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法律諮詢及田土轉易處
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LANDS DEPARTMENT

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我們矢志努力不懈，提供盡善盡美的土地行政服務。
We strive to achieve excellence in land administration.
香港北角渣華道三三三號北角政府合署二十樓
20/F., NORTH POINT GOVERNMENT OFFICES
333 JAVA ROAD, NORTH POINT, HONG KONG

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28 March 2013

Legal Advisory and Conveyancing Office ("LACO")
Circular Memorandum No. 71

Lands Department Consent Scheme
Transitional arrangements in relation to
the Residential Properties (First-hand Sales) Ordinance

The Residential Properties (First-hand Sales) Ordinance ("the Ordinance") will come into full operation on 29 April 2013 ("the Operation Date"). Transitional arrangements, which relate to consent to enter into agreements for sale and purchase of residential units given before the Operation Date ("the Subsisting Consent"), will be implemented under the Consent Scheme. The transitional arrangements aim to make the consent conditions subject to which the Subsisting Consent is given ("the Consent Conditions") compatible with the provisions under the Ordinance and offer an opportunity to a vendor to follow the requirements under the Ordinance before the Operation Date. Where the Subsisting Consent relates to both residential units as well as parking spaces constituting separate units, the transitional arrangements will deal with the same together.

Upon the Ordinance coming into operation, the Consent Conditions must be modified to be compatible with the requirements under the Ordinance, in so far as they apply to sales on or after the Operation Date. Among others, a new standard form of Agreement for Sale and Purchase which contains all the mandatory provisions as are required under the Ordinance is to be adopted.

To this end, an application for modification of the Consent Conditions is required to be submitted to LACO through the vendor's solicitors. If the application is approved, the Consent Conditions shall, with effect on and from the Operation Date, be deemed to be substituted by a set of consent conditions which shall apply in so far as relating to any residential unit and where applicable, parking space sold on or after that date.

A vendor must not proceed with the sale of residential units which are unsold pursuant to the Subsisting Consent on or after the Operation Date unless and until the vendor has applied for and obtained LACO's approval for modification of the Consent Conditions.

To minimize any interruption likely to be caused to sales straddling the Operation Date, transitional arrangements will be offered to allow the vendor to follow the requirements under the Ordinance before the Operation Date. The transitional arrangements comprise the following main features:

- (a) With effect on and from the date a revised Statutory Declaration (in the case where the Statutory Declaration approved under the Subsisting Consent has not been made by the solicitors acting for the vendor) or a Supplemental Statutory Declaration (in the case where the Statutory Declaration approved under the Subsisting Consent has been made by the solicitors acting for the vendor) is made up to and inclusive of 28 April 2013 (“the pre-commencement period”), the Consent Conditions shall be deemed to be substituted by a set of consent conditions which impose, inter alia, obligations to follow the requirements under the Ordinance which shall be deemed to be incorporated into and form part of the consent conditions. This set of consent conditions shall apply in so far as relating to any residential unit and where applicable, parking space sold during the pre-commencement period.
- (b) Pursuant to the Consent Conditions as modified, the vendor is required to make available sales brochure and price list which must in all respects comply with the Ordinance and the Consent Conditions as modified after the revised Statutory Declaration or the Supplemental Statutory Declaration (as the case may be) is made. The vendor must cease making available any sales brochure and price list which have been prepared and made available pursuant to the Consent Conditions.
- (c) The Consent Conditions as modified will provide certain circumstances in which, subject to fulfilment of certain conditions, the vendor is allowed to continue the sale before the relevant conditions relating to the availability of sales brochure and price list are complied with.

A vendor who intends to modify the Consent Conditions to take effect respectively during the pre-commencement period and on or after the Operation Date is required to submit to LACO an application through its solicitors. If the application is approved, the Consent Conditions shall, with effect on and from the date a revised Statutory Declaration or a Supplemental Statutory Declaration (as the case may be) is made up to and inclusive of 28 April 2013, be deemed to be substituted by a set of consent conditions which shall apply in so far as relating to any residential unit and where applicable, parking space sold during the pre-commencement period, and the Consent Conditions as modified shall, with effect on and from the Operation Date, be deemed to be substituted by another set of consent conditions which shall apply in so far as relating to any residential unit and where applicable, parking space sold on or after that date.

An application for modification of the Consent Conditions must be accompanied with the following documents for LACO’s approval:

- _____
- (a) where the Statutory Declaration approved under the Subsisting Consent has not been made by the solicitors acting for the vendor, a draft Statutory Declaration (in duplicate) in the standard form at Annex I; or
- _____
- (b) where the Statutory Declaration approved under the Subsisting Consent has been made by the solicitors acting for the vendor, a copy of that Statutory Declaration duly made together with a draft Supplemental Statutory Declaration (in duplicate) in the standard form at Annex II; and
- _____
- (c) where the proposed form of Agreement for Sale and Purchase contains variations to the standard form at Annex III, a draft Agreement for Sale and Purchase (in duplicate) with the proposed variations highlighted together with full justification for each of the proposed variations.

This Circular Memorandum and any transitional arrangements offered are without prejudice to the operation of and the requirements under the Ordinance. It is at all times the obligation of the vendor and the solicitors acting on its behalf to ensure that all the requirements under the Ordinance are complied with in conducting any sale of the residential units on or after the Operation Date.

Copies of this Circular Memorandum with Annexes I to III can be downloaded from Lands Department website at www.landso.gov.hk.

(H. Y. CHAU)
Deputy Director/Legal
for Director of Lands

To: All Solicitors

c.c. Transport and Housing Bureau
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
The Hong Kong Association of Banks

STATUTORY DECLARATION

IN THE MATTER of [*insert lot number of land*]

and

IN THE MATTER of the Oaths and
Declarations Ordinance

I, [*insert name of solicitor*] of [*insert address of solicitor*], solicitor, solemnly and sincerely declare as follows:-

(1) I am a partner in the firm of [*insert name of solicitors' firm*], solicitors and I make this declaration on behalf of my firm.

(2) My firm has been instructed by [*insert name of registered owner of land*] (“the Owner”) to act in connection with the sale of residential units [&][and car parking spaces ^{*}[and motor cycle parking spaces] (“parking spaces”)] in ^β[Phase [*insert phase number*] (“the Phase”) of] the development now being constructed or to be constructed on the above-mentioned land and intended to be known as “[*insert name of development*]” (“the Development”). ^β[The Phase comprises [*insert description of buildings comprising the Phase*].] Consent to enter into agreements for sale and purchase for sale of residential units [&][and parking spaces] in the ^γPhase/Development (“the Consent”) has been given by the Director of Lands under the provisions of ^{*}the Government Lease dated [*insert date*]/Conditions of Sale/Conditions of Grant/Conditions of Exchange/New Grant No. [*insert number*] ^{*}[as varied or modified by ^{*}a Modification Letter/an Extension Letter/an Exclusion Order/a redevelopment order/an order for sale dated [*insert date of instrument*] and registered in the Land Registry by Memorial No. [*insert memorial number*]] (“the Government Grant”) under which the above-mentioned land is held from the Government of the Hong Kong Special Administrative Region. My firm has received instructions from the Owner to apply for modification of the conditions of the Consent set out in the consent letter dated [*insert date*] (“the Consent Conditions”).

(3) In accordance with instructions received from the Owner, my firm has drawn up the form of Agreement for Sale and Purchase (“ASP”) for the sale of residential units [&][and parking spaces] in the ^γPhase/Development. I have PERSONALLY EXAMINED the form of ASP now produced to me marked Exhibit A-1 and exhibited to this declaration. I declare

that *[except insofar as any variations have been approved by the Director of Lands] its contents in all respects accord with the standard form of ASP annexed to Legal Advisory and Conveyancing Office (“LACO”) Circular Memorandum No. [*insert number*]. I confirm that the form of the ASP marked Exhibit A-1 and exhibited to this declaration will be used for the sale of residential units &[and parking spaces] in the ^γPhase/Development to which the Consent Conditions as modified with the approval of the Director of Lands (“the Modified Consent Conditions”) apply.

