BHABHA [mailto:[burzin.bhabha@sterlingwilson.com](mailto:burzin.bhabha@sterlingwilson.com)]

**Sent:** Saturday, October 17, 2020 12:26 PM

**To:** [Deepak.tyagi@unitechgroup.com](mailto:Deepak.tyagi@unitechgroup.com)

**Cc:** Jagannadha.Rao

**Subject:** SPA between Sterling and Wilson Private Limited and Unitech Power Transmission Limited & other Sellers

Dear Mr. Tyagi,

In connection with the Share Purchase Agreement dated March 20, 2019 executed between Sterling and Wilson Private Limited and Unitech Power Transmission Limited & other Sellers, enclosed herewith is the letter from Sterling and Wilson Private Limited, stating that we do not have any objection to the shareholding in UPTL being sold to any other buyer.

The original hard copy of the said letter shall reach you shortly.

Regards,

**Burzin Bhabha**

**Sterling and Wilson Pvt. Ltd.**

**Tel. +91 22 2552 6156**

**Mob. +91 99303 29918**

 S&W\_logo\_1peg\_file

**STERLING & WILSON**



WITHOUT PREJUDICE

Ref:

To,

Unitech Power Transmission Limited  
Unitech House,  
6 Community Centre,  
Saket, New Delhi 110017

Sub: Share Purchase Agreement dated March 20, 2019 executed between Sterling and Wilson Private Limited and Unitech Power Transmission Limited & other Sellers.

Dear Sir/s

1. This is with reference to the Share Purchase Agreement dated March 20, 2019 ("SPA") executed by and between Sterling and Wilson Private Limited (**Sterling**), Unitech Power Transmission Limited (UPTL), Unitech Limited (**Unitech**), Mr Sanjay Chandra, Mr Ramesh Chandra, Mr Mahesh Kumar Agrawal and other sellers as mentioned in Schedule 1 of the SPA.
2. The SPA was executed for proposed 100% acquisition (**Proposed Transaction**) of UPTL by Sterling subject to the fulfillment of terms and conditions as prescribed under the SPA.
3. In respect to bail application of Mr Sanjay Chandra and Mr Ramesh Chandra (**Promoters**) the Hon'ble Supreme Court had put in a condition to deposit INR 750 crores for bail to be approved. Pursuant to which Unitech had been liquidating its assets to make deposits with the Hon'ble Supreme Court. One of assets is UPTL, which is wholly owned subsidiary of Unitech. Therefore the Proposed Transaction was subject to approval of the Hon'ble Supreme Court.
4. Unitech had made an application to Supreme Court for approving the proposed transaction for sale of UPTL. The transaction value decided between the parties

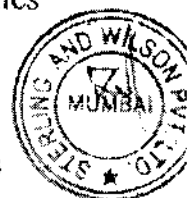
**Sterling and Wilson Private Limited**

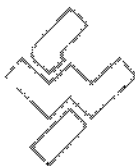
**Associates of: Shapoorji Pallonji and Company Private Limited**

Registered Office: Universal Majestic, 9th Floor, P. L. Lokhande Marg, Chembur (W), Mumbai – 400 043

Phone: (91-22) 25485300 Fax: (91-22) 25485331 CIN: U31200MH1974PTC017538

Email: mumbai@sterlingwilson.com | www.sterlingandwilson.com





was INR 105 crores. INR 70 crores to be paid at closing and INR 35 crores to be paid post-closing subject to recovery of certain dues and fulfilment of certain conditions. The consideration was to be deposited directly with the Supreme Court registry.

5. The Supreme Court ordered a valuation of UPTL by M/s Grant Thornton and Grant Thornton submitted a report that the valuation offered by Sterling for UPTL is satisfactory. Post which the Supreme Court by its order dated February 15, 2019 approved the Proposed Transaction. At the time of passing the order Sterling had not become a party or made any appearance before the Supreme Court in any of the above stated proceedings.
6. The Promoters also agreed to provide guarantee for the obligations of Unitech and UPTL under the SPA to Sterling. Completion of the SPA was subject to fulfilment of certain Conditions Precedent ("CPs") including receipt of NOC of the bankers of UPTL, signing of escrow agreement for the conditional consideration, signing of Promoter's guarantee etc.
7. Under the SPA, the Long Stop Date is defined as the date falling ninety (90) days from the execution date or a date as may be mutually agreed between Sterling and UPTL & other Sellers. The CPs could not be completed before the Long Stop Date. Also the Employment Agreement and Escrow Agreement as contemplated under the SPA were not finalised before the Long Stop Date.
8. On the basis of the then prevailing circumstances, the commercial considerations to execute the SPA and the financial capacity of Sterling to complete the proposed transaction a mail was issued by Sterling to UPTL proposing to close the transaction by October 8, 2019. However the CPs could not be finalized and the same is clear by the correspondence of Sterling with the bankers. Further the Employment Agreement could not be finalized till October 2019 when the closing of SPA was proposed.
9. Sterling had also apprised UPTL on October 4, 2019 that Sterling shall revert on the closing date which was proposed for October 8, 2019. Also on October 6, 2019

**Sterling and Wilson Private Limited**

**Associates of: Shapoorji Pallonji and Company Private Limited**

Registered Office: Universal Majestic, 9th Floor, P. L. Lokhande Marg, Chembur (W), Mumbai – 400 043

Phone: (91-22) 25485300 | Fax: (91-22) 25485331 | CIN: U31200MH1974PTC017538

Email: [mumbai@sterlingwilson.com](mailto:mumbai@sterlingwilson.com) | [www.sterlingandwilson.com](http://www.sterlingandwilson.com)





Sterling apprised UPTL that the closing may be possible on October 30, 2019. However, the same did not happen.

10. UPTL on October 30, 2019, requested that the parties may execute a transaction closing extension letter however the same was never executed. It is therefore clear that Long Stop date was never extended by the parties and the SPA stands expired. Also, the requirements under Clause 4.3(b) of the SPA confirming the fulfillment of all CPs by UPTL and other Sellers have not been completed till date.
11. On January 18, 2020 a meeting was held between Sterling and UPTL to discuss possibility of closing the SPA. UPTL was informed about the financial difficulties being faced by Sterling. It was also informed to UPTL that the Long Stop Date has never been extended and the SPA stands expired/terminated. This was the last correspondence between the parties regarding the possibility of extension of the SPA.
12. In the meantime, Unitech board has been substituted by the Ministry of Corporate Affairs ("MCA") by its order dated January 22, 2020.
13. Sterling pursuant to the notice received from the Hon'ble Supreme Court in January 2020, in the pending Unitech litigations is participating in the said proceedings before the Hon'ble Supreme Court since February 10, 2020.
14. Thereafter Covid 19 struck, followed by a national lockdown which was implemented in India since March 2020. The national lockdown and the ensuing economic crisis has adversely and severely impacted progress of various projects executed by Sterling and has had financial consequences causing extreme financial stress on Sterling. These subsequent events have completely changed the underlying landscape and scenario and are a material change in circumstances.
15. In terms of the audited financial statements for March 31, 2019 Sterling has reported a net profit of Rs. 14.75 crore. However as per unaudited financial statements for March 31, 2020 Sterling has incurred a net loss of Rs. 188.75 crore. This has resulted in a severe blow on the financial condition of Sterling triggering a Material Adverse Effect as defined under SPA and rendering Sterling incapable of going ahead and performing the SPA.

**Sterling and Wilson Private Limited**

**Associates of: Shapoorji Pallonji and Company Private Limited**

Registered Office: Universal Majestic, 9th Floor, P. L. Lokhande Marg, Chembur (W), Mumbai – 400 043

Phone: (91-22) 25485300 Fax: (91-22) 25485331 CIN: U31200MH1974PTC017538

Email: [mumbai@sterlingwilson.com](mailto:mumbai@sterlingwilson.com) | [www.sterlingandwilson.com](http://www.sterlingandwilson.com)





16. Further the report of India Ratings and Research dated November 25, 2019 has downgraded Sterling long-term issuer rating to 'IND A' from 'IND A+'. The ratings of Sterling have simultaneously been placed on Rating Watch Negative (RWN) Category. India Ratings has further downgraded Sterling to IND BBB from RWN category vide their report dated October 07, 2020. Such a downgrade negatively impacts the ability of Sterling to raise bank finances and in this situation it is no longer possible for Sterling to proceed further and conclude the Proposed Transaction.
17. Further the bankers and financiers of Sterling have significantly reduced the working capital facilities and vendor financing facilities available earlier to Sterling and have put sanctions on the availability of funds. Due to these reductions the availability of funds with Sterling has been negatively effected. In such circumstances Sterling is no longer in a financial capacity to perform the SPA. Even otherwise the SPA cannot be performed unless it is mutually revived by the Parties to the SPA.
18. From the above facts the following is evident:
  - a. The Long Stop Date under the SPA has expired;
  - b. The CPs as provided under Clause 4.2 of the SPA have not been fulfilled in the manner as prescribed under the SPA;
  - c. A "Material Adverse Effect" as defined under the SPA happened prior to closing;
  - d. The financial condition of Sterling has deteriorated, and Sterling is no longer in a capacity to execute, conclude and perform the SPA.
  - c. With the passage of time the commercial considerations and the material basis of the proposed transaction have altered completely and dramatically, adversely affecting the performance of the Proposed Transaction.
19. We therefore hope and expect that UPTL and other parties to the SPA would appreciate the exceptional circumstances which have taken place and have materially and adversely effected the performance of the SPA.



**Sterling and Wilson Private Limited**

**Associates of: Shapoorji Pallonji and Company Private Limited**

Registered Office: Universal Majestic, 9th Floor, P. L. Lokhande Marg, Chembur (W), Mumbai – 400 043

Phone: (91-22) 25485300 | Fax: (91-22) 25485331 | CIN: U31200MH1974PTC017538

Email: [mumbai@sterlingwilson.com](mailto:mumbai@sterlingwilson.com) | [www.sterlingandwilson.com](http://www.sterlingandwilson.com)



**STERLING & WILSON**



20. Sterling does not have any objection whatsoever for Sellers to sell their shareholding in UPTL to any other buyer. UPTL, along with other Sellers and parties to the SPA can jointly sign this letter in token of their acceptance and confirmation, which will discharge the parties to the SPA from all obligations, if any surviving as on date.

All the rights and contentions of Sterling are expressly reserved.

