



地政總署
法律諮詢及田土轉易處
LEGAL ADVISORY AND
CONVEYANCING OFFICE
LANDS DEPARTMENT

電話 Tel: 2231 3722
圖文傳真 Fax: 2845 1017
電郵地址 Email: ddl@landsd.gov.hk
本署檔號 Our Ref: LD/LACO/HQ 1/410/1993 Pt. 11
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香港北角渣華道三三三號北角政府合署 20 樓
20/F, NORTH POINT GOVERNMENT OFFICES
333 JAVA ROAD, NORTH POINT, HONG KONG

網址 Website : www.landsd.gov.hk

28 June 2021

**Legal Advisory and Conveyancing Office (“LACO”)
Circular Memorandum (“CM”) No. 79A**

Revised Guidelines for Deeds of Mutual Covenant (“DMCs”)

With a view to reflecting the latest requirements of relevant Government departments and fostering good building management practice, some amendments to the DMC Guidelines promulgated under LACO CM No. 79 have been made. The amendments are summarized below.

Guideline No. 18

Pursuant to the Feasibility Study on the Construction Noise Control in Hong Kong, Environmental Protection Department recommended to revise the DMC Guidelines so as to empower building managers to make house rules in order to implement noise abatement measures. Guideline No. 18 is revised to give effect to this recommendation and is set out below.

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| “Environmental protection measures | 18. The manager may make house rules to protect the environment of the development and to implement <u>noise abatement</u> , waste reduction and recycling measures with reference to guidelines on property management issued from time to time by the Director of Environmental Protection.” |
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Guideline No. 34

In view of the issuance of Joint Practice Notes Nos. 1 and 2 of Buildings Department, Lands Department and Planning Department which provide for, inter alia, exemption of green and innovative features from the calculation of gross floor area, conditions

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for exemption in respect of air-conditioner platforms are included. Accordingly, Guideline No. 34(a) is amended as follow.

“Green and innovative features

34. Where a development comprises green and innovative features which are exempted from the calculation of gross floor area or site coverage or both by the Building Authority and the Director, the DMC will include provisions to the following effect:

- (a) (i) balconies and the covered areas beneath the balconies must not be enclosed above safe parapet height other than as under the approved building plans;
- (ii) utility platforms and the covered areas underneath the utility platforms must not be enclosed above safe parapet height other than as under the approved building plans;
- (iii) communal sky gardens, communal podium gardens and greenery areas must be designated as common area;
- (iv) air-conditioner platforms (complying with the criteria set out in Appendix B of the Code of Practice on Access for External Maintenance 2021 or as amended or substituted from time to time) provided on balconies or on utility platforms must be designated as “areas for air-conditioning” and individual air-conditioner platforms must not be erected at the external walls of the building.

To enable LACO to consider compliance with this Guideline, certified copy/copies of the undertaking(s) as required under paragraph 2 of Appendix A to Joint Practice Notes Nos. 1 and 2 of Buildings Department, Lands Department and Planning Department must be submitted to LACO at the time of application.”

Guideline No. 43

To alleviate the impact of construction noise and dust on owners and occupiers of completed units in phased developments, a new Guideline No. 43 as set out below is introduced to impose an obligation on developers to provide temporary noise abatement and dust protection measures during the construction of the uncompleted phase(s) of the developments.

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- “Noise abatement and dust protection measures
43. For phased developments, the DMC must provide for the developer to provide, at his own expense, temporary noise abatement and dust protection measures within the development in relation the units in the completed phase(s) (“the Units”) so as to minimize inconvenience to the owners and occupiers of the Units arising from the continuing construction of the uncompleted phase(s) on the lot.”

Except the amendments mentioned above, LACO CM No. 79 remains in full force and effect. A copy of the revised Guidelines for DMCs and Checklist are attached hereto at Appendix II and Appendix III respectively, which supersede Appendix II and Appendix III to LACO CM No. 79. With immediate effect, the revised Guideline Nos. 18 and 34(a) shall apply to all ongoing as well as new applications for approval of DMCs including sub-DMCs, whereas the new Guideline No. 43 shall apply to all ongoing as well as new applications for approval of DMCs in respect of phased developments. All new applications must be accompanied by a duly completed Checklist in the form attached hereto at Appendix III.

For the avoidance of doubt, the Guidelines issued with LACO CM Nos. 34 and 34A for DMCs in respect of Government Accommodation in private developments remain unchanged.

Copy of this CM and the Appendices may be downloaded from the Lands Department website at www.landsd.gov.hk.



(Alan Fong)
Deputy Director/Legal
for Director of Lands

To : All Solicitors

c.c. Transport and Housing Bureau
Home Affairs Bureau
Home Affairs Department
The Real Estate Developers Association of Hong Kong
Consumer Council
Estate Agents Authority
The Hong Kong Institute of Surveyors
The Hong Kong Institute of Architects

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GUIDELINES FOR DEEDS OF MUTUAL COVENANT (“DMCs”)

FOR APPROVAL OF THE LEGAL ADVISORY & CONVEYANCING OFFICE OF LANDS DEPARTMENT UNDER CONDITIONS OF LAND GRANTS

For the purpose of providing a system of building management in private developments involving the developers and purchasers as co-owners and property managers, the Legal Advisory and Conveyancing Office ("LACO") has drawn up the following guidelines ("Guidelines") for the approval of DMCs on behalf of the Director of Lands ("the Director") where required under conditions of the land grant:-

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| Compliance with BMO and the land grant | <ol style="list-style-type: none">1. <ol style="list-style-type: none">(a) No provision will be approved in a DMC which appears to contradict, overrule or fail to comply with the provisions of the Building Management Ordinance, Cap. 344 (“the BMO”) and the Schedules thereto.(b) No provision will be approved in a DMC which conflicts with or is in breach of the conditions of the land grant.(c) All the owners (including the developer) and the manager must covenant with each other to comply with the conditions of the land grant so long as they remain as owners and manager.(d) <ol style="list-style-type: none">(i) The provisions of Schedules 7 and 8 to the BMO must be incorporated in and form part of the DMC either by reference or by setting them out in full.(ii) For the purpose of sub-paragraph (d)(i) above, it will not be sufficient for the DMC to incorporate provision to the effect that “in the event of any conflict with any provision in the DMC, the provisions of Schedules 7 and 8 to the Building Management Ordinance shall prevail”. |
| Definitions | <ol style="list-style-type: none">2. For the purposes of the Guidelines:<ol style="list-style-type: none">(a) "Owner" must be as defined in the BMO.(b) "Management expenses" means expenses, costs and charges necessarily and reasonably incurred in the management of the development.(c) “Unit” has the same definition as “flat” under the BMO.(d) “Authorized Person” means an authorized person who is appointed under section 4(1)(a) or (2) of the Buildings Ordinance, |

Cap. 123 as a co-ordinator of building works for the development.

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| Common areas | <p>3. (a) The DMC must include a definition of the common areas and common facilities ("common areas"). Unless otherwise justified, the common parts specified in Schedule 1 to the BMO must form part of the common areas. Undivided shares must be allocated to all the common areas and those shares together with the common areas must be assigned to and vested in the manager free of costs or consideration as trustee for all owners upon execution of the DMC. The manager must assign the undivided shares free of costs or consideration to his successor as manager on termination of his appointment, or to the Owners' Corporation at any time, if so required by it.</p> <p>(b) Plans showing the common areas must be annexed to the DMC and certified as to their accuracy by or on behalf of the Authorized Person. LACO will not check the accuracy of the plans or any calculations in relation to them. A copy of the plans must be kept in the management office for inspection by the owners during normal office hours free of costs and charges.</p> <p>(c) Plans showing the common areas certified by the Authorized Person must be submitted to LACO at the time of application.</p> |
| Parking spaces and related common areas | <p>4. (a) Subject to the conditions of the land grant and sub-paragraphs (b) and (c) below, the whole of the car park areas, except those parking spaces shown and delineated on the car park layout plan approved by the Building Authority ("parking spaces") must form part of the common areas.</p> <p>(b) The following spaces must form part of the common areas:</p> <ul style="list-style-type: none"> (i) parking spaces in residential developments designated for use by visitors of residents; (ii) loading and unloading spaces provided in accordance with the minimum or fixed rate specified in the conditions of the land grant; (iii) spaces which are intended for the benefit of owners as a whole or otherwise not of any individual owner, e.g. refuse collection vehicle spaces, circulation and manoeuvring spaces; (iv) bicycle parking spaces. <p>(c) If the developer retains ownership of the whole car park areas,</p> |

sub-paragraphs (a) and (b) above will not apply and the developer will be solely responsible for the management and maintenance of the car park. Upon the sale of the car park areas (except as a whole), car park common areas must be designated by way of a sub-DMC in compliance with sub-paragraphs (a) and (b) above.

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| No conversion of common areas | 5. | (a) No owner (including the developer) may convert any of the common areas to his own use or for his own benefit unless the approval of the Owners' Committee has been obtained. Any payment received for the approval must be credited to the Special Fund. |
| No conversion to common areas | (b) | No owner (including the developer) will have the right to convert or designate any of his own areas as common areas unless the approval by a resolution of owners at an owners' meeting convened under the DMC has been obtained. No owner (including the developer) and no manager will have the right to re-convert or re-designate the common areas to his or its own use or benefit. |
| Allocation of undivided shares and management shares | 6. | <p>(a) Subject to sub-paragraphs (c) and (d) below, the allocation of undivided shares and management shares will be calculated by reference to the gross floor area of a unit in proportion to the gross floor area of the development as certified by the Authorized Person. For the purpose of this Guideline, gross floor area includes any gross floor area which has been exempted under the conditions of the land grant or the Buildings Ordinance, Cap. 123. If any other basis is proposed for the allocation of undivided shares and management shares, full justification for the proposal must be produced.</p> <p>(b) In the allocation of undivided shares and management shares, LACO will have to be satisfied that the use of any basis other than gross floor area will not result in disproportionate management charges being imposed on or voting rights being granted to e.g. the owners of any specific parts of a development or the prevention or hindrance of incorporation of an Owners' Corporation.</p> <p>(c) The allocation of undivided shares and management shares to parking spaces, gardens, flat roofs, balconies, utility platforms and other similar spaces attached to a unit may be made on a nominal basis/lesser ratio than a strict gross floor area basis, provided that each type of these spaces is calculated on the same basis.</p> <p>(d) The undivided shares to be allocated to the common areas must be made on a nominal basis.</p> |
| Liability and rights | 7. | The undivided shares allocated to the common areas will not carry |

in respect of common areas		any liability to pay charges under the DMC or any voting rights at any meeting whether under the DMC, the BMO or otherwise nor will those undivided shares be taken into account for the purpose of calculating the quorum of any meeting.
Manager's appointment	8.	<p>(a) Subject to the provisions of the BMO, the initial period of management by the first manager must not exceed two years from the date of appointment under the DMC.</p> <p>(b) Prior to the formation of the Owners' Corporation, the Owners' Committee may at any time terminate the manager's appointment without compensation by a resolution passed by a majority of votes of owners voting either personally or by proxy in an owners' meeting and supported by owners of not less than 50% of the undivided share in aggregate (excluding the undivided shares allocated to the common areas) and by giving the manager 3 months' notice in writing.</p>
First owners' meetings	9.	The manager must call the first meeting of owners as soon as possible, but in any event not later than 9 months after the date of the DMC (and to call further and subsequent meetings if required), which meeting must appoint a chairman and committee of owners or must appoint a management committee for the purpose of forming an Owners' Corporation under the BMO.
Owners' Corporation etc. to replace Owners' Committee and meetings	10.	During the existence of an Owners' Corporation, the general meeting of the Owners' Corporation convened under the BMO will take the place of the owners' meeting convened under the DMC, and where a management committee of the Owners' Corporation is or has been appointed, the management committee will take the place of the Owners' Committee.
Manager to represent owners	11.	Subject to the provisions of the BMO, the manager will have the authority to act for and on behalf of all owners in accordance with the provisions of the DMC.
Manager's right to enter unit	12.	The manager will, on reasonable notice (except in an emergency), be allowed to enter any unit for the purpose of carrying out necessary repairs to the development or to abate any hazard or nuisance which does or may affect the common areas or other owners. The DMC must provide for the manager repairing (at his own costs and expense) any damage so caused and for his liability for the negligent, wilful or criminal acts of the manager, employees, contractors etc.
Insurance	13.	<p>(a) The manager (unless otherwise directed by the Owners' Corporation) will be responsible for taking out and updating</p>

insurance to the full new reinstatement value in respect of loss or damage by fire and other risks in respect of the common areas and also for insurance covering public liability, occupier's liability and employer's liability. The Director will not object to provisions for the manager procuring block insurance for the entire development including those areas which are not the common areas.