^π(4) My firm has received instructions from the Owner to prepare the form of Deed of Mutual Covenant incorporating a Management Agreement (if any) (“DMC”) for the sale of residential units &[and parking spaces] in the ^γPhase/Development. I have PERSONALLY EXAMINED the form of DMC now produced to me marked Exhibit A-2 and exhibited to this declaration. [#][I declare that *[except insofar as any variations have been approved by the Director of Lands] its contents:

(a) in all respects accord with:-

(i) the guidelines set out in LACO Circular Memorandum No. [*insert number*];
and

(ii) all the provisions of the Government Grant; and

(b) are not in any respect contrary to any of the guidelines *[except as aforesaid] nor to any of the provisions of the Government Grant,

and its form has been approved by the Director of Lands.]

(5) [*Insert name of authorized person*] of [*insert name and address of firm/corporation of authorized person*], *an architect/an engineer/a surveyor listed in the authorized persons' register kept by the Building Authority under section 3(1) of the Buildings Ordinance for the construction of the ^γPhase/Development ("the Authorized Person") has issued his certificate dated [*insert date of certificate*] (“the AP’s Certificate”) in respect of the ^γPhase/Development which certificate is now produced to me marked Exhibit A-3 and exhibited to this declaration.

^{#π}(6) The Authorized Person has issued his certificate dated [*insert date of certificate*] confirming to me the basis for allocation of undivided shares *[and management shares] under the DMC in respect of the whole of the Development which certificate is now produced to me marked Exhibit A-4 and exhibited to this declaration.]

^Δ[(7)(a) To finance the total of the construction costs and the professional fees to complete the ^γPhase/Development (collectively “the Total Development Costs”) as stated in the AP’s Certificate, a *building mortgage/debenture dated [*insert date of instrument*] and registered in the Land Registry by Memorial No. [*insert memorial number*] (“the Building Mortgage”) has been entered into between the Owner and [*insert name of licensed bank or registered deposit-taking company*] (“the Mortgagee”). My firm has received confirmation in writing from the Mortgagee as to the amount of the facilities remaining undrawn under the Building Mortgage and that the facilities are sufficient to finance that part of the Total Development Costs expended but not yet paid and that part of the Total Development Costs remaining to be expended to complete the ^γPhase/Development as stated in the AP’s Certificate (collectively “the Outstanding Development Costs”). A copy of the confirmation dated [*insert date of confirmation*] is now produced to me marked Exhibit A-[*insert exhibit number*] and exhibited to this declaration. The Mortgagee has undertaken to inform in writing my firm in the event of any of the facilities still remaining being cancelled for any reason other than drawings pursuant to the Building Mortgage or payment of the Outstanding Development Costs from other sources.

(b) In the event of the Mortgagee advising my firm of the cancellation of the facilities for any reason, my firm undertakes to inform in writing LACO and to confirm whether my firm holds sufficient funds in the stakeholder account as provided in the ASP to finance the Outstanding Development Costs. If my firm does not hold sufficient funds, the Consent will be deemed to have been cancelled insofar as the residential units [&][and the parking spaces] unsold at that time are concerned and I have informed the Owner accordingly.]

[%][(8) [*Insert name of licensed bank or registered deposit-taking company*] has undertaken with the Government of the Hong Kong Special Administrative Region and the Director of Lands that if the Owner shall be unable to finance the *Total Development Costs/total of the construction costs and the professional fees to complete the ^γPhase/Development as stated in the AP’s Certificate (collectively “the Total Development Costs”), he will pay to the Owner or to any other person or persons as the Director of Lands shall direct an amount not exceeding HK\$[*insert amount*]. A copy of the undertaking dated [*insert date of undertaking*] is now produced to me marked Exhibit A-[*insert exhibit number*] and exhibited to this declaration.]

⁺[(9)(a) To finance the Total Development Costs, unsecured loans have been made and will be made to the Owner by [*insert name of Financier*] (“the Financier”). My firm has received confirmation in writing from the Financier that the Financier will not call back any loans made or to be made to the Owner until the Development has

been completed and that, if necessary, the Financier will provide all further finance to enable the Owner to complete the Development.

- (b) In the event of the Financier advising my firm that the Financier will not, or will not be able to, provide all further finance to complete the Development for any reason, my firm undertakes to inform in writing LACO and recognizes that the Consent will be deemed to have been cancelled insofar as the residential units &[and the parking spaces] unsold at that time are concerned and I have informed the Owner accordingly.]

(10) My firm undertakes that all purchase monies paid by purchasers of residential units &[and parking spaces] in the ^γPhase/Development will be held by my firm as stakeholder and will not be released except in accordance with the terms and conditions of the ASP and the Modified Consent Conditions.

(11) In the event of my firm ceasing to act in respect of the ^γPhase/Development or any part of the ^γPhase/Development and the sale of any residential units &[and parking spaces] in the ^γPhase/Development, my firm undertakes to inform in writing LACO and recognizes that the Consent will be deemed to have been cancelled insofar as the residential units &[and the parking spaces] unsold at that time are concerned and I have informed the Owner accordingly.

(12) My firm undertakes that we will check the terms and conditions of all signed preliminary agreements for sale and purchase (“PASP”) in respect of the residential units &[and the parking spaces] which have been sold and for which we are instructed by the purchaser to prepare the ASP and will satisfy ourselves that the terms and conditions of the PASP do not breach any of the Modified Consent Conditions. My firm will not act for either party in the sale of any residential units &[and parking spaces] in respect of which the terms and conditions of the PASP are in breach of the Modified Consent Conditions and my firm will immediately notify LACO of any such breach with details of the residential units &[and the parking spaces] concerned. My firm acknowledges that any breach of the Modified Consent Conditions apparent on the face of any PASP will immediately act as a suspension of the Consent for the whole of the ^γPhase/Development and that my firm will immediately inform the Owner that no further sale of residential units &[and parking spaces] in the ^γPhase/Development shall take place until the Director of Lands has confirmed in writing that the Consent is reinstated in respect of the unsold residential units &[and parking spaces].

(13) My firm has received confirmation from the Owner that the sales brochure for the ^γPhase/Development complies with the Modified Consent Conditions and will be made available to the general public pursuant to the Modified Consent Conditions.

(14)(a) I confirm that:

- (i) *[except that I am a director/secretary of the *Owner/parent or holding company of the Owner/main superstructure contractor of the ^γPhase/Development,] I am *[not] a director/secretary of the Owner, the parent or holding company of the Owner or the main superstructure contractor of the ^γPhase/Development;
 - (ii) *[except that I am personally related to a director/secretary of the *Owner/parent or holding company of the Owner/main superstructure contractor of the ^γPhase/Development,] I am *[not] personally related to a director/secretary of the Owner, the parent or holding company of the Owner or the main superstructure contractor of the ^γPhase/Development;
 - (iii) *[save and except [*insert number*] *partner/partners,] no *[other] partners in my firm is a director/secretary of the Owner, the parent or holding company of the Owner or the main superstructure contractor of the ^γPhase/Development;
 - (iv) *[save and except [*insert number*] *partner/partners,] no *[other] partners in my firm is personally related to any director/secretary of the Owner, the parent or holding company of the Owner or the main superstructure contractor of the ^γPhase/Development;
 - (v) *[except in the *Owner/parent or holding company of the Owner/main superstructure contractor of the ^γPhase/Development,] I *[do not] hold more than 1% (in the case of a listed company) of the total issued shares, or 10% (in the case of a private company) of the total shares, of the Owner, the parent or holding company of the Owner or the main superstructure contractor of the ^γPhase/Development; and
 - (vi) *[save and except [*insert number*] *partner/partners,] no *[other] partners in my firm holds more than 1% (in the case of a listed company) of the total issued shares, or 10% (in the case of a private company) of the total shares, of the Owner, the parent or holding company of the Owner or the main superstructure contractor of the ^γPhase/Development.
- (b) My firm undertakes to inform in writing LACO immediately if there is any change to (a)(i) to (a)(iv) of this paragraph resulting in an appointment as a director or secretary and if there is a change to (a)(v) and (a)(vi) of this paragraph resulting in

the shareholding threshold therein being exceeded subsequently.

(15) My firm undertakes to provide on a calendar monthly basis to the Owner and copy to the Transport and Housing Bureau and LACO *[and the Mortgagee] reports as per the form prescribed under the Modified Consent Conditions. The reports will be forwarded to the parties on or before the 15th day of each succeeding calendar month:

(a) until the issue by the Director of Lands of the consent to assign in respect of the ^yPhase/Development; or

(b) if no consent to assign has been issued, until the issue by the Director of Lands of a certificate of compliance in respect of the Development and the issue of a certificate by the Authorized Person to the Director of Lands confirming that the fittings, finishes and appliances of those residential units in the ^yPhase/Development which have been sold under the Consent will be incorporated in accordance with the terms and conditions of the ASP,

at which time a final report covering the period from the end of the last calendar month to either (a) or (b) of this paragraph will be submitted within 15 days of either (a) or (b) of this paragraph.