Thanking you,

Yours sincerely

For Sterling and Wilson Private Limited

Authorised Signatory



We agree

1. Unitech Limited
2. Mr. Sanjay Chandra
3. Mr. Ramesh Chandra
4. Mr. Mahesh Kumar Agrawal
5. Sellers in Schedule 1 of SPA

**Sterling and Wilson Private Limited**

**Associates of: Shapoorji Pallonji and Company Private Limited**

Registered Office: Universal Majestic, 9th Floor, P. L. Lokhande Marg, Chembur (W), Mumbai – 400 043

Phone: (91-22) 25485300 · Fax: (91-22) 25485331 | CIN: U31200MH1974PTC017538

Email: [mumbai@sterlingwilson.com](mailto:mumbai@sterlingwilson.com) [www.sterlingandwilson.com](http://www.sterlingandwilson.com)

**PART IX – NOIDA AND GREATER NOIDA**

1. There are 11 on-going projects in NOIDA wherein 5,153 sold units are pending for delivery.
2. Noida and Greater Noida Authorities have shown Rs. 8,063 crores and Rs. 510.07 crores respectively, as outstanding from the Unitech Group against land allotted to the Group. However, this huge sum has been arrived at in complete disregard of the agreement, its own policies, without considering its own acts and omissions and merely by compounding interest, penal interest, extension fees, farmers' compensation etc. which is not sustainable.
3. Approx. 472 acres of land had been allotted in Sectors 96, 97, 98 in the year 2006 and in sectors 113 and 117 in the year 2008 by NOIDA. NOIDA has still not been able to give complete and absolute rights to Unitech for land allotted in the year 2006, but has been charging interest, penal interest etc. NOIDA is not entitled to the claimed sum of money because:
  - (i) Allotment of land came under litigation between NOIDA and a third party, which precluded Unitech from utilizing the land and despite not putting Unitech in clear possession of land, the monies paid towards lease premium were wrongly appropriated towards interest and penal interest. Till the pendency of dispute with third party, Unitech was not liable to pay any amounts.
  - (ii) NOIDA took about 19 months to approve the layout plan and another 15 months to approve the building plans, without which construction work could not be commenced, for which Unitech is not liable to pay any amounts.
  - (iii) For nearly 2 years, land was not available for utilization due to ban imposed by National Green Tribunal as the State of U.P. failed to notify the boundaries of eco-sensitive zone in time. Unitech was thus not liable to pay any amounts for the said period.
  - (iv) Major portion of leased land was under litigation between NOIDA and landowners, for more than 4 years, making the project land not utilizable.
  - (v) NOIDA has shifted the burden of enhanced compensation on Unitech, whereas no such provision was made in the bid documents or the Lease Agreement. In fact, NOIDA is even charging interest and penal interest on

the same, without any basis. Such an action is clearly unsustainable on the part of NOIDA and the said charges are not payable.

- (vi) Since NOIDA has been able to handover possession of lesser area, than what was bid for, Unitech is also entitled to pro-rata reduction in the bid price. As per the detailed calculations, Unitech only admits to pay the balance principal amount after making adjustments for amounts paid, out of the Final Surplus without any interest or penal interest being charged till the date of payment and prays to the Hon'ble Court to issue appropriate directions in that regard.
- (vii) It is further relevant to mention that NOIDA came out with a 'Zero Period Policy" (ZPP) dated 05.12.2019. Even according to the said policy, Unitech is entitled to reliefs as prayed for. Applications dated 03.02.2020 were submitted to NOIDA in response to the scheme for availing benefits under ZPP. However, NOIDA vide its response-letter dated 14.05.2020, denied the benefits under ZPP to the Company inter-alia on the ground that the matter of the resolution of the Company is already sub-judice before the Hon'ble Supreme Court. It is humbly prayed that the Hon'ble Court may direct the statutory authorities and the State Government to grant benefit of all such policies to the Unitech Group.
4. GNOIDA in the year 2015 and 2017 unilaterally cancelled lease of total land measuring approx. 175 acres despite the fact that Unitech had made allotments to homebuyers. Litigations for quashing of cancellation of lease are pending adjudication before the Allahabad High Court. It is humbly prayed that those litigations may also be transferred before this Hon'ble Court in the interest of homebuyers and GNOIDA be directed not to create any third-party rights over the said land.
5. That payments made to NOIDA, against land allotted are as follows:

Sr. No.	Particulars	Rs. (in cr.)
A.	Total Premium for all the 3 land parcels in Noida (Sector 96-97-98, 113 and 117) for 19,12,471.68 sq mtrs	2,504.31

Sr. No.	Particulars	Rs. (in cr.)
B.	Original land cost for 17,93,838.36 sq. mtrs land of which possession was given (possession of 1,18,633.32 sq mtrs land not given)	2,306.50
C.	Amount paid by Unitech	1,418.19
D.	Stamp Duty paid on account of land of which possession has not been given works and hence adjusted against land cost	16.03
E.	Total Amount paid (C + D)	1,434.22
F.	Balance amount (B – E)	872.28
G.	Amount adjusted on account of reduced lease period	332.44
	Admitted outstanding payment	539.84

The above table clearly reveals that Unitech has made substantial payments to NOIDA and only partial sums of money are due to be paid. However, NOIDA Authority has raised huge demands, merely by adding interest, penal interest, compensation etc., which are not payable.

6. Similarly, for all the 5 land parcels in Greater Noida:

Sr. No.	Particulars	Rs. (in crores)
A.	Initial cost of all the 5 land parcels	172.13
B.	Total Cost including amounts for increased area	175.94
C.	Final Cost including one time lease rent cost	195.30
D.	Total Amount paid	264.82
	Excess amount paid amount (D – C)	(69.52)

The payments made have been wrongly adjusted by GNoida Authority against the land cost, lease rent, interest and penal interest. In fact, excess amount has already been paid and no more sums of money are due to GNoida.

7. Rather than acting fairly, being legitimate expectation from statutory authorities, NOIDA and GNIDA are now seeking to reclaim the land back from Unitech on the pretext of adjustment of inflated and arbitrary land dues, which are not payable.
8. It is prayed that NOIDA and GNIDA be specifically restricted and barred from interfering in possession of lands leased to Unitech, including the cancelled lease, in any manner whatsoever and allow Unitech to utilize the entire leased land in the best possible manner. Such a direction is vital so as to bring certainty over the lands and to enable the Board to plan effective utilization of the lands without any interference by the authorities.

**PART X – LANDS IN AGRA AND VARANASI**

1. That Unitech was to develop Hi-Tech Townships in Agra and Varanasi for which Memorandum of Understanding had been entered into with Varanasi Development Authority in the year 2003 and with Agra Development Authority in the year 2005. Approx. 245 acres in Agra and 243 acres of land in Varanasi had been procured by the Unitech Group.
2. High Level Committee chaired by the Chief Secretary to Government of Uttar Pradesh, unilaterally recommended cancellation of the Agra and Varanasi projects in a meeting held on 13.08.2019. On behalf of the New Board, letter dated 24.04.2020, was sent to the Chief Secretary, Uttar Pradesh raising objections to the action proposed to be taken based on the recommendations of the High Level Committee. However, no reply has been received in that regard.
3. That despite best efforts, Justice Dhingra Committee also could not sell any land in Agra and Varanasi. Since Unitech owns substantial land in Agra and Varanasi, which can be monetized or optimally utilized, it is proposed that the Board be allowed to deal with such land parcels in the interest of the Company. Alternatively, the Hon'ble Court may direct that the State Government purchases these parcels of lands at circle rates or enters in joint development collaboration with Unitech so that the assets can be monetized/ utilized.

## **PART XI – TRANSACTIONS WITH ARCs**

1. That Unitech had taken loans from some commercial banks, financial institutions and NBFCs, which had become NPAs and had been assigned to ARCs. ARCs, hence, stepped into the shoes of such lenders.
2. Thereafter, ARCs granted further facilities at exorbitant rates of interest, even up to 26.5% per annum; charged hefty annual fees; against security/ charge on substantial project assets and land bank of Unitech, value of which far exceeds the amount sought to be secured. Moreover, they preclude Unitech from selling any units without prior consent and also have a share in surplus.
3. It is beyond prudential business logic that on the one hand Unitech was paying such huge interest, charges to ARCs, and on the other hand was giving interest-free security deposit like that of Rs. 481 crores to Mr. Dandamudi Avanindra Kumar. Both the transactions do not appear as arm's length transactions and should be scrutinized.
4. Giving valuable assets as security, beyond the amount to be secured, results in blocking the assets, which should be made available for monetization. Lands under their control are project lands on which construction has to be completed, possession given and unsold inventory monetized to maintain cash flows, it is prayed that this Hon'ble Court may kindly direct that all such one-sided arrangements between Unitech and ARCs shall stand terminated; the ARCs to hand over all contracts, agreements, bank accounts, monies and receivables related to the projects and non-project lands to the Board; and further direct that Unitech shall be free to deal with the lands in their own right, without any restrictions by ARCs. The Board proposes that the claims of ARCs, to the extent of admitted principal sums due (after taking into account the amounts already repaid) will be dealt with as per the terms of the Resolution Framework, from the Final Surplus.

## **PART XII - DISCREPANCIES IN REFUNDS MADE TO HOMEBUYERS**

1. This Hon'ble Court, from time to time, has issued directions for refunds to homebuyers, who have submitted claims with the Ld. Amicus, out of the funds deposited before the Registry of the Hon'ble Court. A total amount of Rs. 258 crores is learnt to have been disbursed to 1,519 homebuyers as refund towards their claims.
2. The Hon'ble Court, vide order dated 15.02.2019 had also directed that:

*“We clarify and direct that the title deeds, together with NOC of those home buyers who have received the entire principal amount, shall be lodged with the learned Amicus Curiae in the first instance. Mr. Pawanshree Agrawal, learned Amicus Curiae shall in turn lodge the title deeds together with the NOC with the Registry. They shall be kept in the safe custody of the Registry against inventory.”*

However, it is understood that title deeds, along with NOCs, have not yet been deposited by the said homebuyers. The company had written letters dated 21.07.2020, 06.08.2020 and 16.09.2020 (copies attached herewith) to the Ld. Amicus. Though the Ld. Amicus has partially responded to the said letters vide his letter dated 08.02.2021, no response has been received on this issue. However, the inconsistencies therein have been brought to his notice vide CMD's letter dated 09.02.2021, which he has acknowledged and informed by email that he would inform the same after checking with the Registry.

3. A total of 39 customers in Joint Venture Project (JV with Pioneer Urban Land and Infrastructure Company) have received their complete principal amount and 352 customers of Uniworld City Unihomes Plot, Greater Noida, have received their complete principal amount along with 11% additional amount towards their principal paid. The said customers have not returned their property papers as per the information available with the company.
4. That discrepancies which have been observed in the above disbursements are mentioned below:
  - (a) In the refund towards the Civil Appeal Cases (pertaining to Vistas – Gurugram and Residences - Gurugram), a total of 237 customers were partially refunded their principal amount but 187 customers out of the said



list were not entitled for refund. It is also relevant to mention that erstwhile Management had reported the same to the Ld. Amicus Curiae through its counsel's letter dated 03.04.2018.

- (b) Customers who didn't have decree order for refund from any lower court/forum were refunded as the most of the customers of Civil Appeal 2511-2526 of 2017 and Civil Appeal 17008 of 2017. Details of the same can be provided, if directed by the Hon'ble Court.
- (c) In the refunds towards the Civil Appeal No. 11108 of 2016 Cases (Ravi Kumar Rajoria Disbursal) customers were refunded without reconciliation with the company. The counsel representing the Homebuyers informed the registry to disburse the amount which was deposited by the Company. The Registry disbursed the amounts without the approval of the Hon'ble Apex Court and the Ld. Amicus Curiae. This issue was raised by the then representing Counsel vide letters on 07.01.2019. Copy of the letters dated 28.11.2018 and 07.01.2019 are attached herewith.