- (b) The Director will not insist that the insurance over the employer's liability taken out by the manager must only cover the employees employed within or exclusively in connection with the management of the development.

Procurement of
services

- 14. (a) Except with the prior approval by a resolution of owners at an owners' meeting convened under the DMC, the manager will not carry out any improvements to facilities or services which involve expenditure in excess of 10% of the current annual management budget.
- (b) Subject to provisions in Schedule 7 to the BMO, the procurement of supplies, goods, or services by the manager or the Owners' Committee that involves an amount in excess of or likely to be in excess of \$200,000 (or such other sum as the Secretary for Home Affairs may specify by notice in the Gazette) or an amount which is or is likely to be more than 20% of the annual budget (or such other percentage as the Secretary for Home Affairs may specify by notice in the Gazette), whichever is the lesser, must be by invitation to tender and the standards and guidelines as may be specified in the Code of Practice referred to in section 20A of the BMO will apply to the manager or the Owners' Committee with any appropriate variations.

Employment of
agents etc.

- 15. The manager may appoint or employ agents, contractors or sub-managers (including professional property management companies) to carry out various aspects of the management works or management works in respect of certain area(s) of the development but the manager must not transfer or assign his duties or obligations under the DMC to any of those persons and they must remain responsible to the manager. The manager must at all times be responsible for the management and control of the whole development and no provision in the DMC will be approved which takes away or reduces that responsibility.

Manager's liability

- 16. The DMC must not exclude the liability of the manager to the owners for any act or omission involving criminal liability, dishonesty or negligence on the part of the manager or his employees, agents or contractors and no owner will be required to indemnify the manager or his employees, agents or contractors

from and against any action, claim etc. arising out of any such act or omission.

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| House rules | 17. | The manager may make house rules before the formation of an Owners' Committee. Amendments to the house rules may be made by the manager with the approval of the Owners' Committee (if any). The house rules and any amendments must not be inconsistent with or contravene the DMC, the BMO or the conditions of the land grant. | | | | | | |
| Environmental protection measures | 18. | The manager may make house rules to protect the environment of the development and to implement noise abatement, waste reduction and recycling measures with reference to guidelines on property management issued from time to time by the Director of Environmental Protection. | | | | | | |
| Manager's remuneration | 19. (a) | <p>(i) For residential developments, the manager's remuneration must not exceed a percentage of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development. The percentage must be based on the total number of residential units and parking spaces in the development and must not exceed the following:</p> <table border="0" style="margin-left: 40px;"> <tr> <td>20 residential units and parking spaces or below</td> <td style="text-align: right;">20%</td> </tr> <tr> <td>21 to 100 residential units and parking spaces</td> <td style="text-align: right;">15%</td> </tr> <tr> <td>101 residential units and parking spaces or above</td> <td style="text-align: right;">10%</td> </tr> </table> <p>(ii) For non-residential developments, the manager's remuneration must not exceed 15% of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development.</p> <p>(iii) For composite developments comprising both residential and non-residential units, sub-paragraph (a)(i) above will apply as if each non-residential unit is a residential unit.</p> <p>(b) No variation of the percentages in sub-paragraph (a) above may be made except with approval by a resolution of owners at an owners' meeting convened under the DMC.</p> <p>(c) For the purpose of calculating the manager's remuneration, the total expenses, costs and charges necessarily and reasonably incurred in the management of the development or any portion of it must exclude (i) the manager's remuneration itself and (ii) any capital expenditure or expenditure drawn out of the Special Fund provided that by a resolution of owners at an owners' meeting</p> | 20 residential units and parking spaces or below | 20% | 21 to 100 residential units and parking spaces | 15% | 101 residential units and parking spaces or above | 10% |
| 20 residential units and parking spaces or below | 20% | | | | | | | |
| 21 to 100 residential units and parking spaces | 15% | | | | | | | |
| 101 residential units and parking spaces or above | 10% | | | | | | | |

convened under the DMC, any capital expenditure or expenditure drawn out of the Special Fund may be included for calculating the manager's remuneration at the rate applicable under sub-paragraph (a) or (b) above or at any lower rate as considered appropriate by the owners.

Owners'
contribution

20. (a) Except where the developer has made payments in accordance with Guideline 23, provisions may be made in the DMC for the first owner of each unit (i.e. assignee from the developer) to pay to the manager the following amounts:
- (i) a refundable or transferable deposit of not more than 3/12 of the first year's budgeted management expenses;
 - (ii) an advance payment of management fees of not more than 2/12 of the first year's budgeted management expenses; and
 - (iii) a debris removal charge of not more than 1/12 of the first year's budgeted management expenses in the case of a residential unit or 3/12 in the case of a non-residential unit.
- (b) All payments, deposits, charges and contributions payable under the DMC by the first owners which are neither transferable nor refundable (including contribution to the Special Fund), must not exceed in total 5/12 for residential units or 7/12 for non-residential units of the first year's budgeted management expenses.
- (c) The Director will not object to a provision requiring the owners to further contribute to the deposit referred to in sub-paragraph (a)(i) above so as to make it up to not more than 25% of any subsequent current year's budgeted management expenses per unit.
- (d) Any monies paid as debris removal charge not used to pay for debris collection or removal must be credited to the Special Fund.
- (e) The Director will not raise any question as to the actual amount of the initial deposit of management fee or debris removal charge or the Special Fund.

Special Fund for
capital etc.
expenditure

21. (a) The DMC must provide for the establishment and maintenance of one special fund ("the Special Fund") for the purpose of paragraph 4 of Schedule 7 to the BMO.
- (b) The Special Fund will be held by the manager as trustee for all owners, to provide for expenditure of a capital nature or of a kind not expected to be incurred annually, which includes, but is not limited to, expenses for the renovation, improvement and repair of

the common areas, the purchase, setting up, replacement, improvement and addition of installations, systems, equipment, tools, plant and machineries for the common areas and the costs of the relevant investigation works and professional services.

- (c) The payments made by the owners towards the Special Fund are neither refundable to any owner by the manager nor transferable to any new owner.
- (d) (i) Except where the developer has made payments in accordance with Guideline 23, as an initial contribution to the Special Fund, the first owner of each unit must, upon the assignment of the unit from the developer, pay to the manager for the Special Fund an amount equivalent to 2/12 of the first year's budgeted management expenses.
- (ii) Each owner must covenant with the other owners to make further periodic contributions to the Special Fund. The amount to be contributed in each financial year and the time when those contributions will be payable will be determined by a resolution of owners at an owners' meeting convened under the DMC.
- (e) All monies received for the Special Fund must be deposited by the manager with a bank within the meaning of section 2 of the Banking Ordinance, Cap. 155 in an interest-bearing account designated for the purposes of the Special Fund. Except in a situation considered by the manager to be an emergency, money must not be paid out of the Special Fund unless it is for a purpose approved by the Owners' Committee. The manager must not use the Special Fund for the payment of any outstanding management expenses arising from or in connection with the day-to-day management of the development.

Owners' liability
for management
expenses

- 22. (a) No owner may be called upon to pay more than his appropriate share of management expenses, having regard to the number of undivided or management shares, as the case may be, allocated to the unit.
- (b) The developer must make payments and contributions for those expenses which are of a recurrent nature for those units and undivided shares unsold, provided however that a developer will not be obliged to make payments and contributions in respect of units and undivided shares allocated to a separate building or phase, the construction of which has not been completed, except to the extent that the building or phase benefits from provisions in the DMC as to management and maintenance (e.g. as to the costs

of managing and maintaining slopes or as to security etc provided by the management of the completed parts) of the development.

- (c) All outgoings including management expenses and any Government rent up to and inclusive of the date of assignment of the unit must be paid by the developer. An owner must not be required to make any payment or reimburse the developer for these outgoings.

Developer's
contribution to
fees and deposit

23. The developer must make the initial contribution to the Special Fund and pay the management fee deposit and debris removal charge if he remains the owner of those undivided shares allocated to units in that part of the development the construction of which has been completed and which remain unsold 3 months after (i) execution of the DMC or (ii) the date on which he is in a position validly to assign those undivided shares (i.e. when the consent to assign or certificate of compliance has been issued), whichever is the later.

Management
budget and
accounts

24. For a development comprising residential units, non-residential units, parking spaces or any combination of them, the manager must keep separate management accounts and budgets for each part. The owners of the residential units, non-residential units and parking spaces will only be liable to contribute to the management and maintenance costs of their respective parts (e.g. owners of residential units will only be responsible for residential common areas). All owners will be liable for development common areas.

Audit of
accounts

25. Prior to the formation of the Owners' Corporation, the owners at an owners' meeting convened under the DMC must have power to require the annual accounts to be audited by an independent auditor of their choice.

Manager's
consent

26. Where the manager's consent is required under the DMC, the DMC must provide that it must not be unreasonably withheld and that the manager must not charge any fee other than a reasonable administrative fee for issuing the consent. The fee must be credited to the Special Fund.

Interest and
collection
charge

27. Interest at a rate not exceeding 2% per annum above the prime rate from time to time specified by the Hong Kong and Shanghai Banking Corporation Limited and a collection charge not exceeding 10% of the amount due may be imposed on any owner failing to pay sums due under the DMC within 30 days of demand and the amounts of such interest and collection charge plus any legal costs (on a solicitor and own client basis) involved in recovering them may be the subject of a charge on the owner's

undivided shares. All interest and collection charges received must be credited to the Special Fund.