(16) I confirm that my firm has advised the Authorized Person that the Authorized Person will have to provide on a quarterly basis to LACO and copy to *[the Mortgagee,] the Vendor and my firm certificates in the revised form prescribed under the Modified Consent Conditions and that the quarterly certificates will have to be forwarded to the relevant parties on or before the 15th day of the month following the quarter until such time specified in either (a) or (b) of paragraph (15) of this declaration.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance.

DECLARED by)
)
)
)

Before me,

IN THE MATTER of [*insert lot number of
land*]

and

IN THE MATTER of the Oaths and
Declarations Ordinance

STATUTORY
DECLARATION

REGISTERED in the Land Registry by
Memorial No. []
on []

for Land Registrar

- & For sale of parking spaces constituting separate units only. Delete if all the parking spaces form parts of the residential units.
- * Delete as appropriate.
- β For phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance) only. Delete as appropriate.
- γ Delete “Development” for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance). Otherwise delete “Phase”.
- ϣ Amend as appropriate where Sub-DMC is involved.
- # Applicable where DMC approval is required.
- Δ Applicable where the Owner has entered into a debenture/building mortgage.
- % Applicable where a licensed bank/registered deposit-taking company has undertaken to provide finance by way of an undertaking.
- + Applicable where unsecured loans have been or will be made.

SUPPLEMENTAL STATUTORY DECLARATION

IN THE MATTER of [*insert lot number of land*]

and

IN THE MATTER of the Oaths and
Declarations Ordinance

I, [*insert name of solicitor*] of [*insert address of solicitor*], solicitor, solemnly and sincerely declare as follows:-

(1) I am *a partner/the sole proprietor in the firm of [*insert name of solicitors' firm*], solicitors and I make this declaration on behalf of my firm.

(2) My firm acts for the Owner in the sale of residential units &[and car parking spaces *[and motor cycle parking spaces] (“parking spaces”)] in ^β[Phase [*insert phase number*] of] the Development ^β[(“the Phase”)] in respect of which the Consent has been given by the Director of Lands under the provisions of the Grant. ^β[The Phase comprises [*insert description of buildings comprising the Phase*].] My firm has received instructions from the Owner to apply for modification of the conditions of the Consent set out in the consent letter dated [*insert date*] (“the Consent Conditions”).

(3) This declaration is supplemental to the Statutory Declaration made by me on behalf of my firm on [*insert date*] and registered in the Land Registry by Memorial No. [*insert memorial number*] (“the Declaration”). All expressions defined in the Declaration when used in this declaration shall have the same meaning as defined in the Declaration unless otherwise specified.

(4) My firm has drawn up a revised form of the ASP for the sale of residential units &[and parking spaces] in the ^γPhase/Development to which the Consent Conditions as modified with the approval of the Director of Lands (“the Modified Consent Conditions”) apply. I have PERSONALLY EXAMINED the revised form now produced to me marked Exhibit A-[*insert exhibit number*] and exhibited to this declaration. I declare that *[except insofar as any variations have been approved by the Director of Lands] its contents in all respects accord with the standard form of the ASP annexed to LACO Circular Memorandum No. [*insert number*]. I confirm that the form of the ASP marked Exhibit A-1 and exhibited

to the Declaration will not be used for the sale of residential units &[and parking spaces] in the ^γPhase/Development to which the Modified Consent Conditions apply.

(5) I confirm that in so far as relating to the sale of residential units &[and parking spaces] in the ^γPhase/Development to which the Modified Consent Conditions apply:

- (a) my firm undertakes that all purchase monies paid by purchasers of residential units &[and parking spaces] in the ^γPhase/Development to which the Modified Consent Conditions apply will be held by my firm as stakeholder and will not be released except in accordance with the terms and conditions of the ASP and the Modified Consent Conditions;
- (b)(i) my firm undertakes that we will check the terms and conditions of all signed preliminary agreements for sale and purchase (“PASP”) in respect of the residential units &[and parking spaces] which have been sold and for which we are instructed by the purchaser to prepare the ASP and will satisfy ourselves that the terms and conditions of the PASP do not breach any of the Modified Consent Conditions;
- (ii) my firm will not act for either party in the sale of any residential units &[and parking spaces] in respect of which the terms and conditions of the PASP are in breach of the Modified Consent Conditions and my firm will immediately notify LACO of any such breach with details of the residential units &[and parking spaces] concerned;
- (iii) my firm acknowledges that any breach of the Modified Consent Conditions apparent on the face of any PASP will immediately act as a suspension of the Consent for the whole of the ^γPhase/Development and my firm will immediately inform the Owner that no further sales of residential units &[and parking spaces] in the ^γPhase/Development shall take place until the Director of Lands has confirmed in writing that the Consent is reinstated in respect of the unsold residential units &[and parking spaces]; and
- (c) my firm has received confirmation from the Owner that the sales brochure for the ^γPhase/Development *has been/will be revised so as to comply with the Modified Consent Conditions and will be made available to the general public pursuant to the Modified Consent Conditions.

(6) I acknowledge that the reports to be provided to the relevant parties pursuant to paragraph () of the Declaration will have to be in the revised form prescribed under the Modified Consent Conditions and be forwarded to them on or before the 15th day of each

succeeding calendar month:

- (a) until the issue by the Director of Lands of the consent to assign in respect of the ^γPhase/Development; or
- (b) if no consent to assign has been issued, until the issue by the Director of Lands of a certificate of compliance in respect of the Development and the issue of a certificate by the Authorized Person to the Director of Lands confirming that the fittings, finishes and appliances of those residential units in the ^γPhase/Development which have been sold under the Consent will be incorporated in accordance with the terms and conditions of the agreements for sale and purchase entered into by the Owner,

at which time a final report covering the period from the end of the last calendar month to either (a) or (b) of this paragraph will be submitted within 15 days of either (a) or (b) of this paragraph.

(7) I confirm that my firm has advised the Authorized Person that the Authorized Person will have to provide on a quarterly basis to LACO and copy to *[the Mortgagee,] the Vendor and my firm certificates in the revised form prescribed under the Modified Consent Conditions and that the quarterly certificates will have to be forwarded to the relevant parties on or before the 15th day of the month following the quarter until such time specified in either (a) or (b) of paragraph (6) of this declaration.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance.

DECLARED by)
)
)
)

Before me,

IN THE MATTER of [*insert lot number of
land*]

and

IN THE MATTER of the Oaths and
Declarations Ordinance

S U P P L E M E N T A L
S T A T U T O R Y
D E C L A R A T I O N

REGISTERED in the Land Registry by
Memorial No. []
on []

for Land Registrar

- * Delete as appropriate.
- & Applicable for sale of parking spaces constituting separate units only. Delete if all the parking spaces form parts of the residential units.
- β For phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance) only. Delete as appropriate.
- γ Delete “Development” for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance). Otherwise delete “Phase”.

THIS AGREEMENT is made the [] day of [] Two thousand and []

BETWEEN the Vendor *[the Financier] and the Purchaser whose particulars are set out in Schedule 1.

WHEREAS :

Recitals

(1) *[The Vendor is obliged under the Government Grant to erect and complete on the land before [*insert building covenant expiry date*] the Development in all respects complying with the conditions of the Government Grant.

OR

Under the Exclusion Order the Vendor is obliged to erect and complete not later than [*insert building covenant expiry date*] the Development on the land in accordance with the building plans.

OR

Under the Redevelopment Order the Vendor is obliged to erect and complete not later than [*insert building covenant expiry date*] the Development on the land in accordance with the building plans.]

^α[(2) The Occupation Permit in respect of every building in the ^γPhase/Development has been issued on [*insert date of occupation permit*].]

(3) The land and the Development are notionally divided into undivided shares, such shares being subject to adjustment by the Vendor under clause 22.

(4) The Vendor has obtained the consent of the Director of Lands to enter into (inter alia) this Agreement for the sale of the Property.