5. There are 1,128 customers who have received partial payment towards the principal amount they have paid to the company. An amount of Rs. 120 crores has been paid to them till date on pro-rata basis towards the total of Rs. 573 crores, which have been paid by them. Hence, an amount of Rs. 453 crores is the balance principal amount payable to the said 1,128 customers. A detailed summary of the disbursement made to the homebuyers is mentioned below:

Sr. No.	Description	Principal amount received by the Company (Rs. in Cr.)	Amount Refunded (Rs. in Cr.)	Balance principal amount due (Rs. in Cr.)	Remarks
1	JV Refunds - 39 Customers	27.34	27.34	0.00	M/s Pioneer Urban, the JV Partner, had deposited an amount of Rs. 40.00 crore, from which the full Principal Amount has been refunded.
2	Greater Noida Refund - 352 customers	66.85	74.36	0.00	Principal amount refunded along with 11% additional amount
	<b>Sub-total</b>	<b>94.19</b>	<b>101.70</b>	<b>0.00</b>	<b>(A)</b>

Sr. No.	Description	Principal amount received by the Company (Rs. in Cr.)	Amount Refunded (Rs. in Cr.)	Balance principal amount due (Rs. in Cr.)	Remarks
3	Civil Appeal Cases – 237 customers	124.41	53.26	71.15	Only Partial principal amount (42.8%) refunded
4	Refund Decree + Portal Customers Refund – 881 Customers	440.57	60.44	380.13	Only Partial principal amount (13.71%) refunded
5	Civil Appeal No. 11108 of 2016–10 customers	8.57	6.67	1.92	Partial principal amount (77.83%) refunded
	Sub-total	573.56	120.38	453.20	(B)
	Grand Total	667.75	222.08	453.20	(A+B)

6. In view of the above, it is humbly prayed that the Hon'ble Court may kindly be pleased to issue the following directions:

- (a) A total of 391 Home-buyers, who have been refunded the full amount of Rs. 101.70 crores or even higher, be directed to return the title papers, along with NOCs forthwith and their cases be treated as fully and finally settled.
- (b) As regards the remaining 1,128 homebuyers, who have been given partial refunds of Rs. 120.38 crores, be directed to deposit the refunded amount, and that they shall be given their constructed Units, as proposed in the RF. However, in case they still insist on refunds only, then such balance principal amount be refunded from out of the final surplus after completing the projects as any outflow at this stage would entail prejudicing the projects to be completed.
- (c) In the alternative, it is also proposed that refund-seeking homebuyers can be directed to return their allotment papers and Unitech be permitted to sell their Units in the open market. Their balance principal amount can thereafter be refunded from the sale proceeds, as and when such proceeds are received. However, it is difficult to commit any time-lines for maturity of such sales.
- (d) Direct the Ld. Amicus to furnish details of all payments to the company as already requested for.



## AGARWAL LAW ASSOCIATES

Advocates Supreme Court

E. C. Agrawala | Mahesh Agarwal | Rishi Agrawala | Shaily Bhasin

03.04.2018

To,

Mr. Pawan Shree Agarwal  
Advocate  
Ld. Amicus Curiae,  
B-9, Sagar Apartments,  
6, TilakMarg,  
New Delhi-110 001

Re: In the Supreme Court of India  
IN THE MATTER OF

Civil Appeal No. 10851 of 2016  
Arvind Kumar Gupta Versus Unitech Limited & Ors.

AND

IN THE MATTER OF

SLP (Cri.) No. 5978-79 of 2017  
Sanjay Chandra & Anr. Versus Govt. of NCT of Delhi

Re: List of consumers who have succeeded before Ld NCDRC and whose appeals are pending before Hon'ble Supreme Court- Your letter dated 29.03.2018 in reply to our letter dated 27.03.2018.

**Sub.: Documents and information required by your good offices**

Dear Sir,

Kindly refer to letter dated 27.03.2018 contents of which are not reproduced herein for the sake of brevity.

Details of clarifications sought by you vide your letter (dated 29.03.2018), are summarized herein below. Details of the same are also annexed alongwith this letter by way of annexures.

You will note that discrepancies along with clarifications set out herein below has an effect of bringing down the refund value stated at Rs 124.41 crores (per your list) to its actual value at Rs 11.24 crores. This differential of Rs 113.17 crores is either due to certain consumers not falling within the purview of the order dated 12.03.2018 passed by this Hon'ble Court or because they don't



## AGARWAL LAW ASSOCIATES

have a decree or because they changed their own choice from refund to possession when given an opportunity by Hon'ble Supreme Court of India to do the same vide the Amicus Curiae's Web Portal and in certain cases certain amounts have already been paid to them etc. -

- A. Rs. 77.18 lakhs already paid to consumers directly & 14.50 Cr paid to Hon'ble Supreme court of India.
- B. Discrepancies in amounts reported to Amicus Curiae by consumers amounting to Rs. 1.94 Cr for a total of 36 consumers.
- C. 7 consumers out of 237 consumers have punched in for possession on the web portal opened by Amicus Curiae amounting to Rs. 2.86 Cr. Out of the above 7 consumers, 2 have incorrectly reported higher amounts to the extent of Rs 18.61 Lacs (as amounts paid to Unitech).
- D. 25 out of 237 consumers have not filed with Amicus Curiae though they have filed an I.A. Balance principal amount of these 25 consumers paid to company is Rs. 30.80 Cr after adjusting the discrepancies (amounting to Rs.25.23 Lacs in case of 5 consumers) and 4 consumers covered in Para E below.
- E. 164 consumers out of 237 consumers do not have proper refund decrees in their favour for which principal paid to Unitech amounts to Rs. 64.15 Cr (adjusting to neutralise discrepancy of Rs.1.43 Cr in case of 26 consumers and consumers already covered in Para C above).
- F. 2 consumers who filed Impleadment applications yet to be heard and decided and do not have refund decrees. They have paid Rs. 1.00 Cr after adjusting discrepancy of Rs. 9.50 Lakhs for 1 out of two consumers.

### SUMMARY

<b>Total Amount reported by Amicus (I)</b>	<b>1,244,102,334</b>
Para A	7,718,000
Para B	19,356,456
Para D	308,007,640



## AGARWAL LAW ASSOCIATES

Para E (inclusive of Para C)	641,530,142
Para F	10,041,091
<b>Total of Point A, B, D, E, F (II)</b>	<b>986,653,329</b>
<b>(I) - (II)</b>	<b>257,449,005</b>
Amount Paid to Supreme Court Already (Para A)	145,000,000
<b>Final Amount</b>	<b>112,449,005</b>
	<b>11.24 Cr</b>

Therefore, the refunds claimed by consumers in your email dated 20.03.2018 was Rs. 124.41 Cr whereas after considering the adjustments detailed hereinabove, final principal refundable amounts gets reduced to Rs. 25.74 Cr. A further amount of 14.50 Cr paid to some of the above set of consumers further brings down the refundable sum to a tally of Rs. 11.24 Cr. It is pertinent to note that an amount of Rs.2.86 Cr against the consumers who have sought possession with Amicus Curiae has not been taken into account as it has already been included in Para E. Annexure wise details are tabulated below -

SNo.	Particulars	Comments	Details and information
A.	Amounts paid to the consumers in your list.	Rs 77 Lacs paid directly to the consumers but not reflected in their statements and Rs 1450 Lacs paid through Hon'ble Supreme Court.	Details annexed and marked as Annexure 1
B.	Difference in amounts claimed by the consumers and Unitech records	Rs 1.94 Cr for 36 Consumers.	Summary Sheet mentioning reason for differences alongwith ledger for each of the 36 consumers annexed and marked as Annexure 2(Colly).



## AGARWAL LAW ASSOCIATES

C	Consumers seeking possession on web portal while being included in your list for refund	7 consumers out of 237 consumers have punched in for possession on the web portal opened by Amicus Curiae amounting to Rs. 2.86 Cr. Out of the above 7 consumers, 2 have incorrectly reported higher amounts to the extent of Rs 18.61 Lacs (as amounts paid to Unitech.	Details annexed and marked as Annexure 3.
D	Consumers who have sought refund on web portal	205 out of 237 consumers have filed for refunds further 7 out of 237 filed for possession and finally the balance 25 out of 237 have not filed on the web portal though they have filed an I.A. with Hon'ble Supreme Court. Balance principal amount of these 25 consumers paid to company is Rs. 30.80 Cr after adjusting the discrepancies (amounting to Rs.25.23 Lacs in case of 5 consumers) and 4 consumers covered in Para E.	Details annexed and marked as Annexure 4.
E.	Consumers who do not have decree for refund in their favor (Prmod Sharma & 163 Ors)  (Kindly refer to the judgment in	164 consumers out of 237 consumers for which principal paid to Unitech amounts to Rs. 64.15 Cr after adjusting discrepancy of Rs.1.43 Cr for 26 consumers while funds allocated to the said 164 Consumers	Kindly refer to judgment dated 19.07.2017 in CC/1191/2015 The said 164 consumers do not fulfill the first condition of the order passed by Hon'ble Supreme Court (to be



AGARWAL LAW ASSOCIATES

<p>CC/1191/2015 dated 19.07.2017)</p>	<p>are Rs 22.81 cr by your offices</p>	<p>successful in NCDRC (for refunds). As per orders of Ld NCDRC. Until 31.10.2018, they have a possession decree.</p> <p>Order of Hon'ble Supreme Court in CA- 10851/2017 reads as-</p> <p>".....He will prepare a chart indicating the consumers who have <u>succeeded</u> before the National Consumer Disputes Redressal Commission (NCDRC), but for some grievance or the other, their appeals are pending before this Court....."</p> <p><i>(Emphasis Supplied)</i></p>
<p>F Impleadment applications yet to be heard and decided in CA- 17008 of 2017</p>	<p>2 consumers of balance amount paid to company of Rs. 1.00 Cr after adjusting discrepancy of Rs. 9.50 Lakhs for 1 customer</p>	<p>Since the mentioned IA are linked to CA-17008 of 2017 above, these 2 consumers do not have successful decree of Ld NCDRC.</p>

As you may be aware, many home buyers have availed loan facilities from various banks and FIs. In order to avoid any miscommunication or confusion, you are requested to seek from the homebuyer and provide a copy of the following to my client-

1. Affidavits filed by all the 237 consumers who have opted for one choice or the other in a CD Drive to enable us to further verify their claims including their disclosures as to decrees, loans availed or amounts already received from the company or associate companies.



## AGARWAL LAW ASSOCIATES

2. NOC from the Banks, FIs etc or the loan outstanding statement to reconfirm the outstanding of the banks etc failing which banks will hold the customer as well as the company liable for violation of Tripartite agreements executed with banks. As these properties are encumbered by the consumers in favour of their lender.
3. Distribution summary chart of amounts of 14.50 Cr already distributed to the consumers such that the monies already paid can be deducted from the distribution list
4. List of all the consumers along with bank loan details against the property

Also if required we would be happy to provide further necessary clarifications and data so that the lists of refunds to be made are checked for accuracy so the rightful amount maybe distributed.

We are also sending a copy of this letter to the Registrar, Supreme Court of India for ease of reference

Would you need any assistance, please feel free to contact the undersigned.

Yours faithfully,

(E.C. AGRAWALA)  
ADVOCATE FOR THE PETITIONERS

Encl: Annexure 1 to 4



**AISHWARYA BHATI**

Advocate-on-Record  
Supreme Court of India

Office : 18, Cedar Mall Road, Bengali Market, New Delhi, 110001  
Chamber : 005, Supreme Court, Lawyer's Chambers, C.K. Jhappay Block,  
Tilak Lane, Supreme Court of India, New Delhi - 110001  
Phone : 011-23711238(O); 011-23388669(I), 9350852003(M)  
Fax : 01141525850  
Email : aishwaryabhati@gmail.com

To,

The Learned Registrar (J-I)

Supreme Court of India

New Delhi - 110021

DT 28-11-18  
28/11/18

**SUB: DISBURSEMENT OF Rs. 40 LAKHS DEPOSITED BY THE RESPONDENT  
IN PURSUANCE OF ORDER(S) DAETD 13.08.2018, ON PRO RATA BASIS  
AND ON SAME PARAMETERS AND THEREOF IN CIVIL APPEAL NO.  
11108 OF 2016:**

Civil Appeal No. 11108 OF 2016

Ravi Kumar Rajkoria And Ors.