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| Utilities and management services | <p>28. (a) There must be no provision in the DMC for interrupting the supply of electricity, water, gas, telecommunications or other utilities to any unit or preventing access to the unit by reason of the owner of that unit failing to pay any fees or to comply with any other provisions under the DMC.</p> <p>(b) The manager may discontinue providing management services to owners who fail to pay fees or to comply with any other provisions under the DMC and the manager may, if the DMC provides for it, register and enforce a charge against the interest of an owner who fails to pay any sum which is payable to the manager under the DMC.</p> |
| Sub-DMC | <p>29. The developer may reserve rights to execute sub-DMCs in respect of separate towers, phases etc. All sub-DMCs (as well as the principal DMC) require the approval of the Director but where the Director is satisfied, upon submission of the draft sub-DMC to the Director, that the sub-DMC relates only to the internal sub-division of an existing unit and by the sub-DMC there will be no alteration to common areas or liability for management or other charges under the principal DMC, the Director may, in his absolute discretion, waive the requirement of approval of the sub-DMC.</p> |
| Reservation of rights | <p>30. (a) The developer/manager is permitted to reserve rights for himself, his licensees or other third parties to install or affix chimneys, flues, pipes or any other structures or facilities on or within the common areas provided that the written approval by a resolution of owners at an owners' meeting convened under the DMC has been obtained before the exercise of the rights. Any payment received for the approval must be credited to the Special Fund.</p> <p>(b) LACO will decide on a case by case basis whether or not any other rights may be reserved to the developer and whether or not the exercise of these rights should only be permitted subject to the approval of the Owners' Committee or of owners at an owners' meeting, if at all.</p> |
| Retained Areas | <p>31. Subject to the conditions of the land grant, the developer may reserve rights to retain for his own use any unsold part or parts of the lot not being common areas ("the Retained Areas") provided that:</p> <p>(a) the Retained Areas and their proposed use must be clearly defined</p> |

and identified in the DMC; and

- (b) the Retained Areas must be allocated a number of undivided shares and management shares on the same basis as set out in Guideline 6, and the developer must remain liable to contribute to the management and other charges and payments for them so long as it retains them.

No structural
alterations

32. (a) An owner must not make any structural alteration which will interfere with or affect the rights of other owners. No provision will be approved in the DMC which prevents an owner from taking legal action against another owner in this respect.
- (b) Where the land grant contains restrictions on the minimum number, and/or the size, of residential units, the DMC must incorporate provisions to the following effect:
 - (i) no owner shall carry out or permit or suffer to be carried out any works in connection with any residential unit, including but not limited to demolition or alteration of any partition wall or any floor or roof slab or any partition structure, which will result in such unit being internally linked to and accessible from any adjoining or adjacent residential unit, except with the prior written consent of the Director or any other Government authority in place of him from time to time, which consent may be given or withheld at his absolute discretion and if given, may be subject to such terms and conditions (including payment of fees) as may be imposed by him at his absolute discretion; and
 - (ii) the manager shall deposit in the management office the record provided by the Director or any other Government authority in place of him from time to time of the information relating to the consent given under the provision in the DMC referred to in (i) above for inspection by all owners free of costs and for taking copies at their own expense and on payment of a reasonable charge, all charges received to be credited to the Special Fund.

- (c) Where the land grant contains restrictions on the minimum number, and/or the size, of residential units and also a restriction on merging of residential units without the prior written consent of the Director, the DMC must incorporate provision to the following effect:

The manager shall deposit in the management office the record provided by the Director of the information relating to the consent given under the land grant for inspection by all owners free of costs and for taking copies at their own expense and on payment of a reasonable charge, all charges received to be credited to the Special Fund.

- | | | |
|-------------------------------|-----|--|
| Reinstatement | 33. | The DMC must provide that, if the whole or any part of the development has been damaged by fire, typhoon, earthquake, subsidence or other causes rendering it substantially unfit for use or habitation or occupation, the owners of not less than 75% of the undivided shares allocated to that damaged part(s) of the development (excluding the undivided shares allocated to the common areas) may convene a meeting and decide by a resolution of not less than 75% of those present at the meeting whether or not to rebuild or reinstate the damaged part(s) of the development. The resolution is to be binding upon all the owners of the damaged part(s). |
| Green and innovative features | 34. | <p>Where a development comprises green and innovative features which are exempted from the calculation of gross floor area or site coverage or both by the Building Authority and the Director, the DMC will include provisions to the following effect:</p> <ul style="list-style-type: none"> (a) (i) balconies and the covered areas beneath the balconies must not be enclosed above safe parapet height other than as under the approved building plans; (ii) utility platforms and the covered areas underneath the utility platforms must not be enclosed above safe parapet height other than as under the approved building plans; (iii) communal sky gardens, communal podium gardens and greenery areas must be designated as common areas; (iv) air-conditioner platforms (complying with the criteria set out in Appendix B of the Code of Practice on Access for External Maintenance 2021 or as amended or substituted from time to time) provided on balconies or on utility platforms must be designated as “areas for air- |

conditioning” and individual air-conditioner platforms must not be erected at the external walls of the building.

To enable LACO to consider compliance with this Guideline, certified copy/copies of the undertaking(s) as required under paragraph 2 of Appendix A to Joint Practice Notes Nos. 1 and 2 of Buildings Department, Lands Department and Planning Department must be submitted to LACO at the time of application.

- (b) Except with the prior consent of the Building Authority, communal sky gardens must not be used for any purposes or by any persons other than for the following purposes and by the following persons:
 - (i) communal sky gardens must have natural ventilation, greenery and recreational garden space for communal use;
 - (ii) communal sky gardens in residential developments must be for the common use and benefit of the residents, tenants and their visitors only;
 - (iii) communal sky gardens in non-residential developments must be for the common use and benefit of the owners, occupiers, tenants and their visitors only.
- (c) Except with the prior consent of the Building Authority, communal podium gardens in non-residential developments must not be used for any purposes or by any persons other than for the following purposes and by the following persons:
 - (i) communal podium gardens must not be used for any purpose other than as a sitting-out area;
 - (ii) communal podium gardens must be for the common use and benefit of the owners, occupiers, tenants and their visitors only.
- (d) There must be conditions in the DMC for the control, operation, financial support and maintenance of the green and innovative features. For features such as balconies and utility platforms of which an owner has the right to the exclusive possession or the exclusive right to the use, occupation and enjoyment, the owner must be responsible for the financial support and maintenance of the same.

- (e) The location of the green and innovative features should be clearly identified. If the location is identified by plans, the accuracy of the plans must be certified by or on behalf of the Authorized Person.

- Slope maintenance 35. (a) The owners must at their own expense maintain and carry out all works in respect of any and all slopes, slope treatment works, retaining walls and other structures (collectively “slope structures”) within or outside the lot as required by the conditions of the land grant and in accordance with “Geoguide 5 - Guide to Slope Maintenance” issued by the Geotechnical Engineering Office (as amended or substituted from time to time) and the maintenance manual for the slope structures ("slope maintenance manual") prepared in accordance with Geoguide 5.

For the purpose of this Guideline, it is not necessary for the developer to submit the slope maintenance manual to LACO, or annex a copy of the slope maintenance manual to the DMC.

- (b) If there is one or more slope structures, a plan of a scale of not less than 1:500 showing (for identification purposes only) all the slope structures existing at the date of the DMC, certified by the Authorized Person that it includes all the slope structures must be annexed to the DMC. If there is no slope structure, a certificate by the Authorized Person certifying no slope structures is required to be submitted to LACO at the time of application.

For the purpose of this Guideline, it is not necessary for the developer to submit the slope structures plan to LACO.

- (c) The manager (which for this purpose must include the Owners' Corporation) must be given full authority by the owners to engage suitable qualified personnel to inspect, keep and maintain in good substantial repair and condition, and carry out any necessary works in respect of, the slope structures in compliance with the conditions of the land grant and in accordance with the slope maintenance manual and all guidelines issued from time to time by the appropriate Government departments regarding the maintenance of the slope structures.
- (d) The DMC must have adequate provisions for the payment to the manager by all owners of all costs lawfully incurred or to be incurred by the manager in carrying out maintenance, repair and any other works in respect of the slope structures.

- (e) The manager must not be made personally liable for carrying out these requirements of the conditions of the land grant, which must remain the responsibility of the owners if, having used all reasonable endeavours, the manager has not been able to collect the costs of the required works from all owners.
- (f) The DMC must provide for the developer to deposit a full copy of the slope maintenance manual in the management office within one month after the date of the DMC for inspection by all owners free of charge and taking copies upon payment of a reasonable charge. All charges received must be credited to the Special Fund.

Maintenance of
Works and
Installations

36. (a) There must be incorporated in the DMC a schedule of all major works and installations ("the Works and Installations") in the development, which will require regular maintenance on a recurrent basis. The schedule must include the following items:
- (i) structural elements;
 - (ii) external wall finishes and roofing materials;
 - (iii) fire safety elements;
 - (iv) the slope structures (if applicable);
 - (v) plumbing system;
 - (vi) drainage system;
 - (vii) fire services installations and equipment;
 - (viii) electrical wiring system;
 - (ix) lift installations (if applicable);
 - (x) gas supply system;
 - (xi) window installations; and
 - (xii) other major items (e.g. central air-conditioning and ventilation system, escalators etc.)
- (b) The developer must compile for the reference of the owners and the manager a maintenance manual for the Works and Installations ("maintenance manual for the Works and Installations") setting out the following details:
- (i) As-built record plans of the building and services installations together with the necessary technical information (such as specifications of materials and design standard) for maintenance of all facilities and equipment;
 - (ii) All warranties and guarantees provided by contractors (together with the names of the companies providing the warranty and the contact telephone numbers) in respect of all facilities and equipment;
 - (iii) Recommended maintenance strategy and procedures;

- (iv) A list of items of the Works and Installations requiring routine maintenance;
- (v) Recommended frequency of routine maintenance inspection;
- (vi) Checklist and typical inspection record sheets for routine maintenance inspection; and
- (vii) Recommended maintenance cycle of the Works and Installations.

For the purpose of this Guideline, it is not necessary for the developer to submit the maintenance manual for the Works and Installation to LACO, or annex a copy of the maintenance manual for the Works and Installations to the DMC.

- (c) The developer must deposit a full copy of the maintenance manual for the Works and Installations in the management office within one month after the date of the DMC for inspection by all owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.
- (d) The owners must at their own expense inspect, maintain and carry out all necessary works for the maintenance of the development and their own units including the Works and Installations.
- (e) All costs incidental to the preparation of the schedule and the maintenance manual for the Works and Installations will be borne by the developer.
- (f)
 - (i) Provisions must be made in the DMC to provide for future revisions to the schedule and the maintenance manual for the Works and Installations as may be necessary (e.g. the addition of works and installations in the development, the updating of maintenance strategies in step with changing requirements etc.).
 - (ii) The owners may, by a resolution of owners at an owners' meeting convened under the DMC, decide on revisions to be made to the schedule and the maintenance manual for the Works and Installations, in which event the manager must procure from a qualified professional or consultant the revised schedule and the revised maintenance manual for the Works and Installations within such time as may be

prescribed by the owners in an owners' meeting convened under the DMC.

- (iii) All costs incidental to the preparation of the revised schedule and the revised maintenance manual for the Works and Installations will be paid out of the Special Fund.
- (iv) The manager must deposit the revised maintenance manual for the Works and Installations in the management office within one month after the date of its preparation for inspection by all owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.

Telecommunications network areas	37.	<p>(a) Areas for the installation or use of aerial broadcast distribution or telecommunications network facilities must form part of the common areas.</p> <p>(b) The DMC must provide that contracts for the installation or use of aerial broadcast distribution or telecommunications network facilities and contracts for the provision of broadcast distribution network or telecommunications network services to be entered into by the manager must be subject to the following conditions:</p> <ul style="list-style-type: none"> (i) the term of the contract will not exceed 3 years; (ii) the right to be granted under the contract must be non-exclusive and must provide for sharing the use of the facilities and network with other service providers; and (iii) no owner is required to make any payment in any form attributable to the installation or provision of the facilities or services, unless he is a subscriber to the relevant service.
Address for service of notice	38.	All owners of undivided shares who do not occupy the units to which those shares relate must provide the manager with an address in Hong Kong for service of notices under the DMC.
Chinese translation of DMC	39.	<p>(a) The developer must at his own cost provide a direct translation in Chinese of the DMC. The developer must deposit a copy of the DMC and the Chinese translation in the management office within one month after the date of the DMC for inspection by all owners free of costs and for taking copies at their own expense and upon payment of a reasonable charge. All charges received must be credited to the Special Fund. The DMC must specify that the version of the DMC approved by the Director will prevail in the</p>

event of a dispute as to the effect of the Chinese translation and the English language document.