NOW IT IS AGREED AS FOLLOWS :

Interpretation

1. (1) In this Agreement -

(a) “Authorized Person” means the authorized person of the

^γPhase/Development within the meaning given by section 2 of the Residential Properties (First-hand Sales) Ordinance (19 of 2012);

*[(b) “Building Mortgage” means the [*insert description of the instrument*] dated [*insert date of instrument*] and registered in the Land Registry by Memorial No. [*insert memorial number*];]

(c) “building plans” -

(i) means the plans prepared by the Authorized Person in respect of the ^γPhase/Development and approved by the Building Authority; and

(ii) includes any approved amendments to the plans mentioned in paragraph (i);

(d) “business day” means a day -

(i) that is not a Saturday, Sunday or public holiday; and

(ii) on which banks are open for business in the Hong Kong Special Administrative Region;

(e) “Certificate of Compliance” means the certificate issued or to be issued by or on behalf of the Director of Lands to the effect that all the positive obligations of the Vendor under the Government Grant in relation to the land have been complied with;

(f) “Construction Costs” means the aggregate of -

(i) any sum incurred or to be incurred in connection with any works done or to be done, and materials or goods supplied or to be supplied, in connection with the site formation on the land and the substructure and superstructure construction for the ^γPhase/Development (including the communal * [and recreational] facilities as set out in clause 32), and the

making of the ^γPhase/Development fit to qualify for the issue of an ^λOccupation Document/Occupation Permit (where applicable) and to comply with the conditions of the Government Grant ^Σ[in so far as they relate to the Phase];

- (ii) any sums needed to be incurred by the Vendor to install the fittings, finishes and appliances of the ^γPhase/Development (including the fittings, finishes and appliances as set out in clause 31) and in making every unit in the ^γPhase/Development ready for handover to purchasers on completion of the sale and purchase; and
 - (iii) any other sums (excluding Professional Fees) which in the reasonable opinion of the Authorized Person needed to be incurred to complete the ^γPhase/Development to qualify for the issue of an ^λOccupation Document/Occupation Permit (where applicable) and to comply with the conditions of the Government Grant ^Σ[in so far as they relate to the Phase] and this Agreement;
- (g) “Deed of Mutual Covenant” means the document to be registered in the Land Registry which defines the rights, interests and obligations of all or any of the co-owners of the land and the Development among themselves and incorporates a Management Agreement (if any);
- (h) “Development” means [*insert brief description of the development giving as much information as reasonably practicable so that a purchaser will have a general understanding as to the nature and composition of the development, the communal and recreational facilities (if any) provided in the development, and other special features (if any), etc.*] now being constructed or to be constructed on the land and intended to be known as “[*insert name of the development*]”;

*[(i) “Exclusion Order” -

- (i) means the Exclusion Order dated [*insert date of instrument*] and registered in the Land Registry by Memorial No. [*insert memorial number*]; and
- (ii) includes any order amending that Exclusion Order;]

^{δ*}[(j) “expiry date of the Building Covenant Period” means -

- (i) the last day of the period within which the Development is required to be completed under the *Government Grant/Exclusion Order/Redevelopment Order; or
- (ii) if that period has been extended by the Government, the last day of the extended period;]

(k) “Government” means the Government of the Hong Kong Special Administrative Region;

(l) “Government Grant” means [*insert description of the instrument*] as set out in Schedule 2;

(m) “land” means all that piece or parcel of land registered in the Land Registry as [*insert lot number*];

(n) ^δ[“Occupation Document” -

- (i) where the Development is a Relevant NTEH Development, means the letter to be issued by the Director of Lands confirming that the Director of Lands has no objection to every building in the ^γPhase/Development being occupied; or
- (ii) in any other case, means the occupation permit or temporary occupation permit to be issued by the Building Authority under section 21 of the Buildings Ordinance (Cap.123) for every building in the ^γPhase/Development;]

OR

^α["Occupation Permit" means the occupation permit or temporary occupation permit to be issued by the Building Authority under section 21 of the Buildings Ordinance (Cap. 123) for every building in the ^γPhase/Development;]

(o) "office hours" means the period beginning at 10 a.m. of a day and ending at 4:30 p.m. of the same day;

^β[(p) "Phase" means Phase *[insert phase number]* of the Development comprising *[insert description of buildings comprising the Phase]*;

(q) "Professional Fees" means any sums incurred or to be incurred by the Vendor for the employment of the Authorized Person and other professional persons or consultants in relation to completion of the ^γPhase/Development;

(r) "Property" means the property described in Schedule 3 ^χ[and in the context of clause 11(1)(b) ^δ[and clause 33] and Schedule 4, excludes the parking space constituting separate unit described in Schedule 3];

^{*}[(s) "Redevelopment Order" -

(i) means ^{*}a redevelopment order (as defined by the Demolished Buildings (Re-development of Sites) Ordinance (Cap. 337)/an order for sale (as defined by the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545)), dated *[insert date of instrument]* and registered in the Land Registry by Memorial No. *[insert memorial number]*; and

(ii) includes any order amending that ^{*}redevelopment order/order for sale;]

^δ[(t) "Relevant NTEH Development" means a specified NT development as defined in section 5 of the Residential Properties (First-hand Sales) Ordinance (19 of 2012) where, under the Government Grant, the consent of the Director of Lands is not required to be given for this sale

and purchase;]

- (u) “Statutory Declaration” means the Statutory Declaration of the Vendor’s Solicitors and all other solicitors (if any) acting for the Vendor registered in the Land Registry by Memorial No. [*insert memorial number*] in relation to the consent of the Director of Lands to sell the Property; and
- (v) “Vendor’s Solicitors” means Messrs. [*insert name of solicitors’ firm of the vendor*].

(2) ^ζ[In this Agreement -

- (a) “saleable area” has the meaning given by section 8 of the Residential Properties (First-hand Sales) Ordinance (19 of 2012);
- (b) the floor area of an item under paragraph (a) of Schedule 4 is calculated in accordance with section 8(3) of that Ordinance; and
- (c) the area of an item under paragraph (b) of Schedule 4 is calculated in accordance with Part 2 of Schedule 2 to that Ordinance.]

OR

^ρ[In this Agreement, the area of the Property is measured from the centre of its demarcating lines or (if applicable) the interior face of the enclosing walls.]

- (3) In this Agreement, if the context permits or requires, the singular number includes the plural and the masculine gender includes the feminine and the neuter.

Sale and purchase

- 2. The Vendor shall sell and the Purchaser shall purchase the Property TOGETHER with the right in common with the Vendor or other person or persons claiming through, under or in trust for the Vendor to use for the purpose of access to and egress from the Property the lifts, entrance hall, staircases and landings in the Development and such of the passages in the Development intended for common use

and serving the Property and the appurtenances thereto and TOGETHER with all rights of way (if any) and other rights and all privileges, easements and appurtenances thereunto belonging or appertaining AND all the estate, right, title, interest, property, claim and demand whatsoever of the Vendor in and to the Property EXCEPTING AND RESERVING unto the Vendor and its successors and assigns other than the Purchaser the right to the exclusive use, occupation and enjoyment of the whole of the Development *[including the external walls (if any) of the Property] SAVE AND EXCEPT -

- (1) the Property; and
- (2) such areas and facilities (if any) as may be designated as common areas or common parts and common facilities in the Deed of Mutual Covenant or are intended for common use.

Purchase price

3. (1) The purchase price is the sum as set out in Schedule 5, payable by the Purchaser to the Vendor's Solicitors as stakeholders in the manner as set out in Schedule 5.
- (2) In the event of any money paid under this Agreement to the stakeholders not being applied in the manner set out in clause 26, such money is deemed to have been paid by the Purchaser to the Vendor's Solicitors as agents for the Vendor.
- (3) In the event of the Purchaser being required pursuant to Schedule 5 to pay the balance of the purchase price when the Vendor is not at that time in a position validly to assign the Property to the Purchaser for whatever reason, the Purchaser is entitled to withhold such payment until the Vendor is in a position validly to assign the Property and has given at least 14 days' notice in writing to that effect to the Purchaser. Where the Purchaser has opted for payment of the full balance of the purchase price within a specified period after the signing of this Agreement as set out in Schedule 5, then this sub-clause (3) shall not apply.
- (4) In respect of each payment of the purchase price or any part of the purchase price required to be made under this Agreement, the Purchaser shall deliver to the Vendor's Solicitors on the date

on which such payment is required to be made a cashier's order issued or a cheque certified good for payment by a licensed bank in the Hong Kong Special Administrative Region in favour of the Vendor's Solicitors for the relevant amount.