Vs

M/S Unitech Ltd. &amp; Ors.

Respected Sir,

1. The respondent has deposited a further sum of Rs. 40 Lakhs towards the refund of the principal amount in respect of the three appellants and three successful intervenors vide order of the Hon'ble Supreme Court of India dated 16.4.2018 & 13.08.2018.
2. The three appellants in the matter, namely, Ravi Kumar Rajkoria, Atul Malhotra and Pradeep Kumar Agarwal have been refunded their complete Principal Amounts. Lt. Col. Ajay Singh remaining balance is only 5,48,873/- which must be given in one go. As per order of the Hon'ble Supreme Court of India dated 13.08.2018, this amount of Rs. 34,51,127/- after deducting Lt. Col. Ajay Singh remaining balance, has to be disbursed to the remaining two successful applicants/ intervenors towards the refund of their respective Principal amounts and also to applicants in I.As. namely, Vijay Kumar Upadhyay, Nishant Bhasin Shalini Pandey & Sunita Dhawan, if they have a determination from the National Consumer Disputes Redressal Commission in their favour after due verification. Accordingly, the pro-rata calculations for disbursement of this amount of Rs. 34,51,127/- (based on the previous pro-rata calculations and disbursements made by the registry) are as under:-

S.No.	Intervenors	Principal Amount (Rs.)	% On Pro-Rata	Amount to be Disbursed on Pro-Rata Basis (Rs.)
1.	Lt. Col. Ajay Singh	97,77,644	Not needed	5,48,873/-
2.	Apama Shukla	1,09,59,897	21.602%	7,45,512/-
3.	Parvinder Singh	1,08,29,821	21.346%	7,36,677/-
4.	Vijay Kumar Upadhyay	78,23,687	15.420%	5,32,163/-
5.	Nishant Bhasin	99,28,942	19.570%	6,75,385/-
6.	Shalini Pandey	30,79,508	6.069%	2,09,448/-
7.	Sunita Dhawan	81,12,653	15.993%	5,51,938/-
<b>TOTAL</b>		<b>5,07,34,478/-</b>	<b>(After deducting Ajay Singh's amount)</b>	

**AISHWARYA BHATI**

Advocate-on-Record  
Supreme Court of India

Office : 19, Todar Mal Road, Bengali Market, New Delhi-110001  
Chamber : 005, Supreme Court, Lawyer's Chambers, C.K. Daphary Block,  
Tilak Lane, Supreme Court of India, New Delhi -110007  
Phones : 011-23711238(O); 011-23388659(O); 9350852003(A)  
Fax : 01141525850  
Email : aishwaryabhati@gmail.com

3. Lt. Col. Ajay Singh, Aparna Shukla and Parvinder Singh have been already getting the money vide previous orders. Kindly disburse the amount of serial No. 4, 5, 6 & 7 i.e. Vijay Kumar Upadhyay, Nishant Bhasin Shalini Pandey & Sunita Dhawan according to the order dated 4.7.2018 where after due verification from the Ld. Amicus Curiae Mr. Pawanshree Agarwal according to the order dated 13.08.2018 the amount has to be disbursed.
4. The Hon'ble Supreme Court of India vide its order dated 27.11.2017 and 5.1.2018 has also directed the respondent to make good the amounts which have been and/or which will be deducted by the registry towards the admissible commission as contemplated under Order XIV of Supreme Court Rule - 2013, in respect of the three appellants and the seven intervenors (at Ser. Nos. 1 to 7 above in the table) for all disbursements.
5. May I request you to kindly release the share of refund of the principal amount at the earliest.

Your's sincerely  
(MS. AISHWARYA BHATI)



04 January 2019

To,  
The Learned Registrar (Section XVII)  
Supreme Court Of India  
New Delhi – 110 021

**CIVIL APPEAL NO. 11108 OF 2016**

RAVI KUMAR RAJORIA AND ORS.

...APPELLANTS

Vs

UNITECH LTD. & ORS.  
...RESPONDENTS

**SUB: DETAILS OF VARIOUS AMOUNTS DEPOSITED BY THE RESPONDENT DEVELOPER TOWARDS REFUND OF PRINCIPAL AMOUNTS OF THE APPELLANTS AND INTERVENORS PURSUANT TO THE ORDER(S) OF THE HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NO. 11108 OF 2016**

Respected Sir,

- We wish to inform you that a total amount of **Rs. 6.55 Cr** has been deposited by the Respondent till date, in the Registry of the Hon'ble Supreme Court of India during the course of various hearings in Civil Appeal No. 11108 of 2016, pursuant to respective Order(s) of the Hon'ble Supreme Court of India in the matter.
- The said amount of Rs. 6.55 Cr is towards the refund of Principal Amounts of the Appellants and Intervenor(s), the details of which are as follows:-

DATE	AMOUNT DEPOSITED (Rs.)
06.03.2017	1,00,00,000/-
30.03.2017	1,00,00,000/-
24.04.2017	15,00,000/-
25.07.2017	60,00,000/-
04.09.2017	75,00,000/-
09.10.2017	35,00,000/-
27.11.2017	25,00,000/-
05.01.2018	25,00,000/-
13.04.2018	40,00,000/-
02.07.2018	40,00,000/-
07.08.2018	40,00,000/-
24.08.2018	40,00,000/-
02.01.2019	60,00,000/-
<b>TOTAL – Rs. 6,55,00,000/- (6.55 Cr) Till date</b>	

- The above amount has been deposited by us towards the refund of the Principal Amounts of the following customers mentioned below:

1. Mr. Ravi Kumar Rajoria.
2. Mr. Atul Malhotra.
3. Mr. Pradeep Kumar Agarwal.
4. Lt. Col. Ajay Singh.
5. Ms. Aparna Shukla.
6. Mr. Parvinder Singh.
7. Ms. Shalini Pandey.
8. Mr. Vijay Kumar Upadhaya.
9. Mr. Nishant Bhasin.
10. Ms. Sunita Dhawan.

4. We have prepared a detailed chart, enclosed as attachment, showing the actual principal amount received along with the various disbursements done against each customer till date.
5. As per the order dated 28.11.2018, the court had directed for a joint verification of the said principal amounts and disbursements to be made accordingly after the reconciliation. **We would like to bring to your notice that Ms. Aishwarya Bhati, AOR without informing us nor the Ld. Amicus Curiae had submitted a letter for disbursal of Rs. 40,00,000/- on.....and the same was released. This is a clear contradiction towards the Court Order and we request you to hold any such disbursements until the final reconciliation is done.**

Your's Sincerely

**CC:**

Ms. Aishwarya Bhati, AOR  
18, Toder Mal Road, Bengali Market, New Delhi.

Mr. Pawan Shree Agarwal, Ld. Amicus Curiae  
B-9, Sagar Apartments, Tilak Marg, New Delhi.

No. CMD/Unitech/2020/27  
July 21, 2020

**Subject: Details of refunds processed as on date and plan for future disbursements with regard to Fixed Deposit holders in terms of directions of the Hon'ble Supreme Court - reg.**

Dear Sh. Agrawal,

I am writing this letter with reference to the subject cited above. It is understood that, based on the directions of the Hon'ble Supreme Court, you have been engaged in the process of inviting claims for refund of FDR amount held by the Senior Citizens and disbursement of the sanctioned amount of refund. It is observed that we need to know the following in this behalf:

- (i) The criterion adopted for selection of beneficiaries to whom refunds are made;
- (ii) The list of beneficiaries to whom refunds have been made along with the amount refunded to each one of them as on date;
- (iii) The list of beneficiaries to whom it is now planned to release the refund amount in terms of directions of the Hon'ble Court vide its orders dated 20.01.2020.

2. The above information is required to update and cleanse our database in this behalf. An early response would be highly appreciated.

*With regards,*

Yours Sincerely,

  
(Y. S. Malik)

**Mr. Pawanshree Agrawal,**  
B-3, Sagar Apartments,  
Tilak Marg, New Delhi-110001  
Email: [pawanshree.adv@gmail.com](mailto:pawanshree.adv@gmail.com)

No. CMD/Unitech/2020/28  
July 21, 2020

**Subject:** Details of refunds released as on date and plan for future disbursements in the case of Homebuyers in terms of directions of the Hon'ble Supreme Court - reg.

Dear Sh. Agrawal,

I am writing this letter with reference to the subject cited above. It is understood that, based on the directions of the Hon'ble Supreme Court, you have been engaged in the process of refund of monies to the home-buyers in terms of orders of the Hon'ble Supreme Court from time to time. It is requested that we need to have the following information for updating our database in this behalf:


- (i) The criterion adopted for selection of beneficiaries to whom refunds are made;
- (ii) The list of beneficiaries to whom refunds have been made along with the amount refunded to each one of them as on date;
- (iii) The list of beneficiaries to whom it is now planned to release the refund amount in terms of directions of the Hon'ble Court vide its orders dated 20.01.2020.

2. It would be useful if the above information is provided in the format given below:

Sr. No.	Name of the beneficiary	Name of the Project/ Sub-project	Location	Unit No.	Amount refunded	Partial or full	If the refunded amount is only towards principal amount or includes any other amount e.g. interest/ penalty etc.

3. An early response would be highly appreciated.

*With regards,*

Yours Sincerely,  
  
(Y. S. Malik)

Mr. Pawanshree Agrawal,  
B-3, Sagar Apartments,  
Tilak Marg, New Delhi-110001  
Email: [pawanshree.adv@gmail.com](mailto:pawanshree.adv@gmail.com)

No. CMD/ Unitech/2020/34  
August 06, 2020

Dear Sh. Agrawal,

This is a gentle reminder in respect of the requests I made to you vide my two demi-official letters dated July 21, 2020, sent to you by email on 21.07.2020 itself. You were very gracious to acknowledge receipt of the same. I would be grateful if you could share the following information with us:

- (i) Details of persons (FD holders, home-buyers or ex-employees) to whom payments have been made or who have been found eligible for payments to whom now payments are proposed to be released in terms of orders of the Hon'ble Supreme Court;
  - (ii) Copy of list of ex-employees, as submitted to the registry for disbursement;
  - (iii) Suggestions or objections received till date to the RF.
2. An early response would be highly appreciated.

With regards,

Yours Sincerely,

*Y. S. Malik*  
(Y. S. Malik)

Mr. Pawanshree Agrawal,  
B-3, Sagar Apartments,  
Tilak Marg, New Delhi -110001  
Email: [pawanshree.adv@gmail.com](mailto:pawanshree.adv@gmail.com)

No. CMD/ Unitech/2020/ 39  
September 16, 2020

**Subject: Supply of information regarding (a) Validation of the Funds deposited with the Registry, utilization details, and balance amount; (b) Refunds made to the Home-buyers, (c) refunds to Fixed Deposit Holders, and (d) payments made to the ex-employees.**

*Dear Sh. Agrawal,*

This is in continuation of my two demi-official letters of July 21, 2020 and the reminder dated August 06, 2020 (copies enclosed) on the above subject. Though you were very gracious to have acknowledged my emails, however, it appears you have not been able to find time to share the required information with us.