Copies of Schedules 7 and 8 to BMO	(b)	The developer must deposit a copy of Schedules 7 and 8 to the BMO (English and Chinese versions) in the management office for reference by all owners free of costs and for taking copies at their own expense and upon payment of a reasonable charge. All charges received must be credited to the Special Fund.
Pets	40.	The Director will not be concerned whether or not pets are permitted or subject to any controls.
External design	41.	The Director will not be concerned as to any arrangements or restrictions on the design, decoration or colour schemes of any parts of the development.
Fireman's lift lobby and protected lobby to required staircase	42.	Any lift lobby serving a fireman's lift ("fireman's lift lobby") and any protected lobby to a required staircase must be designated as common areas. Partial designation of such fireman's lift lobby and protected lobby to a required staircase as common areas (with the rest forming part of the adjoining residential unit) would not be accepted.
Noise abatement and dust protection measures	43	For phased developments, the DMC must provide for the developer to provide, at his own expense, temporary noise abatement and dust protection measures within the development in relation to the units in the completed phase(s) ("the Units") so as to minimize inconvenience to the owners and occupiers of the Units arising from the continuing construction of the uncompleted phase(s) on the lot.

Notes to Guidelines

- (1) The Guidelines apply to all developments regardless of user and size. LACO reserves the right to approve or reject any request for deviation from the Guidelines or to impose any other requirements as may be appropriate to the circumstances of any particular case. A request for deviation from the Guidelines must be fully justified.
- (2) The Guidelines are not intended to be incorporated into DMCs verbatim, but to indicate a broad framework of what is required in a straightforward case for the approval of the Director under the conditions of the land grant. The wording used should be suitably adapted for particular cases. As far as the DMC complies with the Guidelines, and unless a provision in the DMC appears, on the face of it, to be contrary to the spirit of the Guidelines, LACO will not be concerned with the detailed drafting of the DMC.
- (3) The checklist in support of the application for the approval of DMC or sub-DMC must be signed personally by the solicitor responsible for the application.
- (4) A Certificate by the Authorized Person setting out clearly the basis of allocation of undivided shares and management shares must be submitted to LACO. The schedules of undivided shares and management shares to the DMC must tally with the allocation set out in the Certificate and should be carefully checked for accuracy, as LACO cannot guarantee the calculations and takes no responsibility for them.

Legal Advisory and Conveyancing Office
Lands Department
June 2021

**CHECKLIST FOR APPROVAL OF DEEDS OF
MUTUAL COVENANT AND MANAGEMENT AGREEMENT ("DMC")
UNDER LACO CM NO. 79A**

(to be completed and signed personally by the solicitor responsible for the application)

(A) Documents Submitted

		For Official Use Only	
		<u>Checked</u>	<u>Remarks</u>
<p>● The application will not be entertained if this Checklist and the documents in Items 1, 2, 3, 4, 6 and 7 of this Part (A) are not submitted at the time of application. (No submission of documents in Items 1 and 2 is required if one set of the land grant conditions together with the up-to-date printout of records of owners has already been enclosed with the application for consent to sell submitted at the same time).</p> <p>● <input checked="" type="checkbox"/> Please confirm submission by a tick</p>			
<input type="checkbox"/> 1.	One full set of land grant conditions certified by the Land Registrar or a solicitor		
<input type="checkbox"/> 2.	Up-to-date printout of records of owners certified by the Land Registrar or a solicitor		
<input type="checkbox"/> 3.	Draft DMC (in duplicate)		
<input type="checkbox"/> 4.	Plans showing the common areas certified by the Authorized Person (Guideline 3 refers)		
<input type="checkbox"/> 5.	Authorized Person's Certificate dated _____ on allocation of undivided shares and management shares (Guideline 6 refers)		
<input type="checkbox"/> 6.	Copy/copies of the undertaking(s) as required under paragraph 2 of Appendix A to Joint Practice Notes Nos. 1 and 2 of Buildings Department, Lands Department and Planning Department as certified by the Land Registrar or a solicitor (if applicable) (Guideline 34 refers)		
<input type="checkbox"/> 7.	Authorized Person's Certificate dated _____ as to no slope structure (if applicable) (Guideline 35 refers)		
<input type="checkbox"/> 8.	Others (Please specify)		

(B) General Information

1.	Lot No. (in English and Chinese)	
2.	Conditions No./New Grant No. (with date)	
3.	Lease term	
4.	User of lot	S.C. No(s).
5.	No. of units in the development (e.g. XX residential units and YY parking spaces)	
6.	Name of development (in English and Chinese)	
7.	Address of development (in English and Chinese)	
8.	Name of developer (in English and Chinese)	
9.	Name of parent company (in English and Chinese)	
10.	Are Government Accommodation required to be provided?	No/Yes - If yes, please also complete Checklist attached to LACO CM 34
11.	Restriction on alienation Clause	S.C. No(s).
12.	DMC Clause : Approval of DMC required under	S.C. No(s).
13.	Other special requirement(s) for DMC under	S.C. No(s).
14.	Draft DMC submitted is a Principal DMC/Sub-DMC (if Sub-DMC, please indicate the date of approval of the Principal DMC)	
15.	Any proposed deviations from DMC Guidelines?	No/Yes - If yes, please quote Guideline Nos. and provide justification. Separate loose sheets may be added if necessary.
16.	Does the floor numbering conform to the numbering system specified in Practice Note No.ADV-3 issued by the Building Authority in May 2010 (as may be varied from time to time)?	<p>No/Yes - If not, the Authorized Person should give :</p> <p>(a) a written confirmation that the floor numbering of the development is in compliance with the latest approved building plans; and</p> <p>(b) an undertaking to the Director of Lands (“the Director”) to the effect that he/she will inform LACO immediately if there is any change to such floor numbering in subsequently approved building plans.</p>

(C) DMC Guidelines**I – Compliance with BMO and conditions of the land grant**

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
1. (a)	No provision will be approved in a DMC which appears to contradict, overrule or fail to comply with the provisions of the Building Management Ordinance, Cap. 344 (“the BMO”) and the Schedules thereto.		
(b)	No provision will be approved in a DMC which conflicts with or is in breach of the conditions of the land grant.		
(c)	All the owners (including the developer) and the manager must covenant with each other to comply with the conditions of the land grant so long as they remain as owners and manager.		
(d)	<p>(i) The provisions of Schedules 7 and 8 to the BMO must be incorporated in and form part of the DMC either by reference or by setting them out in full.</p> <p>(ii) For the purpose of sub-paragraph (d)(i) above, it will not be sufficient for the DMC to incorporate provision to the effect that “in the event of any conflict with any provision in the DMC, the provisions of Schedules 7 and 8 to the Building Management Ordinance shall prevail”.</p> <p>(Where the DMC sets out in full the provisions of Schedules 7 and 8 to the BMO :</p> <p>(a) the Annex to the Checklist must be completed;</p> <p>(b) the DMC must not contain provision to the effect that “Schedules 7 and 8 to the Building Management Ordinance shall be incorporated in and form part of the DMC”.)</p>		

II – Definitions

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
2.	For the purposes of the Guidelines:		
(a)	"Owner" must be as defined in the BMO.		
(b)	"Management expenses" means expenses, costs and charges necessarily and reasonably incurred in the management of the development.		
(c)	"Unit" has the same definition as "flat" under the BMO.		
(d)	"Authorized Person" means an authorized person who is appointed under section 4(1)(a) or (2) of the Buildings Ordinance, Cap.123 as a co-ordinator of building works for the development.		

III - Common Areas

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
3. (a)	The DMC must include a definition of the common areas and common facilities ("common areas"). Unless otherwise justified, the common parts specified in Schedule 1 to the BMO must form part of the common areas. Undivided shares must be allocated to all the common areas and those shares together with the common areas must be assigned to and vested in the manager free of costs or consideration as trustee for all owners upon execution of the DMC. The manager must assign the undivided shares free of costs or consideration to his successor as manager on termination of his appointment, or to the Owners' Corporation at any time, if so required by it.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
(b)	Plans showing the common areas must be annexed to the DMC and certified as to their accuracy by or on behalf of the Authorized Person. LACO will not check the accuracy of the plans or any calculations in relation to them. A copy of the plans must be kept in the management office for inspection by the owners during normal office hours free of costs and charges.		
(c)	Plans showing the common areas certified by the Authorized Person must be submitted to LACO at the time of application.		
4. (a)	Subject to the conditions of the land grant and sub-paragraphs (b) and (c) below, the whole of the car park areas, except those parking spaces shown and delineated on the car park layout plan approved by the Building Authority (“parking spaces”) must form part of the common areas.		
(b)	The following spaces must form part of the common areas: <ul style="list-style-type: none"> (i) parking spaces in residential developments designated for use by visitors of residents; (ii) loading and unloading spaces provided in accordance with the minimum or fixed rate specified in the conditions of the land grant; (iii) spaces which are intended for the benefit of owners as a whole or otherwise not of any individual owner, e.g. refuse collection vehicle spaces, circulation and manoeuvring spaces; and (iv) bicycle parking spaces. 		
(c)	If the developer retains ownership of the whole car park areas, sub-paragraphs (a) and (b) above will not apply and the developer will be solely responsible for the management and maintenance of the car park. Upon the sale of the car park areas (except as a whole), car park common areas must be designated by way of a sub-DMC in compliance with sub-paragraphs (a) and (b) above.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
5. (a)	No owner (including the developer) may convert any of the common areas to his own use or for his own benefit unless the approval of the Owners' Committee has been obtained. Any payment received for the approval must be credited to the Special Fund.		
(b)	No owner (including the developer) will have the right to convert or designate any of his own areas as common areas unless the approval by a resolution of owners at an owners' meeting convened under the DMC has been obtained. No owner (including the developer) and no manager will have the right to re-convert or re-designate the common areas to his or its own use or benefit.		

IV - Allocation of Undivided Shares and Management Shares

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
6. (a)	<p>Subject to sub-paragraphs (c) and (d) below, the allocation of undivided shares and management shares will be calculated by reference to the gross floor area of a unit in proportion to the gross floor area of the development as certified by the Authorized Person. For the purpose of this Guideline, gross floor area includes any gross floor area which has been exempted under the conditions of the land grant or the Buildings Ordinance, Cap. 123. If any other basis is proposed for the allocation of undivided shares and management shares, full justification for the proposal must be produced.</p> <p>(The Authorized Person's Certificate must set out clearly the basis of allocation of undivided shares and management shares.</p> <p>Where the calculation is made on the basis of gross floor area, the Authorized Person's Certificate must also contain a confirmation on whether the gross floor area includes any gross floor area which has been exempted under the conditions of the land grant or the Buildings Ordinance, Cap. 123.</p>		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>The schedules of undivided shares and management shares to the DMC must tally with the allocation set out in the Authorized Person's Certificate and should be carefully checked for accuracy, as LACO cannot guarantee the calculations and takes no responsibility for them.)</p> <p>(b) In the allocation of undivided shares and management shares, LACO will have to be satisfied that the use of any basis other than gross floor area will not result in disproportionate management charges being imposed on or voting rights being granted to e.g. the owners of any specific parts of a development or the prevention or hindrance of incorporation of an Owners' Corporation.</p> <p>(c) The allocation of undivided shares and management shares to parking spaces, gardens, flat roofs, balconies, utility platforms and other similar spaces attached to a unit may be made on a nominal basis/lesser ratio than a strict gross floor area basis, provided that each type of these spaces is calculated on the same basis.</p> <p>(d) The undivided shares to be allocated to the common areas must be made on a nominal basis.</p>		
7.	The undivided shares allocated to the common areas will not carry any liability to pay charges under the DMC or any voting rights at any meeting whether under the DMC, the BMO or otherwise nor will those undivided shares be taken into account for the purpose of calculating the quorum of any meeting.		