- (5) Subject to sub-clause (3) but without prejudice to any other remedy under this Agreement, the Vendor is entitled to demand and receive payment of interest on the amount of any part of the purchase price not paid on its due date at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time calculated from the date on which the same ought to have been paid by the Purchaser to the date of actual payment.

Construction of
Development

4. (1) The Vendor shall -
- (a) continue the construction of the Development with all due expedition;
 - (b) comply with the requirements of the Building Authority (where applicable) and of any other relevant Government authority relating to the Development; and
 - (c) complete the ^θPhase/Development in all respects in compliance with the conditions of the Government Grant ^Σ[in so far as they relate to the Phase] and the building plans (if any) on or before the [*insert the estimated material date for the development, or the estimated material date for the phase (in the case of a phase of a phased development), as provided by the Authorized Person – see sections 2(1) and 3(3) of the Residential Properties (First-hand Sales) Ordinance (19 of 2012) for the meanings of “material date” and “phased development”*] subject to such extensions of time as may be granted by the Authorized Person in accordance with sub-clause (3)(a).
- (2) (a) Subject to sub-clause (2)(b), if the Vendor fails to complete the ^θPhase/Development by the date specified in sub-clause (1)(c) as extended by any extensions of time granted by the Authorized Person under sub-clause (3)(a), the Purchaser is

at liberty, in addition to any other remedy that the Purchaser may have, by notice in writing to the Vendor to rescind this Agreement and upon service of such notice, this Agreement is rescinded, and the Vendor shall, within 7 days after the rescission, repay to the Purchaser all amounts paid by the Purchaser under this Agreement together with interest on those amounts at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts were paid up to the date of repayment, the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor under this Agreement.

- (b) If the Purchaser does not rescind this Agreement under sub-clause (2)(a) within 28 days after the date specified in sub-clause (1)(c) or any extended date under sub-clause (3)(a), the Purchaser is deemed, without prejudice to the Purchaser's rights under sub-clause (2)(c), to have elected to wait for completion of the ⁰Phase/Development. In such event the Vendor shall pay to the Purchaser interest at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time on all amounts paid under this Agreement from the date following the date specified in sub-clause (1)(c) or any extended date under sub-clause (3)(a) up to the date of completion of the ⁰Phase/Development. Such interest shall be paid or allowed as a credit to the Purchaser in respect of the purchase price on completion of the sale and purchase.
- (c) Despite sub-clauses (2)(a) and (2)(b), if the ⁰Phase/Development is not completed within a period of 6 months from the date specified in sub-clause (1)(c) or any extended date under sub-clause (3)(a), the Purchaser is at liberty either to rescind this Agreement in which event the provisions of sub-clause (2)(a) relating to repayment and interest apply or to await the completion of the ⁰Phase/Development in which event the provisions of sub-clause (2)(b) relating to the payment of interest apply.

- (3) (a) The Vendor is entitled to such extensions of time for completion of the ^θPhase/Development beyond the date specified in sub-clause (1)(c) as granted by the Authorized Person and appear to the Authorized Person to be reasonable having regard to delays caused exclusively by any one or more of the following reasons -
- (i) strike or lock-out of workmen;
 - (ii) riots or civil commotion;
 - (iii) force majeure or Act of God;
 - (iv) fire or other accident beyond the Vendor's control;
 - (v) war; or
 - (vi) inclement weather.

For the purpose of this Clause, "inclement weather" means rainfall in excess of 20 millimetres in a twenty-four hour period (mid-night to mid-night) as recorded at the Hong Kong Observatory, or the issue of a Black Rainstorm Warning Signal, or the hoisting of Typhoon Signal No. 8 or above, at any time between the hours of 8 a.m. and 5 p.m.

- (b) The Vendor shall within 14 days after the issue of any such extensions of time granted by the Authorized Person under sub-clause (3)(a) furnish the Purchaser with a copy of the relevant certificate of extension.
- ^{δ*}[(4) (a) Despite sub-clause (1)(c), the Vendor shall complete the Development by the expiry date of the Building Covenant Period as required under the ^{*}Government Grant/Exclusion Order/Redevelopment Order. If at any time it appears likely in the opinion of the Authorized Person that the Development will not be completed by the expiry date of the Building Covenant Period, the Vendor shall promptly apply for and obtain such extension of time for completing the Development as is required and shall pay any premium to the Government for such extension. The Vendor shall

notify the Purchaser in writing of such application and the terms of extension granted within 30 days after each event.

- (b) If the Vendor fails to apply for and obtain any necessary extension of time for completing the Development under sub-clause 4(a) and fails to complete the Development by the expiry date of the Building Covenant Period, the Purchaser is entitled, ^β[unless the completion of the sale and purchase in this Agreement has taken place], in addition to any other remedy that the Purchaser may have, to give the Vendor notice in writing to rescind this Agreement and upon service of such notice, this Agreement is rescinded, and the Vendor shall, within 7 days after the rescission, repay to the Purchaser all amounts paid by the Purchaser under this Agreement together with interest on those amounts at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts were paid up to the date of repayment, the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor under this Agreement.]

Certificate of
Compliance, consent to
assign

5. (1) The Vendor shall apply in writing for a Certificate of Compliance or the consent of the Director of Lands to assign in respect of the ^θPhase/Development within 14 days after its having completed the ^θPhase/Development as stipulated in clause 4(1)(c).
- (2) ^δ[For the purpose of clauses 4(1), 4(2), 4(3)(a) and 5(1) -
- (a) where, under the Government Grant, the consent of the Director of Lands is required to be given for this sale and purchase, the issue of a Certificate of Compliance or consent to assign by the Director of Lands is conclusive evidence that the ^θPhase/Development has been completed or is deemed to be completed as the case may be and nothing in this sub-clause (2) precludes the Vendor from proving that the Vendor has complied with clause 4(1)(c) by any other means; or

- (b) where, under the Government Grant, the consent of the Director of Lands is not required to be given for this sale and purchase, the ^γPhase/Development is deemed to be completed on the date on which the Occupation Document is issued.]

OR

^α[For the purpose of clauses 4(1), 4(2), 4(3)(a) and 5(1), the issue of a Certificate of Compliance or consent to assign by the Director of Lands is conclusive evidence that the ^θPhase/Development has been completed or is deemed to be completed as the case may be and nothing in this sub-clause (2) precludes the Vendor from proving that the Vendor has complied with clause 4(1)(c) by any other means.]

Completion of sale
and purchase

6. (1) ^δ[(a) Where, under the Government Grant, the consent of the Director of Lands is required to be given for this sale and purchase, the Vendor shall notify the Purchaser in writing that the Vendor is in a position validly to assign the Property within one month after the issue of the Certificate of Compliance or the consent of the Director of Lands to assign, whichever first happens.
- (b) Where, under the Government Grant, the consent of the Director of Lands is not required to be given for this sale and purchase, the Vendor shall notify the Purchaser in writing that the Vendor is in a position validly to assign the Property within six months after the issue of the Occupation Document.]

OR

^α[The Vendor shall notify the Purchaser in writing that the Vendor is in a position validly to assign the Property within one month after the issue of the Certificate of Compliance or the consent of the Director of Lands to assign, whichever first happens.]

- (2) The sale and purchase shall be completed at the offices of the Vendor's Solicitors during office hours within 14 days after the date of the notification to the Purchaser that the Vendor is in a

position validly to assign the Property to the Purchaser.