2. As you know, the Resolution Framework has already been filed in the Hon'ble Supreme Court. Pending consideration and decision of the Hon'ble Court on the Resolution Framework, we have initiated work on advance planning for various activities. As far as you are concerned, we need to have information on the following:

2.1 Details of the amount deposited with the Registry from time to time, the amount expended/ utilized till date on (a) refunds to Home Buyers, (b) refunds to Depositors, (c) amount sanctioned and expended on completion of Projects through Justice Dhingra Committee (d) expenditure on payment of dues of ex-employees, and (e) other expenses (e.g. payments to Grant Thornton -Forensic Auditors, JLL, Portal Development etc.) I am enclosing the information available with us as **Annexure-A** in this behalf. You are requested to validate or correct the same so as to have authentic information in this behalf.

2.2 Lists of Homebuyers to whom refunds have been made under various orders of the Hon'ble Court, along with the amount refunded containing the following information:

Sr. No.	Name of the Allottee/ Homebuyer	Customer Code	Name of the Project	Block/ Tower	Unit No.	IA/ CA No. vide which the Hon'ble Court directed the refund	Date of the Orders of the Hon'ble Court	Amount Refunded
1								
2								
3								

2.3 List of FD holders (Senior Citizens) to whom refunds have been made along with the amount of refund made.

3. Your kind attention is also invited to the orders dated 15.02.2019 of the Hon'ble



Supreme Court wherein it was directed that:

"We clarify and direct that the title deeds, together with NOC of those home buyers who have received the entire principal amount, shall be lodged with the learned Amicus Curiae in the first instance. Mr. Pawanshree Agrawal, learned Amicus Curiae shall in turn lodge the title deeds together with the NOC with the Registry. They shall be kept in safe custody of the Registry against inventory."

- 3.1 As far as we are aware, a total of 39 homebuyers in the projects (Escape, Fresco, Harmony, Woodstock and South City II Floors – all projects at Gurgaon) developed with the JV have been refunded the full principal amount of Rs. 27,34,10,850.00. Similarly, a total of 352 Homebuyers from Uniworld City, Greater NOIDA have been refunded the full principal amount and an additional amount of about 11% (amount refunded is Rs. 74,36,35,446.00 as against the principal amount of Rs. 66,85,29,011.00).
- 3.2 It is important for us to know if the title deeds and NOCs have been received from these Home-buyers in compliance of the directions of the Hon'ble Supreme Court.
4. Further, reference is also made to the Orders dated 20.01.2020 of the Hon'ble Supreme Court (page 39) regarding Homebuyers of the Project "Vistas" in Sector 70 Gurugram. I would request you to kindly share with us the information if any requests have been received for change of option from "Refund" to "Possession" in terms of the orders of the Hon'ble Court, and if yes, please share the details of such home-buyers along with the amount refunded to them and the amount deposited by them with the Registry.
5. I request you again to kindly share the above information with us at the earliest possible. I may suggest that in case you need, we can depute a couple of staff resources to assist you in preparing the required information.

*With regards,*

Yours Sincerely,

*Y. S. Malik*  
(Y. S. Malik)

Mr. Pawanshree Agrawal,  
B-3, Sagar Apartments,  
Tilak Marg, New Delhi -110001  
Email: [pawanshree.adv@gmail.com](mailto:pawanshree.adv@gmail.com)

CC. Ms. Anubha Aggarwal, Advocate on Record, for her kind information.

Annexure - A (As on 26.08.2020)

## Deposits already made in Registry of Hon'ble Supreme Court

Sr. No.	Description	Amount (Rs. in Cr.)	Source	Amount Allocated for Refund to Home Buyers	Amount Processed for Homebuyers as on date	Amount Allocated for Construction	Amount Processed as on date	Amount Allocated for FD Holders & Ex Employees	Amount Processed as on date
1	As Per Order Dated 24.08.2017	15.00	Deposit made by Unitech	15.00	15.00				
2	As Per Order Dated 01.09.2017	5.00	Deposit made by Unitech	5.00	5.00				
3	Deposit on 17.01.2018 & 27.07.2018	48.74	From Bangalore Land Sale			21.00	21.00		
4	Deposit on 17.01.2018	13.00	From Haryana Land Acquisition Compensation	13.00	13.00				
5	Deposit on 28.03.2018 & 01.05.2018	40.00	By Pioneer (Joint Venture Partner)	40.00	27.30				
6	Deposit on 12.04.2018	1.00	Fine on JMF ARC & Omshakty						
7	Deposit on 26.07.2018	15.00	By Wisdom on account of UGCC						
8	Deposit on 17.09.2018	74.36	Refund from Greater Noida Authority	74.36	74.36				
9	Deposit on 21.09.2018	30.00	From Haryana Land Acquisition Compensation						
10	Deposit on 22.09.2018	115.78	Kolkata Land Sale	87.00	60.43	81.64	40.00	17.00	
11	Deposit on 30.11.2018	5.00	Chennai Land Sale						
12	Deposit on 04.02.2019	45.00	Chennai Land Sale						
13	Deposit on 07.03.2019	2.00	Hyderabad Land Sale						
14	Deposit on 14.03.2019	3.60	Hyderabad Land Sale						
15	Deposit on 14.03.2019	0.51	By Customer : Gian Finance						
16	Deposit on 02.04.2019	5.00	Hyderabad Land Sale						
17	Deposit on 07.05.2019	5.00	Hyderabad Land Sale						
18	Deposit on 05.07.2019	21.00	Hyderabad Land Sale						
19	Deposit on 05.07.2019	1.50	By Customer : Gian Finance						
20	Deposit on 05.07.2019	19.47	From Haryana Land Acquisition Compensation						
21	Deposit on 05.07.2019	10.00	Chennai Land Sale						
22	Deposit on 26.07.2019	12.00	Hyderabad Land Sale						
23	Deposit on 18.10.2019	7.95	Hyderabad Land Sale						
25	Deposit on 07.01.2020	98.68	(Tax Refund + Surplus + Chennai 4.745 Acres)						
26	Deposit on 14.01.2020	50.00	(Tax Refund)				6.75	45.00	
27	Deposit on 10.07.2020	69.30	(Telengana Principal Amount)						
28	Deposit on 31.07.2020	58.23	(Telengana Interest Amount)						
29	Deposit in other connected Matters	57.44		57.44	57.44				
30	Deposits by Devas Global	37.50	Bangalore land sale						
<b>Total</b>		<b>867.06</b>	<b>-</b>	<b>291.80</b>	<b>252.53</b>	<b>102.64</b>	<b>67.75</b>	<b>62.00</b>	<b>-</b>
	<b>Interest earned on the FDs</b>	<b>27.00</b>				<b>Other Miscellaneous Disbursements vide Orders (Rs. In Cr.)</b>			
	<b>Total Deposit + Interest</b>	<b>894.06</b>				<b>Description</b>	<b>Amount Allocated</b>	<b>Amount Disbursed</b>	<b>Remarks</b>
	<b>Balance in the Registry</b>	<b>508.18</b>				Amicus		0.17	Portal Fees
						GT	0.20	0.20	UPTL Audit
						GT	2.65	2.65	Forensic Audit
						JLL	0.58	0.58	Brokerage for Candor
						<b>TOTAL</b>		<b>3.60</b>	

D.O. No. CMD/Unitech/2021/04  
Dated, the 9<sup>th</sup> February, 2021

*Dear Sh. Agrawal,*

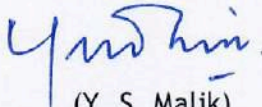
Thank you very much for your email of today - a response long awaited since my D.O. letter of 16<sup>th</sup> September last year. Having gone through the different work-sheets in the attached file, I find it important to point out the following facts, as we are unable to reconcile the same with the database available with us, and hence would need re-verification at your end:

- (i) It has been mentioned in the Summary Sheet that an amount of Rs. 15 Crore has been allocated for payment to the Ex-employees but no figures are mentioned under Utilization column. Similarly, it has been mentioned that an amount of Rs. 47.40 crore has been allocated for refund to the Sr. Citizen FD Holders - again the Utilization Column is blank. Do we assume that no expenditure has been incurred against these allocations? We request you to kindly provide us with the complete individual details of the same so that these are updated in our records.
- (ii) Further, since the PF amount of ex-employees has been directly deposited to the individual bank accounts, we request you kindly provide us a certified copy of the same so that it can be updated with the EPFO as these are statutory liabilities of the Company.
- (iii) We would like to inform you that as per the information retrieved on 13<sup>th</sup> August 2020, the amount of interest generated on FDRs placed by the Registry was approximately Rs. 27 crore, as also mentioned in the sheet enclosed with my DO letter of 16<sup>th</sup> September 2020. I am sure that it would have gone up for the intervening period from September, 2020 to 31<sup>st</sup> January, 2021. I would be grateful if this could be reconciled with the bank and the interest amount accrued till 31.01.2021 is shared with us.
- (iv) In the payment sheet, wherein the payments which have been disbursed from the Registry of the Hon'ble Apex Court, only the payments to M/s Grant Thornton and M/s JLL are shown. As per the records available with the company, certain payments to you (as also mentioned in the sheet enclosed with my letter) and Justice (Retd.) S.N Dhingra have also been processed. I would be grateful if you can provide the complete details of expenditure incurred on various heads so that our books of accounts are updated based on the same.

- (v) In the work-sheet for disbursal to 1338 homebuyers, we are unable to understand as to what is the total amount that has been processed for refund to these home-buyers as payment status is either left blank or is shown as 'payment not yet made' in a number of fields. We need your help in this behalf for greater clarity. If we consider the customers whose status is shown as blank, then the total amount is coming to Rs. 124.74 crore (derived totals) as against the figure of Rs. 60.43 crore mentioned in the summary sheet.
- (vi) In the work-sheet of disbursal for persons covered under Civil Appeal 11108 of 2016 (Ravi Kumar Rajoria & Ors. versus M/s Unitech Limited & Ors.), the amount disbursed to the 10 customers is shown as Rs. 3.22 crore. However, as per the information available with the company, the amount that has already been disbursed to these 10 customers is Rs. 6.67 crores. This needs to be reconciled.
2. I would really appreciate your support in bringing greater clarity and firmness in these calculations and amounts as these have to go into the Annual Accounts of the Company for the current FY.

*With regards,*

Yours Sincerely,

  
(Y. S. Malik)

Mr. Pawanshree Agrawal,  
B-3, Sagar Apartments,  
Tilak Marg, New Delhi - 110001  
Email: [pawanshree.adv@gmail.com](mailto:pawanshree.adv@gmail.com)

**PART – XIII: RELEASE OF FUNDS DEPOSITED WITH THE REGISTRY**

1. Hon'ble Court accepted Union's proposal to release funds deposited with the Registry to the account of the Company, vide order dated 20.01.2020. However, no amount has been released till date.
2. Company has not been able to pay salaries since March 2020.
3. Various heads under which amounts are being claimed, initially, are as follows:

Details of Expenditure	Monthly Expenditure	No. of Months	Total Amount (In Lakh)
<b>Payroll Expenditure</b>			
Salary dues of serving employees – 283 employees - Due for the period up to Dec 2020			1841.03
Salary & other dues of Ex-employees, retired/ left post Jan 2020 - 246 employees - Due for the period up to Dec. 2020			2675.79
Salary bill for the in-service 283 employees for the period Jan 2021- Jun 2021	231.90	6	1391.40
<b>Sub total (A)</b>			<b>5908.22</b>
<b>Establishment Costs</b>			
Power & Fuel for 16 locations	50.80	6	304.80
Facility & Maintenance for 16 locations	77.79	6	466.74
Security & Housekeeping for 18 locations	42.91	6	257.46
Hospitality Services- Power & Fuel - 3 locations	21.00	6	126.00
Hospitality Services- Other Expenditure - 3 locations	19.00	6	114.00
Office Rent	13.50	6	81.00
Travel & Staff Conveyance	3.65	6	21.90
Telephone & Communication	1.35	6	08.10
Other Office Exp. including contingencies of 5%	20.00	6	120.00
<b>Sub total (B)</b>			<b>1500.00</b>
<b>Other Costs</b>			
Building Repairs in Residential Complexes			40.00
Environment Approvals and Related Charges			290.00
Fees of Consultant assisting in RF Preparations			125.00
Attorney and Arbitration Fee			250.00
Fees for the Project Management Consulting (PMCs) Firms for completion of pre-construction activities			2300.00
<b>Sub total (C)</b>			<b>3005.00</b>
<b>Total Amount (A+B+C)</b>			<b>10413.22</b>
<b>Rounded off to</b>			<b>10500.00</b>

4. I.A. No. 65076 of 2020 and a further affidavit has also been filed praying for release of funds. However, the above requirement of funds is merely for the purposes of

meeting the operating costs for a period of six months only. For initiation of construction works, the Management would be required to enter into various contracts and as per industry norms, a payment of 10% of the awarded cost is to be released towards Mobilization advance. Hence, it is prayed that the amounts deposited before the Registry of this Hon'ble Court be directed to be released to the account of the Company for starting the construction related activities.