V - Manager's Appointment

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
8. (a)	Subject to the provisions of the BMO, the initial period of management by the first manager must not exceed two years from the date of appointment under the DMC.		
(b)	Prior to the formation of the Owners' Corporation, the Owners' Committee may at any time terminate the manager's appointment without compensation by a resolution passed by a majority of votes of owners voting either personally or by proxy in an owners' meeting and supported by owners of not less than 50% of the undivided shares in aggregate (excluding the undivided shares allocated to the common areas) and by giving the manager 3 months' notice in writing.		
9.	The manager must call the first meeting of owners as soon as possible, but in any event not later than 9 months after the date of the DMC (and to call further and subsequent meetings if required), which meeting must appoint a chairman and committee of owners or must appoint a management committee for the purpose of forming an Owners' Corporation under the BMO.		
10.	During the existence of an Owners' Corporation, the general meeting of the Owners' Corporation convened under the BMO will take the place of the owners' meeting convened under the DMC, and where a management committee of the Owners' Corporation is or has been appointed, the management committee will take the place of the Owners' Committee.		

VI - Powers and Functions of Manager

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
11.	Subject to the provisions of the BMO, the manager will have the authority to act for and on behalf of all owners in accordance with the provisions of the DMC.		
12.	The manager will, on reasonable notice (except in an emergency), be allowed to enter any unit for the purpose of carrying out necessary repairs to the development or to abate any hazard or nuisance which does or may affect the common areas or other owners. The DMC must provide for the manager repairing (at his own costs and expense) any damage so caused and for his liability for the negligent, wilful or criminal acts of the manager, employees, contractors etc.		
13. (a)	The manager (unless otherwise directed by the Owners' Corporation) will be responsible for taking out and updating insurance to the full new reinstatement value in respect of loss or damage by fire and other risks in respect of the common areas and also for insurance covering public liability, occupier's liability and employer's liability. The Director will not object to provisions for the manager procuring block insurance for the entire development including those areas which are not the common areas.		
(b)	The Director will not insist that the insurance over the employer's liability taken out by the manager must only cover the employees employed within or exclusively in connection with the management of the development.		
14. (a)	Except with the prior approval by a resolution of owners at an owners' meeting convened under the DMC, the manager will not carry out any improvements to facilities or services which involve expenditure in excess of 10% of the current annual management budget.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
(b)	Subject to the provisions in Schedule 7 to the BMO, the procurement of supplies, goods, or services by the manager or the Owners' Committee that involves an amount in excess of or likely to be in excess of \$200,000 (or such other sum as the Secretary for Home Affairs may specify by notice in the Gazette) or an amount which is or is likely to be more than 20% of the annual budget (or such other percentage as the Secretary for Home Affairs may specify by notice in the Gazette), whichever is the lesser, must be by invitation to tender and the standards and guidelines as may be specified in the Code of Practice referred to in section 20A of the BMO will apply to the manager or the Owners' Committee with any appropriate variations.		
15.	The manager may appoint or employ agents, contractors or sub-managers (including professional property management companies) to carry out various aspects of the management works or management works in respect of certain area(s) of the development but the manager must not transfer or assign his duties or obligations under the DMC to any of those persons and they must remain responsible to the manager. The manager must at all times be responsible for the management and control of the whole development and no provision in the DMC will be approved which takes away or reduces that responsibility.		
16.	The DMC must not exclude the liability of the manager to the owners for any act or omission involving criminal liability, dishonesty or negligence on the part of the manager or his employees, agents or contractors and no owner will be required to indemnify the manager or his employees, agents or contractors from and against any action, claim etc. arising out of any such act or omission.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
17.	The manager may make house rules before the formation of an Owners' Committee. Amendments to the house rules may be made by the manager with the approval of the Owners' Committee (if any). The house rules and any amendments must not be inconsistent with or contravene the DMC, the BMO or the conditions of the land grant.		
18.	The manager may make house rules to protect the environment of the development and to implement noise abatement, waste reduction and recycling measures with reference to guidelines on property management issued from time to time by the Director of Environmental Protection.		

VII - Management Expenses

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks						
19. (a)	<p>(i) For residential developments, the manager's remuneration must not exceed a percentage of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development. The percentage must be based on the total number of residential units and parking spaces in the development and must not exceed the following:</p> <table><tr><td>20 residential units and parking spaces or below</td><td>20%</td></tr><tr><td>21 to 100 residential units and parking spaces</td><td>15%</td></tr><tr><td>101 residential units and parking spaces or above</td><td>10%</td></tr></table>	20 residential units and parking spaces or below	20%	21 to 100 residential units and parking spaces	15%	101 residential units and parking spaces or above	10%		
20 residential units and parking spaces or below	20%								
21 to 100 residential units and parking spaces	15%								
101 residential units and parking spaces or above	10%								

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>(ii) For non-residential developments, the manager's remuneration must not exceed 15% of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development.</p> <p>(iii) For composite developments comprising both residential and non-residential units, sub-paragraph (a)(i) above will apply as if each non-residential unit is a residential unit.</p> <p>(b) No variation of the percentages in sub-paragraph (a) above may be made except with approval by a resolution of owners at an owners' meeting convened under the DMC.</p> <p>(c) For the purpose of calculating the manager's remuneration, the total expenses, costs and charges necessarily and reasonably incurred in the management of the development or any portion of it must exclude (i) the manager's remuneration itself and (ii) any capital expenditure or expenditure drawn out of the Special Fund provided that by a resolution of owners at an owners' meeting convened under the DMC, any capital expenditure or expenditure drawn out of the Special Fund may be included for calculating the manager's remuneration at the rate applicable under sub-paragraph (a) or (b) above or at any lower rate as considered appropriate by the owners.</p>		
20. (a)	<p>Except where the developer has made payments in accordance with Guideline 23, provisions may be made in the DMC for the first owner of each unit (i.e. assignee from the developer) to pay to the manager the following amounts:</p> <p>(i) a refundable or transferable deposit of not more than 3/12 of the first year's budgeted management expenses;</p> <p>(ii) an advance payment of management fees of not more than 2/12 of the first year's budgeted management expenses; and</p>		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>(iii) a debris removal charge of not more than 1/12 of the first year's budgeted management expenses in the case of a residential unit or 3/12 in the case of a non-residential unit.</p> <p>(b) All payments, deposits, charges and contributions payable under the DMC by the first owners which are neither transferable nor refundable (including contribution to the Special Fund), must not exceed in total 5/12 for residential units or 7/12 for non-residential units of the first year's budgeted management expenses.</p> <p>(c) The Director will not object to a provision requiring the owners to further contribute to the deposit referred to in sub-paragraph (a)(i) above so as to make it up to not more than 25% of any subsequent current year's budgeted management expenses per unit.</p> <p>(d) Any monies paid as debris removal charge not used to pay for debris collection or removal must be credited to the Special Fund.</p> <p>(e) The Director will not raise any question as to the actual amount of the initial deposit of management fee or debris removal charge or the Special Fund.</p>		
21. (a)	<p>The DMC must provide for the establishment and maintenance of one special fund ("the Special Fund") for the purpose of paragraph 4 of Schedule 7 to the BMO.</p> <p>(b) The Special Fund will be held by the manager as trustee for all owners, to provide for expenditure of a capital nature or of a kind not expected to be incurred annually, which includes, but is not limited to, expenses for the renovation, improvement and repair of the common areas, the purchase, setting up, replacement, improvement and addition of installations, systems, equipment, tools, plant and machineries for the common areas and the costs of the relevant investigation works and professional services.</p>		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>(c) The payments made by the owners towards the Special Fund are neither refundable to any owner by the manager nor transferable to any new owner.</p> <p>(d) (i) Except where the developer has made payments in accordance with Guideline 23, as an initial contribution to the Special Fund, the first owner of each unit must, upon the assignment of the unit from the developer, pay to the manager for the Special Fund an amount equivalent to 2/12 of the first year's budgeted management expenses.</p> <p>(ii) Each owner must covenant with the other owners to make further periodic contributions to the Special Fund. The amount to be contributed in each financial year and the time when those contributions will be payable will be determined by a resolution of owners at an owners' meeting convened under the DMC.</p> <p>(e) All monies received for the Special Fund must be deposited by the manager with a bank within the meaning of section 2 of the Banking Ordinance, Cap. 155 in an interest-bearing account designated for the purposes of the Special Fund. Except in a situation considered by the manager to be an emergency, money must not be paid out of the Special Fund unless it is for a purpose approved by the Owners' Committee. The manager must not use the Special Fund for the payment of any outstanding management expenses arising from or in connection with the day-to-day management of the development.</p>		
22. (a)	No owner may be called upon to pay more than his appropriate share of management expenses, having regard to the number of undivided or management shares, as the case may be, allocated to the unit.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
(b)	The developer must make payments and contributions for those expenses which are of a recurrent nature for those units and undivided shares unsold, provided however that a developer will not be obliged to make payments and contributions in respect of units and undivided shares allocated to a separate building or phase, the construction of which has not been completed, except to the extent that the building or phase benefits from provisions in the DMC as to management and maintenance (e.g. as to the costs of managing and maintaining slopes or as to security etc. provided by the management of the completed parts) of the development.		
(c)	All outgoings including management expenses and any Government rent up to and inclusive of the date of assignment of the unit must be paid by the developer. An owner must not be required to make any payment or reimburse the developer for these outgoings.		
23.	The developer must make the initial contribution to the Special Fund and pay the management fee deposit and debris removal charge if he remains the owner of those undivided shares allocated to units in that part of the development the construction of which has been completed and which remain unsold 3 months after (i) execution of the DMC or (ii) the date on which he is in a position validly to assign those undivided shares (i.e. when the consent to assign or certificate of compliance has been issued), whichever is the later.		
24.	For a development comprising residential units, non-residential units, parking spaces or any combination of them, the manager must keep separate management accounts and budgets for each part. The owners of the residential units, non-residential units and parking spaces will only be liable to contribute to the management and maintenance costs of their respective parts (e.g. owners of residential units will only be responsible for residential common areas). All owners will be liable for development common areas.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
25.	Prior to the formation of the Owners' Corporation, the owners at an owners' meeting convened under the DMC must have power to require the annual accounts to be audited by an independent auditor of their choice.		
26.	Where the manager's consent is required under the DMC, the DMC must provide that it must not be unreasonably withheld and that the manager must not charge any fee other than a reasonable administrative fee for issuing the consent. The fee must be credited to the Special Fund.		
27.	Interest at a rate not exceeding 2% per annum above the prime rate from time to time specified by the Hong Kong and Shanghai Banking Corporation Limited and a collection charge not exceeding 10% of the amount due may be imposed on any owner failing to pay sums due under the DMC within 30 days of demand and the amounts of such interest and collection charge plus any legal costs (on a solicitor and own client basis) involved in recovering them may be the subject of a charge on the owner's undivided shares. All interest and collection charges received must be credited to the Special Fund.		
28. (a)	There must be no provision in the DMC for interrupting the supply of electricity, water, gas, telecommunications or other utilities to any unit or preventing access to the unit by reason of the owner of that unit failing to pay any fees or to comply with any other provisions under the DMC.		
(b)	The manager may discontinue providing management services to owners who fail to pay fees or to comply with any other provisions under the DMC and the manager may, if the DMC provides for it, register and enforce a charge against the interest of an owner who fails to pay any sum which is payable to the manager under the DMC.		

