Appendix I

Checklist for Application for Consent

TO ENTER INTO AGREEMENTS FOR SALE AND PURCHASE OF NON-RESIDENTIAL UNITs[[1]](#footnote-2)(Note 1)

(To be completed by the solicitors’ firm submitting the consent application (“Lead Solicitors’ Firm”))

This application is submitted by way of □ electronic submission □ paper submission. (Please tick (“✓”) the relevant box (“□”) as appropriate)

| **(I) MANDATORY DOCUMENTS** (Note 2)  (Please confirm submission by a tick (“✓”) against the relevant box (“□”))  (\*Delete as appropriate)  Electronic Paper  submission submission  (E1) (E2) (P) | | | For Official Use Only | |
| --- | --- | --- | --- | --- |
| Checked | Remarks |
| 1. | □ ■ □ | An up-to-date land register of the land concerned (see item 1 of Part (II)) obtained from the Land Registry showing the current particulars of the land |  |  |
| 2. | □ ■ □ | Draft Statutory Declaration (“SD”) (in form as per Appendix …... to the Annex to LACO Circular Memorandum (“CM”) No. ……) |  |  |
| 3. | □ ■ □ | Draft Agreement for Sale and Purchase (“ASP”) [[2]](#footnote-3)(Note 3) (in form as per Appendix …… to the Annex to LACO CM No. …... with variations) (if applicable) |  |  |
| 4. | □ □ □ | Authorized Person’s Certificate (“AP’s Certificate”) dated ………………… (in form as per Appendix …... to the Annex to LACO CM No. ……) |  |  |
|  | □ □ □ | Independent \*Authorized Person’s Certificate/Quantity Surveyor’s Certificate dated ……………… (in form as per Appendix …... to the Annex to LACO CM No. ……) (if applicable) |  |  |
| 5. | ■ □ □ | Full set of Building Mortgage (“BM”) (certified as true copy by the Land Registrar or a solicitor), with the partial release clause (Clause No. ….... on page …...) and provisions in compliance with sub-clauses (d)(i) and (d)(ii) of the “Restriction on alienation before compliance” clause in the Government Grant (Clause No. …… on page ……) highlighted (if applicable) |  |  |
| □ □ □ | Certificate from the Mortgagee (see item 13 of Part (II)) (“Mortgagee’s Certificate”) to confirm the amount already drawn and the undrawn balance under BM (see items 3(a)(iv) and 3(a)(v) of Part (V)) (if applicable) |  |  |
|  | □ ■ □ | \*Draft Undertaking as to Partial Release (in form as per Appendix …… to the Annex to LACO CM No. ……)/ Draft Deed of Variation to BM relating to partial release (if applicable) |  |  |
| □ ■ □ | Draft Finance Undertaking (“FU”) (in form as per Appendix …… to the Annex to LACO CM No. ……) (if applicable) |  |  |
| 6. | □ □ □ | Letter(s) of appointment of solicitors’ firm(s) from the Vendor (see item 4(a) of Part (II)) |  |  |

| **(II) GENERAL INFORMATION** | | English | Chinese | For Official Use Only | |
| --- | --- | --- | --- | --- | --- |
| Checked | Remarks |
| 1. | Lot No. of the land (“the land”) |  |  |  |  |
| 2. | Name of the development now being constructed or to be constructed on the land (“the Development”) |  |  |  |  |
| 3. | Postal address of the Development as confirmed with the Commissioner of Rating and Valuation |  |  |  |  |
| 4. | 1. Name of the registered owner of the land (“the Vendor”) |  |  |  |  |
|  | 1. Address of the Vendor |  |  |  |  |
|  | (c) Fax No. of the Vendor |  | N/A |  |  |
| 5. | Name of every holding company[[3]](#footnote-4)(Note 4) of the Vendor |  |  |  |  |
| 6. | Name of person engaged by the Vendor to co-ordinate and supervise the process of designing, planning, constructing, fitting out, completing and marketing the Development or the phase of the Development (“the JV Partner”) |  |  |  |  |
| 7. | Name of every holding company(Note 4) of the JV Partner |  |  |  |  |
| 8. | 1. Name of the Lead Solicitors’ Firm |  |  |  |  |
|  | (b) Name(s) of other participating solicitors’ firm(s) |  |  |  |  |
| 9. | (a) Address of the Lead Solicitors’ Firm |  |  |  |  |
|  | (b) Fax No. of the Lead Solicitors’ Firm |  | N/A |  |  |
|  | (c) E-mail address of the Lead Solicitors’ Firm |  | N/A |  |  |
| 10. | Name of the authorized person appointed as co-ordinator of the building works (“AP”) |  |  |  |  |
| 11. | Name of the professional firm/corporation to which the AP belongs |  |  |  |  |
| 12. | Name of the building contractor named in the AP’s Certificate |  |  |  |  |
| 13. | Name of the licensed bank or the registered deposit-taking company (“the Mortgagee”) in whose favour the BM was created |  |  |  |  |
| 14. | Name of the licensed bank or the registered deposit-taking company which will undertake to provide finance under the FU |  |  |  |  |
| 15. | Name of person (“the Financier”) who has made unsecured loan(s) to the Vendor or the JV Partner |  |  |  |  |