#### **PART XIV – REPORT CARD ON THE MAJOR ACTIVITIES OF THE NEW MANAGEMENT**

It has been an extremely challenging task to manage the Company and its affairs since the new management was put in place during the last one year. In the first instance, the management was faced with a huge difficulty of getting reliable data/ information in respect of various issues and this challenge is continuing till date in some measure. The staff showed lack of ownership and pleaded that they did not have the required information or access to such information. It has been with a lot of cajoling and persuasion that the new management could gather reasonable level of information on various aspects.

The Company has not followed any system of Project Accounting. As a result, we do not know as to what was the budget for a project, how much has been spent on the project and what is the balance quantum of work. About 5,000 work orders/ contracts have been in place and none of these formally closed.

Since there were no funds for payment of salaries to the staff, there has been a huge arrear build-up. Reduction in staff redundancy has resulted in non-payment of their terminal dues to the extent of about Rs. 28.00 crore.

The desperate home-buyers have been approaching with requests to take up their projects on priority. The RWAs of completed/ partially completed projects have been coming with their own set of problems and issues. The Contractors and vendors have been asking for payment of their over dues. Non-availability of funds have been a major constraint to meet even the requirements of the Company as a going concern. The pending litigations have been managed and are being attended to. The Company is not able to renew some of the Bank Guarantees furnished to the regulatory authorities in Haryana.

It is under the above set of challenges that the Board of Directors has been meeting at regular intervals and taking decisions on doing that can be initiated as steps preparatory to actual commencement of works on the projects, pending approval of the Resolution Framework and release of funds from the Registry. Some of the initiatives taken by the new management are listed in the following paragraphs.

**Initiatives Taken:**

1. Consequent upon the orders dated 20.01.2020 of the Hon'ble Supreme Court, the Union of India (in the Ministry of Corporate Affairs) issued appointment orders of the CMD on 21.01.2020, six other directors on 22.01.2020, and orders dated 03.02.2020 in case of appointment of Sh. Prabhakar Singh as Director after his superannuation on 31.01.2020.
2. The newly appointed Board of Directors has so far held 09 meetings since its constitution as pre the details given below:

<b>Sr. No.</b>	<b>Date of Board Meetings</b>	<b>Attendance</b>
1	28/01/2020	All Directors except Sh. Jitu Virwani to whom Leave of Absence was granted, were present
2	14/02/2020	All Directors, except Sh. Jitu Virwani to whom Leave of Absence was granted, were present. In addition, Director (Legal & Prosecution) of the Ministry of Corporate Affairs also attended the meeting as a special invitee
3	28/2/2020	All Directors were present. In addition, Director (Legal & Prosecution) of the Ministry of Corporate Affairs, and Sh. Pawanshree Aggarwal, the Ld. Amicus Curiae also attended the meeting as special invitees
4	15/03/2020	All Directors were present.
5	17/06/2020	All Directors were present.
6	10/09/2020	All Directors, except Sh. Jitu Virwani & Sh. Anoop K. Mittal to whom Leave of Absence was granted, were present.
7	28/10/2020	All Directors were present.
8	09/11/2020	All Directors were present.
9	18/01/2021	All Directors, except Sh. Niranjan Hiranandani who was granted Leave of Absence, were present.



In addition, the Board had detailed informal discussions on 09.04.2020, the Record of Discussions of which were circulated to the Directors. The Board has taken all the decisions on various issues based on consensus.

3. Pursuant to the first Board meeting held on 28.01.2020, it was, inter alia, decided to engage consultants for assisting the Board in preparation of the Resolution Framework. A committee of the Board of Directors, comprising Y. S. Malik, (CMD), Sh. Anoop Kumar Mittal, Mrs. Renu Sood Karnad, and Sh. Prabhakar Singh, selected M/s. Deloitte Touche Tohmatsu India LLP (“Deloitte”), as the consultants. Mr. Sanjay Malhotra was also engaged as Advisor to coordinate the work of preparation of the Resolution Framework with the consultants and the company.
4. Notwithstanding the successive lock-outs and other constraints due to the COVID-19 pandemic, the Board held intense deliberations, both through physical and virtual meetings on various issues during the course of preparation of the Resolution Framework (RF). The Board finally approved the Draft Resolution Framework in its meeting held on 17.06.2020 wherein the CMD was authorized to finalize the Resolution Framework in consultations with the Ministry of Corporate Affairs and the Advocate on Record/ Solicitor General. The modifications proposed by the CMD in the draft approved by the Board in its meeting held on 17.06.2020 were also approved by all the Directors through emails dated 19.06.2020 and 29.06.2020 respectively. Comments of the Ministry of Corporate Affairs were received on 12.07.2020, which were incorporated in the Application dated 16.07.2020 vide which the Resolution Framework was filed in the Hon'ble Supreme Court.
5. As directed by the Hon'ble Court, the Amicus Curiae uploaded the Resolution Framework on his portal and invited comments/ suggestions from various stakeholders. A total of 1,292 e-mails were received in response including those forwarded by the Amicus to the Advocate on Record representing the new management. Of these, 1,104 emails were from the Home-buyers and 99 emails were from the FD holders. While about 125 e-mails supported the proposed Resolution Framework, a few of these also pointed out some factual errors/ inaccuracies in the Resolution Framework. Moreover, a number of facts/ revelations have been coming to the notice of the management during this intervening period. As such, the Board considered the inadvertent mistakes, typos and new facts in its meeting held on 10.09.2020 and approved a corrected and updated version. Further, another important fact relating to the CIG Realty Fund created by the erstwhile management and allotment of more than 800 residential units in different

projects and about 1.00 lakh square feet of commercial space in favour of the said Realty Fund came to notice, which the Board decided to include in its updated version in its meeting held on 09.11.2020. As such, the corrected and updated version has been prepared and submitted to the AoR for filing before the Hon'ble Court.

6. Pursuant to the filing of the Resolution Framework in the Supreme Court, and recognizing that the intervening period could be gainfully used to undertake preparatory activities so as to optimize the time post-approval of the RF, the Board/ Management has undertaken following major activities:
  - 6.1 Discussions have been initiated with SWAMIH Investment Fund for evaluating Company's various projects against which funds could be raised for project construction. The objective is to raise about [Rs 1200 crores] which is considered essential for project construction and completion. SWAMIH Fund have done a preliminary assessment (non binding) of the various projects of the Company and have shortlisted a few against which they may consider giving loans, subject to detailed evaluation, compliance and due diligence. They will proceed further, once there are clear directions / decisions on the approval of the Resolution Framework by the Hon'ble Supreme Court. Actually, the Company needs a bridge finance arrangement for an amount of about 700 to 800 crores till it starts getting regular payment of its balance receivables from the home-buyers and is able to start the process of sale of its unsold inventory.
  - 6.2 Faced with the huge challenge of timely payment of salaries to the staff, the management has been continuously reviewing the staffing requirements. Bulk of the regular staff is employed on the rolls of Unitech Limited and one of its major subsidiaries, namely, QnS. The Unitech Limited and QnS, put together, had staff strength of 679 employees as on 20.01.2020, with a monthly salary bill of about Rs. 4.93 crores. While a number of employees opted to leave the organization of their own (as they have not been getting salaries in time) the management also identified redundancies in various Divisions and dispensed with the services of those who were not found to be meaningfully contributing to the Organizational goal. In the process, services of a total of 309 employees have been dispensed with since 21.01.2020 and 60 employees recruited. Of the freshly recruited employees also, 09 employees have left the Organization because of non-payment of salaries. As a consequence, the Unitech Limited and the QnS put together are left with a total of 429 employees as of 31.12.2020 with a monthly salary bill of about Rs. 2.71 crores.

The above figures do not include the manpower resources employed through outsourced agencies such as House-keeping, security and maintenance staff. The UL and the QnS has created fresh liabilities of an amount of about Rs. 27.94 crores to pay and settle the Terminal dues of the employees who have either left the Organization or whose services have been dispensed with after 20.01.2020. The above details are summarized as under:

<b>Sr. No.</b>	<b>Particulars</b>	<b>Unitech Limited</b>	<b>QnS</b>	<b>Total</b>
(i)	Total number of employees as on 20.01.2020	481	198	679
(ii)	Total monthly CTC as on 20.1.2020	4,03,52,910	89,08,225	4,92,61,135
(iii)	No. of employees who have left or whose services dispensed with since 20.01.2020	244	65	309
(iv)	No. of employees appointed after 20.01.2020	46	14	60
(v)	No. of employees left from among the new appointees	9	0	9
(vi)	Total Existing employees as on 31.12.2020	<b>282</b>	<b>147</b>	<b>429</b>
(vii)	Monthly CTC of the existing employees	2,19,64,274	51,33,527	2,70,97,801
(viii)	Outstanding dues of the employees left after 20.01.2020 till 30.11.2020	27,51,78,971	42,44,547	27,94,23,518

Once the construction programme takes off, the management will have to take up a recruitment drive to fill the gaps. However, it is proposed to keep this burden to the bare minimum keeping in view that the Project Management Consultants are proposed to be engaged for day-to-day supervision of the Construction Works.

- 6.3 As the Company envisages to interact with all the major stakeholders (home-buyers and FD holders in particular) in electronic mode in future and the complete reliable database of these stakeholders is not readily available, a module has been developed to facilitate on-line submission/ up-dation of their Contact addresses, email IDs, Mobile Phone numbers and PAN details. This application has been launched with a general notice published on the website of the Company on 05.02.2021 and SMSs and Emails sent to the concerned individual homebuyers to the extent of availability of their contact details in the database.

- 6.4 The work on development of IT Applications/ systems for submission of claims by electronic means by all stakeholders, including the homebuyers and FD holders, and their processing, ledger accounts of the homebuyers and future payments, availability and sale of unsold stock, etc. has been started. The Claim submission module has already been developed and it is under testing stages. Development of these applications is likely to cost an amount of about Rs. 1.00 crore for the present.
- 6.5 A special audit and reconciliation of the Ledger Accounts of about 15,000 homebuyers, to whom possession of residential units is yet to be given, has been started at a cost of about Rs. 40.00 Lakh. The Auditors have already completed their scrutiny in respect of about 9,000 units/ files. The findings in the Audit conducted so far indicate that an amount of about Rs. 82.00 lakh is recoverable from the homebuyers on account of dishonoured cheques etc., which has not been accounted for in the individual ledger accounts. However, it has been found that the Company does not have all the old Bank Accounts details available with it. As a result, the reconciliation of individual ledger accounts with Bank Accounts is held-up in respect of 2828 files/ Units. The concerned Banks have been approached to provide the required details. Subject to timely availability of the missing bank account statements, the entire Audit is expected to be completed by the end of February, 2021. Once completed, it is proposed to place all the ledger accounts of the homebuyers on the website giving them an opportunity to either validate the same or point out the errors therein along with supporting documents. This exercise will ensure a clean and mutually accepted database;
- 6.6 The general framework for Revised/ updated Payment Plan in respect of the balance receivables from the home-buyers, linked with the estimated completion time of their projects, has been prepared and the management would be able to communicate the same to the homebuyers in electronic mode within one month of the cut-off date (as against three months proposed in the RF).
- 6.7 The Resolution Framework contains provision for migration of homebuyers from one project to another, wherever feasible, so as to optimize on the delivery time. Accordingly, a tentative Migration Plan in respect of major projects has already been prepared. However, this work cannot be given any finality at this stage in view of (i) definiteness about the number of migration cases, and (ii) on account of uncertainty regarding the treatment of refunds to the homebuyers, and (iii) the treatment of Units allocated to the CIG;

## 6.8 Compilation of land records of Unitech Group Companies:

- (i) One of the major challenges before the management was to take stock of the non-project land assets of the Unitech Group Companies. This acquired importance not only for the preparation of the Resolution Framework but also for putting in place a robust plan for monetization of these assets. Records (title deeds/ sale/ purchase deeds/ agreements/ amendment agreements/ Power of Attorneys were not to be found easily. It has taken a herculean effort to identify and compile the records of these land assets. Though we have been able to largely list out all such assets, which could be mapped with the Books of Accounts, the possibility of certain land parcels, which did not find a mention in the books of accounts or otherwise, still lying at places cannot be ruled out.
- (ii) Notwithstanding the constraints, we have been able to collect title deeds/ PoAs etc. of about 1881 acres of non-project land assets (about 186 acres in Gurugram area and 1695 acres at all other places pan-India). All these title deeds/ PoAs/ Agreements etc. of encumbrance-free land, which were scattered at different field offices, have now been put together under the charge of “Keeper of Land Asset Records” in safe custody at the Corporate office at Gurugram.
- (iii) In addition to the above, all such unencumbered parcels of land in Gurugram, which have been sold by the erstwhile management of Unitech Group during the last 03 years, (from 2017-18 to 2019-20), have also been identified and cross-tallied by the Land Division with the Finance Division. So far, we have been able to list out about 100 such Sale Deeds that were executed during the period, before the new management assumed charge.
- (iv) The new management has also initiated an exercise for getting the due diligence of encumbered and unencumbered non-project lands, pan-India, through International Property Consultants (IPC) for the purpose of future monetization, whenever it happens. Out of total land holdings of about 1881 acres, Due Diligence in respect of 1045.50 acres of land, as tabulated below, has presently been entrusted to three well known International Property Consultants (IPCs), namely, CBRE, JLL and Anarock, for preparation of site survey reports and market valuation.

Sr. No.	Location	Land Holding		Total Land Area (in acres)
		Unencumbered	Encumbered - charged to Banks / FIs/ ARCs	
1	Nivati, Maharashtra	273.3		273.3

2	Goa	1.29		1.29
3	Kochi	79.87	7.06	86.93
4	Bangalore	11.43		11.43
5	Chennai	83	250.45	333.45
6	Hyderabad	32.23	9.43	41.66
7	Mohali (Project Land)	12.353		12.353
8	Ambala		98.67	98.67
9	Gurgaon	123.71	62.71	186.42
<b>TOTAL (in acres)</b>		<b>617.183</b>	<b>428.32</b>	<b>1045.503</b>

- (v) This leaves a total of about 835 acres of land under three bulk land parcels, namely, 243 acres at Varanasi, 245 acres at Agra, and 349 acres at Sriperumbudur (Chennai) in respect of which Due Diligence may need to be undertaken in future. There is, in addition about 100 acres of encumbered land in Kolkata, which is charged in favour of ARCs, and for which there are potential buyers.
- (vi) Lists of the land/ property assets of the Company, which can be monetized, have been prepared to the extent of availability of records. These comprise of assets under three categories i.e. (a) Non-project unencumbered assets, (b) Non-project assets on which charge has been created in favour of Banks/ FIs/ ARCs/ and other third parties, and (c) Assets within the projects which can be candidates for monetization through outright sale or sale of FSI for mobilization of funds for completion of all residential projects. The Board has already considered the broad Approach to be followed for monetization of these land assets. However, recognizing the need for 'Due Diligence' in respect of the non-project land assets, as mentioned above, third party agencies (CBRE, JLL, and Anarock) have been engaged to undertake and complete the work of Site Surveys (in respect of exact locations, size, access to the land parcel, status of encroachments etc.) and Market Valuation of these land parcels at a cost of about Rs. 45.00 lakh. This work is expected to be completed in respect of about 700 sale-deeds/ instruments by end of February, 2021.
- 6.9 The sale of unsold inventory of about 4000 residential units, which will have to be completed along-side the already sold stock, is critical for mobilization of resources to fund the construction programme. Approach to sale of the Unsold Inventory for mobilizing cash-flows in addition to the balance receivables from homebuyers for completion of various projects has also been prepared and considered by the Board. Complete data in respect of each category of residential units e.g. the Original

launch price, the lowest and the highest sale prices, the average sale price, and the prevailing circle rates have already been complied. As desired by the Board, the process of discovery of market value of the representative unsold inventory has been initiated and this task has been assigned to M/s Anarock for a fee of Rs. 15.00 lakh. Once, this exercise is completed, the Board would consider determining the sale prices of the unsold inventory, which would be valid for a period of one year and reviewed annually). It is proposed to place the details of unsold inventory and the unit prices on the website for direct allotment/ sale on first-come-first-serve basis without any commission to the intermediaries. However, the process of sale of unsold stock is proposed to commence only after about six months of commencement of construction at sites so as to gain confidence of the potential buyers and get a befitting response. Since the sale of unsold inventory is surrounded with uncertainty at this stage, it is also proposed to use part of this inventory in lieu of cash payments to the Contractors, wherever found feasible.

However, it has not been found feasible to determine the exact number of unsold units keeping in view that the homebuyers, to whom full principal amount has already been refunded, have not submitted their title papers and the NOCs in spite of directions of the Hon'ble Supreme Court. Similarly, there are about 238 homebuyers to whom about 33% of the principal amount has been refunded. There is another group of about 881 homebuyers to whom only 14% of the principal amount has been refunded. The financial liability of refund of the full principal amount in all these cases has been worked out to be of the order of about Rs. 450 crore. As such, the exact unsold inventory is subject to (i) the extent of migration of home-buyers from one project to the other, and (ii) the treatment of these homebuyers to whom full/ partial refunds have been made.

- 6.10 The Company has been defaulting in meeting the statutory compliances. However, the Management/ Board has been able to finalize the **Accounts for the FY 2019-20** with a lot of challenges. Annual General Meetings of the share-holders have not been held for the last three years. It is proposed to hold the AGMs of the holding Company sometime by June 2021. The Company is in default of payment of fees amounting to Rs. 1.48 crores (without any delayed interest) to the NSDL, NSE and the BSE, and it is becoming difficult to make these payments on account of non-availability of requisite funds.
- 6.11 Apart from a series of statutory non-compliances by the holding company, the number of statutory non-compliances by its 186 subsidiaries is very large.

Restructuring of the Group has been proposed in the Resolution Framework. The management has identified 45 such subsidiary companies, which can be immediately amalgamated with the holding company with the approval of the Central Government under Section 233/ 237 of the Companies Act 2013. However, directions of the Hon'ble Supreme Court to the Ministry of Corporate Affairs would be required in this behalf. Similar directions would also be required for waiver of penalties attracted on account of such non-compliances. Implementation of these measures would save a considerable amount of financial and administrative burden on the Unitech Group.

#### **6.12 Preparatory Steps taken for the Construction Programme:**

- (i) The Management has taken stock of the pre-project activities to be undertaken prior to commencement of construction on the stalled projects. It has been found that the Company has not been following a system of Project Accounting. There are more than 4000 old work orders/ contracts, which have not been formally closed. Similarly, there are about 700 contracts/ work orders, which are treated as "Live Contracts" and which are subsisting. Almost all of these contracts/ work orders are based on a system wherein the Company used to procure major material items on its own and supply to the Contractors free of cost, which means that these are primarily labour rate contracts.
- (ii) An exercise in stock-taking of the availability of architectural and structure plans/ drawings has been completed. It has been found that the existing Architects in a number of cases are insisting on payment of their old dues before they complete and submit these drawings for the balance works. They have been informed that while their previous pending bills, to the extent these relate to the projects under implementation, would be considered and settled from out of the final surplus, their current bills would be duly paid. However, some of them appear to be reluctant in sharing the drawings or completing the balance works. They would need to be suitably directed to cooperate with the management, failing which the management may have to engage a fresh set of Architects and Consultants for this purpose.
- (iii) Further, drone-mapping of all the existing project sites and unlicensed land parcels is also under progress separately.
- (iv) The whole issue has been considered by the Board in its meeting held on 09.11.2020 and it has been decided to abrogate/ foreclose all these contracts, excepting those where minimal work remains to be completed and where such



contractors are willing to execute the balance work in a short span of time. It has been further decided that all new contracts should be awarded on comprehensive scope basis (i.e. inclusive of all material and labour) so as to ensure the deliverables on a turn-key basis.

- (v) The Board has further approved in principle the engagement of Project Management Consultants (PMCs) to act as project implementation supervision agencies on behalf of the management. The Scope of Work for the PMCs has been comprehensively defined comprising of two parts, namely, (a) **Part-A relating to the pre-project construction activities** comprising of “As Is” assessment, foreclosure of the existing contracts/ work orders, preparation of the Bill of Quantities (BoQs) and cost–estimates of the balance works including the tentative completion time-lines, preparation of tender documents, invitation of bids and Award of Contracts; and (b) **Part-B** entailing commencement of construction works at sites by the contractors, day-to-day supervision of the works including quality control of materials and workmanship, audit of running bills, adherence to all good industry practices, adherence to time-lines, going up to completion of projects, handing over the possession to homebuyers, get the defects, if any, pointed out by them at the time of taking possession rectified to their satisfaction, and finally closure of Project accounts.
- (vi) All project sites have been clubbed into a total of 11 clusters and bids invited from six pre-qualified agencies for the said assignment. Pursuant to receipt of bids from these pre-qualified agencies, the Management has finally determined their fees @ 1.95% of the Estimated Cost of Completion of all the projects, of which the fee payable for Part –A of the Scope of Work (Pre-Project Activities) is 0.45% whereas it is 1.50% for Part – B of the Scope of Work. The proposal for engagement of PMCs for Part-A of the Scope of the Work has been considered by the Board in its meeting held on 18.01.2021. Incidentally, the NBCC charges 8% of the value of work for identical services (as in the case of Amarpali Group). However, since this would entail getting into financial commitments for an amount of about Rs. 23 crore and the Company has no funds to meet this commitment, the Board has not found it advisable to engage these PMCs at this stage unless and until the RF has been considered by the Hon’ble Supreme Court. As such, the proposal to engage the PMCs for Part-A of the Scope of Work has been kept on hold for the time being.

- 6.13 The management has been regularly interacting with the RWAs of the projects already handed over and trying to settle their day-to-day problems. Some of these issues can be settled only after the RF is considered by the Hon'ble Court.
- 6.14 There are a total of 13 residential projects (03 in the case of claimed completed projects and 10 under the 'Projects under construction' which have been identified as Category-1 projects, on which work can commence with minimal dependence on external funds (limited to the extent of initial mobilization advance to be paid to the contractors) as the balance receivables from Home-buyers in these cases would be sufficient to complete these projects. However, nine out of 10 projects are assigned to the ARCs. As such, the management cannot proceed further with construction works in these projects till these are taken out of the purview of ARCs and entrusted to the new management. Moreover, the issues regarding (i) non-payment of any delayed interest/ penalties to the Homebuyers, and (ii) directions to the Statutory Authorities in Haryana and NOIDA Authorities to grant all clearances and approvals without insisting on upfront payment of their dues, are also to be decided by the Hon'ble Court.

**6.15 Litigation Management:**

When the new management took over in January 2020, there were a total of 3,749 court cases, out of which 1,188 cases have so far been disposed of, leaving 2,561 active cases presently pending in various courts, pan-India. Its broad break-up is - Supreme Court (48 cases), High Courts (145), District Consumer Forums/ State Consumer Commissions/ National Consumer Commission (1,412) out of which 719 cases were cumulatively adjourned sine die by the NCDRC vide its single order dated 13.03.2020, in terms of the moratorium granted by the Hon'ble Supreme Court vide its order dated 20.01.2020. Besides, there are 203 cases pending in NCLT/ NCLAT, 197 criminal cases in various district Courts, 172 civil cases in subordinate courts, and 57 in DRT/ DRAT, among others. Further, there are also 47 arbitration cases pending pan-India, out of which proceedings have been completed in two cases and the final Awards reserved.

For effective monitoring and regular updation, the management has installed a robust legal tracking software for online feedback and updation. There are a few challenges, which keep staring the management, from time to time, which need to be addressed:

- (i) The new management had to change its counsels/ advocates engaged by the erstwhile management. A few counsels appointed by the erstwhile management have refused to return the case files to the new management without payment of huge arrears of their professional fees. Hence, we are not able to pursue the court cases in these cases an effective manner. They be directed to return the case files and their dues could be settled in due course.
- (ii) The Hon'ble Supreme Court vide its order dated 20.01.2020 was pleased to issue "...moratorium on the institution of proceedings against the Unitech Limited and its subsidiaries. The moratorium shall also extend to existing proceedings against the company as well as the enforcement of orders that may have been passed against the company." This order is being interpreted by some judicial authorities that the moratorium, against the existing proceedings and enforcement of orders, has been granted only in favour of Unitech Limited, and not in favour of its subsidiaries or affiliates or entities. Hence, it is important to clarify the position with the prayer that the Hon'ble Apex Court may kindly extend the moratorium, whether in respect of the existing cases or fresh institution of cases, in respect of all the Unitech entities including its subsidiaries and affiliates.

#### **6.16 Bank Guarantees (BGs):**

- (i) As per the prevailing Rules followed by the Department of Town & Country Planning, Haryana, Bank Guarantees are required to be given by the Developers against External Development Charges (EDC) and Internal Development Works (IDW) in all licenses granted by the Department in the State. The Bank Guarantees are to be maintained till such time the entire payment is made on account of EDC and beyond a period of 05 years from the date of issuance of Completion Certificate in case of guarantees submitted against IDW.
- (ii) Unitech Limited, including its Subsidiaries & Associates, have been granted a number of licenses to develop residential plotted colonies, group housing, commercial colonies in the State of Haryana since 1982. During the period, the Company has successfully completed various projects and bank guarantees submitted against the licenses have been renewed from time to time. The Bank Guarantees submitted to the Town & Country Planning Department, Haryana, revalidated during the period January, 2020 to December, 2020 are numbering 74 involving an amount of Rs. 114.00 crores.

- (iii) It was found that about 20 BGs of the value of Rs. 13.70 crores, wherein the requirements had been fulfilled/ relinquished, were still lying with the Department entailing the continuing burden of fees to the Banks. The matter was taken up and pursued with the Department of Town & Country Planning, Haryana during the year 2020 and these 20 Nos. Bank Guarantee of value Rs. 13.70 crores have been got released from the Department.
- (iv) As on date, there are 16 Nos. Bank Guarantee got expired as renewal fees could not be deposited in time due to financial constraints. The matter has been taken up with the Canara Bank authorities to get the bank guarantees renewed on deposition of renewal fees, being arranged in parts, based on the directives issued by the Hon'ble Supreme Court on 20.01.2020 to all Banks & Financial Institutions to cooperate with the Company. The total amount of bank guarantees involved during the process is Rs. 23.83 crores.

## **PART – XV: DIRECTIONS SOUGHT FROM THE HON'BLE COURT**

In addition to the 'Reliefs and Concessions' and 'Necessary Directions' mentioned in the Resolution Framework and accompanying application, the Board of Directors, at this stage, seek the following interim directions/ orders from this Hon'ble Court for the day-to-day working and proceeding ahead with the given mandate. The Board shall seek, such further necessary directions, as required from time to time, to facilitate the operations:

- (i) Direct that projects assigned to the ARCs and projects/ assets under the aegis of the Dhingra Committee be brought back under authority, control, management and supervision of the New management of the Unitech Group, with the request to the Committee and directions to ARCs to hand over all the documents forthwith and provide such further assistance as may be required by the Board. All projects shall be treated as per the terms of this Framework for further construction, sale and recovery of pending dues;
- (ii) Permit the new management to go ahead with the appointment of Project Management Consultants (PMCs), initially for taking up the pre-construction activities (e.g. As-is-Assessment, Fore-closure of existing contracts/ work orders, Preparation of Bill of Quantities (BoQs) and Cost Estimates for the balance works in all projects, Preparation of Tender Documents and undertake the bid management process for Award of Contracts to various project executing agencies) and thereafter engage PMCs for Part-B of the Scope of Work, for day-to-day supervision and construction management and that the Management be permitted to Award contracts on an on-going basis;
- (iii) Direct Governments and statutory authorities to grant all necessary approvals, licenses, renewals, sanctions, permits etc. (e.g. Master plan, Layout plans, revised layout plans, building plans/ revised building plans, Completion/ occupation certificates, connections, execution/ registration of conveyance deeds etc.), within 4 weeks of submission of requests, to ensure expeditious and timely completion of projects, without insisting on upfront payment of fees or charges and not to cancel any licenses or permissions granted earlier. The revised layout plans/ project re-configurations may be permitted as per para 4.9.2 of the Resolution Framework. The overdue fees/ charges payable to the authorities as on the cut-off date shall be paid from the Final Surplus;

- (iv) Governments and statutory authorities, like NOIDA, GNOIDA etc. be specifically restricted and barred from interfering with possession of lands leased to Unitech, and allow Unitech to utilize the entire leased land in the best possible manner;
- (v) Direct that the amount deposited with the registry of this Hon'ble Court be released to the account of the Company for meeting expenditure/ commitments as an on-going concern and for the purposes of undertaking construction works. Further, directions be also issued to the Registry to furnish complete details of the moneys received and utilized for specific purposes as the same are required for completion of Accounts for the current FY.
- (vi) Direct the Union of India (in the Ministry of Finance) to consider sanctioning of Priority funding from SWAMIH Investment Fund by relaxation of the eligibility criteria as may be necessary, in the interest of the home-buyers. This may be in the nature of Bridge Finance [para 16.1.13 (xiv) of the RF].
- (vii) As per the RBI instructions dated 02.07.2015, read with the instructions dated 20.08.2020, the Banks are not allowed to open new/ fresh accounts for Companies whose accounts are classified as NPAs or multiple accounts. Since it is proposed in the RF that new dedicated project-wise accounts will be opened to which balance receivables from the home-buyers will be credited and expended on completion of each such project in order to enlist the confidence of home-buyers, opening of such accounts is absolutely essential. The management proposes to maintain such receivables and incur expenditure on the project from such dedicated account till its completion and appropriate the balance amount to the Corporate Pool Account for utilization in other deficit projects. Directions to the RBI/ Banks are solicited for opening of such fresh accounts.
- (viii) Permit the management to communicate the revised/ updated payment plan to the home-buyers and Direct the homebuyers to make payment of the balance purchase consideration, as per the revised schedule to be uploaded at the website of the Company, [www.unitechgroup.com](http://www.unitechgroup.com), from time to time for each project;
- (ix) Direct that Unitech shall be entitled to receive balance amount of purchase consideration, of the residential/ commercial units sold, irrespective of any other agencies' claims, since cash-flow is essential for taking up construction of projects at this stage;

- (x) Personnel/ Professionals/ consultants associated with Unitech Group, in any capacity for the purposes of construction and delivery of projects like architects, designers, contractors etc. be directed to cooperate and handover necessary documents (designs, drawings etc.) to the Management and the contractors to handover the sites free from any encumbrances so as to facilitate further construction (Para 16.1.2 of the RF);
- (xi) State Governments and Local Administration of places where the properties of Unitech Group are located, be directed to proactively support and cooperate in removal of encroachments for securing the assets of the Company;
- (xii) Direct that all judgment debtors and other persons, who are liable to make payments or return funds to the Company, including those cases wherein payments were to be made pursuant to court orders, deposit the amounts in a time bound manner;
- (xiii) Exempt the under-construction projects from the application of provisions of Real Estate (Regulation and Development) Act, 2016 for the time being since the projects are under the direct supervision of this Hon'ble Court;
- (xiv) Clarify that the new management is responsible for the management and control of the Unitech Group (including all its affiliates and trusts etc.) and not limited to Unitech Limited alone as this would enable the management to appoint and remove Directors/ Trustees on many of its subsidiaries/ trusts. As a natural corollary, the directions issued by this Hon'ble Court vide its order dated 20.01.2020 would ipso facto be applicable to the Unitech Group entities;
- (xv) Direct that entities forming a part of the Unitech Group be consolidated, for the purposes of facilitating control, supervision and utilization of resources. Also direct the Central Government (in the Ministry of Corporate Affairs) to consider the proposal of the Management for amalgamation of the subsidiaries of Unitech Limited under Section 233/ 237 of the Companies Act 2013 on an on-going basis;
- (xvi) Necessary statutory filings and compliances with various authorities be allowed, notwithstanding prior non-compliances or regulatory dues. Directions may be issued to the Ministry of Corporate Affairs/ SEBI/ Stock Exchanges to consider waiver of interest and penalties on account of such non-compliances;
- (xvii) Permit the management to explore alternatives for transfer of shares of UPTL in parallel as Sterling & Wilson, already under notice of the Hon'ble Court, appears to be reluctant to proceed ahead with its offer.

- (xviii) Consider issuing necessary directions in terms of para 16.1.13 (xxxii) of the Resolution Framework directing that the terms of the Resolution Framework shall be binding on all the stakeholders of the Unitech Group and no approval would be required from shareholders/ charge-holders;
- (xix) Extension of interim directions and protections granted by this Hon'ble Court vide order dated 20.01.2020.

Settled by:

Mr. N. Venkataraman, ASG

Drawn & filed by:



Anubha Agrawal

On behalf of New Board of Unitech Ltd