VIII - Reservation of Rights to Developer/Manager

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
29.	The developer may reserve rights to execute sub-DMCs in respect of separate towers, phases etc. All sub-DMCs (as well as the principal DMC) require the approval of the Director but where the Director is satisfied, upon submission of the draft sub-DMC to the Director, that the sub-DMC relates only to the internal sub-division of an existing unit and by the sub-DMC there will be no alteration to common areas or liability for management or other charges under the principal DMC, the Director may, in his absolute discretion, waive the requirement of approval of the sub-DMC.		
30. (a)	The developer/manager is permitted to reserve rights for himself, his licensees or other third parties to install or affix chimneys, flues, pipes or any other structures or facilities on or within the common areas provided that the written approval by a resolution of owners at an owners' meeting convened under the DMC has been obtained before the exercise of the rights. Any payment received for the approval must be credited to the Special Fund.		
(b)	LACO will decide on a case by case basis whether or not any other rights may be reserved to the developer and whether or not the exercise of these rights should only be permitted subject to the approval of the Owners' Committee or of owners at an owners' meeting, if at all.		
31.	Subject to the conditions of the land grant, the developer may reserve rights to retain for his own use any unsold part or parts of the lot not being common areas ("the Retained Areas") provided that:		
(a)	the Retained Areas and their proposed use must be clearly defined and identified in the DMC; and		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
(b)	the Retained Areas must be allocated a number of undivided shares and management shares on the same basis as set out in Guideline 6, and the developer must remain liable to contribute to the management and other charges and payments for them so long as it retains them.		

IX - Owners' Covenants

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
32. (a)	An owner must not make any structural alteration which will interfere with or affect the rights of other owners. No provision will be approved in the DMC which prevents an owner from taking legal action against another owner in this respect.		
(b)	Where the land grant contains restrictions on the minimum number, and/or the size, of residential units, the DMC must incorporate provisions to the following effect: <ul style="list-style-type: none"> (i) no owner shall carry out or permit or suffer to be carried out any works in connection with any residential unit, including but not limited to demolition or alteration of any partition wall or any floor or roof slab or any partition structure, which will result in such unit being internally linked to and accessible from any adjoining or adjacent residential unit, except with the prior written consent of the Director or any other Government authority in place of him from time to time, which consent may be given or withheld at his absolute discretion and if given, may be subject to such terms and conditions (including payment of fees) as may be imposed by him at his absolute discretion; and 		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>(ii) the manager shall deposit in the management office the record provided by the Director or any other Government authority in place of him from time to time of the information relating to the consent given under the provision in the DMC referred to in (i) above for inspection by all owners free of costs and for taking copies at their own expense and on payment of a reasonable charge, all charges received to be credited to the Special Fund.</p> <p>(c) Where the land grant contains restrictions on the minimum number, and/or the size, of residential units and also a restriction on merging of residential units without the prior written consent of the Director, the DMC must incorporate provision to the following effect:</p> <p>The manager shall deposit in the management office the record provided by the Director of the information relating to the consent given under the land grant for inspection by all owners free of costs and for taking copies at their own expense and on payment of a reasonable charge, all charges received to be credited to the Special Fund.</p>		

X- Owners' Meetings

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
33.	The DMC must provide that, if the whole or any part of the development has been damaged by fire, typhoon, earthquake, subsidence or other causes rendering it substantially unfit for use or habitation or occupation, the owners of not less than 75% of the undivided shares allocated to that damaged part(s) of the development (excluding the undivided shares allocated to the common areas) may convene a meeting and decide by a resolution of not less than 75% of those present at the		

	meeting whether or not to rebuild or reinstate the damaged part(s) of the development. The resolution is to be binding upon all the owners of the damaged part(s).		
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XI – Green and Innovative Features and Slope Maintenance etc.

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
34.	<p>Where a development comprises green and innovative features which are exempted from the calculation of gross floor area or site coverage or both by the Building Authority and the Director, the DMC will include provisions to the following effect:</p> <p>(a) (i) balconies and the covered areas beneath the balconies must not be enclosed above safe parapet height other than as under the approved building plans;</p> <p>(ii) utility platforms and the covered areas underneath the utility platforms must not be enclosed above safe parapet height other than as under the approved building plans;</p> <p>(iii) communal sky gardens, communal podium gardens and greenery areas must be designated as common areas;</p> <p>(iv) air-conditioner platforms (complying with the criteria set out in Appendix B of the Code of Practice on Access for External Maintenance 2021 or as amended or substituted from time to time) provided on balconies or on utility platforms must be designated as “areas for air-conditioning” and individual air-conditioner platforms must not be erected at the external walls of the building.</p>		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>To enable LACO to consider compliance with this Guideline, certified copy/copies of the undertaking(s) as required under paragraph 2 of Appendix A to the Joint Practice Notes Nos. 1 and 2 of Buildings Department, Lands Department and Planning Department must be submitted to LACO at the time of application.</p> <p>(b) Except with the prior consent of the Building Authority, communal sky gardens must not be used for any purposes or by any persons other than for the following purposes and by the following persons:</p> <p>(i) communal sky gardens must have natural ventilation, greenery and recreational garden space for communal use;</p> <p>(ii) communal sky gardens in residential developments must be for the common use and benefit of the residents, tenants and their visitors only;</p> <p>(iii) communal sky gardens in non-residential developments must be for the common use and benefit of the owners, occupiers, tenants and their visitors only.</p> <p>(c) Except with the prior consent of the Building Authority, communal podium gardens in non-residential developments must not be used for any purposes or by any persons other than for the following purposes and by the following persons:</p> <p>(i) communal podium gardens must not be used for any purpose other than as a sitting-out area;</p> <p>(ii) communal podium gardens must be for the common use and benefit of the owners, occupiers, tenants and their visitors only.</p>		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
(d)	There must be conditions in the DMC for the control, operation, financial support and maintenance of the green and innovative features. For features such as balconies and utility platforms of which an owner has the right to the exclusive possession or the exclusive right to the use, occupation and enjoyment, the owner must be responsible for the financial support and maintenance of the same.		
(e)	The location of the green and innovative features should be clearly identified. If the location is identified by plans, the accuracy of the plans must be certified by or on behalf of the Authorized Person.		
35. (a)	<p>The owners must at their own expense maintain and carry out all works in respect of any and all slopes, slope treatment works, retaining walls and other structures (collectively “slope structures”) within or outside the lot as required by the conditions of the land grant and in accordance with “Geoguide 5 - Guide to Slope Maintenance” issued by the Geotechnical Engineering Office (as amended or substituted from time to time) and the maintenance manual for the slope structures ("slope maintenance manual") prepared in accordance with Geoguide 5.</p> <p>For the purpose of this Guideline, it is not necessary for the developer to submit the slope maintenance manual to LACO, or annex a copy of the slope maintenance manual to the DMC.</p>		
(b)	If there is one or more slope structures, a plan of a scale of not less than 1:500 showing (for identification purposes only) all the slope structures existing at the date of the DMC, certified by the Authorized Person that it includes all the slope structures must be annexed to the DMC. If there is no slope structure, a certificate by the Authorized Person certifying no slope structures is required to be submitted to LACO at the time of application.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>For the purpose of this Guideline, it is not necessary for the developer to submit the slope structures plan to LACO.</p> <p>(c) The manager (which for this purpose must include the Owners' Corporation) must be given full authority by the owners to engage suitable qualified personnel to inspect, keep and maintain in good substantial repair and condition, and carry out any necessary works in respect of, the slope structures in compliance with the conditions of the land grant and in accordance with the slope maintenance manual and all guidelines issued from time to time by the appropriate Government departments regarding the maintenance of the slope structures.</p> <p>(d) The DMC must have adequate provisions for the payment to the manager by all owners of all costs lawfully incurred or to be incurred by the manager in carrying out maintenance, repair and any other works in respect of the slope structures.</p> <p>(e) The manager must not be made personally liable for carrying out these requirements of the conditions of the land grant, which must remain the responsibility of the owners if, having used all reasonable endeavours, the manager has not been able to collect the costs of the required works from all owners.</p> <p>(f) The DMC must provide for the developer to deposit a full copy of the slope maintenance manual in the management office within one month after the date of the DMC for inspection by all owners free of charge and taking copies upon payment of a reasonable charge. All charges received must be credited to the Special Fund.</p>		
36.(a)	There must be incorporated in the DMC a schedule of all major works and installations ("the Works and Installations") in the development, which will require regular maintenance on a recurrent basis. The schedule must include the following items:		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<ul style="list-style-type: none"> (i) structural elements; (ii) external wall finishes and roofing materials; (iii) fire safety elements; (iv) the slope structures (if applicable); (v) plumbing system; (vi) drainage system; (vii) fire services installations and equipment; (viii) electrical wiring system; (ix) lift installations (if applicable); (x) gas supply system; (xi) window installations; and (xii) other major items (e.g. central air-conditioning and ventilation system, escalators etc.) <p>(b) The developer must compile for the reference of the owners and the manager a maintenance manual for the Works and Installations (“maintenance manual for the Works and Installations”) setting out the following details:</p> <ul style="list-style-type: none"> (i) As-built record plans of the building and services installations together with the necessary technical information (such as specifications of materials and design standard) for maintenance of all facilities and equipment; (ii) All warranties and guarantees provided by contractors (together with the names of the companies providing the warranty and the contact telephone numbers) in respect of all facilities and equipment; (iii) Recommended maintenance strategy and procedures; (iv) A list of items of the Works and Installations requiring routine maintenance; (v) Recommended frequency of routine maintenance inspection; 		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>(vi) Checklist and typical inspection record sheets for routine maintenance inspection; and</p> <p>(vii) Recommended maintenance cycle of the Works and Installations.</p> <p>For the purpose of this Guideline, it is not necessary for the developer to submit the maintenance manual for the Works and Installation to LACO, or annex a copy of the maintenance manual for the Works and Installation to the DMC.</p> <p>(c) The developer must deposit a full copy of the maintenance manual for the Works and Installations in the management office within one month after the date of the DMC for inspection by all owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.</p> <p>(d) The owners must at their own expense inspect, maintain and carry out all necessary works for the maintenance of the development and their own units including the Works and Installations.</p> <p>(e) All costs incidental to the preparation of the schedule and the maintenance manual for the Works and Installations will be borne by the developer.</p> <p>(f) (i) Provisions must be made in the DMC to provide for future revisions to the schedule and the maintenance manual for the Works and Installations as may be necessary (e.g. the addition of works and installations in the development, the updating of maintenance strategies in step with changing requirements etc.).</p>		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
	<p>(ii) The owners may, by a resolution of owners at an owners' meeting convened under the DMC, decide on revisions to be made to the schedule and the maintenance manual for the Works and Installations, in which event the manager must procure from a qualified professional or consultant the revised schedule and the revised maintenance manual for the Works and Installations within such time as may be prescribed by the owners in an owners' meeting convened under the DMC.</p> <p>(iii) All costs incidental to the preparation of the revised schedule and the revised maintenance manual for the Works and Installations will be paid out of the Special Fund.</p> <p>(iv) The manager must deposit the revised maintenance manual for the Works and Installations in the management office within one month after the date of its preparation for inspection by all owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.</p>		

XII – Telecommunications Network Areas

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
37. (a)	Areas for the installation or use of aerial broadcast distribution or telecommunications network facilities must form part of the common areas.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
(b)	<p>The DMC must provide that contracts for the installation or use of aerial broadcast distribution or telecommunications network facilities and contracts for the provision of broadcast distribution network or telecommunications network services to be entered into by the manager must be subject to the following conditions:</p> <p>(i) the term of the contract will not exceed 3 years;</p> <p>(ii) the right to be granted under the contract must be non-exclusive and must provide for sharing the use of the facilities and network with other service providers; and</p> <p>(iii) no owner is required to make any payment in any form attributable to the installation or provision of the facilities or services, unless he is a subscriber to the relevant service.</p>		

XIII – Others

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
38.	All owners of undivided shares who do not occupy the units to which those shares relate must provide the manager with an address in Hong Kong for service of notices under the DMC.		