| **(III) PREMISES AFFECTED BY THIS APPLICATION**  (\*Delete as appropriate) | | | For Official Use Only | |
| --- | --- | --- | --- | --- |
| Checked | Remarks |
| 1. | Phase | \*Yes, Phase …… comprising (*please specify all buildings and the total number of units*) …………………………..……  \*N/A |  |  |
| 2. | Block | \*Block ……………………  \*N/A |  |  |
| 3. | Units | (*Please specify type, e.g. shops, offices, cinemas, parking spaces etc, and number*) …………….………………………….. |  |  |
| 4. | Consent fee in the sum of HK$………………………………… | | Paid on ……………………….. | |

| **(IV) LEASE REQUIREMENTS**  (\*Delete as appropriate) | | | | For Official Use Only | |
| --- | --- | --- | --- | --- | --- |
| Checked | Remarks |
| 1. | Land grant conditions (“Government Grant”) | \*Government Lease dated …………….………./ Conditions of Sale/ Conditions of Grant/ Conditions of Exchange/ New Grant No. …………..……. \*as varied or modified by -  \*Modification Letter dated …………..……………. (M/N ………..………)  \*Extension Letter dated …………….…………….. (M/N …………………….)  \*Paragraph No. …… of Exclusion Order dated …………..….. (M/N ……………………)  \*Paragraph No. …… of redevelopment order dated ……….… (M/N ……………………)  \*Paragraph No. ……. of order for sale dated …………..….…. (M/N ……………………) | |  |  |
| 2. | Lease term[[4]](#footnote-5)(Note 5) |  | |  |  |
| 3. | Premium | Fully paid? | \*Yes  \*No  \*N/A |  |  |
| 4. | User restriction | \*Non-industrial  \*Other (*please specify*) ………………………………………  (\*SC/Paragraph No. …… in ……………….……..) | |  |  |
| 5. | 1. Expiry date of the building covenant period (“BC period”) | BC period to expire on ……………………………  (\*SC/Paragraph No. …… in ………………..…….) | |  |  |
|  | (b) BC period extension | (i) BC period extension granted? | \*Yes, to expire on ……………………….  \*No  \*N/A |  |  |
|  |  | (ii) BC period extension premium paid? | \*Yes  \*No  \*N/A |  |  |
|  |  | 1. Copy of BC period Extension Letter submitted? | \*Yes  \*No  \*N/A |  |  |
| 6. | 1. Date of completion[[5]](#footnote-6)(Note 6) as certified in the AP’s Certificate | ………………..…………… | |  |  |
|  | 1. Date of completion in Clause 4(1)(c) of draft ASP[[6]](#footnote-7)(Note 7) | ……………………………… | |  |  |
| 7. | 1. Consent to sell prior to compliance | Required under SC/Paragraph No. …….. in ………….……… | |  |  |
|  | 1. Approval of Deed of Mutual Covenant incorporating Management Agreement (if any) | \*Required under SC/Paragraph No. …….. in ………..……….  Draft submitted on ……………….………  Draft approved on ………….……….……  \*Not required | |  |  |
|  | (c) Approval of design and disposition/design, disposition and height | \*Required under SC/Paragraph No. …….. in ……..………….  Approved on ……………………..…….…  \*Not required | |  |  |
|  | (d) Approval of Master Layout Plan | \*Required under SC/Paragraph No. …….. in …………………  Approved on ……………………….…  \*Not required | |  |  |
|  | (e) Approval of Landscaping Proposal[[7]](#footnote-8)(Note 8) | \*Required under SC/Paragraph No. …….. in …………………  Approved on ………………………….…  \*Not required | |  |  |
|  | (f) Approval of carving out of the land and surrender of carved out portion | \*Required under SC/Paragraph No. …….. in ………..………..  Approved on ………………………..….…  \*Deed Poll/Agreement to Surrender/ Deed of Surrender executed on ……………………. (M/N ……..….……)  \*Not required | |  |  |
|  | (g) Deposit of approved car park layout plan | \*Required under SC/Paragraph No. …….. in ………..………..  Deposited on …..……………..…  \*Not required | |  |  |
|  | (h) Approval and registration of natural terrain hazard mitigation and stabilization works plan | \*Required under SC/Paragraph No. …….. in …………………  Approved on ……………………….…  Registered in the Land Registry on …………………………..  (M/N ……………..)  \*Not required | |  |  |
|  | (i) Other lease approval/consent | \*Further requirements (*please specify*) ………………………..  Required under SC/Paragraph No. …..…. in ……………..….  \*No | |  |  |
| 8. | Provision of Government Accommodation | \*(*Please specify type of accommodation*) ……………………  Required under SC/Paragraph No.…….. in ……………………  \*Not required | |  |  |

| 1. **DEVELOPMENT COSTS & FINANCE**   (\*Delete as appropriate) | | | | For Official Use Only | |
| --- | --- | --- | --- | --- | --- |
| Checked | Remarks |
| 1. | Amount of the Total Development Costs (defined in the AP’s Certificate) as certified in the AP’s Certificate | HK$…………………. | |  |  |
| 2. | Total amount of that part of the Total Development Costs expended but not yet paid and that part of the Total Development Costs remaining to be expended (“Outstanding Development Costs”)[[8]](#footnote-9)(Note 9) as certified in the AP’s Certificate | HK$……………… as at ……………….. [[9]](#footnote-10)(Note 10) | |  |  |
| 3. | (a) \*BM | (i) Date of the BM | ……………………………. |  |  |
|  |  | (ii) Registered in the Land Registry by | M/N ……………………… |  |  |
|  |  | (iii) Total amount secured to finance development costs[[10]](#footnote-11)(Note 11) | HK$………………………. |  |  |
|  |  | (iv) Amount already drawn as certified in the Mortgagee’s Certificate | HK$………….……… as at …………………...[[11]](#footnote-12)(Note 12) |  |  |
|  |  | 1. Amount of undrawn balance as certified in the Mortgagee’s Certificate | HK$………….……… as at …………………...(Note 12) |  |  |
|  |  | * 1. Undrawn balance sufficient to cover Outstanding Development Costs? | \*Yes  \*No, further BM by ……….…………/ FU by ……….………… for HK$…………….....[[12]](#footnote-13)(Note 13) |  |  |
|  |  | (vii) Professional fees secured under the BM not exceed 5% of the total amount secured? | \*Does not exceed  \*Exceed |  |  |
|  | (b) \*FU | (i) Liability amount | HK$…………….………… |  |  |
|  |  | (ii) Liability amount sufficient to cover Outstanding Development Costs? | \*Yes  \*No, BM by ……...……/ Further FU by ……….…. for HK$ ………...…[[13]](#footnote-14)(Note 14) |  |  |
|  | (c) Unsecured loan (loan already advanced or to be advanced) | (i) Unsecured loan advanced? | \*Yes  \*No |  |  |
|  |  | (ii) The Financier to covenant in ASP not to call back the whole or any of the unsecured loan and to provide further finance until completion of the Development? | \*Yes, Clause …………… of ASP  \*N/A |  |  |

## **Certificate by Solicitor**

I, [*insert name of solicitor*], \*the sole proprietor/a partner in the firm of [*insert name of solicitors’ firm*], certify and confirm that this Checklist has been duly and accurately completed.