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| Proper assurance | 7. | On completion of the sale and purchase, the Vendor and all other necessary parties (if any) shall execute an Assignment of the Property to the Purchaser in accordance with this Agreement but otherwise free from incumbrances. |
| Risk | 8. | The Property, as between the Vendor and the Purchaser, remains at the Vendor's risk until the date fixed for completion of the sale and purchase in clause 6. |
| Requisition on title | 9. | <p>(1) Subject to clause 12(2) and without prejudice to Sections 13 and 13A of the Conveyancing and Property Ordinance (Cap. 219), the Vendor shall not restrict the Purchaser's right under the law to raise requisition or objection in respect of title.</p> <p>(2) If the Purchaser makes and insists on any objection or requisition in respect of the title or otherwise which the Vendor is unable or (on the ground of difficulty, delay or expense or on any other reasonable ground) unwilling to remove or comply with, the Vendor is, notwithstanding any previous negotiation or litigation, at liberty to cancel the sale on giving to the Purchaser or his solicitors at least 14 days' notice in writing to that effect, in which case unless the objection or requisition is in the meantime withdrawn, the sale is cancelled on the expiry of such notice and the Purchaser is entitled to a return of the deposit and other sums of money already paid but without interest, costs or compensation.</p> |
| Government Grant, mis-description | 10. | <p>(1) The Property is sold subject to and with the benefit of the Government Grant, for the term of years created by and with any right of renewal granted by the Government Grant and subject to all easements (if any) subsisting in the Government Grant.</p> <p>(2) No error, mis-statement or mis-description shall cancel the sale nor shall any compensation be allowed in respect of such error, mis-statement or mis-description save as otherwise provided in this Agreement and except where such error, mis-statement or mis-description relates to a matter materially and adversely affecting the value or user of the Property.</p> |

Warranties

11. (1) The Vendor warrants -
- (a) that the fittings, finishes and appliances as set out in clause 31 shall, on or before completion of the ^θPhase/Development, be incorporated into the Property;
 - (b) that ^{δζ}[subject to clause 33,] the Property will, on completion of the ^θPhase/Development, be as shown on the plan attached to this Agreement and the measurements of the Property will be those as set out in Schedule 4; and
 - (c) that on completion of the Development the Vendor shall provide the communal ^{*}[and recreational] facilities as set out in clause 32.
- ^λ[(2) The Vendor also warrants that the parking space constituting separate unit described in Schedule 3 will, on completion of the ^θPhase/Development, be as shown on the plan attached to this Agreement and the area of such parking space to be measured from the centre of its demarcating lines or (if applicable) the interior face of the enclosing walls is as follows –
- [*insert figure*] square metres/[*insert figure*] square feet.]
- (3) The Vendor further warrants –
- (a) that consent in writing for the Vendor to enter into this Agreement has been obtained under the ^{*}Government Grant/Exclusion Order/Redevelopment Order; and
 - (b) that at the date hereof -
 - (i) the building plans have been duly approved;
 - (ii) the Authorized Person has duly certified that the foundations of the ^γPhase/Development have been completed;
 - (iii) the consent of the Building Authority has been given under the Buildings Ordinance (Cap. 123) to commence building works on the superstructure of the

⁷Phase/Development; and

- (iv) to the best of the Vendor's knowledge, no impediment exists which would prohibit or impede the completion of construction of the ⁰Phase/ Development within the time specified in clause 4(1)(c).

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| Good title | <p>12. (1) The Vendor shall at its own expense show a good title to the Property and produce to the Purchaser for his perusal such certified or other copies of any deeds or documents of title, wills and matters of public record as may be necessary to complete such title. The costs of verifying the title, including search fees, shall be borne by the Purchaser who shall also, if the Purchaser requires certified copies of any documents in the Vendor's possession relating to other property retained by the Vendor as well as to the Property, pay the cost of such certified copies.</p> <p>(2) The Purchaser shall raise no objection if the Vendor's interest in the Property is an equitable interest and not a legal estate.</p> |
| Documents of title | <p>13. Such of the documents of title as relate exclusively to the Property shall be delivered to the Purchaser. All other documents of title in the possession of the Vendor shall be retained by the Vendor who shall, if so required on completion of the sale and purchase, give to the Purchaser a covenant for the safe custody of those documents and for production and delivery of copies of those documents at the expense of the Purchaser, such covenant to be prepared by the Purchaser.</p> |
| No transfer of Agreement | <p>14. (1) Subject to sub-clause (2), the Purchaser shall not nominate any person to take up the Assignment of the Property, sub-sell the Property or transfer the benefit of this Agreement (whether by way of direct or indirect reservation, right of first refusal, option, trust, power of attorney or any other method, arrangement or document of any description, conditional or unconditional) or enter into any agreement so to do before completion of the sale and purchase and execution of the Assignment to the Purchaser.</p> |
| Rights of Purchaser | <p>(2) The Purchaser is at any time before completion of the sale and purchase at liberty to -</p> |

- (a) charge or mortgage the Property for the purchase money or any part of the purchase money Provided Always that notice in writing of any such charge or mortgage is given to the Vendor or the Vendor's Solicitors;
- (b) instruct any firm of solicitors of his choice to act for him in this Agreement and the Assignment to the Purchaser and in the event that the Purchaser instructs solicitors other than the Vendor's Solicitors to act for him, each party shall pay its own solicitors' costs of and incidental to this Agreement and the Assignment to the Purchaser (including all legal costs and disbursements of and incidental to the preparation, completion, stamping and registration of this Agreement and the Assignment).

Cancellation of Agreement

- (3) In the event of the Purchaser requesting and the Vendor agreeing to execute a Cancellation Agreement or any other means which has the effect of cancelling this Agreement or the obligations of the Purchaser under this Agreement, the Vendor is entitled to retain the sum of 5% of the total purchase price of the Property as consideration for its agreeing to cancel this Agreement and not as a penalty and the Purchaser will in addition pay or reimburse, as the case may be, to the Vendor all legal costs, charges and disbursements (including any stamp duty) in connection with the cancellation of this Agreement.

Costs and disbursements of Agreement, stamp duty, etc.

- 15. (1) Subject to clause 14(2)(b), all legal costs and disbursements of and incidental to the preparation, completion, stamping and registration of this Agreement and the Assignment to the Purchaser shall be borne and paid by the *Purchaser/Vendor.
- (2) The ad valorem stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.
- (3) The special stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.
- (4) The registration fees payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.

- (5) The professional fees for the plan(s) to be annexed to this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.

Time of the essence 16. Time is in every respect of the essence of this Agreement.

Default of Purchaser 17. (1) Should the Purchaser fail to observe or comply with any of the terms and conditions contained in this Agreement or to make the payments in accordance with Schedule 5 or any interest payable under this Agreement within 7 days after the due date, the Vendor may (subject to clause 3(3)) give to the Purchaser notice in writing calling upon the Purchaser to make good his default. If the Purchaser fails within 21 days after the date of service of such notice fully to make good his default, the Vendor may by a further notice in writing forthwith determine this Agreement and in such event -

(a) the sum paid by the Purchaser under paragraph (a) of Schedule 5 by way of deposit shall be forfeited to the Vendor; and

(b) where the Purchaser has entered into possession of the Property, the Vendor is entitled to re-enter upon the Property and repossess the same free from any right or interest of the Purchaser in the Property and to receive from the Purchaser as occupation fee a sum equal to interest at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time on the unpaid balance of the purchase price for the period during which the Purchaser was in occupation.

- (2) Upon determination of this Agreement pursuant to sub-clause (1), the Vendor may resell the Property either by public auction or private contract subject to such stipulations as the Vendor may think fit and any increase in price on a resale belongs to the Vendor. On a resale, any deficiency in price shall be made good and all expenses attending such resale shall be borne by the Purchaser and such deficiency and expenses shall be recoverable by the Vendor as and for liquidated damages Provided That the

Purchaser shall not be called upon to bear such deficiency or expenses unless the Property is resold within 6 months after the determination of this Agreement.

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| Default of Vendor | 18. | In the event of the Vendor failing to complete the sale in accordance with the terms and conditions of this Agreement, it shall not be necessary for the Purchaser to tender an Assignment to the Vendor for execution before taking proceedings to enforce specific performance of this Agreement. |
| Deed of Mutual Covenant | 19. | On completion of the sale and purchase, the Purchaser shall EITHER enter into a Deed of Mutual Covenant with the Vendor OR at the Vendor's option accept an Assignment of the Property from the Vendor subject to and with the benefit of the Deed of Mutual Covenant entered into by the Vendor with another purchaser or purchasers in respect of the land and the Development. Such Deed of Mutual Covenant shall follow closely the draft exhibited to the Statutory Declaration subject however to such modifications as are necessitated by changes in the building plans, adjustment of the undivided shares, change in the management company and the like. The provisions of the Deed of Mutual Covenant shall not conflict with the Guidelines set out in Legal Advisory and Conveyancing Office Circular Memorandum No. 64 as amended from time to time unless otherwise permitted by the Director of Lands. |
| Costs of Deed of Mutual Covenant | 20. | The Purchaser shall pay to the Vendor's Solicitors the costs of and incidental to the Deed of Mutual Covenant in accordance with the scale of costs prescribed in the Solicitors (General) Costs Rules which include the costs for the provision of a certified copy of such Deed of Mutual Covenant to the Purchaser. |
| Possession, utility deposits | 21. | <p>(1) Subject as mentioned in this Agreement, the Purchaser is, on completion of the sale and purchase, entitled to vacant possession of the Property, all outgoings including Government rent, rates and management fees up to and inclusive of the completion date being paid by the Vendor.</p> <p>(2) Before the Purchaser is entitled to possession of the Property, the Purchaser shall -</p> <p style="padding-left: 40px;">(a) reimburse the Vendor a due proportion of any deposits paid</p> |

by the Vendor for the supply of water, electricity and gas (if any) to the common areas or common parts of the Development; and

- (b) pay to the Vendor or the manager of the Development all the deposits and advance payments payable under the Deed of Mutual Covenant.

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| Adjustment of undivided shares | 22. | The Vendor reserves the right to adjust the number of undivided shares into which the land and the Development are notionally divided and the fraction which each share bears to the whole Provided That such adjustment shall not - |
| | | (1) alter the total number of undivided shares by more than 3% without the prior written consent of the Director of Lands; or |
| | | (2) affect the Purchaser's exclusive right and privilege to hold, use, occupy and enjoy the Property. |
| Alteration of standard terms | 23. | None of the terms and conditions of this Agreement shall in any way be altered or varied nor shall any arrangement or agreement (whether written or otherwise) whatsoever be entered into which has the effect of altering or varying the terms and conditions of this Agreement without the prior written approval of the Director of Lands. |
| Registration | 24. | This Agreement shall be registered in the Land Registry within one month after [<i>insert date of preliminary agreement for sale and purchase</i>] being the date of the preliminary agreement referred to in paragraph (g) of Schedule 8. |
| No * [further] mortgage by Vendor | 25. | The Vendor shall not after the execution of this Agreement enter into any * [further] mortgage or charge of the Property or any other part of the land or the Development without obtaining the prior written consent of the Director of Lands but nothing in this Agreement shall prevent the Vendor from charging the unpaid proceeds of sale under this Agreement (subject however to clause 26) to further finance the Construction Costs and the Professional Fees so long as notice of any such mortgage or charge is given to the Purchaser. |
| Release of purchase price | 26. | (1) Subject as provided in this Clause, any part of the purchase price paid by the Purchaser to the Vendor's Solicitors shall be held by |

them as stakeholders pending completion of the sale and purchase and shall be applied and released in the following manner only -

- (a) first, towards payment of the Construction Costs and the Professional Fees to the Vendor from time to time in such amount or amounts as certified by the Authorized Person as having been expended or having become payable on the construction of the ^yPhase/Development;
- (b) second, towards repayment of funds drawn under the Building Mortgage (if any) for payment of the Construction Costs and the Professional Fees and interest on the Construction Costs or Professional Fees;
- (c) third, in the event of the Vendor's Solicitors and all other solicitors (if any) acting for the Vendor in the sale of the residential units in the ^yPhase/Development at any time holding as stakeholders a sufficient sum to cover the entire outstanding balance of the Construction Costs and the Professional Fees as certified by the Authorized Person from time to time and other sums referred to in sub-clause (1)(b) above, towards payment of any other moneys secured by the Building Mortgage (if any); and
- (d) fourth, in the event of the Vendor's Solicitors and all other solicitors (if any) acting for the Vendor in the sale of the residential units in the ^yPhase/Development at any time holding as stakeholders a sufficient sum to cover the total of the sums referred to in sub-clause (1)(c) above, then the Vendor's Solicitors may release the excess amount to the Vendor.

Provided Always that -

- (i) in respect of any payment under sub-clause (1)(a) above the Vendor's Solicitors shall not at any time release to the Vendor any sum in excess of the amount certified by the Authorized Person as having been paid and/or become payable towards the Construction Costs and the Professional Fees at that time less the amount which the

Vendor has drawn under the Building Mortgage (if any) for payment of the Construction Costs and the Professional Fees; and

(ii) the Vendor shall not in any circumstances draw under the Building Mortgage (if any) any part of the Construction Costs and the Professional Fees already paid under sub-clause (1)(a) above.

(2) All moneys received by the Vendor's Solicitors as stakeholders under this Agreement shall be placed in a client account bearing interest and subject to clearance (if the payment is made by cheque) the Vendor is entitled to all interest (if any) earned on such account.

Defects

27. (1) The Vendor shall, at its own cost and as soon as reasonably practicable after receipt of a written notice served by the Purchaser within 6 months after the date of completion of the sale and purchase under clause 6, remedy any defects to the Property, or the fittings, finishes or appliances as set out in clause 31, caused otherwise than by the act or neglect of the Purchaser. The provisions of this sub-clause (1) are without prejudice to any other rights or remedies that the Purchaser may have at common law or otherwise.

(2) The Vendor undertakes with the Purchaser to use its best endeavours to enforce all defects and maintenance obligations under all contracts relating to the construction of the Development in so far as such defects relate to or affect the Property or the common areas or common parts and common facilities of the Development.

(3) In the event of the winding-up (whether voluntary or otherwise) or dissolution of the Vendor, the benefit and rights of and in all warranties and guarantees under all contracts relating to the construction of the Development shall be assigned by the Vendor to the Owners' Corporation incorporated under the Building Management Ordinance (Cap. 344) or if no such corporation exists to the manager of the Development for the time being to be held in trust for the Purchaser and all other purchasers of units in the Development.

- Provisions to survive Assignment 28. Clauses 11, 14 and 27 will survive completion of the sale and purchase by the Assignment.
- Notice 29. Any notice required to be given under this Agreement -
- (1) is deemed to have been validly given to a party if -
- (a) the notice is addressed to the party; and
- (b) the notice is sent by ordinary prepaid post to -
- (i) the party's address stated in this Agreement; or
- (ii) the party's last known address (where a notification of change of address has previously been given to the other party or the other party's solicitors); and
- (2) is deemed to have been served on the second business day after the date of posting.
- Non-business day, etc. 30. If any date stipulated for payment in this Agreement or the day on which completion of the sale and purchase is to take place as provided in this Agreement falls on a day that is not a business day or on a day on which Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m., such date for payment or completion of the sale and purchase is automatically postponed to the immediately following day that is a business day and on which no Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m.
- Fittings, finishes and appliances 31. The Vendor shall, on or before completion of the ⁰Phase/Development, incorporate into the Property the fittings, finishes and appliances as follows –
- the fittings, finishes and appliances as set out in Schedule 6.
- Provided Always that if the Vendor is prevented by force majeure or other reason beyond its control from obtaining such fittings, finishes and appliances, other fittings, finishes and appliances certified by the

Authorized Person to be of comparable quality may be substituted.

Communal * [and recreational] facilities 32. The communal * [and recreational] facilities are as follows –
the communal * [and recreational] facilities as set out in Schedule 7.

^δ[Alteration of building plans] ^δ[33. (1) Despite anything contained in this Agreement, the Vendor reserves the right to alter the building plans (if any) whenever the Vendor considers necessary Provided That the Vendor shall notify the Purchaser in writing of such alteration if the same affects in any way the Property within 14 days after its having been approved by the Building Authority. ^ζ[If, as a result of such alteration, the measurements of the Property or any part of the Property according to such amended plans differs from the measurements of the Property as set out in Schedule 4, then the purchase price shall be adjusted in proportion to the variation of the measurements of the parts of the Property affected Provided That if the increase or reduction in the measurements of the Property, or any part of the Property, exceeds 5% of the measurements of the Property as set out in Schedule 4, then the Purchaser is at liberty to rescind this Agreement, in which event all moneys paid by the Purchaser under this Agreement shall be returned to the Purchaser with interest on those moneys at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates of payment to the date of repayment. The Purchaser shall exercise the right of rescission by notice in writing to the Vendor within 30 days after the Purchaser is notified in writing by the Vendor of the approval of such amended plans by the Building Authority, and if no such notice is received by the Vendor within such time, the Purchaser is deemed to have accepted such plans.

(2) Any dispute as to -

- (a) the extent of any variation in the measurements of the Property under sub-clause (1);
- (b) the extent of any adjustment of the purchase price as a result of the variation; or

- (c) whether the proviso in clause 31 has been complied with and, if it has not, as to the extent of the damages which should be paid

shall first be referred to the Authorized Person for a decision thereon.

- (3) If either party is dissatisfied with the decision of the Authorized Person made pursuant to sub-clause (2), such party shall within 14 days after the decision is communicated to him give to the other party notice in writing of his intention to refer the decision to another authorized person as defined in section 2(1) of the Buildings Ordinance (Cap. 123) acting as an expert, otherwise the decision of the Authorized Person shall be final and binding on the parties. Should the parties fail to agree on such other authorized person to be appointed within 30 days after the giving of such notice, either party is entitled to apply within 7 days thereafter to the President of The Hong Kong Institute of Surveyors for the appointment of a member of the Institute whose decision shall be final and binding on both parties. If a party, after giving to the other party notice in writing of his intention to refer the decision of the Authorized Person to another authorized person as aforesaid, fails to refer the decision to another authorized person within 44 days after the giving of such notice, then the decision of the Authorized Person shall be final and binding on the parties. The costs of the Authorized Person shall be paid as directed by the Authorized Person in his award.]

- ^x[(4) The Vendor shall also notify the Purchaser in writing of any alteration of the building plans (if any) if the same affects in any way the parking space constituting separate unit described in Schedule 3 within 14 days after its having been approved by the Building Authority.]]

*[Financier]

- *[34. The Financier covenants with the Purchaser that the Financier will not call back the whole or any part of the loan which has been advanced or will be advanced to the Vendor until the Development has been completed and that the Financier will, if necessary, provide all further finance to enable the Vendor to complete the Development.]

- Marginal notes 35. The marginal notes to this Agreement shall not be deemed to be part of this Agreement and do not affect the interpretation or construction of this Agreement.
- ^ε[Certificate of value] ^ε[36. It is certified that the transaction effected by this Agreement does not form part of a larger transaction or a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds HK\$*[insert amount]*.]
- Stamp Duty Ordinance 37. For the purpose of sections 29B(1) and 29B(5) of the Stamp Duty Ordinance (Cap. 117), the matters required to be specified are as set out in Schedule 8.

Schedule 1

Parties

(a) Vendor :

(b) Purchaser :

* (c) Financier :

Schedule 2Government Grant

* Government Lease/Conditions of Sale/Conditions of Grant/Conditions of Exchange/New Grant No. [*insert number*] * [as varied or modified by Modification Letter dated [*insert date of the instrument*] and registered in the Land Registry by Memorial No. [*insert memorial number*]], the particulars of which are as follows -

(a) Parties :

(b) Date :

(c) Term : years from expiring on

(d) User :

(e) Lot Number :

Schedule 3

Property

[Insert description of the Property, and where the Property comprises residential unit and parking space each constituting separate unit, insert description of the residential unit and the parking space in separate paragraphs as follows:

- (a) [insert description of the residential unit];*

- (b) [insert description of the parking space constituting separate unit], being the parking space constituting separate unit as referred to in this Agreement.]*

Schedule 4Measurements of the Property

The measurements of the Property are as follows -

ζ[(a) the saleable area of the Property is [*insert figure*] square metres/[*insert figure*] square feet
* [of which -]

* [[*insert figure*] square metres/[*insert figure*] square feet is the floor area of the balcony];

* [[*insert figure*] square metres/[*insert figure*] square feet is the floor area of the utility platform];

* [[*insert figure*] square metres/[*insert figure*] square feet is the floor area of the verandah];
and

(b) other measurements are -

* [the area of the air-conditioning plant room is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the bay window is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the cockloft is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the flat roof is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the garden is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the parking space is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the roof is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the stairhood is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the terrace is [*insert figure*] square metres/[*insert figure*] square feet];

* [the area of the yard is [*insert figure*] square metres/[*insert figure*] square feet].]

OR

^p[the area of the Property is *[insert figure]* square metres/*[insert figure]* square feet.]

Schedule 5

Purchase Price

The purchase price is HK\$[*insert amount*], payable by the Purchaser to the Vendor's Solicitors as stakeholders as follows -

- (a) the amount of [*insert amount*] has been paid as deposit on the signing of the agreement preliminary to this Agreement;
- (b) [*insert payment terms in such a way that the operation of Clause 6(2) will not be affected*].

Schedule 6

Fittings, Finishes and Appliances

[Insert fittings, finishes and appliances]

Schedule 7

Communal * [and Recreational] Facilities

[Insert communal and recreational facilities]

Schedule 8Matters Required to be Specified under Section 29B(5) of the Stamp Duty Ordinance (Cap. 117)

- (a) (1) Name of the Vendor -
[insert name]
Address/Registered Office of the Vendor -
[insert address/registered office]
- (2) Name of the Purchaser -
[insert name]
Address/Registered Office of the Purchaser -
[insert address/registered office]
- (b) (1) Identification Number of the Vendor -
[insert description and number of identification document]
- (2) Identification Number of the Purchaser -
[insert description and number of identification document]
- (c) (1) Business Registration Number of the Vendor -
[insert business registration number]
- (2) Business Registration Number of the Purchaser -
[insert business registration number]
- (d) Description and location of the Property -
[insert description and location]
- (e) [Insert a statement as to whether the Property is residential property or non-residential property within the meaning of section 29A(1) of the Stamp Duty Ordinance (Cap. 117)]
- (f) Date of this Agreement -
[insert date]
- (g) This Agreement was preceded by [insert description of the instrument, e.g. preliminary agreement for sale and purchase] on the same terms made between [insert names of the parties] on [insert date of the instrument].
- (h) [Insert a statement as to whether or not a date has been agreed for the Conveyance on Sale or Assignment of the Property and, if so, that date]

- (i) There is an agreed consideration for the Conveyance on Sale or Assignment that is to, or may, take place pursuant to this Agreement and the amount of the consideration is HK\$*[insert amount]*.

- (j) *[Insert a statement as to the amount or value of any other consideration which the parties signing this Agreement knows has been paid or given, or has been agreed to be paid or given, to any person for or in connection with this Agreement or any Conveyance on Sale or Assignment of the Property pursuant to this Agreement (excluding legal expenses), together with the name, address, and the identification number or business registration number of each person receiving or to receive such consideration, and a description of the benefit to which the consideration relates]*

AS WITNESS the hands of the parties to this Agreement the day and year first above written.

SIGNED by *[insert name]* for and)
)
on behalf of the Vendor whose)
)
signature(s) is/are verified by: -)

Solicitor, Hong Kong SAR

*[SEALED with the Common Seal)
)
of the Financier and SIGNED by)
)
[insert name] whose)
)
signature(s) is/are verified by: -)

Solicitor, Hong Kong SAR]

SIGNED by * the Purchaser in the)
)
 presence of/[*insert name*] for)
)
 and on behalf of the Purchaser whose)
)
 signature(s) is/are verified by: -)

Solicitor, Hong Kong SAR

* [INTERPRETED to the Purchaser in [*insert dialect*] of the Chinese language by: -

]

RECEIVED on or before the day and year first)
)
 above written of and from the Purchaser the sum)
)
 of HONG KONG DOLLARS [*insert amount*]) HK\$

Messrs. [*insert name of the Vendor's Solicitors*] as
 stakeholders

Dated

20

A G R E E M E N T
for Sale and Purchase of
[]

REGISTERED in the Land Registry by
Memorial No. []
on []

for Land Registrar

- * Delete as appropriate.
- α For completed development pending compliance or completed phase pending compliance (both within the meaning of the Residential Properties (First-hand Sales) Ordinance) only. Delete as appropriate.
- γ Delete “Development” for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance). Otherwise delete “Phase”.
- λ Delete “Occupation Document” for completed development pending compliance or completed phase pending compliance (both within the meaning of the Residential Properties (First-hand Sales) Ordinance). Otherwise delete “Occupation Permit (where applicable)” for uncompleted development or uncompleted phase (both within the meaning of the Residential Properties (First-hand Sales) Ordinance).
- Σ Applicable for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance) except the final phase of a phased development. Delete as appropriate.
- δ For uncompleted development or uncompleted phase (both within the meaning of the Residential Properties (First-hand Sales) Ordinance) only. Delete as appropriate.
- β For phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance) only. Delete as appropriate.
- χ For sale of property comprising residential unit and parking space each constituting separate unit. Delete as appropriate.
- ζ Delete for sale of property comprising parking space constituting separate unit only.

property comprising
- θ Delete “Development” for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance) except the final phase of a phased development. Otherwise delete “Phase”.
- ε For transaction of the value not exceeding the amount specified in Head 1(1A) of the First Schedule to the Stamp Duty Ordinance. Delete as appropriate.