	Subject	Clause No. (Page No.) [Insert where applicable]	Remarks
39. (a)	The developer must at his own cost provide a direct translation in Chinese of the DMC. The developer must deposit a copy of the DMC and the Chinese translation in the management office within one month after the date of the DMC for inspection by all owners free of costs and for taking copies at their own expense and upon payment of a reasonable charge. All charges received must be credited to the Special Fund. The DMC must specify that the version of the DMC approved by the Director will prevail in the event of a dispute as to the effect of the Chinese translation and the English language document.		
(b)	The developer must deposit a copy of Schedules 7 and 8 to the BMO (English and Chinese versions) in the management office for reference by all owners free of costs and for taking copies at their own expense and upon payment of a reasonable charge. All charges received must be credited to the Special Fund.		
40.	The Director will not be concerned whether or not pets are permitted or subject to any controls.		
41.	The Director will not be concerned as to any arrangements or restrictions on the design, decoration or colour schemes of any parts of the development.		
42.	Any lift lobby serving a fireman's lift ("fireman's lift lobby") and any protected lobby to a required staircase must be designated as common areas. Partial designation of such fireman's lift lobby and protected lobby to a required staircase as common areas (with the rest forming part of the adjoining residential unit) would not be accepted.		
43.	For phased developments, the DMC must provide for the developer to provide, at his own expense, temporary noise abatement and dust protection measures within the development in relation to the units in the completed phase(s) ("the Units") so as to minimize inconvenience to the owners and occupiers of the Units arising from the continuing construction of the uncompleted phase(s) on the lot.		

(D) Standard DMC Clauses

	Definition / Clause	Clause No. (Page No.) [Insert where the standard definition/clause is adopted with or without amendment]	Remarks [Insert 1, 2 or 3 as appropriate : 1 : <i>Adopted without amendment</i> 2 : <i>Adopted with amendment</i> 3 : <i>Not adopted</i> If it is 2, please highlight the amendment in the draft DMC]
1.	“Authorized Person”		
2.	“Building Plans”		
3.	“Common Areas and Facilities”		
4.	“Development”		
5.	“First Owner”		
6.	“Government”		
7.	“Government Grant”		
8.	“Hong Kong”		
9.	“Land”		
10.	“Manager”		
11.	“Ordinance”		
12.	“Owner”		
13.	“Owners’ Committee”		
14.	“Owners’ Corporation”		
15.	“Special Fund”		

	Definition / Clause	Clause No. (Page No.) [Insert where the standard definition/clause is adopted with or without amendment]	Remarks [Insert 1, 2 or 3 as appropriate : 1 : <i>Adopted without amendment</i> 2 : <i>Adopted with amendment</i> 3 : <i>Not adopted</i> If it is 2, please highlight the amendment in the draft DMC]
16.	“Undivided Share”		
17.	Right of Owners to assign without reference to other Owners		
18.	Right of Owners to occupy not to be dealt with separately from Undivided Shares		
19.	GL 1(b) and (c) – Compliance with BMO and the land grant		
20.	GL 3(b) – Common areas		
21.	GL 5 – No conversion of common areas		
22.	GL 7 – Liability and rights in respect of common areas		
23.	GL 9 – First Owners’ meeting		
24.	GL 10 – Owners’ Corporation, etc. to replace Owners’ Committee and meetings		
25.	GL 11 – Manager to represent Owners		
26.	GL 15 – Employment of agents, etc.		
27.	GL 22(c) – Owners’ liability for management expenses		
28.	GL 35 – Slope maintenance		

	Definition / Clause	Clause No. (Page No.) [Insert where the standard definition/clause is adopted with or without amendment]	Remarks [Insert 1, 2 or 3 as appropriate : 1 : <i>Adopted without amendment</i> 2 : <i>Adopted with amendment</i> 3 : <i>Not adopted</i> If it is 2, please highlight the amendment in the draft DMC]
29.	GL 36 – Maintenance of Works and Installations		
30.	GL 37(b) – Contracts for telecommunications network facilities, etc.		
31.	GL 38 – Address for service of notice		
32.	GL 39(a) – Chinese translation of DMC		

Schedule 7 to the BMO		
<p>1. Determination of total amount of management expenses</p> <p>(1) Subject to subparagraphs (3), (5), (6) and (8), the total amount of management expenses payable by the owners during any period of 12 months adopted by the manager of a building as the financial year in respect of the management of that building shall be the total proposed expenditure during that year as specified by the manager in accordance with subparagraph (2).</p> <p>(2) In respect of each financial year, the manager shall-</p> <ul style="list-style-type: none"> (a) prepare a draft budget setting out the proposed expenditure during the financial year; (b) send a copy of the draft budget to the owners' committee or, where there is no owners' committee, display a copy of the draft budget in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days; (c) send or display, as the case may be, with the copy of the draft budget a notice inviting each owner to send his comments on the draft budget to the manager within a period of 14 days from the date the draft budget was sent or first displayed; (d) after the end of that period, prepare a budget specifying the total proposed expenditure during the financial year; (e) send a copy of the budget to the owners' committee or, where there is no owners' committee, display a copy of the budget in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days. <p>(3) Where, in respect of a financial year, the manager has not complied with subparagraph (2) before the start of that financial year, the total amount of the management expenses for that year shall-</p>		

Schedule 7 to the BMO		
<p>(a) until he has so complied, be deemed to be the same as the total amount of management expenses (if any) for the previous financial year;</p> <p>(b) when he has so complied, be the total proposed expenditure specified in the budget for that financial year, and the amount that the owners shall contribute towards the management expenses shall be calculated and adjusted accordingly.</p> <p>(4) Where a budget has been sent or displayed in accordance with subparagraph (2)(e) and the manager wishes to revise it, he shall follow the same procedures in respect of the revised budget as apply to the draft budget and budget by virtue of subparagraph (2).</p> <p>(5) Where a revised budget is sent or displayed in accordance with subparagraph (4), the total amount of the management expenses for that financial year shall be the total expenditure or proposed expenditure specified in the revised budget and the amount that owners shall contribute towards the management expenses shall be calculated and adjusted accordingly.</p> <p>(6) If there is a corporation and, within a period of 1 month from the date that a budget or revised budget for a financial year is sent or first displayed in accordance with subparagraph (2) or (4), the corporation decides, by a resolution of the owners, to reject the budget or revised budget, as the case may be, the total amount of management expenses for the financial year shall, until another budget or revised budget is sent or displayed in accordance with subparagraph (2) or (4) and is not so rejected under this subparagraph, be deemed to be the same as the total amount of management expenses (if any) for the previous financial year, together with an amount not exceeding 10% of that total amount as the manager may determine.</p> <p>(7) If any owner requests in writing the manager to supply him with a copy of any draft budget, budget or revised budget, the manager shall, on payment of a reasonable copying charge, supply a copy to that person.</p>		

Schedule 7 to the BMO		
<p>(8) For the purposes of this paragraph, "expenditure" (開支) includes all costs, charges and expenses to be borne by the owners, including the remuneration of the manager.</p> <p>2. Keeping of accounts</p> <p>(1) The manager shall maintain proper books or records of account and other financial records and shall keep all bills, invoices, vouchers, receipts and other documents referred to in those books and records for at least 6 years.</p> <p>(2) Within 1 month after each consecutive period of 3 months, or such shorter period as the manager may select, the manager shall prepare a summary of income and expenditure and a balance sheet in respect of that period, display a copy of the summary and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.</p> <p>(3) Within 2 months after the end of each financial year, the manager shall prepare an income and expenditure account and balance sheet for that year, display a copy of the income and expenditure account and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.</p> <p>(4) Each income and expenditure account and balance sheet shall include details of the special fund required by paragraph 4 and an estimate of the time when there will be a need to draw on that fund, and the amount of money that will be then needed.</p> <p>(5) The manager shall-</p> <p>(a) permit any owner, at any reasonable time, to inspect the books or records of account and any income and expenditure account or balance sheet; and</p> <p>(b) on payment of a reasonable copying charge, supply any owner with a copy of any record or document requested by him.</p> <p>(6) If there is a corporation and the corporation decides, by a resolution of the owners, that any</p>		

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<p>income and expenditure account and balance sheet should be audited by an accountant or by some other independent auditor as may be specified in that resolution, the manager shall without delay arrange for such an audit to be carried out by that person and</p> <p>(a) permit any owner, at any reasonable time, to inspect the audited income and expenditure account and balance sheet and the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet; and</p> <p>(b) on payment of a reasonable copying charge, supply any owner with a copy of the audited income and expenditure account and balance sheet, or the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet, or both, as requested by the owner.</p> <p>(7) The financial year may not be changed more than once in every 5 years, unless that change is previously approved by a resolution of the owners' committee (if any).</p>		
<p>3. Manager to maintain bank account</p> <p>(1) The manager shall open and maintain an interest-bearing account and shall use that account exclusively in respect of the management of the building.</p> <p>(1A) Without prejudice to the generality of subparagraph (1), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the management of the building.</p> <p>(1B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (1) or (1A) in a prominent place in the building.</p> <p>(2) Subject to subparagraphs (3) and (4), the manager shall without delay pay all money</p>		

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<p>received by him in respect of the management of the building into the account opened and maintained under subparagraph (1) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (1A).</p> <p>(3) Subject to subparagraph (4), the manager may, out of money received by him in respect of the management of the building, retain or pay into a current account a reasonable amount to cover expenditure of a minor nature, but that amount shall not exceed such figure as is determined from time to time by a resolution of the owners' committee (if any).</p> <p>(4) The retention of a reasonable amount of money under subparagraph (3) or the payment of that amount into a current account in accordance with that subparagraph and any other arrangement for dealing with money received by the manager shall be subject to such conditions as may be approved by a resolution of the owners' committee (if any).</p> <p>(5) Any reference in this paragraph to an account is a reference to an account opened with a bank within the meaning of section 2 of the Banking Ordinance (Cap. 155), the title of which refers to the management of the building.</p>		
<p>4. Special fund</p> <p>(1) The manager shall establish and maintain a special fund to provide for expenditure of a kind not expected by him to be incurred annually.</p> <p>(2) If there is a corporation, the corporation shall determine, by a resolution of the owners, the amount to be contributed to the special fund by the owners in any financial year, and the time when those contributions shall be payable.</p> <p>(3) The manager shall open and maintain at a bank within the meaning of section 2 of the Banking Ordinance (Cap. 155) an interest-bearing account, the title of which shall refer to the special fund for the building, and shall use that account exclusively for the purpose referred to in subparagraph (1).</p> <p>(3A) Without prejudice to the generality of</p>		