Dated this …..……….. day of …………………..

[*insert name of solicitor*]

Solicitor, Hong Kong SAR

\*Delete as appropriate

**For Official Use Only**

|  |  |  |  |
| --- | --- | --- | --- |
| First check by |  | on |  |
|  | (Name and signature of LCO) |  |  |

Final check and update before issue of consent, in particular, to request an updated AP’s Certificate and Mortgagee’s Certificate if the AP’s Certificate submitted was issued more than 3 calendar months.

|  |  |  |  |
| --- | --- | --- | --- |
| Final check by |  | on |  |
|  | (Name and signature of LCO) |  |  |

1. (Note 1) The consent application will not be accepted if:

   for application by electronic submission - the electronic copies of any of the documents in column (E1) of Part (I), if applicable, are not attached to the application email or the original hard copies of any of the documents in column (E2) of Part (I), if applicable, are not delivered to LACO within 3 working days from the date of receipt of the application by LACO;

   for application by paper submission – the original hard copies of any of the documents in column (P) of Part (I), if applicable, are not submitted at the time of the application; or

   the foundations of the building(s) within the Development have not been completed, or the consent to commence building works on the superstructure of the building(s) within the Development has not been given by the Building Authority under section 14 of the Buildings Ordinance.

   (Note 2) Where the application is made by electronic submission, tick (“✓”) the relevant box (“□”) in column (E1) for electronic copies of documents attached to the application email, and the relevant box (“□”) in column (E2) for the original hard copies of documents to be delivered to LACO within 3 working days from the date of receipt of the application by LACO. Where the application is made by paper submission, tick (“✓”) the relevant box (“□”) in column (P) for the original hard copies documents submitted at the time of the application. [↑](#footnote-ref-2)
2. (Note 3) There is no need to submit the draft ASP to LACO for approval if its contents in all respects accord with the form of ASP annexed to the relevant LACO Circular Memorandum. Where variations are proposed to the form, then full justification for each of the proposed variations must be provided. Any variations to the form must be highlighted in the draft ASP submitted. [↑](#footnote-ref-3)
3. (Note 4) Every holding company (within the meaning of the Companies Ordinance) must be listed. [↑](#footnote-ref-4)
4. (Note 5) The lease term must have at least 10 years to run. Where the lease is non-renewable and has less than 10 years to run, the consent application will not be entertained until a regrant or lease extension has been applied for and obtained. [↑](#footnote-ref-5)
5. (Note 6) Where the premises affected by this application form parts of a development or a phase (as the case may be) comprising non-residential units only, this date must not exceed 12 calendar months after the current expiry date of the BC period referred to in item 5(a) or 5(b)(i) of Part (IV). Otherwise, this date must not exceed 3 calendar months after the current expiry date of the BC period referred to in item 5(a) or 5(b)(i) of Part (IV). [↑](#footnote-ref-6)
6. (Note 7) This date must correspond with the date in item 6(a) of Part (IV). [↑](#footnote-ref-7)
7. (Note 8) Where a comprehensive landscaping clause requiring a two-stage submission is imposed in the Government Grant, approval to the conceptual submission will be accepted for the consent application. [↑](#footnote-ref-8)
8. (Note 9) This amount must be the same as the amount mentioned in paragraph (1)(k) of the AP’s Certificate. [↑](#footnote-ref-9)
9. (Note 10) This date must be the same date as referred to in paragraph (1)(i) of the AP’s Certificate. [↑](#footnote-ref-10)
10. (Note 11) This relates solely to the amount secured under the loan document for construction purposes. [↑](#footnote-ref-11)
11. (Note 12) This date must be the same date as referred to in the Mortgagee’s Certificate and must not be earlier than the date referred to in item 2 of Part (V). [↑](#footnote-ref-12)
12. (Note 13) This must be the amount of the Total Development Costs of the Development or the phase of the Development less the amount of the facilities granted or to be granted by the Mortgagee under the BM to finance the Total Development Costs of the Development or the phase of the Development. [↑](#footnote-ref-13)
13. (Note 14) Financing the Outstanding Development Costs by two or more FUs would generally not be accepted unless there is good justification. [↑](#footnote-ref-14)