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<p>subparagraph (3), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the special fund.</p> <p>(3B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (3) or (3A) in a prominent place in the building.</p> <p>(4) The manager shall without delay pay all money received by him in respect of the special fund into the account opened and maintained under subparagraph (3) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (3A).</p> <p>(5) Except in a situation considered by the manager to be an emergency, no money shall be paid out of the special fund unless it is for a purpose approved by a resolution of the owners' committee (if any).</p>		
<p>5. Contracts entered into by manager</p> <p>(1) Subject to subparagraphs (2) and (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed the sum of \$200,000 or such other sum in substitution therefor as the Authority may specify by notice in the Gazette unless-</p> <p>(a) the supplies, goods or services are procured by invitation to tender; and</p> <p>(b) the procurement complies with the Code of Practice referred to in section 20A(1).</p> <p>(2) Subject to subparagraph (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed a sum which is equivalent to 20% of the annual budget or such other percentage in substitution therefor as the Authority may specify by notice in the Gazette unless-</p>		

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<p>(a) if there is a corporation-</p> <ul style="list-style-type: none"> (i) the supplies, goods or services are procured by invitation to tender; (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a general meeting of the corporation, and the contract is entered into with the successful tenderer; or <p>(b) if there is no corporation-</p> <ul style="list-style-type: none"> (i) the supplies, goods or services are procured by invitation to tender; (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant, and the contract is entered into with the successful tenderer. <p>(3) Subparagraphs (1) and (2) do not apply to any supplies, goods or services which but for this subparagraph would be required to be procured by invitation to tender (referred to in this subparagraph as "relevant supplies, goods or services")-</p> <p>(a) where there is a corporation, if-</p> <ul style="list-style-type: none"> (i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the corporation by a supplier; and (ii) the corporation decides by a resolution of the owners passed at a general meeting of the corporation that the relevant supplies, 		

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<p>goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender; or</p> <p>(b) where there is no corporation, if-</p> <p>(i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the owners by a supplier; and</p> <p>(ii) the owners decide by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender.</p> <p>6. Resignation of manger</p> <p>(1) No resignation of the manager shall take effect unless he has previously given not less than 3 months' notice in writing of his intention to resign-</p> <p>(a) by sending such a notice to the owners' committee; or</p> <p>(b) where there is no owners' committee, by giving such a notice to each of the owners and by displaying such a notice in a prominent place in the building.</p> <p>(2) The notice referred to in subparagraph (1)(b) may be given-</p> <p>(a) by delivering it personally to the owner; or</p> <p>(b) by sending it by post to the owner at his last known address; or</p> <p>(c) by leaving it at the owner's flat or depositing it in the letter box for that flat.</p>		

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<p>7. Termination of manager's appointment by owners' corporation</p> <p>(1) Subject to subparagraph 5(A), at a general meeting convened for the purpose, a corporation may, by a resolution-</p> <p>(a) passed by a majority of the votes of the owners voting either personally or by proxy; and</p> <p>(b) supported by the owners of not less than 50% of the shares in aggregate,</p> <p>determinate by notice the DMC manager's appointment without compensation.</p> <p>(2) A resolution under subparagraph (1) shall have effect only if-</p> <p>(a) the notice of termination of appointment is in writing;</p> <p>(b) provision is made in the resolution for a period of not less than 3 months' notice or, in lieu of notice, provision is made for an agreement to be made with the DMC manager for the payment to him of a sum equal to the amount of remuneration which would have accrued to him during that period;</p> <p>(c) the notice is accompanied by a copy of the resolution terminating the DMC manager's appointment; and</p> <p>(d) the notice and the copy of the resolution is given to the DMC manager within 14 days after the date of the meeting.</p> <p>(3) The notice and the copy of the resolution referred to in subparagraph (2)(d) may be given-</p> <p>(a) by delivering them personally to the DMC manager; or</p> <p>(b) by sending them by post to the DMC manager at his last known address.</p> <p>(4)-(5) (Repealed Ord. No. 5 of 2007 s.32)</p>		

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<p>(5A) For the purposes of subparagraph (1)–</p> <ul style="list-style-type: none"> (a) only the owners of shares who pay or who are liable to pay the management expenses relating to those shares shall be entitled to vote; (b) the reference in subparagraph (1)(b) to “the owners of not less than 50% of the shares in aggregate” shall be construed as a reference to the owners of not less than 50% of the shares in aggregate who are entitled to vote. <p>(5B) If a contract for the appointment of a manager other than a DMC manager contains no provision for the termination of the manager's appointment, subparagraphs (1), (2), (3) and (5A) apply to the termination of the manager's appointment as they apply to the termination of a DMC manager's appointment.</p> <p>(5C) Subparagraph (5B) operates without prejudice to any other power there may be in a contract for the appointment of a manager other than a DMC manager to terminate the appointment of the manager.</p> <p>(6) If a notice to terminate a manager's appointment is given under this paragraph–</p> <ul style="list-style-type: none"> (a) no appointment of a new manager shall take effect unless the appointment is approved by a resolution of the owners' committee (if any); and (b) if no such appointment is approved under sub-subparagraph (a) by the time the notice expires, the corporation may appoint another manager and, if it does so, the corporation shall have exclusive power to appoint any subsequent manager. <p>(7) If any person has given an undertaking in writing to, or has entered into an agreement with, the Government to manage or be responsible for the management of the building, and the corporation has appointed a manager under subparagraph (6)(b), the corporation shall be deemed to have given to that person an instrument of indemnity under which the corporation shall be liable to indemnify that person in respect of any act or</p>		

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<p>omission by the manager appointed under that subparagraph that may otherwise render that person liable for a breach of that undertaking or agreement.</p> <p>(8) This paragraph is subject to any notice relating to the building that may be published by the Authority under section 34E(4) but does not apply to any single manager referred to in that section.</p> <p>8. Obligations after manager's appointment ends</p> <p>(1) Subject to subparagraph (2), if the manager's appointment ends for any reason, he shall, as soon as practicable after his appointment ends, and in any event within 14 days of the date his appointment ends, deliver to the owners' committee (if any) or the manager appointed in his place any movable property in respect of the control, management and administration of the building that is under his control or in his custody or possession, and that belongs to the corporation (if any) or the owners.</p> <p>(2) If the manager's appointment ends for any reason, he shall within 2 months of the date his appointment ends-</p> <p>(a) prepare-</p> <p>(i) an income and expenditure account for the period beginning with the commencement of the financial year in which his appointment ends and ending on the date his appointment ended; and</p> <p>(ii) a balance sheet as at the date his appointment ended,</p> <p>and shall arrange for that account and balance sheet to be audited by an accountant or by some other independent auditor specified in a resolution of the owners' committee (if any) or, in the absence of any such specification, by such accountant or other independent auditor as may be chosen by the manager; and</p> <p>(b) deliver to the owners' committee (if any) or the manager appointed in his place any books or records of accounts, papers, documents and</p>		

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<p>other records which are required for the purposes of sub-subparagraph (a) and have not been delivered under subparagraph (1).</p> <p>9. Communication among owners</p> <p>The manager shall consult (either generally or in any particular case) the corporation at a general meeting of the corporation and adopt the approach decided by the corporation on the channels of communication among owners on any business relating to the management of the building.</p>		

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<p>Meetings of owners' committee</p> <ol style="list-style-type: none"> 1. A meeting of the owners' committee may be convened at any time by the chairman or any 2 members of the owners' committee. 2. The person or persons convening the meeting of the owners' committee shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the owners' committee. 2A. The notice of meeting referred to in paragraph 2 shall specify- <ol style="list-style-type: none"> (a) the date, time and place of the meeting; and (b) the resolutions (if any) that are to be proposed at the meeting. 3. The notice of meeting referred to in paragraph 2 may be given- <ol style="list-style-type: none"> (a) by delivering it personally to the member of the owners' committee; or (b) by sending it by post to the member of the owners' committee at his last known address; or (c) by leaving it at the member's flat or depositing it in the letter box for that flat. 		

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<p>4. The quorum at a meeting of the owners' committee shall be 50% of the members of the owners' committee (rounded up to the nearest whole number) or 3 such members, whichever is the greater.</p> <p>5. A meeting of the owners' committee shall be presided over by-</p> <p>(a) the chairman; or</p> <p>(b) in the absence of the chairman, a member of the owners' committee appointed as chairman for that meeting.</p> <p>6. At a meeting of the owners' committee, each member present shall have one vote on a question before the committee and if there is an equality of votes the chairman shall have, in addition to a deliberative vote, a casting vote.</p> <p>7. The procedure at meetings of the owners' committee shall be as is determined by the owners' committee.</p>		
<p>Meetings of owners</p> <p>8. A meeting of owners may be convened by-</p> <p>(a) the owners' committee;</p> <p>(b) the manager; or</p> <p>(c) an owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate.</p> <p>9. The person convening the meeting of owners shall, at least 14 days before the date of the meeting, give notice of the meeting to each owner.</p> <p>9A. The notice of meeting referred to in paragraph 9 shall specify-</p> <p>(a) the date, time and place of the meeting; and</p> <p>(b) the resolutions (if any) that are to be proposed at the meeting.</p>		

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<p>10. The notice of meeting referred to in paragraph 9 may be given-</p> <ul style="list-style-type: none"> (a) by delivering it personally to the owner; (b) by sending it by post to the owner at his last known address; or (c) by leaving it at the owner's flat or depositing it in the letter box for that flat. <p>11. The quorum at a meeting of owners shall be 10% of the owners.</p> <p>11A. For the purposes of paragraph 11, the reference in that paragraph to "10% of the owners" shall-</p> <ul style="list-style-type: none"> (a) be construed as a reference to 10% of the number of persons who are owners without regard to their ownership of any particular percentage of the total number of shares into which the building is divided; and (b) not be construed as the owners of 10% of the shares in aggregate. <p>12. A meeting of owners shall be presided over by the chairman of the owners' committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting.</p> <p>13. At a meeting of owners-</p> <ul style="list-style-type: none"> (a) an owner shall have one vote in respect of each share he owns; (b) an owner may cast a vote personally or by proxy; (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast- <ul style="list-style-type: none"> (i) by a proxy jointly appointed by the co-owners; (ii) by a person appointed by the co-owners from amongst themselves; or 		

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<p>(iii) if no appointment is made under sub-subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners;</p> <p>(ca) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid; and</p> <p>(d) if there is an equality of votes the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.</p> <p>14. (1) An instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and-</p> <p>(a) shall be signed by the owner; or</p> <p>(b) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf.</p> <p>(2) The instrument appointing a proxy shall be lodged with the chairman of the owners' committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting at least 48 hours before the time for the holding of the meeting.</p> <p>(3) A proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting.</p>		

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15. The procedure at a meeting of owners shall be as is determined by the owners.		

I, [name] , of [the firm] , hereby confirm that the Checklist has been duly and accurately completed.

(Signature of Solicitor)

Date: