

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

**COVALLA LIMITED**

( 銳雅有限公司 )

("the First Owner")

and

[ \* ]

("the First Assignee")

and

**COVALLA LIMITED**

( 銳雅有限公司 )

("the Manager")

\*\*\*\*\*

**DEED OF MUTUAL COVENANT AND  
MANAGEMENT AGREEMENT**

of

No.9 Belfran Road, Kowloon  
(The Remaining Portion of Section C of  
Kowloon Inland Lot No. 3281)

\*\*\*\*\*

**CHAN, LAU & WAI**

Solicitors

Room 602, 6<sup>th</sup> Floor, Asia Standard Tower,  
59-65 Queen's Road Central,

Hong Kong

Ref.: CSH/59186/2016

## Table of Contents

<b>1. Recitals.....</b>	<b>1</b>
<b>2. Definitions.....</b>	<b>1-11</b>
<b>3. Section I.....</b> <b>RIGHTS AND OBLIGATIONS OF OWNERS</b>	<b>11-12</b>
<b>4. Section II.....</b> <b>ADDITIONAL RIGHTS OF THE FIRST OWNER</b>	<b>12-15</b>
<b>5. Section III.....</b> <b>MANAGER AND MANAGEMENT CHARGES</b>	<b>15-33</b>
<b>6. Section IV.....</b> <b>EXCLUSIONS AND INDEMNITIES</b>	<b>33-34</b>
<b>7. Section V.....</b> <b>OWNERS' COMMITTEE</b>	<b>34-38</b>
<b>8. Section VI.....</b> <b>MEETING OF OWNERS</b>	<b>38-40</b>
<b>9. Section VII.....</b> <b>EXTINGUISHMENT OF RIGHTS</b>	<b>40-42</b>
<b>10. Section VIII.....</b> <b>MISCELLANEOUS PROVISIONS</b>	<b>42-47</b>
<b>11. The First Schedule.....</b> <b>ALLOCATION OF UNDIVIDED SHARES AND MANAGEMENT SHARES</b>	<b>48-49</b>
<b>12. The Second Schedule.....</b> <b>EASEMENTS, RIGHTS AND PRIVILEGES GRANTED</b>	<b>50-51</b>
<b>13. The Third Schedule.....</b> <b>COVENANTS, PROVISIONS AND RESTRICTIONS REFERRED TO IN CLAUSE 4</b>	<b>52-56</b>
<b>14. The Fourth Schedule.....</b> <b>SEVENTH SCHEDULE TO THE ORDINANCE MANDATORY TERMS IN DEEDS OF MUTUAL COVENANT</b>	<b>57-63</b>

<b>15. The Fifth Schedule.....</b>	<b>64-66</b>
<b>EIGHTH SCHEDULE TO THE ORDINANCE</b>	
<b>TERMS ADDED IF CONSISTENT WITH DEED OF MUTUAL COVENANT</b>	
<b>16. The Sixth Schedule.....</b>	<b>67</b>
<b>WORKS AND INSTALLATIONS SCHEDULE</b>	
<b>WORKS AND INSTALLATIONS MAINTENANCE MANUAL</b>	
<b>17. Execution page.....</b>	<b>68</b>
<b>18. Annexure A.....</b>	<b>69</b>
<b>19. Annexure B.....</b>	<b>70</b>
<b>20. Annexure C.....</b>	<b>71</b>



Reference No.2/4075/04 and includes any approved amendments thereto;

**“Car Park”**

means parts of the Development designated for use as Car Park being parts of the Ground Floor, the First Floor, the Second Floor and Third Floor of the Development comprising the Car Park Common Areas, the Car Park Common Facilities, the Car Parking Spaces and the Motor Cycle Parking Space;

**“the Car Park Common Areas”**

means those parts or areas of and in the Car Park not specifically assigned to or for the exclusive use of any one or more of the Car Parking Space Owners and shall include, without limitation, the area next to and behind the entrance to the Development from Belfran Road and all the way to the Car Lift, including the car waiting space on the Ground Floor, the whole of the First Floor save and except the areas designated as the Development Common Areas and Car Parking Spaces P1, P2 and P3, the whole of the Second Floor save and except the areas designated as Development Common Areas and Car Parking Spaces P4, P5 and P6 and the whole of the Third Floor save and except the areas designated as Development Common Areas and Car Parking Space P7, Accessible Car Parking Space P8 and Motor Cycle Parking Space M1, the lift machine room and the pulley room at Level 22.41. The Car Park Common Areas are more particularly shown on the Ground Floor Plan, the First Floor Car Park Plan, the Second Floor Car Park Plan and the Third Floor Car Park Plan, the Part Plan of Lift Machine Room at Level 22.41 annexed hereto as Annexure B and thereon coloured Indigo, the accuracy of such Plans having been certified by the Authorized Person;

**“the Car Park Common Facilities”**

means those facilities which are in, under or above the Car Park and serve the Car Park as a whole and shall include without limitation, all sewers, gutters, drains, water pipes, salt and fresh water intakes, electrical installations, equipment and apparatus, fire fighting equipment and apparatus including without limitation the hose reels, the fire extinguishers, the fire hose, the sand buckets, the installations equipment and apparatus of and in the Car Lift; the installation equipment and apparatus of and in the lift machine room and the pulley room at Level 22.41; the lightings at or in the Car Park Common Areas and other facilities for the common use and benefit of the Car Parking Space Owners and Motor Cycle Parking Space Owner and the occupiers of the Car Parking Spaces and the Motor Cycle Parking Space. The Car Park Common Facilities in so far as those capable to be shown are coloured Indigo on the Plans as annexed hereto as Annexure B, the accuracy of the Plans has been certified by or on behalf of the Authorized Person;

**“Car Park Management Budget”**

means the budget to be prepared for the management and maintenance of the Car Park Common Areas and the Car Park Common Facilities in accordance with the

provisions set out in Section III hereof;

**“Car Park Management Expenses”**

means the costs charges expenses and outgoings reasonably and necessarily incurred by the Manager in relation to the management and maintenance of the Car Park Common Areas and the Car Park Common Facilities;

**“Car Parking Spaces”**

mean collectively the **eight (8)** car parking spaces on the First, Second and Third Floors of the Development comprising seven (7) car parking spaces numbered P1, P2, P3, P4, P5, P6 and P7 on the Ground Floor Plan, the First Floor Car Park Plan, the Second Floor Car Park Plan and the Third Floor Car Park Plan annexed hereto as Annexure B for the parking of motor vehicles belonging to the residents of the Residential Development or their bona fide guests visitors or invitees and one (1) Accessible Car Parking Space and numbered P8 and “Car Parking Space” means any one of them.

**“Car Parking Space Owner”**

means an Owner entitled to the full and exclusive right and privilege to hold, use, occupy and enjoy a Car Parking Space;

**“Car Park Sub Fund”**

has the meaning as defined in Clause 24(b) of Section III hereof;

**“Common Areas and Facilities”**

means collectively the Development Common Areas, the Car Park Common Areas; the Development Common Facilities and the Car Park Common Facilities;

**“this Deed”**

means this Deed of Mutual Covenant and Management Agreement;

**“the Development”**

means the multi-storeyed residential building consisting of the Car Park and the Residential Development erected on the Land and known as Belfran Peak;

**“Development Common Areas”**

means those parts or areas of and in the Development not otherwise specifically assigned to or for the exclusive use of any one or more of the Owners and shall include without limitation the sprinkler control valve set, the fire service inlet and the sprinkler inlet, the main switch room, the 84,000 litres sprinkler water tank, the

sprinkler pump room, the management office/guard room and the appurtenant lavatory, the hose reel, the rain water open trapped gully, the miniature logistic service room, the fire service control room and the associated fire service control panel, the check water meter cabinet, the town gas cabinet, the pipe duct, the telephone duct, the void, the lift lobby and the entrance area from Belfran Road to the Development on the Ground Floor; the pump room, the cable duct, the pipe duct, the telephone duct, the 84,000 litres sprinkler water tank, the voids and the lift lobby on the First Floor, the water meter room, the pump room (for potable), the cable duct, the pipe duct, the telephone duct, the 4,000 litres potable glass reinforced plastic water tank, the 84,000 litres sprinkler water tank and the lift lobby on the Second Floor; the flushing water pump room, the telecommunication and broadcasting equipment room, the check water meter cabinet, the cable duct, the pipe duct, the 1,000 litres fibre glass fire service transit water tank, the fire service booster pump room, the 500 litres flushing water tank, the manhole for water tank, the fire service water meter cabinet, the lift lobby and the inaccessible flat roof on the Third Floor; the common flat roof (for maintenance only), the vent duct, the cable duct, the hose reel and the lift lobby on the Fifth Floor; the fire service pump room and the transfer plate at Level 22.41, the cable duct, the pipe duct, the hose reel and the lift lobby on each of the Sixth, Eighth, Tenth, Twelfth, Sixteenth and Eighteenth Floors; the cable duct, the vent duct, the pipe duct, the hose reel and the lift lobby on each of the Seventh, Ninth, Eleventh, Fifteenth and Seventeenth Floor; the whole of the Nineteenth Floor including the resident's recreational facilities exercise room, the owners committee room, the pipe duct, cable duct, the hose reel, the air-conditioning platform, the pantry, the reading area, the unisex toilet and the lift lobby on the Nineteenth Floor; the pipe duct, the cable duct, the hose reel the lift lobby on the Twentieth Floor; the pipe duct, the cable duct, the hose reel, the fire hose and the lift lobby on the Twenty-First Floor; the lift shaft, the pipe duct, the cable duct, the fire hose and the emergency generator room and the appurtenant inaccessible flat roof on the Twenty Second Floor; the whole of the Roof on top of the Twenty Second Floor including the lift machine room, the cable duct, the hose reel, the fire hose and the exhaust for generator room on the Roof, the flushing pump room, the 18,000 litres fire services water tank, the cleaning water tank and the top covers thereof described as flat roof on top of the Roof, the common staircases and stairwells the fence wall, the party wall and/or parapet wall along the boundary of the Land and the exterior wall and curtain wall of the Development save and except the air-conditioning platforms balconies and utility platforms protruding therefrom and appurtenant to a Unit which belong to an Owner and which is his responsibility to maintain and other areas of and in the Land and the Development PROVIDED THAT if any parts of the Development, excluding the Car Park Common Areas and the Car Park Common Facilities, is (a) covered by paragraph (a) of the definition of "common parts" set out in Section 2 of the Building Management Ordinance or (b) specified in Schedule 1 to the Building Management Ordinance and included under paragraph (b) of the definition of "common parts" set out in Section 2 of the Building Management Ordinance, such parts shall be deemed to have been included as, and shall form part of the Development Common Areas. The Development Common Areas are for identification purpose more particularly shown on the Ground Floor Plan, the First Floor Car Park Plan, the Second Floor Car Park Plan, the Third Floor Car Park Plan, the Fifth Floor Plan, the part plan of Lift

Machine Room at Level 22.41, the Sixth, Eighth, Tenth, Twelfth, Sixteenth and Eighteenth Floor Plans, the Seventh, Ninth, Eleventh, Fifteenth and Seventeenth Floor Plans, the Nineteenth Floor Plan, the Twentieth Floor Plan, the Twenty First Floor Plan, the Twenty Second Floor Plan, the Roof Plan, the Flushing Pump Room Plan and the Upper Roof Floor Plan annexed hereto as Annexure A and thereon coloured Pink, the accuracy of such Plans having been certified by the Authorized Person.

### **“Development Common Facilities”**

means those facilities which are in, under or above the Development and serve the Development as a whole and shall include without limitation all sewers, gutters, drains, water course, water mains, pipe ducts, salt and fresh water intakes, electrical installations and equipment, fire protection and fire fighting equipment and apparatus, telephone ducts in the Development Common Areas, the installation equipment and apparatus at or in the sprinkler control valve set, the fire service inlet and the sprinkler inlet, the main switch room, the 84,000 litres sprinkler water tank, the sprinkler pump room, the management office/guard room and the appurtenant lavatory, the hose reel, the rain water open trapped gully, the miniature logistic service room, the fire service control room and the associated fire service control panel, the check water meter cabinet, the pipe duct on the Ground Floor; the installation equipment and apparatus at or in the pump room, the cable duct, the pipe duct, the telephone duct, the 84,000 litres sprinkler water tank on the First Floor; the installation equipment and apparatus at or in the water meter room, the pump room (for potable), the cable duct, the pipe duct, the telephone duct, the 4,000 litres glass reinforced plastic water tank, the 84,000 litres sprinkler water tank on the Second Floor; the installation equipment and apparatus at or in the flushing water pump room, the telecommunication and broadcasting equipment room, the check water meter cabinet, the cable duct, the pipe duct, the 1,000 litres fibre glass fire service transit water tank, the fire service booster pump room, the fire service water meter cabinet, and the 500 litres flushing water tank on the Third Floor; the installation equipment and apparatus at the vent duct, the cable duct, the hose reel on the Fifth Floor; the installation equipment and apparatus at the fire service pump room at Level 22.41, the installation equipment and apparatus at or in the cable duct, the pipe duct, the hose reel on each of the Sixth, Eighth, Tenth, Twelfth, Sixteenth and Eighteenth Floors; the installation equipment and apparatus at or in the cable duct, the vent duct, the pipe duct, the hose reel on each of the Seventh, Ninth, Eleventh, Fifteenth and Seventeenth Floor; the installation equipment and apparatus at or in the club house on the Nineteenth Floor; the installation equipment and apparatus at or in the pipe duct, the cable duct, the hose reel on the Twentieth Floor; the installation equipment and apparatus at or in the pipe duct, the cable duct, the hose reel, the fire hose on the Twenty-First Floor; the installation equipment and apparatus at or in the pipe duct, the cable duct, the fire hose and the emergency generator room on the Twenty Second Floor; the installation equipment and apparatus of and in the lift servicing the Development, the installation equipment and apparatus at or in the lift machine room, the cable duct, the hose reel, the fire hose and the exhaust for generator room on the Roof; the installation equipment and apparatus at or in the flushing pump room, the fire services water tank and the flushing water tank below the Upper Roof and the lightings in the Development Common Areas. The

Development Common Facilities in so far as those capable to be shown are shown coloured Pink on the Plans as annexed hereto as Annexure A, the accuracy of such Plans has been certified by or on behalf of the Authorized Person.

**“Development Management Budget”**

means the budget to be prepared for the maintenance and management of the Development Common Areas and the Development Common Facilities in accordance with the provisions set out in Section III hereof;

**“Development Management Expenses”**

means all costs charges expenses and outgoings reasonably and necessarily incurred by the Manager in relation to the management and maintenance of the Development Common Areas and the Development Common Facilities;

**“Development Sub Fund”**

has the meaning as defined in Clause 24(a) of Section III hereof;

**“Director”**

means the Director of Lands of the Government;

**“Government”**

means the Government of the Hong Kong Special Administrative Region of the People’s Republic of China;

**“Government Grant”**

means the Government Lease dated the 29<sup>th</sup> day of September 1933 and made between King George V of the one part and Credit Foncier D’Extreme Orient of the other part whereby the Land was granted to Credit Foncier D’Extreme Orient for a term of 75 years from the 3<sup>rd</sup> December 1928 with a right of extension for another term of 75 years as varied and modified by a Modification Letter dated the 7<sup>th</sup> day of November 2012 and registered in the Land Registry by Memorial No.12111201140015;

**“Hong Kong”**

means the Hong Kong Special Administrative Region of the People’s Republic of China;

**“House Rules”**

means the rules supplemental to this Deed governing the Development and the Land

as a whole from time to time in force made pursuant to these presents;

**“Land”**

means all that piece or parcel of ground registered in the Land Registry as The Remaining Portion of Section C of Kowloon Inland Lot No.3281;

**“Maintain”**

means repair, uphold, support, renew, overhaul, pave, scour, clear, amend, keep, tend, replace and decorate or such of the foregoing as may be applicable in the circumstances and in the interest of good estate management and “Maintenance” shall be construed accordingly;

**“Management”**

means all duties and obligations to be performed and observed by the Manager as herein provided;

**“Management Accounts”**

means the accounts comprising the income and expenditure account and the balance sheet showing the management of the Land and the Development to be prepared by the Manager within 2 months after the end of each financial year in accordance with the Schedule 7 to the Ordinance (the full text whereof is set out in the Fourth Schedule hereto);

**“Management Bank Account”**

means the interest bearing account or accounts opened in the name of the Manager on trust for all Owners with licenced bank(s) within the meaning of Section 2 of the Banking Ordinance Cap.155 into which the Manager shall pay all monies, save and except the contributions to the Development Sub Fund and the Car Park Sub Fund, received by the Manager from the Owners or other persons pursuant to this Deed and the monies for the time being standing to the credit of the Management Bank Account shall be applied solely and exclusively for the payment of the Management Expenses and for the maintenance and management of the Land and the Development and the expression Management Bank Accounts shall be construed accordingly;

**“Management Budget”**

means collectively the Development Management Budget and the Car Park Management Budget;

**“Management Expenses”**

means collectively the Development Management Expenses and the Car Park

Management Expenses;

**“Management Shares”**

means the shares allocated to all the Units in the Development for the purpose of fixing the amount to be shared and contributed by the Owners towards the Management Expenses as listed in **Part II** of the **First Schedule** hereto;

**“Manager’s Remuneration”**

means the remuneration payable to the Manager by the Owners in return for the Manager carrying out its duties and obligations hereunder which remunerations shall be calculated and paid in the manner set out in **Clause 13** of **Section III** of this Deed;

**“Motor Cycle Parking Space”**

means the space in the Car Park numbered M1 on the Third Floor intended for the parking of motor cycle belonging to the residents of the Residential Development and their bona fide guests visitors or invitees. The Motor Cycle Parking Space is more particularly shown on the Third Floor Car Park Plan annexed hereto as Annexure B;

**“Motor Cycle Parking Space Owner”**

means an Owner entitled to the full and exclusive right and privilege to hold use occupy and enjoy the Motor Cycle Parking Space;

**“Occupation Permit”**

means a temporary or permanent occupation permit issued by the Building Authority in respect of the Development;

**“Occupiers”**

means and includes any person occupying or using a Unit with the consent, express or implied of an Owner who owns the Unit including without limitation, any tenant, any member of the Owner’s or tenant’s family and any of the Owner’s or tenant’s servants, agents, invitees, licensees and visitors;

**“Ordinance”**

means the Building Management Ordinance Cap.344, Laws of Hong Kong and any regulations made thereunder and any amending legislation;

**“Owner”**

shall be as defined in the Ordinance and means any person in whom for the time being any Undivided Share is legally vested (and where the instrument vesting any

such Undivided Share has been registered in the Land Registry under the Land Registration Ordinance Cap.128, Laws of Hong Kong each person who for the time being appears from the records at the Land Registry to be the legal owner of any such Undivided Share) and every joint tenant or tenant in common of any such Undivided Share and where any such Undivided Share has been assigned or charged by way of mortgage or charge the word “Owner” shall include the registered mortgagee/chargee of such Undivided Share if such mortgagee/chargee is in possession in respect of such Undivided Share and Owners shall be construed accordingly;

**“Owners’ Committee”**

means a committee of the Owners of the Development established under the provisions of these presents;

**“Owners’ Corporation”**

means the Corporation of Owners of the Land and the Development incorporated pursuant to the provisions of the Ordinance having separate legal entity and having such rights and obligations as are more particularly enumerated in the Ordinance.

**“Residential Development”**

means the Fifth and Sixth Floors duplex, the Seventh and Eighth Floors duplex, the Ninth and Tenth Floors duplex, the Eleventh and Twelfth Floors duplex, the Fifteenth and Sixteenth Floors duplex, the Seventeenth and Eighteenth Floors duplex and the Twentieth, Twenty First and Twenty Second Floors triplex of the Development comprising six (6) duplexes and one triplex for residential use;

**“Residential Owner”**

means the Owner of a Unit in the Residential Development;

**“Special Fund”**

means the Special Fund maintained by the Manager to provide for expenditure of a kind not expected to be incurred annually by the Development comprising the Development Sub Fund and the Car Park Sub Fund respectively as defined in Clauses 24 (a) and 24 (b) of Section III hereof;

**“Undivided Shares”**

means those equal undivided parts or shares of and in the Land and of and in the Development allocated to all the Units in the Development in accordance with the provisions of these present as listed in **Part I** of the **First Schedule** hereto;

**“Unit”**

means either a duplex unit or triplex unit in the Residential Development or a Car Parking Space or the Motor Cycle Parking Space of the Development to which the full and exclusive right and privilege to the use, occupation and enjoyment has been or is intended to be assigned to an Owner and “his Unit” in relation to an Owner means the Unit or Units in respect of which that Owner has the full and exclusive right and privilege to hold, use, occupy and enjoy;

**“Works and Installations Maintenance Manual”**

means a manual compiled by the First Owner containing such matters as more particularly set out in **Part B** of the **Sixth Schedule** hereto; and

**“Works and Installations Schedule”**

means the schedule setting out all major works and installations in the Development which will require regular maintenance on a recurrent basis the particulars whereof are set out in **Part A** of the **Sixth Schedule** hereto.

- (2) Immediately prior to the Assignment to the First Assignee hereinafter referred to the First Owner is the registered owner and is in possession of the Land which is held from the Government under the Government Grant for the residue of the term created by the Government Grant and Subject to the payment of the Government Rent and the due observance and performance of the covenants and conditions reserved and contained in the Government Grant and subject also to all subsisting rights and rights of way.
- (3) The First Owner has developed the Land in accordance with the Building Plans and has constructed the Development thereon.
- (4) For the purpose of sale, the Land and the Development have been notionally divided into [ ] equal Undivided Shares which have been allocated as provided in **Part I** of the **FIRST SCHEDULE** hereto.
- (5) By an Assignment bearing even date herewith and made between the First Owner of the one part and the First Assignee of the other part (“the said Assignment”) and for the consideration therein expressed the First Owner assigned unto the First Assignee **ALL THOSE** [ ] equal undivided [ ] parts or shares of and in the Land and the Development together with the exclusive right to the use, enjoyment and occupation of [firstly] **ALL [THAT/THOSE] [DUPLEX / TRIPLEX]** on the [ ] **FLOORS** [and secondly **ALL [THAT/THOSE] CAR PARKING SPACE[S] NO.[ ]**] [and thirdly **ALL THAT MOTOR CYCLE PARKING SPACE NO. M1** on the **THIRD** Floor Car Park of the Development] (“the said premises”).
- (6) The parties hereto have agreed to enter into these presents for the purpose of making provisions for the management, maintenance, repair, renovation, insurance and service of the Land and the Development and the Common Areas and Facilities

therein and for the purpose of defining and regulating the rights, interest and obligations of the Owners in respect thereof and to provide for apportionment of the expenses of such management, maintenance, repair, renovation, insurance and service to be borne by the Owners.

- (7) In these presents (if the context permits or requires) words importing the singular number only shall include the plural number and vice versa and words importing the masculine gender only shall include the feminine gender and the neuter and words importing persons shall include corporation.
- (8) The Director has given his approval to this Deed in accordance with Clause (16) of the Government Grant.

**NOW THIS DEED WITNESSETH** as follows :-

## **SECTION I**

### **RIGHTS AND OBLIGATIONS OF OWNERS**

1. The First Owner shall have the sole and exclusive right and privilege to hold, use, occupy and enjoy to the exclusion of the First Assignee the whole of the Land and the Development together with the appurtenances thereto and the entire rents and profits thereof **SAVE AND EXCEPT** the said premises assigned to the First Assignee as aforesaid and **SUBJECT TO** the rights and privileges granted to the First Assignee by the said Assignment and **SUBJECT TO** the provisions of this Deed.
2. The First Assignee shall at all times hereafter subject to and with the benefit of the Government Grant and these presents have the full and exclusive right and privilege to hold, use, occupy and enjoy to the exclusion of the First Owner the said premises assigned to the First Assignee by the said Assignment together with the appurtenances thereto and the entire rents and profits thereof.
3. Each Undivided Share and the full and exclusive right and privilege to hold, use, occupy and enjoy any part of the Development shall be held by the person or persons from time to time entitled thereto with the benefit of the easements, rights and privileges set out in **Part A** of the **SECOND SCHEDULE** hereto and subject to the easements, rights, privileges, obligations, covenants, terms and conditions set out in **Part B** of the **SECOND SCHEDULE** hereto and also to the express covenants and provisions herein contained.
4. The Owner or Owners for the time being of each Undivided Share (including the First Owner) and the Manager shall at all times hereafter be bound by and shall observe and perform the covenants, provisions and restrictions contained herein and in the **THIRD SCHEDULE** hereto and in the Government Grant and the benefit and burden shall be annexed to every part of the Land and the Undivided Share held therewith. The Conveyancing and Property Ordinance Cap.219, Laws of Hong Kong and any amendments, modifications or re-enactments thereof for the time being

in force shall apply to these presents.

5. Subject to the Government Grant and to this Deed, every Owner shall have the full right and liberty without reference to the other Owners or other persons who may be interested in any other Undivided Share or Shares in any way whatsoever and without the necessity of making such other Owners or other persons a party to the transaction to sell, assign, mortgage, lease, license or otherwise dispose of or deal with his Undivided Shares together with the exclusive right and privilege to hold, use, occupy and enjoy his Units held therewith **PROVIDED THAT** any such sale, assignment, mortgage, lease or licence shall be made expressly subject to and with the benefit of this Deed **AND PROVIDED FURTHER THAT** the Car Parking Spaces and Motor Cycle Parking Space shall not be (i) assigned except (I) together with the Undivided Shares giving the right of exclusive use and possession of a Unit in the Residential Development or (II) to a person who is already the Owner of Undivided Shares in the Land and the Development with the right of exclusive use and possession of a Unit in the Residential Development; and (ii) underlet except to residents of the Units in the Residential Development.
6. The right to the exclusive use, occupation and enjoyment of any part of the Land or the Development shall not be sold, assigned, mortgaged, charged, leased or otherwise dealt with separately from the Undivided Shares with which the same is held.
7. The Development Common Areas shall be deemed to be common areas for the benefit of all Owners and the same shall be used by each Owner and his occupiers for all purposes connected with the proper use and enjoyment of his Unit **SUBJECT ALWAYS TO** the provisions of this Deed, the rights of the Manager and the House Rules.
8. The Car Park Common Areas shall be deemed to be common areas for all Car Parking Space Owners and the Motor Cycle Parking Space Owner and the same shall be used by each Car Parking Space Owner and the Motor Cycle Parking Space Owner for all purposes connected with the proper use and enjoyment of his Car Parking Space and Motor Cycle Parking Space **SUBJECT ALWAYS TO** the provisions of this Deed, the rights of the Manager and the House Rules.

## **SECTION II**

### **ADDITIONAL RIGHTS OF THE FIRST OWNER**

9. The First Owner as long as it is the Owner of any Undivided Share shall have the sole and absolute right in its absolute and unfettered discretion at any time or times and from time to time as it shall deem fit to do all or any of the following acts or deeds and to exercise all or any of the following rights :-
  - (a) the right to build and operate in such part or parts of the Common Areas and Facilities for the common use and enjoyment of all Owners entitled to use

such Common Areas and Facilities **PROVIDED THAT** such buildings and operations are for the purpose of completion of the Development **AND PROVIDED FURTHER THAT** such buildings and operations only take place at such part of the Land and the Development the exclusive right to the use occupation and enjoyment of which has not been assigned to any Owner **AND PROVIDED THAT** such buildings and operations shall not contravene the covenants terms and conditions of the Government Grant or adversely affect the exclusive right of any Owner to use occupy and enjoy the Unit owned by him and/or impede the access of any Owner to his Unit **AND PROVIDED FURTHER THAT** the approval of the Owner's Committee or the Owner's Corporation (if formed) by way of resolution shall have been first obtained **AND PROVIDED FURTHER THAT** any benefit, concession or compensation, whether monetary or otherwise thereby acquired shall accrue to all the Owners pro-rata in accordance with the number of Undivided Shares held by each Owner.

- (b) the right to affix, erect, maintain, alter, renew and remove any one or more chimneys, signs, advertisements (illuminated or otherwise), masts, aerials, lightning conductors and lighting and other fixtures of whatsoever kind on the boundary and/or fence wall and/or the parapet wall of the Development or any part or parts of the Common Areas and Facilities or such other areas of the Development the exclusive right to hold, use, occupy and enjoy which has not been assigned or to grant the right to do so to any person **PROVIDED ALWAYS THAT** prior approval by a resolution of the Owners at an Owners' meeting is obtained prior to the exercise of such rights **AND PROVIDED FURTHER THAT** any such chimney, sign, advertisement, mast, aerial, lightning conductor or lighting or other fixture shall not interfere with the use and enjoyment by other Owners of the Units owned by them and/or impede their access to their Units. Any payment received for the approval must be credited to the Development Sub Fund;
- (c) the right to change the name of the Development at any time **PROVIDED THAT** prior approval by a resolution of the Owners at an Owners' meeting is obtained prior to the exercise of such right and **PROVIDED FURTHER THAT** any consideration received by the First Owner in connection with the right under this **Clause 9** shall be paid over to the Manager which shall apply the same for the payment of the Management Expenses **AND PROVIDED FURTHER THAT** the First Owner shall be liable for any damage or losses caused by the exercise of such right to any Units which have been sold or assigned by the First Owner;
- (d) the right to apply negotiate and agree with Government to amend, vary or modify the Government Grant in such manner as the First Owner may deem fit without the concurrence or approval of any Owner and to execute any documents in the name of the First Owner alone for and on behalf of itself and all the other Owners in connection therewith without the necessity of joining in any other Owner **PROVIDED THAT** prior approval by a resolution of

the Owners at an Owners' meeting shall have been first obtained **AND PROVIDED FURTHER THAT** the exercise of this right shall not interfere with an Owner's right to hold, use, occupy and enjoy the Unit which he owns or impede or restrict his access to or from any such Unit;

- (e) the right to dedicate to the public any Unit which is owned by the First Owner for the purpose of passage with or without vehicles or in such manner as the First Owner shall in its absolute discretion deem fit **PROVIDED THAT** prior approval by a resolution of the Owners at an Owners' meeting shall have been first obtained **AND PROVIDED FURTHER THAT** in making such dedication the First Owner shall not interfere with an Owner's right to hold, use, occupy and enjoy the Unit which he owns or impede or restrict his access to or from any such Unit;
- (f) the right to adjust and/or re-align the boundary of the Land and to negotiate and agree with the Government in connection therewith and for that purpose to effect any surrender, extension or regrant **PROVIDED THAT** prior approval by a resolution of the Owners at an Owners' meeting shall have been first obtained **AND PROVIDED FURTHER THAT** the exercise of such right shall not interfere with an Owner's right to hold use occupy and enjoy the Unit which he owns or impede or restrict his access to or from any such Unit **AND PROVIDED FURTHER THAT** any money so received following the exercise of such right shall be credited to the Development Sub Fund;
- (g) the right to allocate or reallocate or amend in any way the number of the Undivided Shares and/or the Management Shares of and in the Land and the Development allocated or to be allocated to the Land and the Development or any part thereof as herein set out **PROVIDED THAT** the First Owner shall not exercise such right in respect of those Units and the accompanying number of Undivided Shares allocated therewith already sold or assigned by way of deeds of assignment by the First Owner to the Owners of the relevant Units **AND PROVIDED FURTHER THAT** the approval of the Director as to the exercise of the right and the basis of the allocation shall have been first obtained that the re-allocation will not increase other Owners' contribution to the Management Expenses, that the total number of Undivided Shares and Management Shares shall remain the same, that the exercise of such right will not interfere with the other Owners' right to hold use occupy and enjoy their Units and will not impede the other Owners' access to their Units;
- (h) the right without the necessity of making every Owner a party thereto to enter into a further Deed or Sub-Deed for the purpose of defining or regulating the obligations rights and interests of the Owners of any part of the Development **PROVIDED THAT** such further Deed or Sub-Deed shall first be approved by the Director **AND PROVIDED FURTHER THAT** the exercise of such rights will not interfere with the other Owners' right to hold use occupy

and enjoy their Units and will not impede the other Owners' access to their Units; and

Each Owner though not a party to this Deed is deemed to have appointed the First Owner as his attorney and agent and to have granted unto the First Owner the full right power and authority to do all acts deeds matters and things and to execute and sign seal and as his acts and deeds deliver such deed or deeds and to sign such documents or instruments as may be necessary for the exercise of or incidental to the First Owner's rights mentioned in this **Clause9**.

### SECTION III

#### MANAGER AND MANAGEMENT CHARGES

10. The parties hereto have agreed with the Manager for the Manager to undertake the management, operation, servicing, maintenance, repair, renovation, replacement, security and insurance of the Land and the Development and the Common Areas and Facilities for an initial period of **two (2) years** from the date of appointment under this Deed. Notwithstanding that the appointment of the Manager hereunder is for an initial term of two (2) years, prior to the formation of the Owners' Corporation, the Owners' Committee may at any time terminate the Manager's appointment without compensation by a resolution passed by a majority of votes of the Owners voting either personally or by proxy in a duly convened meeting of the Owners and supported by Owners holding not less than fifty per cent (50%) of all the Undivided Shares (save and except the Undivided Shares allocated to the Common Areas and Facilities which shall not carry any vote) and by giving to the Manager three (3) calendar months' written notice of the passing of such resolution. Upon the formation of the Owners' Corporation, the appointment of the Manager hereunder may be terminated at any time during the initial period of two (2) years without compensation by a resolution duly passed at a general meeting of the Owners' Corporation in accordance with the provisions of the Schedule 7 to the Ordinance. Service of a notice on an Owner may be effected personally upon the Owner or by post addressed to the Owner at his last known address or by leaving the notice at the Owner's Unit or depositing the notice in his letter box. Service of a notice and a copy of the aforesaid resolution by the Owners' Committee or the Owners' Corporation on the Manager may be effected personally upon the Manager or by post addressed to the Manager at his last known address or by leaving the notice at the address of the registered office of the Manager.
  
11. In the event of the Manager giving notice of resignation or the Owners' Committee giving notice of termination as hereinbefore provided or in the event of the Manager being removed by a resolution of the Owners' Corporation, a meeting of the Owners' Committee or the Owners' Corporation as the case may be shall be convened to elect a manager to take its place and such meeting shall elect a manager who shall on the expiry of the notice given by or to the Manager, as the case may be, thereupon and henceforth become vested with all the powers and duties of the Manager hereunder and it is hereby declared and agreed that at no time shall the Land and the

Development be without a responsible duly appointed manager to manage the Land and the Development. If the Owners' Committee or the Owners' Corporation fails or refuses to appoint a manager as aforesaid the new manager shall be appointed in accordance with the Ordinance and any such appointment shall have effect as if such appointment was made following election by the Owners' Committee or the Owners' Corporation and shall be binding on the Owners. If any person has given an undertaking in writing to, or has entered into an agreement with, the Government to manage or be responsible for the management of the Development and the Owners' Corporation has appointed a Manager under this Clause 11, the Owners' Corporation shall be deemed to have given to that person an instrument of indemnity under which the Owners' Corporation shall be liable to indemnify that person in respect of any act or omission by the Manager appointed under this Clause 11 that may otherwise render that person liable for a breach of that undertaking or agreement. Clauses 10 and 11 of this Section III are subject to any notice of the Development that may be published by the Secretary of Home Affairs under Section 34(E) of the Ordinance.

12. Upon the termination of the employment of Manager, howsoever caused the Manager shall within 2 months of the date his appointment ends prepare an income and expenditure account for the period beginning with the commencement of the financial year in which his appointment ends and ending on the date of his appointment ended and a balance sheet as at the date of his appointment ended and shall arrange for such account and balance sheet to be audited by an accountant or by some other independent auditor specified in a resolution of the Owners' Committee or of the Owners' Corporation or in the absence of such specification by such accountant or other independent auditor chosen by the Manager. In addition, the Manager shall on ceasing to be the manager arrange for all documents, records, plans and accounts concerning the management of the Development to be handed over to the new manager or the Owners' Committee or the Owners' Corporation in accordance with the provisions of the Ordinance.
13. The annual remuneration of the Manager for the performance of its duties hereunder shall not exceed **15%** of the total Management Expenses for that year excluding any capital expenditure and expenses settled by payments from the Special Fund unless a resolution of the Owners at an Owners' meeting convened under this Deed shall decide the same to be included and excluding the annual remuneration of the Manager which amount or percentage with reference to which such amount is calculated shall be subject to review upon the Manager giving to the Owners' Committee or the Owners' Corporation (if formed) not less than one month's previous notice in writing in that behalf **PROVIDED THAT** such reviews shall only take effect after the same has been approved by resolution of the Owners at an Owners' meeting. The Manager shall also be entitled to charge and be paid all disbursements and out-of-pocket expenses properly incurred in the course of carrying out its duties hereunder. Payment of the Manager's Remuneration hereunder shall be in advance by twelve equal calendar monthly installments each such payment to be in the sum of one twelfth of the annual remuneration of the Manager being such sum not exceeding 15% or such lower percentage as approved by the resolution of the Owners at an Owners' meeting convened under this Deed of the estimated Management Expenses

payable (whether actually paid or not) by the Owners according to the annual Management Budget or revised Management Budget for the year in question to be prepared as provided in **Clauses 14 and 15** hereof and any additional payment that needs to be made to bring the amount paid to the Manager by way of remuneration for the year in question to the correct amount for such year (due to the actual Management Expenses for that year exceeding those set out in the annual Management Budget or the revised Management Budget) will be made within fourteen (14) days from the completion of the auditing of the Management Accounts for such year as provided in **Clause 39** hereof. For the purpose of this **Clause 13**, capital expenditure means expenditure of a kind not incurred annually.

14. For the purpose of fixing the contribution payable by the Owners towards the Management Expenses, an annual Management Budget showing the estimated Management Expenses for the ensuing financial year shall be prepared by the Manager. The first Management Budget prepared by the first Manager shall however cover the period from the date of the issue of the Occupation Permit until the 31<sup>st</sup> of March of the ensuing year. Such annual Management Budget shall contain the following parts :-
- (a) the Development Management Budget which shall show the estimated expenditure for the management and maintenance of the Development Common Areas and the Development Common Facilities;
  - (b) the Car Park Management Budget which shall show the estimated expenditure for the management and maintenance of the Car Park Common Areas and the Car Park Common Facilities; and
  - (c) the estimated income (if any).

The provisions of the Schedule 7 to the Ordinance shall apply to the preparation of the Management Budget and/or the revised Management Budget as the case may be.

15. The first financial year shall, for the purpose of the first Management Budget, commence from the date of the issue of the Occupation Permit and shall end on the 31<sup>st</sup> of March of the ensuing year and the subsequent financial year shall commence on the 1<sup>st</sup> of April in each year and end on the 31<sup>st</sup> of March in the ensuing year. The financial year shall not be changed until after the fifth anniversary of the date of the issue of the Occupation Permit or the date of the last preceding change in financial year as the case may be. Any earlier change in the financial year shall be subject to the approval by a resolution of the Owners' Committee or the Owners' Corporation (if formed).
16. The Management Expenses shall include, without limitation the following items :-
- (a) the costs and expenses in connection with the carrying out of all or any of the duties of the Manager as set out in this Deed;

- (b) the costs of the maintenance, operation, repair and cleaning of the Common Areas and Facilities and the lighting of the Common Areas and Facilities including without limitation, the costs and expenses for employing contractors to do the acts hereinbefore mentioned and the costs and expenses for purchasing, hiring and operating all necessary plant, equipment and machinery in connection therewith;
- (c) the costs of all electricity, gas, water and other utilities serving or used in connection with the Common Areas and Facilities;
- (d) the cost of fresh or sea water for flushing used in connection with the Common Areas and Facilities;
- (e) the cost of the maintenance, repair or replacement of the lift servicing the whole Development and of the Car Lift servicing the Car Park;
- (f) remuneration including salary, allowance, benefit, provident fund, severance payment or long service payment if any for and costs of employment of caretakers, security guards, watchmen, cleaners, technicians and such other staff as may be required for the proper management of the Land and the Development including the Manager's Remuneration and the costs and expenses of providing uniforms, working clothes, tools and appliances to them and/or compensation adjudged to be payable to them and/or provisions for claims made by them against the Development and the Owners;
- (g) the Government Rent (unless the same has been apportioned) and all sums (other than the premium) payable under the Government Grant;
- (h) all charges, assessment, impositions and other outgoings including without limitation tax payable in respect of the Common Areas and Facilities;
- (i) the costs of refuse collection, storage and disposal in respect of the Land and the Development;
- (j) the premia payable for the insurance of the Common Areas and Facilities against damage by fire and such other perils and the insurance against third party or public liability, occupiers' liability or employees' compensation liabilities;
- (k) a sum for contingencies;
- (l) all professional, legal and accounting fees necessarily and reasonably incurred by the Manager in carrying out the services provided by this Deed;
- (m) the costs of effecting insurance in respect of or in connection with the management of the Land and the Development;

- (n) the cost of inspection repair and maintenance of the works and installations in the Common Areas and Facilities as set out in the Works and Installations Schedule in accordance with the Works and Installations Maintenance Manual PROVIDED THAT the costs incidental to the preparation of the Works and Installations Schedule and the Works and Installations Maintenance Manual shall be borne by the First Owner; and
- (o) any other terms of expenditure which are in the absolute discretion of the Manager considered to be necessary for the proper management of the Land and the Development for the benefit of all Owners.

**PROVIDED THAT** expenditure of a non-recurrent or capital nature shall be compiled under a separate heading in the annual Management Budget and shall be payable out of the **Special Fund**.

17. The annual Management Budget shall be prepared at least one month before the ensuing financial year and shall be reviewed by the Owners' Committee (when formed) or the Owners' Corporation (only if and when it has been established pursuant to the provisions of the Ordinance) and in the light of such review the Manager may alter the Management Budget based on the suggestions made by the Owners' Committee or the Owners' Corporation (if formed) and the Management Budget as reviewed or altered as aforesaid shall be deemed adopted. The provisions of the Schedule 7 to the Ordinance shall apply.
18. The Owners shall contribute towards the costs and expenses for the maintenance and repair of the Common Areas and Facilities and generally to the Management Expenses and the Manager's Remuneration pro-rata according to the number of Management Shares allocated to all the Units in the Development owned by them respectively.

For the sake of clarity, the Undivided Shares allocated to the Common Areas and Facilities shall not be required to make any contribution towards the Management Expenses, and will not have any voting rights whether under this Deed or the Ordinance nor will those Undivided Shares be taken into account for the purpose of calculating the quorum of any meeting.

19. Each Owner including the First Owner shall contribute towards the Management Expenses and the Manager's Remuneration in such manner in such amount and in such proportion as provided in this Deed :-
  - (a) each Owner shall be personally liable to make his pro-rata contributions according to the number of the Management Shares allocated to his Unit towards the Management Expenses and the Manager's Remuneration to the Manager in the manner aforesaid whether or not the Unit to which he is entitled to exclusive possession is vacant or occupied and whether it has been let or leased to a tenant or is occupied by the Owner himself or by any other person;

- (b) the First Owner shall make its contributions towards the Management Expenses and the Manager's Remuneration from the date of the issue of the Occupation Permit and no Owner (except the First Owner) can be required to make any payment or reimburse the First Owner for these payments whilst other Owners shall make their pro-rata contributions towards the Management Expenses and Manager's Remuneration from and including the day next following the date of assignment of their Units by the First Owner;
- (c) should there be any surplus after payment of all the Management Expenses aforesaid, then such surplus shall be credited to the Management Bank Accounts and applied by the Manager solely towards the management of the Land and the Development; and
- (d) the Manager's determination of the amount of contribution payable by each Owner as aforesaid shall (in the absence of manifest error) be conclusive and binding on all Owners.

For the sake of clarity, no Owner shall be called upon to pay more than his pro-rata contributions according to the number of Management Shares allocated to his Unit towards the Management Expenses and the Manager's Remuneration.

- 20. Subject to **Clause 14** of this Deed, if at any time during a financial year the total contributions receivable as aforesaid by the Manager shall in the opinion of the Manager (whose decision shall be conclusive) be insufficient to meet the cost and expenses for the management of the Land and the Development, the Manager shall prepare a revised Management Budget in accordance with the provisions of the Schedule 7 to the Ordinance whereupon each Owner shall make good a due proportion of the estimated deficiency by making a further contribution to the Manager, such further contribution being calculated in the same manner as aforesaid and shall be payable to the Manager monthly in advance from the date specified in the written notices given by the Manager to the Owners.
- 21. Notwithstanding any other provisions to the contrary herein contained, where the expenses which in the opinion of the Manager (whose decision shall be conclusive) relate solely to or are solely for the benefit of any Unit(s) and no other Owners would receive any material benefit therefrom, the full amount of such expenses shall be paid by the relevant Owners to the Manager.
- 22. Notwithstanding anything herein contained and for the avoidance of any doubt, the Management Expenses payable by the Owners in accordance with this Deed shall not include :-
  - (a) any existing or future taxes, rates, assessments, property tax, water rates (if separately metered) and outgoings of every description for the time being payable in respect of any Unit which shall be borne by the Owner for the time being thereof; and

- (b) the expenses for keeping in good and tenable repair and condition the interior fixtures and fittings, windows and doors of any Unit together with the plumbing, electrical installations, plant, equipment, apparatus or services thereof not forming part of the Common Areas and Facilities which shall be solely borne by the Owner or Owners for the time being of such Unit.
- 23. Notwithstanding anything herein contained the Undivided Shares allocated to the Common Areas and Facilities shall be exempted from contributing to Management Expenses provided in this Deed.
- 24. The Manager shall establish and maintain the **Special Fund** comprising the Development Sub Fund and the Car Park Sub Fund (as hereinafter defined) for the purpose of paragraph 4 of Schedule 7 to the Ordinance to meet contingencies or expenditure of a non-recurrent or capital nature.
  - (a) a sub fund into which every Owner shall initially contribute a sum to be determined by the Manager payable in respect of his Unit in accordance with the number of the Management Shares allocated to his Unit for the purpose of maintaining and repairing the Development Common Areas and the Development Common Facilities (hereinafter called “the Development Sub Fund”) and for the purpose of providing expenditure of a capital nature or of a kind not expected to be incurred annually which includes, but is not limited to, expenses for the renovation, improvement and repair of the Development Common Areas, the purchase, setting up, replacement, improvement and addition of all installations, systems, equipment, tools, plant and machineries for the Development Common Facilities and the costs of the relevant investigation works and professional services; and
  - (b) a sub fund into which every Car Parking Space Owner and the Motor Cycle Parking Space Owner shall initially contribute a sum to be determined by the Manager payable in respect of his Car Parking Space and/or Motor Cycle Parking Space in accordance with the number of the Management Shares allocated to his Car Parking Space and/or his Motor Cycle Parking Space for the purpose of improving and meeting major works of a capital nature in respect of the Car Park Common Areas and Car Park Common Facilities (hereinafter called “the Car Park Sub Fund”) and for the purpose of providing expenditure of a capital nature or of a kind not expected to be incurred annually which includes, but is not limited to, expenses for the renovation, improvement and repair of the Car Park Common Areas, the purchase, setting up, replacement, improvement and addition of all installations, systems, equipment, tools, plant and machineries for the Car Park Common Facilities and the costs of the relevant investigation works and professional services.

The Special Fund shall be the property of the Owners and shall be deposited forthwith without delay into the interest bearing bank account opened in the name of the Manager or the Owners’ Corporation (if formed) at a licensed bank within the meaning of Section 2 of the Banking Ordinance (Cap.155) and shall be managed by

the Manager upon trust for the Owners. The Manager shall display in the public notice board in the Development evidence of the opening of the aforesaid account. The Manager shall make special reference to the Special Fund and to the Development Sub Fund and the Car Park Sub Fund (collectively the “Sub Funds”) in the Management Accounts and to the time of any likely need to draw on the Special Fund. Except the initial contributions thereto, any further contribution to the Special Fund shall be approved by a resolution of the majority of the Owners (in case of further contribution to the Development Sub Fund) and a resolution of the majority of the Car Parking Space Owners (in case of further contribution to the Car Park Sub Fund) upon the recommendation of the Manager. In convening the relevant meetings of the relevant class of Owners for the purpose of approving further contributions and the time when those contributions shall be payable to the Sub Funds, the provisions in **Section VI** shall apply, mutatis mutandis. No money shall be paid out of the Special Fund unless for a purpose approved by the Owners’ Committee or Owners’ Corporation (if formed) except in case of emergency. The Owners at the Annual General Meeting of the Owners shall decide by resolution at a meeting of the Owners convened under this Deed the respective amounts to be contributed to the Sub Funds for the ensuing year. The Manager must not use the Special Fund for the payment of the outstanding Management Fees arising from or in connection with the day to day management of the Development.

25. **Each Owner (with the exception of the First Owner but not its assigns) shall on completion of the assignment of the Unit owned by him :-**

- (a) pay to the Manager the whole or a due proportion of the deposits of water meter, electricity meter and other utilities for the Common Areas and Facilities or any part thereof which may have been paid by the Manager in respect of the Development;
- (b) pay to the Manager his monthly contribution payable in respect of his Unit up to the end of the calendar month next following the date when he is given possession of his Unit;
- (c) pay to the Manager a sum equivalent to **two months’** contribution towards the first year’s budgeted Management Expenses payable by such Owner in respect of his duplex unit(s) or triplex unit in the Residential Development to the Development Sub Fund if such Owner is the Owner of a duplex unit or duplex units or triplex unit in the Residential Development and/or pay to the Manager a sum equivalent to **two months’** contribution towards the first year’s budgeted Management Expenses payable by such Owner in respect of his Car Parking Space(s) or Motor Cycle Parking Space to the Car Park Sub Fund, if such Owner is the Owner of a Car Parking Space or Car Parking Spaces or the Motor Cycle Parking Space, which is non-refundable and non-transferrable;
- (d) **deposit** with the Manager a sum equivalent to **two months’** contributions towards the first year’s budgeted Management Expenses payable by such Owner in respect of his Unit as security for his liabilities under this Deed.

The Manager shall place such deposit into the Management Bank Accounts but no interest will be paid to the Owners and the said deposit shall not be set off against any payment to be made by any Owner hereunder but the said deposit shall be transferrable to the successor in title of such Owner;

- (e) pay to the Manager a sum not exceeding one month's contribution towards the first year's budgeted Management Expenses payable by such Owner as debris removal charge which is non-refundable and when not utilized shall be transferred to the Development Sub Fund; and
- (f) pay to the Manager **in advance one month's** contributions towards the first year's budgeted Management Expenses in respect of his Unit.

**PROVIDED THAT** the First Owner must make the initial contribution to the Special Fund, pay the management fee deposits and debris removal charge if he remains the Owner of those Undivided Shares allocated to the Units which remain unsold 3 months after:-

- (i) the execution of this Deed or
- (ii) the date on which the First Owner is in a position validly to assign those Undivided Shares (i.e. when the consent to assign or Certificate of Compliance has been issued), whichever is the later

AND PROVIDED FURTHER that all outgoings including Management Expenses and any Government rent up to and inclusive of the date of assignment of the Unit must be paid by the First Owner and no Owner can be required to under any payment or reimburse the First Owner for these outgoings **AND PROVIDED FURTHER THAT** any monies paid as debris removal charges which are not used for debris removal are to be paid into the Development Sub Fund.

- 26. Contributions and payments to be made by each Owner under this Deed shall normally be made in advance on the first day of each calendar month but this shall not interfere with the Manager's discretion to call for any particular payment or contribution to be made on any other day or days it may deem necessary desirable.
- 27. If any Owner shall **fail** to pay the Manager any amount payable hereunder **within thirty (30) days** of demand, he shall further pay to the Manager :-
  - (a) **interest** calculated at the rate of **two per cent (2%) per annum over and above the prime rate** from time to time specified by the Hongkong and Shanghai Banking Corporation Limited on the outstanding amount from the due date of payment up to the day of the actual payment thereof (both days inclusive);
  - (b) a collection charge not exceeding **ten percent (10%)** of the outstanding amount; and

- (c) the legal costs (on a solicitor and own client basis) of employing solicitors to take out legal proceedings to recover the same from the defaulting Owner.

All interest and collection charges received by the Manager hereunder must be credited to the Special Fund.

- 28. All amounts which become payable by any Owner in accordance with the provisions of this Deed together with interest thereon as aforesaid and the said collection charge and all damages claimed for breach of any of the provisions of this Deed and all other expenses incurred in or in connection with recovering or attempting to recover the same shall be recoverable by civil action at the suit of the Manager (and the claim in any such action may include a claim for the costs of the Manager in such action on a solicitor and own client basis and the defaulting owner shall in addition to the amount claimed in such action be liable for such costs). In any such action the Manager shall conclusively be deemed to be acting as the agent for and on behalf of the Owners as a whole and no Owner sued under the provisions of this Deed shall raise or be entitled to raise any defence of want of authority or take objection to the right of the Manager as plaintiff to sue or to recover such amounts as may be found to be due.
- 29. In the event of any Owners failing to pay any sum due and payable by him in accordance with the provisions of this Deed or failing to pay any damages awarded by any court for breach of any of the terms or conditions of this Deed within **thirty (30)** days of demand, the amount thereof together with interest and the collection charge at the rate and for the amount as specified in **Clause 27** hereof together with all costs and expenses which may be incurred in recovering or attempting to recover the same including the legal expenses referred to in **Clause 27** hereof and in registering the charge hereinafter referred to shall stand charged on the Undivided Share or Shares of the defaulting Owner and the Unit held therewith and the Manager shall be entitled without prejudice to any other remedy hereunder to register a Memorial of such charge in the Land Registry against the Undivided Share or Shares of the defaulting Owner and the Unit held therewith. Such charge shall remain valid and enforceable as hereinafter mentioned notwithstanding that judgment has been obtained for the amount thereof unless and until such judgment has been satisfied.
- 30. Any charge registered in accordance with the last preceding Clause shall be enforceable as an equitable charge by action at the suit of the Manager for an order for sale of the Undivided Share or Shares of the defaulting Owner together with the right to the exclusive use, occupation and enjoyment of the part of the Development held therewith and the provisions of **Clause 28** of this Deed shall apply equally to any such action.
- 31. The Manager shall without prejudice to anything herein mentioned further have power to commence proceedings for the purpose of enforcing the observance and performance, by any Owner and any person occupying any part of the Development through, under or with the consent of any such Owner, of the covenants, conditions and provisions of this Deed binding on such Owner and of the House Rules made

hereunder and of recovering damages for the breach, non-observance or non-performance thereof. The provisions of **Clause 28** of this Deed shall apply to all such proceedings.

32. In addition to the powers of the Manager provided in this Deed the Manager shall have all the powers of a corporation incorporated under the Ordinance insofar as it may lawfully exercise such powers.
33. Subject to **Section VII** of this Deed, all insurance money, compensation or damages recovered by the Manager in respect of any damages or loss suffered in respect of any part of the Development shall be expended by the Manager in the repair, rebuilding or reinstatement of that part of the Development.
34. Where any insurance money, compensation, damages, costs and expenses or refunds are received or recovered (as the case may be) by the Manager in respect of any matter or thing for which any claim has been made against an Owner as provided herein above, the same shall, after deduction of any costs or expenses incurred by the Manager in recovering the same and/or after taking into account the future increase in premium for taking out similar insurance be credited to the account of the Owner against whom a claim has been made.
35. All money paid to the Manager by way of interest, collection charges and all interest gained on the interest bearing bank accounts maintained by the Manager pursuant to these presents shall be held by the Manager for the benefit of all Owners and credited to the Management Bank Account. The consent fee which the Manager is entitled to charge for processing and granting of any consent to an Owner or occupier where the same is required must be credited to the Development Sub Fund.
36. Any person **ceasing** to be the Owner of any Undivided Share or Shares in the Land and the Development shall in respect of the Undivided Share or Shares of which he ceases to be the owner thereupon **cease** to have any interest in the funds held by the Manager including the **deposit** paid under **Clause 25(f)** and his contribution(s) towards the **Special Fund** paid under **Clause 25(c)** of this Deed to the intent that all such funds shall be held and applied for the management of the Development irrespective of changes in ownership of the Undivided Shares in the Land and the Development **PROVIDED THAT** the entire deposits paid under **Clause 25(a)** and **(d)** may be transferred into the name of the new Owner of such Undivided Share or Shares **AND PROVIDED FURTHER THAT** upon the Land reverting to the Government and no further Government Lease being obtainable, and balance of the said funds, or in the case of extinguishment of rights and obligations as provided in **Section VII** hereof, an appropriate part of the said funds, shall be divided proportionately between the Owners contributing to the Management Expenses immediately prior to such reversion or, in the case of extinguishment of rights and obligations as aforesaid, between the Owners whose rights and obligations are extinguished.
37. The Manager shall open and maintain the Management Bank Account. Upon the

formation of the Owners' Corporation, the Manager shall open and maintain one or more segregated Management Bank Accounts, each of which shall be designated as a trust account for holding money received by the Manager for and on behalf of the Owners' Corporation in respect of the Management of the Land and the Development. The Manager shall display in the public notice board in the Development evidence of the opening of the aforesaid Management Bank Accounts. All monies collected by the Manager in the exercise of its powers hereunder (save and except that the Manager may retain or pay into a current account a reasonable amount to cover expenditure of a minor nature, but that amount shall not exceed such figure as is determined from time to time by a resolution of the Owners' Committee (if any)) shall without delay be paid to the Management Bank Accounts. The retention of a reasonable amount of money or the payment of that amount into a current account as aforesaid and any other arrangement for dealing with money received by the Manager shall be subject to such conditions as may be approved by a resolution of the Owner' Committee (if any).

38. The Manager shall keep records and accounts of all payments made to and all expenditure incurred by the Manager in the exercise of its powers hereunder and shall prepare a summary of the income and expenditure on a quarterly basis and such summary shall be posted on the public notice boards of the Development in accordance with the provisions of the Schedule 7 to the Ordinance.
39. Within **two (2)** months after the end of each financial year the Manager shall prepare **annual Management Accounts** in respect of that year which Management Accounts shall be certified by a firm of certified public accountants appointed by the Manager as providing an accurate summary of all items of income and expenditure during that year with specific reference to the Special Fund established under **Clause 24** of this Deed and qualified as to the time when drawings are likely to be made out of such Special Fund and the amount of money that will be then needed. If the Owners decide by a resolution at an Owners' meeting prior to the formation of the Owners' Corporation or if there is an Owners' Corporation and the Owners' Corporation decides by a resolution of Owners that the annual Management Accounts be independently audited, the Manager shall appoint an independent firm of certified public accountants nominated by the Owners to audit annual accounts prepared by the Manager as aforesaid in accordance with the provisions of the Schedule 7 to the Ordinance.
40. The Manager shall upon reasonable notice being given by an Owner permit such Owner to inspect any of the accounts prepared pursuant to this Deed after the same shall have been certified as herein provided. The Manager shall upon request of any Owner and upon payment of a reasonable charge for copying the same send to such Owner a copy of such of the annual accounts at any time after the same shall have been prepared and certified as herein provided in accordance with the provisions of the Schedule 7 to the Ordinance. The copying charges received shall be paid into the Management Bank Accounts.
41. The management of the Land and the Development shall be undertaken by the

Manager and each Owner hereby **APPOINTS** the Manager as agent to enforce the provisions of this Deed against the other Owner or Owners in respect of any matter concerning the Common Areas and Facilities. Subject to the provisions of the Ordinance, the Manager shall have authority to do all such acts and things as may be necessary or expedient for or in connection with the Land and the Development and the management thereof. Without in any way limiting the generality of the foregoing, the Manager shall have the following powers and duties :-

- (a) to demand, collect and receive all amounts payable by each Owner under the provisions of this Deed;
- (b) unless otherwise directed by the Owners' Corporation, to insure and keep insured the Common Areas and Facilities to the full new reinstatement value thereof as comprehensively as reasonably possible and in particular against loss or damage by fire or such other risks in respect of the Common Areas and Facilities as the Manager shall deem fit, and to effect insurance coverage of public liability and occupiers' liability and employer's liability in respect of employees employed within or exclusively in connection with the management of the Development in such sum as the Manager shall deem fit with some reputable insurance company or companies in the name of the Manager for and on behalf of the Owners for the time being of the Land and the Development according to their respective interests and to pay all premium required to keep such insurance policies in force;
- (c) to arrange for refuse collection and disposal from all parts of the Development;
- (d) to keep in good order and repair lighting of the Common Areas and Facilities;
- (e) to keep the Common Areas and Facilities in a clean and sanitary state and condition;
- (f) to repair, maintain, clean, paint or otherwise treat or decorate as appropriate, the structure and facade of the Development and the boundary or fence wall or parapet wall along the boundary of the Development;
- (g) to keep all the sewers, drains, watercourse, conduits and pipes forming part of the Common Areas and Facilities free and clear from obstructions;
- (h) to keep all the Common Areas and Facilities in good condition and working order and to extend or provide additional facilities as the Manager shall at its absolute discretion deem necessary or desirable and to keep the lift servicing the Development the Car Lift servicing the Car Park and fire fighting equipment in accordance with any laws and regulations applicable thereto and whenever it shall be necessary or convenient so to do at the Manager's discretion to enter into contracts with third parties for the maintenance of any such facilities in accordance with the provisions of the Schedule 7 to the Ordinance;

- (i) to prevent so far as is possible any refuse or other matter being deposited, washed, eroded or falling from the Development onto any part of any public roads or any road culverts, sewers, drains, nullahs or other Government property and to remove any such matter therefrom and to ensure that no damage is done to any drains, waterway, watercourses, footpaths, sewers, nullahs, pipes, cables, wires, utility services or other works being in, under, over or adjacent to the Land or any part thereof by reason of any maintenance or other works carried out by the Manager as herein provided and to make good any such damage;
- (j) to repair, maintain, paint, white-wash, tile or otherwise treat as may be appropriate the exterior of the boundary wall, fence wall or parapet wall along the boundary of the Development and the Common Areas and Facilities at such intervals as the same may reasonably require to be done;
- (k) to replace any glass in the Common Areas and Facilities that may be broken;
- (l) to keep the Common Areas and Facilities well lighted and in a clean and tidy manner;
- (m) to keep in good order and repair the ventilation of the enclosed part or parts of the Common Areas and Facilities;
- (n) to prevent refuse from being deposited on the Development or any part thereof not designated for refuse collection and to remove all refuse from all parts of the Development and arrange for its disposal at such regular intervals and to maintain either on or off the Development refuse collection facilities to the satisfaction of the Food and Environmental Hygiene Department;
- (o) to make suitable arrangements for the supply of fresh and flushing water, gas and electricity and any other utility or service to or for the Development or any part thereof;
- (p) to provide and maintain as the Manager deems necessary watermen, caretakers, closed circuit T.V. system and burglar alarms and other security measures in the Development at all times;
- (q) to remove structure or installation, signboard, advertisement, sunshade, bracket, fitting, obstruction, device, aerial or any thing in or on the Development or any part thereof which is illegal, unauthorized or which contravenes the terms herein contained or any of the provisions of the Government Grant and to demand and recover from the Owner by whom such structure or other thing as aforesaid was erected or installed the costs and expenses of such removal and the making good of any damage caused thereby to the satisfaction of the Manager;

- (r) to appoint solicitors or other appropriate legal counsel to advise upon any point which arises in the management of the Development necessitating professional legal advice and with authority to accept service on behalf of all the Owners for the time being of the Land and the Development of all legal proceedings relating to the Land and the Development (except proceedings relating to the rights or obligations of individual Owners) and, in particular but without limiting the foregoing, in all proceedings in which the Government shall be a party and at all times within seven (7) days of being requested so to do by the Building Authority and/or the Director or other competent Authority or officer, to appoint a solicitor who shall undertake to accept service on behalf of all such Owners whether for the purpose of Order 10 Rule 1 of the Rules of the High Court (or any provision amending or in substitution for the same) or otherwise;
- (s) to prevent (by legal action if necessary) any person including an Owner from occupying or using any part of the Land and the Development in any manner in contravention of the Government Grant or this Deed;
- (t) to prevent (by legal action if necessary) and to remedy any breach by any Owner or other person resident in or visiting the Development any provisions of the Government Grant or this Deed;
- (u) to prevent any person altering or injuring any part or parts of the Development or any part of the Common Areas and Facilities;
- (v) to prevent any person from overloading the lift servicing the Development and/or the Car Lift servicing the Car Park;
- (w) to prevent any person overloading any of the electrical installations and circuits or any of the mains or wiring in the Development;
- (x) subject to the provisions of the Ordinance, to act on behalf of all Owners in accordance with the provisions of this Deed;
- (y) to enter into contracts with and to engage, employ, remunerate and dismiss consultants, contractors, workmen, servants, agents, watchmen, caretakers and other building staff and attendants in connection with the management of the Land and the Development or the management thereof and/or for the procurement of supplies or goods strictly in accordance with the provisions of the Schedule 7 to the Ordinance, in particular paragraph 5 thereof;
- (z) to enforce the due observance and performance by the Owners of the terms and conditions of the Government Grant and this Deed and to take action in respect of any breach thereof including the commencement, conduct and defence of legal proceedings and the registration and enforcement of charges as herein mentioned;

- (aa) to ensure that all Owners or occupiers of all parts of the Development maintain the part of the Development owned or occupied by them in a satisfactory manner and if there be any default on the part of any such Owners or occupiers, to put in hand any necessary maintenance and to take all possible steps to recover the cost therefor from the defaulting Owner or occupiers;
- (bb) to post the name of any Owner in default or in breach of the terms and conditions of this Deed together with particulars of the default or breach on the public notice boards of the Development;
- (cc) to recruit and employ such staff as may from time to time be necessary to enable the Manager to perform any of its powers in accordance with this Deed on such terms as the Manager shall in its absolute discretion decide and to provide accommodation, uniforms, working cloths, tools, appliances, cleaning and other materials and all equipment necessary therefor;
- (dd) to deal with all enquiries, complaints, reports and correspondence relating to the Development as a whole;
- (ee) subject to the provisions of **Section 34I** of the Ordinance, to grant franchises, lease, tenancy agreements and licences to other persons to use such of the Common Areas and Facilities and on such terms and conditions and for such consideration as the Manager shall in its absolute discretion think fit **PROVIDED THAT** all income arising therefrom shall be credited to the Development Sub Fund;
- (ff) to provide such Christmas, Chinese New Year and other festive decorations and to organize such festive celebrations or activities for the Development as the Manager shall in its sole discretion consider desirable;
- (gg) from time to time to make, revoke or amend the House Rules as it shall deem appropriate subject however to **Clause 45** hereof;
- (hh) subject as otherwise provided in this Deed to give or withhold its written consent or approval to anything which requires its written consent or approval pursuant to this Deed and to impose conditions or additional conditions relative thereto and to impose (but not obliged to) a reasonable administrative fee for granting such consent or approval (which must be credited to the Development Sub Fund) and the giving or withholding by the Manager of such consent or approval shall not be unreasonably withheld;
- (ii) to convene such meeting of the Owners' Committee or meetings of the Owners or the relevant class of owners as may be necessary or requisite and to act as secretary to keep the minutes of such meetings;
- (jj) to do all things which the Manager shall in its discretion deem necessary or desirable for the purpose of maintaining and improving all facilities and

services in or on the Development for the better enjoyment or use of the Development by its Owners occupiers and their licensees;

- (kk) to manage, control and maintain within the Development the parking of the vehicles or motor cycle including parking at the Car Parking Spaces and/or the Motor Cycle Parking Space and refuse vehicle parking area (if any);
- (ll) to remove any vehicle parked anywhere on the Common Areas and Facilities not so designated or which shall cause an obstruction and to remove any dilapidated or abandoned vehicles from any part of the Development and any damage caused to such vehicle during or as a consequence of such removal shall be the sole responsibility of the Owner thereof;
- (mm) to make recommendation to the Owners' Committee or the Owners' Corporation (if formed) from time to time as to whether revisions need to be made to the Works and Installations Schedule and the Works and Installations Maintenance Manual such as the addition of works and installations in the Development and the updating of maintenance strategies in step with changing requirements;
- (nn) to enter into contracts for the installation use and/or provision of broadcast distribution network or telecommunications network services or aerial broadcast distribution or telecommunications network facilities to the Development PROVIDED THAT such contracts shall not have duration of more than 3 years, shall provide that the rights to be granted thereunder are non-exclusive, and the use of the facilities and networks shall be shared with other service providers and no Owner is required to make any payment in any form for the provision of such services unless he is a subscriber to the relevant service;
- (oo) to consult the Owners' Corporation (if formed) at a general meeting of the Owners' Corporation and adopt the approach decided by the Owners' Corporation on channels of communications among Owners on any business relating to the management of the Land and the Development; and
- (pp) to do all such other things as are reasonably incidental to the management of the Land and the Development.

In exercising its duties and powers hereunder, the Manager shall be bound by and shall observe and perform all of the conditions, duties and obligations herein contained. For the sake of clarity, the Manager shall not carry out any improvements to the Common Areas and Facilities which involve expenditure in excess of 10% of the current annual Management Budget unless with the prior approval by resolution of the Owners passed at an Owners' meeting convened under this Deed.

42. Without limiting the generality of the other express powers of the Manager herein contained, the Manager shall have power :-

- (a) to supply electricity, water, sea water for flushing or other utilities to the Owners for their temporary use upon their request when separate electricity, water, sea water or other utilities meters are not yet installed in their Units or when electricity, water, sea water or other utilities are not supplied to their Units through the separate meters, and to charge the Owners for such temporary use of electricity, water, sea water or other utilities supplied by the Manager. The sum to be charged shall be a lump sum for the installation plus a fixed amount per day for each day of such temporary supply to be decided by the Manager. Any amount in excess of the costs of the installation and the supply of the utilities shall be refunded to the Owners concerned;
  - (b) from time to time to make rules and regulations governing the supply and use of fresh and sea water to all structures erected on the Land **SAVE AND EXCEPT** the Units or parts of the Development the exclusive rights to the use, occupation and enjoyment of which is vested in any Owner, the payment and recovery of charges for installation, disconnection, reconnection and readings of meters, damage to meters and default interest to a like extent as are from time to time made by Government;
  - (c) to enter with or without workmen at all reasonable times on reasonable notice (except in case of emergency) upon all parts of the Development including any Unit for the purpose of carrying out necessary repairs to the Development or to abate any hazard or nuisance which does or may affect the Common Areas and Facilities or other Owners or any part of the Development or the Common Areas and Facilities **PROVIDED THAT** the Manager shall at his own costs and expenses remedy and make good all damages that may be caused to such Unit through the negligent, willful or criminal acts of the Manager, its staffs, employees contractors or agents; and
  - (d) to appoint or employ agents, contractors or sub-managers including professional property management companies to carry out parts of the Manager's duties under this Deed **PROVIDED THAT** those persons shall remain responsible to the Manager **AND PROVIDED THAT** the Manager shall not transfer or assign his duties and obligations hereunder to any such persons **AND PROVIDED FURTHER THAT** the Manager shall at all times be responsible for the negligent, willful or criminal acts of such agents, contractors, sub-managers or management companies **TO THE INTENT** that the Manager must at all times be responsible for the management and control of the Development.
43. The Common Areas and Facilities shall be under the exclusive control of the Manager who may make House Rules in consultation with the Owners' Committee or the Owners' Corporation (if formed) regulating the use and management thereof.
44. All acts and decisions of the Manager arrived at in accordance with the provisions of this Deed in respect of any of the matters aforesaid shall be binding in all respects on

all the Owners for the time being.

45. (a) The Manager shall have power in consultation with the Owners' Committee or the Owners' Corporation (if formed) from time to time but in the absence of agreement or consensus between the Manager and the Owners' Committee or the Owners' Corporation (if formed) then as the owners' Committee or the Owners' Corporation (if formed) shall deem appropriate and necessary to make, revoke and amend the House Rules regulating the use, operation, management and maintenance of the Common Areas and Facilities, the conduct of persons occupying, using or visiting the same, the protection of the environment of the Development and the implementation of waste reduction and recycling measures with reference to the guidelines on property management issued from time to time by the Director of Environmental Protection, such House Rules shall be binding on all the Owners and the occupiers.

Copies of the House Rules from time to time in force shall be posted on the public notice boards of the Development and a copy thereof shall be supplied to each Owner on request on payment of reasonable copying charges.

- (b) Such House Rules shall be supplementary to the terms and conditions contained in this Deed and shall not in any way be inconsistent with or contravene such terms and conditions. In case of inconsistency with or contravention between such House Rules and the terms and conditions of this Deed, the terms and conditions of the latter shall prevail.
- (c) Neither the Manager nor the Owners' Committee nor the Owners' Corporation (if formed) shall be held liable for any loss or damage however caused arising from any non-enforcement of such House Rules or non-observance thereof by any third party.
- (d) The Manager shall consult (either generally or in particular case) the Owners' Corporation (if formed) at a general meeting of the Owners' Corporation and adopt the approach decided by the Owners' Corporation on the channels of communication among Owners on any business relating to the management of the Development.

#### **SECTION IV**

#### **EXCLUSIONS AND INDEMNITIES**

46. The Manager, its servants, agents or contractors shall not be liable to the Owners or any of them or to any person or persons whomsoever whether claiming through, under or in trust for any Owner or otherwise, for or in respect of any act, deed, matter or thing done or omitted in pursuance of the provisions of this Deed not being an act or omission involving criminal liability or dishonesty or negligence and the Owners shall fully and effectually indemnify the Manager, its servants, agents or contractor from and against all actions, proceedings, claims and demands whatsoever arising

directly or indirectly out of or in connection with any such act, deed, matter or thing done or omitted as aforesaid and all costs and expenses in connection therewith. Without in any way limiting the generality of the foregoing, the Manager, its servants, agents or contractors shall not be held liable for and damage, loss or injury caused by or in any way arising out of :-

- (a) any defect in or failure or breakdown of any of the Common Areas and Facilities; or
- (b) any failure, malfunction or suspension of the supply of water, electricity or other utility or service to the Development; or
- (c) fire or flooding or the overflow or leakage of water from anywhere whether within or outside the Development; or
- (d) the activity of termites, cockroaches, rats, mice or other pests or vermin; or
- (e) theft, burglary or robbery within the Development;

**UNLESS** it can be shown that such damage, loss or injury was caused by an act or omission of the Manager, its servants, agents or contractors involving criminal liability or dishonesty or negligence and **PROVIDED THAT** the contribution towards the Management Expenses or any other charges payable under this Deed or any part thereof shall not be abated or cease to be payable on account thereof.

## SECTION V

### OWNERS' COMMITTEE

47. There shall be an Owners' Committee consisting of **three (3)** members of which two (2) shall be Residential Owners and one (1) shall be Car Parking Space Owner which shall be elected by the Owners. Within **nine (9)** months of the date of execution of this Deed the Manager shall **convene a meeting** of the Owners to elect by the Owners the members of the **first Owners' Committee** and the chairman of the first Owners' Committee (who shall be one of the persons elected as a member of the Owners' Committee) to hold office until the next Annual General Meeting of the Owners as hereinafter provided **PROVIDED THAT** the Undivided Shares allocated to the Common Areas and Facilities shall not carry any voting rights nor be taken into account for the purpose of calculating the quorum of any meeting.
48. During such time as a manager is acting as the Manager of the Land and the Development, the Owners' Committee shall have power to :-
- (a) advise the Manager in its preparation of the annual Management Budget and any revised Management Budget as herein provided;
  - (b) exercise all other powers and duties conferred on the Owners' Committee by

virtue of these presents;

- (c) approve the House Rules and any amendments thereto made from time to time by the Manager which House Rules and any amendments thereto shall only come into effect upon approval by the Owners' Committee; and
- (d) undertake such other duties, as the Manager may, with the approval of the Owners' Committee delegate to them.

In the event of resignation or termination of service of a Manager and prior to the appointment of any new Manager, the Owners' Committee shall be responsible for and shall have full power to undertake the management of the Land and the Development and to exercise all the powers conferred on the Manager by this Deed.

49. The following persons shall be eligible for membership of the Owners' Committee :-

- (a) any Owner (save and except the Motor Cycle Parking Space Owner) and, in the event of an Owner (save and except the Motor Cycle Parking Space Owner) being a corporate body, any representative appointed by such Owner. The appointment of a representative by a corporate body shall be in writing addressed to the Owners' Committee and may be revoked at any time on notice in writing being given to the Owners' Committee;
- (b) the husband or wife of any Owner (save and except the Motor Cycle Parking Space Owner) or any adult member of the family of any Owner (save and except the Motor Cycle Parking Space Owner) duly authorized by the Owner which authorization shall be in writing addressed to the Owners' Committee and may be revoked at any time on notice in writing being given to the Owners' Committee **PROVIDED THAT** such husband, wife or adult member of the family resides in the Development.

However, the Undivided Shares allocated to the Common Areas and Facilities shall not be eligible for membership of the Owners' Committee.

50. The chairman and every member of the Owners' Committee shall retire from office at the next Annual General Meeting following his appointment but shall be eligible for re-election but subject to this he shall hold office until :-

- (a) he resigns by notice in writing to the Owners' Committee; or
- (b) he ceases to be eligible or is not re-elected at the meeting of Owners at which he stands for re-election; or
- (c) he becomes bankrupt or insolvent or enters into a composition with his creditors or is convicted of a criminal offence other than a summary offence not involving his honesty or integrity; or

- (d) he becomes incapacitated by physical or mental illness or death; or
- (e) he is removed from office by resolution of a duly convened meeting of Owners.

In any of the events provided for in sub-clauses (a), (c), (d) or (e) of this Clause the Owners' Committee may by a majority decision appoint any eligible Owners to fill the casual vacancy thereby created.

- 51. The Owners' Committee shall meet at the requisition of the chairman or any two members of the Owners' Committee **PROVIDED THAT** not less than one such meeting shall be held once in each calendar year commencing with the year following that in which the Occupation Permit of the Development is issued for the purpose of reviewing the Manager's budget and transacting any other business of which due notice is given in the notice convening the meeting.
- 52. Notice of the meeting of the Owners' Committee shall be given and served in the manner set out in the Schedule 8 to the Ordinance (the full text whereof is set out in the Fifth Schedule hereto).
- 53. No business shall be transacted at any time by the Owners' Committee unless a quorum is present when the meeting proceeds to business and not less than one half of the total number of the members (rounded up to the nearest whole number) or three (3) such members, whichever is the greater (qualified to hold and holding office under these presents for the time being) of the Owners' Committee shall be a quorum. The procedure at meetings of the Owners' Committee shall be determined by the Owners' Committee in accordance with Schedule 8 of the Ordinance as set out in the Fifth Schedule hereto.
- 54. The chairman of the Owners' Committee shall preside at every meeting of the Owners' Committee **PROVIDED THAT** in the absence of the chairman, the members present at any meeting duly convened shall choose one of their members by simple majority of those present to be the chairman of that meeting.
- 55. The Manager may send a representative appointed in writing by the Manager to act as secretary to the meeting of the Owners' Committee who shall cause a record of the persons present at the meeting and the proceedings thereof to be kept. Failing that, the chairman shall appoint any member of the Owners' Committee present to act as secretary.
- 56. The following provisions shall apply in all meetings of the Owners' Committee :-
  - (a) all resolutions passed by a simple majority of votes at such meeting shall be binding on all the Owners but no such resolution shall be valid if it concerns any other matter not being the subjects contained in the notice convening the meeting or if it is contrary to the provisions of this Deed;

- (b) a resolution put to the vote of the meeting shall be decided on a show of hands only;
  - (c) on a show of hands every member of the Owners' Committee present at the meeting shall have one vote; and
  - (d) in the case of any equality of votes the chairman shall have a second or casting vote.
57. The Owners' Committee and the members thereof shall not be liable to the Owners or any of them or to any person or persons whomsoever whether claiming through, under or in trust for any Owner or otherwise, for or in respect of any act, deed, matter or thing done or omitted in pursuance of the provisions of this Deed not being anything involving criminal liability or dishonest or negligence or willful default by or on the part of any or all of the members of the Owners' Committee, and the Owners shall fully and effectually indemnify the Owners' Committee from and against all actions, proceedings, claims and demands whatsoever arising directly or indirectly out of or in connection with any act, deeds, matter or thing done or omitted as aforesaid which does not involve criminal liability or dishonesty or negligence or willful default on the part of the Owners' Committee or the members thereof and all costs and expenses in connection therewith.
58. No remuneration shall be payable to the Owners' Committee or any member thereof but such members shall be entitled to be reimbursed for all out-of-pocket expenses necessarily incurred in carrying out their duties.
59. (a) The Owners' Committee shall cause to be kept records and minutes of :-
- (i) the appointment and vacation of appointments of all its members and all changes therein;
  - (ii) all resolutions and notes of proceedings of the Owners' Committee; and
  - (iii) the members present at all meeting.
- (b) Such records and minutes shall be kept in such place as the Owners' Committee may from time to time determine and shall be open to inspection by any Owner on reasonable notice being given and such Owner shall also be entitled to extracts thereof on paying the reasonable charges therefor. All such charges received shall be credited to the Development Sub Fund.
60. (a) Nothing herein contained shall prevent the Owners' Committee from forming sub-committees for the recreation and welfare of the residents of the Development or to co-opt Owners who are not members of the Owners' Committee to serve on such sub-committees;
- (b) If the Owners' Committee is desirous of exercising the powers and duties of the

Manager as enumerated in Clause 41(y) hereinabove, the Owners' Committee shall follow the provisions of Schedule 7 to the Ordinance as if references therein to Manager were references to Owners' Committee.

## SECTION VI

### MEETING OF OWNERS

61. From time to time as occasion may require there shall be meetings of the Owners (**PROVIDED THAT** the Undivided Shares allocated to the Common Areas and Facilities shall not carry any voting rights and shall not be taken into account for the purpose of calculating the quorum of any meeting) for the time being of the Undivided Shares to discuss and decide matters concerning the Development and in regard to such meetings the following provisions shall apply :-
- (a) (i) the first meeting of Owners shall be convened by the Manager within **nine (9)** months of the execution of this Deed which meeting shall appoint a chairman and committee of Owners or shall appoint a management committee for the purpose of forming an Owners' Corporation;
  - (ii) a meeting may be validly convened by the Manager or the Owners' Committee or by those Owners who in the aggregate have vested in them for the time being not less than five (5) per cent of all the Undivided Shares (excluding the Undivided Shares allocated to the Common Areas and Facilities);
  - (iii) one of such meetings to be known as the Annual General Meeting shall be held once in each calendar year commencing with the year following that in which the Occupation Permit in respect of the Development is issued for the purpose of electing the chairman and other members of the Owners' Committee, and transacting any other business of which due notice is given in the notice convening the meeting **PROVIDED THAT** so long as the first meeting is held within 9 months from the date of the issue of the Occupation Permit, it needs not be held in the year in which the Occupation Permit is issued;
- (b) notice of the meeting of the Owners shall be given and served in the manner provided in the Schedule 8 to the Ordinance;
  - (c) no business shall be transacted at any meeting unless a quorum is present when the meeting proceeds to business and the Owners present in person or by proxy who in the aggregate represent not less than ten per cent (10%) of all the Owners of the Development regardless of the total number of Undivided

Shares held by them shall be a quorum and in case of the meeting(s) of a relevant class of Owners not less than ten per cent (10%) of all the Owners comprising the relevant class regardless of the number of Undivided Shares held by them shall be a quorum. The provision of paragraph 11A of Schedule 8 to the Ordinance a copy whereof is reproduced in the Fifth Schedule hereto shall apply to the meaning of the ten per cent (10%) of all the Owners or the Owners of a relevant class as the case may be;

- (d) the chairman of the Owners' Committee or failing him the person convening the meeting shall preside at every meeting **PROVIDED THAT** if none of such persons are present within **fifteen (15)** minutes of the time fixed for the meeting, the Owners then present shall choose by a simple majority according to the number of Undivided Shares held by the Owners present or by proxy one of the Owners to be the chairman of the meeting who shall then preside at the said meeting until it is concluded or adjourned;
- (e) the chairman shall cause a record to be kept of the persons present at the meeting and the proceedings thereof;
- (f) every Owner shall have one vote for each Undivided Share (excluding the Undivided Shares allocated to the Common Areas and Facilities) vested in him and in the case where two or more persons are the co-Owners who together are entitled to one such Undivided Share such Owners shall jointly have one vote for each such Undivided Share and where 2 or more persons are the co-Owners of an Undivided Share and more than one of the co-Owners seeks to cast a vote in respect of the Undivided Share, only the vote that is cast, whether personally or by proxy, by the first named of such Owners whose name, in order of priority, stands highest in relation to that Undivided Share in the register kept at the Land Registry shall be treated as valid. In case of any equality of votes, the chairman shall have a second or casting vote;
- (g) votes may be given either personally or by proxy and in regard to the election, re-election, removal from office of a member of the Owners' Committee, votes shall be cast by means of a secret ballot supervised by the Manager in accordance with the provisions of paragraph 13 of Schedule 8 to the Ordinance;
- (h) the instrument appointing a proxy shall be signed, made and lodged in the manner provided in the Schedule 8 to the Ordinance;
- (i) save as otherwise herein provided any resolution on any matter concerning the Development passed by a simple majority of votes at a duly convened meeting by the Owners present in person or by proxy and voting shall be binding on all the Owners of the Development Provided as follows :-
  - (i) the notice convening the meeting shall have been duly given and shall have specified the intention to propose a resolution or resolutions

concerning such matters;

- (ii) no resolution purporting to be passed at any such meeting concerning any matter not mentioned in such notice shall be valid; and
- (iii) no resolution shall be valid to the extent that it purports to alter or amend the provisions of or is otherwise contrary to this Deed;
- (j) The accidental omission to give notice as aforesaid to any Owner shall not invalidate the proceedings at any meeting or any resolution passed thereat and
- (k) The procedure at the meetings of the Owners shall be as determined by the Owners.

Notwithstanding anything aforesaid, the Undivided Shares allocated to the Common Areas and Facilities shall not carry any voting rights nor shall such Undivided Shares be taken into account for the purpose of calculating the quorum of the meetings of the Owners under this **Section VI**.

## SECTION VII

### EXTINGUISHMENT OF RIGHTS

62. In the event of the Development or part thereof being so damaged by fire, typhoon, earthquake, subsidence or other cause so as to render the same substantially unfit for habitation, use or occupation, the Owners of not less than 75% of the Undivided Shares allocated to the damaged part of the Development (excluding the Undivided Shares allocated to the Common Areas and Facilities) shall convene a meeting to consider whether the Development should be reinstated or rebuilt and in the event the Owners present and voting and resolve by a resolution of not less than 75% of the Owners present in person or by proxy that by reason of insufficiency of insurance money or changes in building law and/or regulations or any other circumstances whatsoever, it is not practicable to reinstate or rebuild such part or parts of the Development then in such event all the Undivided Shares of the Development (excluding the Undivided Shares allocated to the Common Areas and Facilities) shall be acquired by the Manager and the Owners shall in such event be obliged to assign the same and all rights and appurtenances thereto to the Manager upon trust to forthwith dispose of the same by public auction or private treaty and to distribute the net proceeds of sale amongst the Owners of the Undivided Shares (excluding the Undivided Shares allocated to the Common Areas and Facilities) in proportion to the respective number of Undivided Shares previously held by such Owners (except the Manager) bears to the total number of Undivided Shares of the Development (less the Undivided Shares allocated to the Common Areas and Facilities). All insurance money received in respect of any policy of insurance on the Development shall likewise be distributed amongst the Owners. In such event all the rights, privileges, obligations and covenants of the Owners under this Deed shall be extinguished **PROVIDED ALWAYS** that if it is resolved to reinstate or rebuild the Development

each Owner (excluding the Owner of the Undivided Shares allocated to the Common Areas and Facilities) shall pay the excess of the costs of reinstatement or rebuilding of such part of the Development damaged as aforesaid over and above the proceeds recoverable from the insurance of the Development in proportion to the respective number of Undivided Shares held by them bears to the total number of Undivided Shares of the Development (less the Undivided Shares allocated to the Common Areas and Facilities) and that until such payment the same will become a charge upon their respective Undivided Shares and be recoverable as a civil debt. The resolution is to be binding upon all the Owners of the damaged part(s).

63. The following provisions shall apply to the meeting as provided in **Clause 62** hereof :-
- (a) every such meeting shall be convened by notice given in writing by the person or persons convening the meeting upon each Owner at least fourteen (14) days before the date of the meeting, and that notice shall specify the place, date and time of the meeting and the resolutions (if any) that are to be proposed. Such notice may be given (i) by delivering personally to the Owner (ii) by sending by post to the Owner at his last known address or (iii) by leaving the notice at the Owner's Unit or depositing the notice in the letter box for that Unit;
  - (b) no business shall be transacted at any meeting unless a quorum is present when the meeting proceeds to business and Owners present in person or by proxy who in the aggregate have vested in them not less than **seventy-five per cent (75%)** of the total number of Undivided Shares in the part of the Development in question (excluding the Undivided Shares allocated to the Common Areas and Facilities) shall be a quorum;
  - (c) if within half an hour from the time appointed for the meeting a quorum be not present the meeting shall stand adjourned automatically without further notice notwithstanding (a) above to the same time and day in the next week at the same place;
  - (d) the chairman of the Owner's Committee shall preside over at every such meeting or, in his absence, the Owners then present shall choose one of their members to be the chairman of the meeting;
  - (e) the chairman shall cause a record to be kept of the person present at the meeting and notes of the proceedings thereof;
  - (f) every Owner shall have one vote for each Undivided Share (excluding the Undivided Shares allocated to the Common Areas and Facilities) vested in him and in the case of Owners who together are entitled to one such Undivided Share such Owners shall jointly have one vote for each such Undivided Share;
  - (g) in the case of any meeting where 2 or more persons are the co-Owners of an Undivided Share and more than one of the co-Owners seek to cast a vote in respect of such Undivided Share, only the vote that is cast, in person or by

proxy, by the co-Owner whose name, in order of priority, stands highest in relation to that Undivided Share in the register kept at the Land Registry shall be treated as valid;

- (h) votes may be given either personally or by proxy;
- (i) the instrument appointing a proxy shall be deposited with the chairman of the meeting either before or at the meeting;
- (j) a resolution passed at a duly convened meeting by a **seventy-five per cent (75%)** majority at a meeting of the Owners of not less than 75% of the Undivided Shares allocated to the damaged part of the Development (excluding the Undivided Shares allocated to the Common Areas and Facilities) present in person or by proxy and voting shall be binding on all the Owners of the relevant part of the Development **PROVIDED** as follows :-
  - (i) the notice convening the meeting shall specify the intention to propose a resolution concerning such matter;
  - (ii) any resolution purported to be passed at any such meeting concerning any other matter shall not be valid; and
  - (iii) no resolution shall be valid if it is contrary to the provisions of this Deed;
- (k) the accidental omission to give notice as aforesaid to any Owner shall not invalidate the meeting or any resolution passed thereat.

Notwithstanding anything aforesaid, the Manager or the Owners' Corporation which is the registered owner for the time being of the Undivided Shares allocated to the Common Areas and Facilities shall not carry any voting rights nor shall such Undivided Shares be taken into account for the purpose of calculating the quorum of the meetings of the Owners under this **Section VII**.

## **SECTION VIII**

### **MISCELLANEOUS PROVISIONS**

64. Each Owner shall on ceasing to be the Owner of any Undivided Share and the Unit enjoyed therewith notify the Manager of such cessation and of the name and address of the new Owner thereof. Such Owner shall remain liable for all sums and for the observance and performance of all terms and conditions under this Deed up to the date of the deed of assignment of the relevant Unit to the new Owner who shall from the date of such deed of assignment be liable for all sums and the observance and performance of all terms and conditions under this Deed.

65. Each Owner of any Undivided Share who shall not personally be in occupation of the Unit held therewith shall provide the Manager with an address in Hong Kong for service of notices for the purpose of this Deed.
66. No person shall, after ceasing to be the Owner of any Undivided Share, be liable for any debt liability or obligation under the covenant, terms and conditions of this Deed in respect of such Undivided Share and the Unit(s) held therewith save and except in respect of any breach, non-observance or non-performance by such person of any such covenant or term and condition prior to his ceasing to be the Owner thereof.
67. There shall be a public notice board at the prominent place in the Development as the Manager shall from time to time determine. There shall be exhibited on the public notice board copies of the House Rules from time to time in force and all notice which under this Deed are required to be exhibited thereon and such other notices and announcements as the Manager may from time to time decide to exhibit or approve for exhibition thereon. Except in the case of a notice required by this Deed or by law to be served personally or in any other manner, the exhibition of a notice on the public notice board for **three (3)** consecutive days shall be due notice of the contents thereof to each Owner, his tenants, licensees, servants and agents.
68. Subject as hereinbefore provided in the case of notices to be affixed to the public notice boards, all notices or demands required to be served hereunder shall be sufficiently served if addressed to the party to whom the notices or demands are given and sent by prepaid post to or left at the Unit or the letter box thereof of which the party to be served is the Owner (or, in the event that such party shall not personally occupy the same, at the address for service provided to the Manager pursuant to **Clause 65** above) **PROVIDED HOWEVER THAT** where notice is to be given to an Owner who is a mortgagor, such notice may also be served on the Mortgagee, if a company, at its registered office or last known place of business in Hong Kong and, if an individual, at his last known residence. All notices required to be given to the Manager shall be sufficiently served if sent by prepaid post addressed to or if by hand left at the registered office of the Manager.
69. The Manager shall arrange for a translation in Chinese of this Deed to be made within **one (1)** month of the date of execution of this Deed and to make the same available for inspection at the management office/guard room within the Development by the Owners free of costs. The Manager shall upon request of any Owner and upon payment of a reasonable charge for copying the same send to such Owner a copy of such Chinese translation of this Deed. In case of dispute in the interpretation of this Deed with its Chinese translation, the English version shall prevail. All charges received must be credited to the Special Fund.
70. Nothing herein contained shall prejudice the operation of the Ordinance. If the Owners shall at any time hereafter be incorporated under the Ordinance :-
- (a) the rights, duties, powers and obligations for the control, management and

administration of the Land and the Development conferred by this Deed on the Manager shall be vested in the Owners' Corporation;

- (b) the general meeting of the Owners' Corporation convened under the Ordinance shall take the place of the meeting of the Owners convened under this Deed; and
  - (c) upon appointment of the management committee of the Owners' Corporation, the management committee shall take the place of the Owners' Committee under this Deed.
71. The covenants and provisions of this Deed shall be binding on the parties hereto and their respective executors, administrators, successors in title and assigns and the benefit and burden thereof shall be annexed to and run with the Land and each and every Unit and to the Undivided Share or Shares held therewith. The Conveyancing and Property Ordinance Cap.219, Laws of Hong Kong and any statutory amendments, modifications or re-enactment thereof for the time being in force shall apply to these presents.
72. The First Owner shall prepare plans certified as to their accuracy by the Authorized Person showing the Common Areas and Facilities including any subsequent amendment thereto and shall cause the same to be annexed to this Deed and to be kept at the management office/guard room within the Development available for inspection by the Owners during office hours free of costs and charges. If the layout or location of any of such Common Areas and Facilities is subsequently altered or amended with the approval of the Owners' Committee or the Owners' Corporation (if formed) by resolution and the Director, the First Owner shall prepare appropriate amended plans certified as to their accuracy by the Authorized Person for deposit at the management office/guard room as aforesaid.
73. Notwithstanding anything contained in this Deed to the contrary, the covenants, conditions and obligations contained in this Deed shall not be binding on any mortgagee or chargee for the time being of the Land and the Development or any part thereof or any interest therein or any of the Undivided Shares ("the said Mortgagee") and the said Mortgagee shall not be personally liable to make any payment or contribution under provision of this Deed unless and until it shall have either entered into possession of or foreclosed on the Land and the Development or any part thereof or any interest therein or any of the Undivided Shares together with the right and privilege to hold use occupy and enjoy such part of the Land and Development comprised in the relevant mortgage or charge ("the said Mortgage") provided always that such obligation or liability shall not include any obligation or liability for payment or contribution accrued in any way whatsoever prior to such entry into possession or foreclosure and provided further that if the said Mortgagee shall enter into possession of or foreclosure on part only of the Land and Development or the Undivided Shares comprised in the said Mortgage, the said Mortgagee shall only be bound by the covenants and conditions contained in this Deed so far as they relate to and affect such part and likewise, the said Mortgagee shall only be liable for payment or contribution

under this Deed relating to or affecting such part after such entry into possession or foreclosure and not before.

74. The First Owner shall upon the execution of this Deed, assign to and vest in free of any consideration, expenses or costs all the Undivided Shares allocated to the Common Areas and Facilities to the Manager who shall :-
- (a) hold such Undivided Shares in trust for the benefit of all Owners for the time being of the Land and Development; and
  - (b) manage the Common Areas and Facilities in accordance with the provisions of this Deed.
75. Whenever the Manager ceases to be the manager of the Land and the Development in accordance with the provisions of **Section III** hereof and a new manager shall have been appointed, the Manager shall assign to and vest in all the Undivided Shares allocated to the Common Areas and Facilities free of costs or consideration to the new manager appointed in its place who shall :-
- (a) hold the Undivided Shares in trust for the benefit of all Owners for the time being of the Land and Development; and
  - (b) manage the Common Areas and Facilities in accordance with the provisions of this Deed.
76. Where an Owners' Corporation is formed under the Ordinance, the Manager for the time being of the Land and the Development shall, if required by the Owners' Corporation, assign the Undivided Shares allocated to the Common Areas and Facilities and transfer the management rights and responsibilities of the Land and the Development to the Owners' Corporation free of any consideration, expenses or costs. The Owners' Corporation must then hold the Undivided Shares on trust for the benefit of all Owners for the time being of the Land and the Development and manage the Common Areas and Facilities in accordance with the provision of this Deed **PROVIDED THAT** nothing herein contained shall in any way fetter or diminish the rights, powers, entitlements, duties and obligations of the Manager prior to its ceasing to be the manager of the Land and the Development under this Deed.
77. No Owner including the First Owner shall have the right to convert the Common Areas and Facilities to his own use or for his own benefit unless approved by the Owners' Committee or where the Owners' Corporation has been formed, the prior written approval of the Owners' Corporation has been obtained. Any payment received for the approval must be credited to the Development Sub Fund. No Owner including the First Owner shall have the right to convert or designate any of his own areas as the Common Areas and Facilities unless the approval by a resolution of Owners at an Owners' meeting convened under this Deed has been obtained. No Owner (including the First Owner) and no Manager will have the right to re-convert or re-designate the Common Areas to his or its own use or benefit.

78. The First Owner must prepare the Works and Installations Schedule and the Works and Installations Maintenance Manual at its costs and expenses and have them deposited at the management office/guard room within the Development within one month of the date of this Deed for inspection by the Owners free of charge and taking copies upon payment of a reasonable charge. All charges received must be credited to the Special Fund.
79. Upon receipt of the recommendation from the Manager under Clause 41(mm) of this Deed, the Owners' Committee or the Owners' Corporation (if formed) shall convene a meeting of the Owners or the relevant class of Owners as the case may be to consider the recommendation and to decide by a resolution of the Owners at an Owners' meeting or the relevant class Owners' meeting as the case may be convened under this Deed whether revisions need to be made to the Works and Installations Schedule and the Works and Installations Maintenance Manual in which event instructions shall be given to the Manager to procure from a qualified professional or consultant the revised Works and Installations Schedule and the revised Works and Installations Maintenance Manual within such time as the Owners at such Owners' meeting shall decide. All costs incidental to the preparation of the revised Works and Installations Schedule and the Works and Installations Maintenance Manual shall be paid out of the Special Fund. The Owners' Committee or the Owners' Corporation (if formed) shall convene another meeting of the Owners or the relevant class of owners as the case may be to decide by a majority resolution whether the revised Works and Installations Schedule and the revised Works and Installations Maintenance Manual shall be accepted. If accepted, revision shall be made thereto and the Manager shall deposit the revised versions of the same within one month from the date of its preparation at the management office/guard room within the Development for inspection by all Owners free of charge and taking copies at their own expenses on payment of a reasonable charge. All charges received shall be credited to the Special Fund.
80. The First Owner shall deposit a copy of Schedules 7 and 8 to the Ordinance (English and Chinese versions) in the management office/guard room within the Development for inspection by all Owners free of charge and taking copies upon payment of a reasonable charge which must be credited to the Development Sub Fund.
81. The Director will not be concerned whether or not pets are permitted in the Development or the control thereof. The Director will not be concerned as to any restrictions on the design decoration or colour scheme of the Development or any part thereof.
82. The provisions in Schedule 7 and 8 to the Ordinance are deemed to be incorporated in this Deed. The provisions in this Deed shall not contravene with any provision in Schedule 7 to the Ordinance set out in the Fourth Schedule hereto. The provisions in the Schedule 8 of the Ordinance set out in the Fifth Schedule hereto shall apply to the Deed.
83. No provision in this Deed shall conflict with or contravene the conditions of the

Government Grant and such conflicting or contravening provisions shall be null and void.

84. The Owners (including the First Owner) and the Manager hereby mutually covenant with each other to comply with the terms and conditions of the Government Grant so long as they remain as Owners and Manager.
85. The Director will not be concerned as to any arrangements or restrictions with the design, decoration or colour schemes of the Development.
86. The Owner for the time being of the duplex unit on the Fifth and Sixth Floor shall allow the Manager and/or other Owners of the Development to access the said duplex unit to carry out repair and maintenance to the drainage pipe servicing the Development and installed thereat.
87. The Owners must at their own expense inspect, maintain and carry out all necessary works for the maintenance of the Development and their own Units including the Works and Installations.

**IN WITNESS** whereof the parties hereto have caused this Deed to be executed the day and year first above written.

**THE FIRST SCHEDULE ABOVE REFERRED TO**

**Part I**

**ALLOCATION OF UNDIVIDED SHARES**

<b><u>Unit</u></b>	<b><u>Undivided Shares of each Unit</u></b>	<b><u>Total</u></b>
5/F & 6/F ( Duplex )*	3017	3,017
7/F & 8/F ( Duplex )^	2877	2,877
9/F & 10/F ( Duplex )^	2877	2,877
11/F & 12/F ( Duplex )^	2877	2,877
15/F & 16/F ( Duplex )^	2877	2,877
17/F & 18/F ( Duplex )^	2877	2,877
20/F, 21/F & 22/F ( Triplex )#	3744	3,744
Car Parking Spaces comprising :		
(i) 7 Car Parking Spaces at 25 Undivided Shares each		175
(ii) 1 Accessible Car Parking Space at 35 Undivided Shares		35
(iii) 1 Motor Cycle Parking Space at 5 Undivided Shares		5
Common Areas and Facilities		100
		<hr style="width: 100%; border: 0.5px solid black;"/>
		Total: 21,461
		=====

Remark: (i) 4/F, 13/F and 14/F are omitted.  
(ii) Recreational facilities on 19/F.

Note 1: \* means including the utility platform thereof and the terrace(s) adjacent thereto.

Note 2: ^ means including the balcony and the utility platform thereof.

Note 3: # means including the balcony and the utility platform thereof and the terrace(s) adjacent thereto.

**Part II**

**ALLOCATION OF MANAGEMENT SHARES**

<b><u>Unit</u></b>	<b><u>Management Shares of each Unit</u></b>	<b><u>Total</u></b>
5/F & 6/F ( Duplex )*	3017	3,017
7/F & 8/F ( Duplex )^	2877	2,877
9/F & 10/F ( Duplex )^	2877	2,877
11/F & 12/F ( Duplex )^	2877	2,877
15/F & 16/F ( Duplex )^	2877	2,877
17/F & 18/F ( Duplex )^	2877	2,877
20/F, 21/F & 22/F ( Triplex )#	3744	3,744
Car Parking Spaces comprising :		
(i) 7 Car Parking Spaces at 25 Undivided Shares each		175
(ii) 1 Accessible Car Parking Space at 35 Undivided Shares		35
(iii) 1 Motor Cycle Parking Space at 5 Undivided Shares		5
		Total: 21,361 =====

Remark: (i) 4/F, 13/F and 14/F are omitted.  
(ii) Recreational facilities on 19/F.

Note 1: \* means including the utility platform thereof and the terrace(s) adjacent thereto.

Note 2: ^ means including the balcony and the utility platform thereof.

Note 3: # means including the balcony and the utility platform thereof and the terrace(s) adjacent thereto.

**THE SECOND SCHEDULE ABOVE REFERRED TO**

**PART A**

**EASEMENTS, RIGHTS AND PRIVILEGES GRANTED**

1. The Owner of each Undivided Share together with the full and exclusive right to hold use occupy and enjoy any part of the Development (in this Schedule and in the Third Schedule referred to as “his premises”) shall have the benefit of the following rights and privileges **SUBJECT TO** the provisions of the Government Grant, this Deed, the House Rules applicable to his Unit and the rights of the Manager as provided in this Deed and the payment by the Owner of his due proportion of the Management Expenses and Special Fund contributions and any other payments payable pursuant to this Deed :-
  - (a) full right and liberty for the Owner for the time being, his tenants, servants, agents, lawful occupiers and licensees (in common with all persons having the like right) to go pass and repass over and along and to use the Common Areas and Facilities;
  - (b) the right to subjacent and lateral support and to shelter and protection from the other parts of the Development;
  - (c) the free and uninterrupted passage and running of water, sewage, gas, electricity, ventilation, telephone and various other services (if any) from and to his premises through the sewers, drains, watercourse, cables, pipes and wires which now are or may at any time hereafter be in, under or passing through his premises or the Development or any part or parts thereof for the proper use and enjoyment of his premises;
  - (d) the right for any Owner with or without workmen plant equipment and materials at all reasonable times with prior consent of the Owner(s) of the other parts of the Development, which consent shall not be unreasonably withheld (except in the case of emergency) to enter upon other parts of the Development for the purpose of carrying out any works for the maintenance and repair of his premises (such work not being the responsibility of the Manager under this Deed and which cannot practically be carried out without such access) causing as little disturbance as possible and forthwith making good any damage caused thereby.

**PART B**

**EASEMENTS, RIGHTS, PRIVILEGES TO WHICH OWNERS ARE SUBJECT**

2. (a) the full right and privilege of the Manager at all reasonable times upon prior notice (except in case of emergency) with or without agents, surveyors, workmen and others to enter into and upon any Unit for the purpose of

necessary repairing, inspecting, examining or maintaining the Development or any part or parts thereof or any of the Common Areas and Facilities therein or any other apparatus and equipment used or installed for the benefit of the Development or any part or parts thereof as part of the amenities thereof **PROVIDED THAT** the Manager shall at his own costs and expenses remedy and make good all damage that may be caused to such Unit through the negligent, willful, or criminal acts of the Manager, its staffs, employees or contractors or agents;

- (b) rights and privileges equivalent to those set forth in sub-clauses (b), (c) and (d) of Clause 1 of Part A of this Second Schedule.

**THE THIRD SCHEDULE ABOVE REFERRED TO**

**Covenants, Provisions and Restrictions referred to in Clause 4 of Section I of this Deed.**

1. No Owner shall make any structural alteration to his premises owned by him (including but not limited to the external walls, structure or façade of his premises) which may damage or affect or interfere with the use and enjoyment of any other part or parts of the Development whether in separate or common occupation (in particular the supply of water, electricity or gas) nor shall any Owner use, cut, injure, damage, alter or interfere with any part or parts of the Common Areas and Facilities or any equipment or apparatus on, in or upon the Land not being equipment or apparatus for the exclusive use and benefit of any such Owner.
2. No Owner shall permit or suffer to be done any act or thing in contravention of the terms and conditions of the Government Grant or whereby any insurance on the Development or any part thereof may become void or voidable or whereby the premia for any such insurance may be increased and in the event of any breach of this Clause by any Owner, in addition to any other liability incurred thereby, such Owner shall pay to the Manager the amount of any increase in premium caused by or on account of such breach.
3. No Owner shall at any time exercise or attempt to exercise any statutory or common law right to partition the Land.
4. No Owner shall do or permit or suffer to be done by his tenants, occupiers or licensees any act, deed, matter or thing which in any way interferes with or affects or which are likely to interfere with or affect the management and the maintenance of the Development.
5. No Owner shall use or permit or suffer the part of the Development owned by him to be used for any illegal or immoral purpose nor shall he do, cause or permit or suffer to be done any act or thing which may be or become a nuisance or annoyance to or cause damage to the other Owners and occupiers for the time being of the Development.
6. No Owner shall use or permit or suffer his premises to be used except in accordance with the Government Grant, this Deed, the Occupation Permit and any Ordinances and Regulations from time to time applicable thereto **PROVIDED THAT** if any Owner shall have obtained the consent from the relevant authorities to use his premises in any particular manner, that Owner shall be entitled to use his premises in the manner as permitted from time to time even though such use may contravene this Deed or the Occupation Permit.
7. No refuse or other matter or things shall be placed or left in the Common Areas and Facilities and no Owner shall do or suffer or permit to be done anything in the Common Areas and Facilities as may be or become a nuisance to any other Owners or occupiers of any other part of the Development.

8. No Owner shall cut, maim, alter, affix, interfere with or in any other way affect any pipes, valves, ducts, lightning conductors, communal television and radio aerial system, fixtures or any other installation within any portion of the roofs or flat-roofs provided in the Development as part of the Car Park Common Facilities or Development Common Facilities.
9. No clothing or laundry shall be hung outside his premises or any part thereof other than in the external laundry drying racks specifically provided therefor.
10. No Owner shall do or suffer or permit to be done anything whereby the flush or drainage system of the Development may be clogged or efficient working thereof may be impaired.
11. No air-conditioning or other units shall without prior written consent of the Manager be installed through any window or external wall of his premises other than at places designated for such purpose and all possible measures shall be taken to prevent excessive noise, condensation or dripping on to any part of the Development.
12. No Owner shall make or cause or permit any disturbing noise in his premises or do or cause or permit anything to be done which will interfere with the rights, comforts and convenience of other occupants of the Development.
13. No Owner shall be entitled to connect any installation to the central and/or communal television and radio aerial system (if any) installed by the First Owner or the Manager in the Development except with the permission of the Manager and in accordance with the House Rules relating to the same. No Owner shall affix or install his own private aerial outside any part of his premises except with the written consent of the Manager.
14. No external signs, signboards, notices, advertisements, flags, banners, poles, cages, shades, or other projections or structures whatsoever extending outside the exterior of his premises or any part thereof shall be erected, installed or otherwise affixed to or projected from the Development or any part thereof except with the consent of the Manager.
15. Without prejudice to the preceding Clause 14 of this Third Schedule, no Owner shall paint the outside of his premises or any part thereof or do or permit to be done any act or thing which may or will alter the façade or external appearance of his premises without the prior consent in writing of the Manager.
16. No Owner shall throw out or discard or permit or suffer to be thrown out or discharged from his premises any refuse, rubbish, litter or other article or thing whatsoever except using the services or facilities provided for the disposal thereof.
17. The Manager shall have the power and right to prohibit or to remove any dog, live poultry, bird or other animals in any part of the Development if the same has been the cause of reasonable complaints by at least two Owners or the occupiers of at least two

Units in any part of the Development in writing.

18. No Owner shall use the water closets and other water apparatus in the Development intended for common use by all Owners for any purpose other than those for which they were constructed nor shall any sweeping, rubbish, rags or any other articles be thrown into the same. Any damage resulting from misuse of any water closets or apparatus intended for common use shall be paid for by the Owner or occupier causing the same.
19. No Owner shall allow bicycles or similar vehicles in the lift servicing the Development unless the greatest care against damage to the same is exercised and the same shall not be allowed to obstruct any Common Areas and Facilities.
20. No Owner shall install in his premises any furnace, boiler or other plant or equipment or use any fuel or use any method or process of manufacture or treatment which might in any circumstances result in the discharge or emission whether it be in the form of gas, smoke, liquid or otherwise and which shall in the opinion of the Manager be excessive or unnecessary or which may contravene the Air Pollution Control Ordinance Cap.311, Laws of Hong Kong or any amendments thereto.
21. No Owner shall make any alteration to or interfere with the sprinkler system or any other fire fighting equipment or fire exits in his premises or suffer to be done anything to such sprinkler system or fire fighting equipment or fire exits which would constitute a breach of the Fire Services Ordinance Cap.95, Laws of Hong Kong or any by-laws or regulations made thereunder. If any extension of the sprinkler heads and/or smoke detectors or alteration to the fire fighting equipment in his premises shall be required by any Owner then subject to compliance with all relevant Ordinances and regulations relating thereto and subject to the prior approval of the Manager, such work shall be carried out by the Manager or any contractor appointed or approved by the Manager at the expense of such Owner and in such manner as the Manager shall in its absolute discretion think fit.
22. No Owner shall perform installation or repair works to the electrical wiring from the switch rooms installed in the Common Areas and Facilities to any part or parts of his premises save with the written approval of the Manager and such works shall be carried out by the Manager or any contractor appointed by the Manager at the expenses of the Owner or Owners thereof and in such manner as the Manager shall in its absolute discretion think fit.
23. No Owner shall erect or build or suffer to be erected or built on or upon the roof or upper roof or balcony or utility platform forming part of his premises any structure whatsoever either of a permanent or temporary nature nor otherwise block or obstruct any access to the Common Areas and Facilities .
24. Subject to the rights of the First Owner expressly mentioned in this Deed and without prejudice to Clauses 14 and 15 of this Third Schedule, no Owner shall erect or permit or suffer to be erected any radio or television aerial or advertising sign on or upon the

Common Areas and Facilities.

25. No partitioning shall be erected or installed in a Unit which does not leave clear access for fire exits and no windows shall be wholly or partially blocked or the light and air therefrom in any way obstructed.
26. No Owner shall permit or suffer to be erected, affixed, installed or attached in or on or at the door or doors or entrance or entrances of his premises any metal grille or shutter or gate which shall in anyway contravene the regulations of the Fire Services Ordinance Cap.95, Laws of Hong Kong or other competent authority concerned from time to time in force and/or which may in any way impede the free and uninterrupted passage over, through and along any of the Common Areas and Facilities and the design of any metal grille or shutter or gate shall, prior to the installation thereof, first be submitted to the Manager for his approval in writing and the subsequent installation shall follow strictly the approved design and any conditions that may be imposed **PROVIDED THAT** the approval of the Manager shall confer no right on the Owner to claim against the Manager for any damage or loss suffered by the Owner as a result of such installation.
27. No Owner shall store or permit to be stored in his premises any hazardous, dangerous, combustible or explosive goods or materials except such as may be reasonably required for the purpose of domestic cooking and heating.
28. No Unit or any part thereof shall be used for the storage of goods or merchandise other than the personal and household possession of the Owner or occupier.
29. No Owner shall without the Manager's previous written approval and obtaining all necessary licences from the appropriate Government Authorities store or permit or suffer to be stored in his premises any hazardous, dangerous, combustible or unlawful goods or explosive substance, or any "dangerous" or "prohibited" goods within the meaning of the Dangerous Goods Ordinance Cap.295, Laws of Hong Kong.
30. The Owners of the Car Parking Spaces shall only use their Car Parking Spaces for the purpose of parking private motor vehicles belonging to the residents of the Residential Development or their bona fide guests, visitors or invitees and shall not use the same for the storage of goods or for any other purpose. The Owner of the Motor Cycle Parking Space shall only use the Motor Cycle Parking Space for the parking of motor cycle belonging to the residents of the Residential Development or their bona fide guests, visitors or invitees but not for any other purpose. No Car Parking Space Owner or Motor Cycle Parking Space Owner shall allow or suffer his Car parking Space/Motor Cycle Parking Space to be rented out and/or used by any person who is not a Residential Owner or occupier of the Residential Development.
31. No Owner shall affix and/or install metal grille to the windows of or entrance to his premises in contravention to the design and materials as set out by the Manager or in the House Rules.

32. Every assignment of an Undivided Share shall contain an express covenant by the purchaser thereof to notify the Manager in writing of any intended change of ownership within one month after the date of the relevant assignment.
33. Every Owner shall promptly pay and discharge all existing and future taxes, rates, assessments and outgoings of every kind payable in respect of his premises.
34. Where any approval or consent of the Manager is required hereunder, the Manager shall be entitled to charge a reasonable administrative fee for processing the application for and the giving of such approval or consent. The fee shall be credited to the Development Sub Fund. Any approval or consent given by the Manager hereunder may be revoked by the Manager giving a **fourteen (14)** days prior written notice to the Owner or occupier of his premises in question.
35. Every Owner shall maintain in good repair and condition to the satisfaction of the Manager that part of the Development or unit in respect of which he is entitled to exclusive use.
36. Every Owner and occupier shall at all times observe and perform all the covenants, conditions and provisions of this Deed and the House Rules.
37. A Car Parking Space or a Motor Cycle Parking Space shall only be sold to a Residential Owner and not to any other person, firm or corporation.
38. No Owner shall enclose the balcony and the covered areas beneath the balcony above safe parapet height other than as provided in the Building Plans.
39. No Owner shall enclose the utility platform and the covered areas beneath the utility platform above safe parapet height other than as provided in the Building Plans.
40. Each Residential Owner shall at its own costs and expenses upkeep and maintain the balcony and/or utility platform appurtenant to his Unit in respect whereof he has sole and exclusive possession.

## **THE FOURTH SCHEDULE ABOVE REFERRED TO**

### **Schedule 7 to the Ordinance**

#### **Mandatory terms in Deeds of Mutual Covenant**

##### **1. Determination of total amount of management expenses**

- (1) Subject to subparagraphs (3), (5), (6) and (8), the total amount of management of a expenses payable by the owners during any period of 12 months adopted by the manager of a building as the financial year in respect of the management of that building shall be the total proposed expenditure during that year as specified by the manager in accordance with subparagraph (2).
- (2) In respect of each financial year, the manager shall-
  - (a) prepare a draft budget setting out the proposed expenditure during the financial year;
  - (b) send a copy of the draft budget to the owners' committee or, where there is no owners' committee, display a copy of the draft budget in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days;
  - (c) send or display, as the case may be, with the copy of the draft budget a notice inviting each owner to send his comments on the draft budget to the manager within a period of 14 days from the date the draft budget was sent or first displayed;
  - (d) after the end of that period, prepare a budget specifying the total proposed expenditure during the financial year;
  - (e) send a copy of the budget to the owners' committee or, where there is no owners' committee, display a copy of the budget in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.
- (3) Where, in respect of a financial year, the manager has not complied with subparagraph (2) before the start of that financial year, the total amount of the management expenses for that year shall-
  - (a) until he has so complied, be deemed to be the same as the total amount of management expenses (if any) for the previous financial year;
  - (b) when he has so complied, be the total proposed expenditure specified in the budget for that financial year, and the amount that the owners shall contribute towards the management expenses shall be calculated and adjusted accordingly.
- (4) Where a budget has been sent or displayed in accordance with subparagraph (2)(e) and the manager wishes to revise it, he shall follow the same procedures in respect of the revised budget as apply to the draft budget and budget by virtue of subparagraph (2).
- (5) Where a revised budget is sent or displayed in accordance with subparagraph (4), the total amount of the management expenses for that financial year shall be the total expenditure or proposed expenditure specified in the revised budget and the amount that owners shall contribute towards the management expenses shall be calculated and adjusted accordingly.
- (6) If there is a corporation and, within a period of 1 month from the date that a budget or revised budget for a financial year is sent or first displayed in accordance with subparagraph (2) or (4), the corporation decides, by a resolution of the owners, to reject

the budget or revised budget, as the case may be, the total amount of management expenses for the financial year shall, until another budget or revised budget is sent or displayed in accordance with subparagraph (2) or (4) and is not so rejected under this subparagraph, be deemed to be the same as the total amount of management expenses (if any) for the previous financial year, together with an amount not exceeding 10% of that total amount as the manager may determine.

- (7) If any owner requests in writing the manager to supply him with a copy of any draft budget, budget or revised budget, the manager shall, on payment of a reasonable copying charge, supply a copy to that person.
- (8) For the purposes of this paragraph, "expenditure" (開支) includes all costs, charges and expenses to be borne by the owners, including the remuneration of the manager.

## **2. Keeping of accounts**

- (1) The manager shall maintain proper books or records of account and other financial records and shall keep all bills, invoices, vouchers, receipts and other documents referred to in those books and records for at least 6 years.
- (2) Within 1 month after each consecutive period of 3 months, or such shorter period as the manager may select, the manager shall prepare a summary of income and expenditure and a balance sheet in respect of that period, display a copy of the summary and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.
- (3) Within 2 months after the end of each financial year, the manager shall prepare an income and expenditure account and balance sheet for that year, display a copy of the income and expenditure account and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.
- (4) Each income and expenditure account and balance sheet shall include details of the special fund required by paragraph 4 and an estimate of the time when there will be a need to draw on that fund, and the amount of money that will be then needed.
- (5) The manager shall-
  - (a) permit any owner, at any reasonable time, to inspect the books or records of account and any income and expenditure account or balance sheet; and
  - (b) on payment of a reasonable copying charge, supply any owner with a copy of any record or document requested by him.
- (6) If there is a corporation and the corporation decides, by a resolution of the owners, that any income and expenditure account and balance sheet should be audited by an accountant or by some other independent auditor as may be specified in that resolution, the manager shall without delay arrange for such an audit to be carried out by that person and
  - (a) permit any owner, at any reasonable time, to inspect the audited income and expenditure account and balance sheet and the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet; and
  - (b) on payment of a reasonable copying charge, supply any owner with a copy of the audited income and expenditure account and balance sheet, or the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet, or both, as requested by the owner.

- (7) The financial year may not be changed more than once in every 5 years, unless that change is previously approved by a resolution of the owners' committee (if any).

### **3. Manager to open and maintain bank account**

- (1) The manager shall open and maintain an interest-bearing account and shall use that account exclusively in respect of the management of the building.
- (1A) Without prejudice to the generality of subparagraph (1), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the management of the building.
- (1B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (1) or (1A) in a prominent place in the building.
- (2) Subject to subparagraphs (3) and (4), the manager shall without delay pay all money received by him in respect of the management of the building into the account opened and maintained under subparagraph (1) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (1A).
- (3) Subject to subparagraph (4), the manager may, out of money received by him in respect of the management of the building, retain or pay into a current account a reasonable amount to cover expenditure of a minor nature, but that amount shall not exceed such figure as is determined from time to time by a resolution of the owners' committee (if any).
- (4) The retention of a reasonable amount of money under subparagraph (3) or the payment of that amount into a current account in accordance with that subparagraph and any other arrangement for dealing with money received by the manager shall be subject to such conditions as may be approved by a resolution of the owners' committee (if any).
- (5) Any reference in this paragraph to an account is a reference to an account opened with a bank within the meaning of section 2 of the Banking Ordinance (Cap 155), the title of which refers to the management of the building.

### **4. Special fund**

- (1) The manager shall establish and maintain a special fund to provide for expenditure of a kind not expected by him to be incurred annually.
- (2) If there is a corporation, the corporation shall determine, by a resolution of the owners, the amount to be contributed to the special fund by the owners in any financial year, and the time when those contributions shall be payable.
- (3) The manager shall open and maintain at a bank within the meaning of section 2 of the Banking Ordinance (Cap 155) an interest-bearing account, the title of which shall refer to the special fund for the building, and shall use that account exclusively for the purpose referred to in subparagraph (1).
- (3A) Without prejudice to the generality of subparagraph (3), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the special fund.

- (3B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (3) or (3A) in a prominent place in the building.
- (4) The manager shall without delay pay all money received by him in respect of the special fund into the account opened and maintained under subparagraph (3) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (3A).
- (5) Except in a situation considered by the manager to be an emergency, no money shall be paid out of the special fund unless it is for a purpose approved by a resolution of the owners' committee (if any).

#### **5. Contracts entered into by manager**

- (1) Subject to subparagraphs (2) and (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed the sum of \$200000 or such other sum in substitution therefor as the Authority may specify by notice in the Gazette unless-
  - (a) the supplies, goods or services are procured by invitation to tender; and
  - (b) the procurement complies with the Code of Practice referred to in section 20A(1).
- (2) Subject to subparagraph (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed a sum which is equivalent to 20% of the annual budget or such other percentage in substitution therefor as the Authority may specify by notice in the Gazette unless-
  - (a) if there is a corporation-
    - (i) the supplies, goods or services are procured by invitation to tender;
    - (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and
    - (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a general meeting of the corporation, and the contract is entered into with the successful tenderer; or
  - (b) if there is no corporation-
    - (i) the supplies, goods or services are procured by invitation to tender;
    - (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and
    - (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant, and the contract is entered into with the successful tenderer.
- (3) Subparagraphs (1) and (2) do not apply to any supplies, goods or services which but for this subparagraph would be required to be procured by invitation to tender (referred to in this subparagraph as "relevant supplies, goods or services")-
  - (a) where there is a corporation, if-
    - (i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the corporation by a supplier; and
    - (ii) the corporation decides by a resolution of the owners passed at a general meeting of the corporation that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender; or

- (b) where there is no corporation, if-
  - (i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the owners by a supplier; and
  - (ii) the owners decide by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender.

## **6. Resignation of manager**

- (1) No resignation of the manager shall take effect unless he has previously given not less than 3 months' notice in writing of his intention to resign-
  - (a) by sending such a notice to the owners' committee; or
  - (b) where there is no owners' committee, by giving such a notice to each of the owners and by displaying such a notice in a prominent place in the building.
- (2) The notice referred to in subparagraph (1)(b) may be given- (Amended 5 of 2007 s. 32)
  - (a) by delivering it personally to the owner; or
  - (b) by sending it by post to the owner at his last known address; or
  - (c) by leaving it at the owner's flat or depositing it in the letter box for that flat.

## **7. Termination of manager's appointment by owners' corporation**

- (1) Subject to subparagraph (5A), at a general meeting convened for the purpose, a corporation may, by a resolution-
  - (a) passed by a majority of the votes of the owners voting either personally or by proxy; and
  - (b) supported by the owners of not less than 50% of the shares in aggregate, terminate by notice the DMC manager's appointment without compensation. (Replaced 5 of 2007 s. 32)
- (2) A resolution under subparagraph (1) shall have effect only if-
  - (a) the notice of termination of appointment is in writing;
  - (b) provision is made in the resolution for a period of not less than 3 months notice or, in lieu of notice, provision is made for an agreement to be made with the DMC manager for the payment to him of a sum equal to the amount of remuneration which would have accrued to him during that period;
  - (c) the notice is accompanied by a copy of the resolution terminating the DMC manager's appointment; and
  - (d) the notice and the copy of the resolution is given to the DMC manager within 14 days after the date of the meeting.
- (3) The notice and the copy of the resolution referred to in subparagraph (2)(d) may be given-
  - (a) by delivering them personally to the DMC manager; or
  - (b) by sending them by post to the DMC manager at his last known address.
- (4)-(5) (Repealed 5 of 2007 s. 32)
- (5A) For the purposes of subparagraph (1)-

- (a) only the owners of shares who pay or who are liable to pay the management expenses relating to those shares shall be entitled to vote;
  - (b) the reference in subparagraph (1)(b) to "the owners of not less than 50% of the shares in aggregate" shall be construed as a reference to the owners of not less than 50% of the shares in aggregate who are entitled to vote.
- (5B) If a contract for the appointment of a manager other than a DMC manager contains no provision for the termination of the manager's appointment, subparagraphs (1), (2), (3) and (5A) apply to the termination of the manager's appointment as they apply to the termination of a DMC manager's appointment.
- (5C) Subparagraph (5B) operates without prejudice to any other power there may be in a contract for the appointment of a manager other than a DMC manager to terminate the appointment of the manager.
- (6) If a notice to terminate a manager's appointment is given under this paragraph-
- (a) no appointment of a new manager shall take effect unless the appointment is approved by a resolution of the owners' committee (if any); and
  - (b) if no such appointment is approved under sub-subparagraph (a) by the time the notice expires, the corporation may appoint another manager and, if it does so, the corporation shall have exclusive power to appoint any subsequent manager.
- (7) If any person has given an undertaking in writing to, or has entered into an agreement with, the Government to manage or be responsible for the management of the building, and the corporation has appointed a manager under subparagraph (6)(b), the corporation shall be deemed to have given to that person an instrument of indemnity under which the corporation shall be liable to indemnify that person in respect of any act or omission be the manager appointed under that subparagraph that may otherwise render that person liable for a breach of that undertaking or agreement.
- (8) This paragraph is subject to any notice relating to the building that may be published by the Authority under section 34E(4) but does not apply to any single manager referred to in that section.

## **8. Obligations after manager's appointment ends**

- (1) Subject to subparagraph (2), if the manager's appointment ends for any reason, he shall, as soon as practicable after his appointment ends, and in any event within 14 days of the date his appointment ends, deliver to the owners' committee (if any) or the manager appointed in his place any movable property in respect of the control, management and administration of the building that is under his control or in his custody or possession, and that belongs to the corporation (if any) or the owners.
- (2) If the manager's appointment ends for any reason, he shall within 2 months of the date his appointment ends-
- (a) prepare-
    - (i) an income and expenditure account for the period beginning with the commencement of the financial year in which his appointment ends and ending on the date his appointment ended; and
    - (ii) a balance sheet as at the date his appointment ended,
 and shall arrange for that account and balance sheet to be audited by an accountant or by some other independent auditor specified in a resolution of the owners'

committee (if any) or, in the absence of any such specification, by such accountant or other independent auditor as may be chosen by the manager; and

- (b) deliver to the owners' committee (if any) or the manager appointed in his place any books or records of accounts, papers, documents and other records which are required for the purposes of sub-subparagraph (a) and have not been delivered under subparagraph (1).

#### **9. Communication among owners**

The manager shall consult (either generally or in any particular case) the corporation at a general meeting of the corporation and adopt the approach decided by the corporation on the channels of communication among owners on any business relating to the management of the building.

**THE FIFTH SCHEDULE ABOVE REFERRED TO**

**Schedule 8 to the Ordinance**

**Meetings of owners' committee**

1. A meeting of the owners' committee may be convened at any time by the chairman or any 2 members of the owners' committee.
2. The person or persons convening the meeting of the owners' committee shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the owners' committee.
- 2A. The notice of meeting referred to in paragraph 2 shall specify-
  - (a) the date, time and place of the meeting; and
  - (b) the resolutions (if any) that are to be proposed at the meeting.
3. The notice of meeting referred to in paragraph 2 may be given-
  - (a) by delivering it personally to the member of the owners' committee; or
  - (b) by sending it by post to the member of the owners' committee at his last known address; or
  - (c) by leaving it at the member's flat or depositing it in the letter box for that flat.
4. The quorum at a meeting of the owners' committee shall be 50% of the members of the owners' committee (rounded up to the nearest whole number) or 3 such members, whichever is the greater.
5. A meeting of the owners' committee shall be presided over by-
  - (a) the chairman; or
  - (b) in the absence of the chairman, a member of the owners' committee appointed as chairman for that meeting.
6. At a meeting of the owners' committee, each member present shall have 1 vote on a question before the committee and if there is an equality of votes the chairman shall have, in addition to a deliberative vote, a casting vote.
7. The procedure at meetings of the owners' committee shall be as is determined by the owners' committee.

**Meetings of owners**

8. A meeting of owners may be convened by-
  - (a) the owners' committee;
  - (b) the manager; or
  - (c) an owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate.

9. The person convening the meeting of owners shall, at least 14 days before the date of the meeting, give notice of the meeting to each owner.
- 9A. The notice of meeting referred to in paragraph 9 shall specify-
- (a) the date, time and place of the meeting; and
  - (b) the resolutions (if any) that are to be proposed at the meeting.
10. The notice of meeting referred to in paragraph 9 may be given-
- (a) by delivering it personally to the owner;
  - (b) by sending it by post to the owner at his last known address; or
  - (c) by leaving it at the owner's flat or depositing it in the letter box for that flat.
11. The quorum at a meeting of owners shall be 10% of the owners.
- 11A. For the purposes of paragraph 11, the reference in that paragraph to "10% of the owners" shall-
- (a) be construed as a reference to 10% of the number of persons who are owners without regard to their ownership of any particular percentage of the total number of shares into which the building is divided; and
  - (b) not be construed as the owners of 10% of the shares in aggregate.
12. A meeting of owners shall be presided over by the chairman of the owners' committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting.
13. At a meeting of owners-
- (a) an owner shall have one vote in respect of each share he owns;
  - (b) an owner may cast a vote personally or by proxy;
  - (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
    - (i) by a proxy jointly appointed by the co-owners;
    - (ii) by a person appointed by the co-owners from amongst themselves; or
    - (iii) if no appointment is made under sub-subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners;
  - (ca) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid; and
  - (d) if there is an equality of votes the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.
14. (1) An instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and-
- (a) shall be signed by the owner; or

- (b) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf.
- (2) The instrument appointing a proxy shall be lodged with the chairman of the owners' committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting at least 48 hours before the time for the holding of the meeting.
- (3) A proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting.

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

## **THE SIXTH SCHEDULE ABOVE REFERRED TO**

### **PART A**

#### **Works and Installations Schedule**

- (a) structural elements;
- (b) external wall finishes and roofing materials;
- (c) fire safety elements;
- (d) curtain walls;
- (e) plumbing system;
- (f) drainage system;
- (g) fire services installations and equipment;
- (h) electrical wiring system;
- (i) lift installations;
- (j) gas supply system;
- (k) window installations; and
- (l) other major items (e.g. central air-conditioning and ventilation system, escalators, security system etc.)

### **PART B**

#### **Works and Installations Maintenance Manual**

- (a) As-built record plans of the building and services installations together with the necessary technical information (such as specifications of materials and design standard) for maintenance of all facilities and equipment;
- (b) All warranties and guarantees provided by contractors (together with the names of the companies providing the warranty and the contact telephone numbers) in respect of all facilities and equipment;
- (c) Recommended maintenance strategy and procedures;
- (d) A list of items of the works and/or installations requiring routine maintenance;
- (e) Recommended frequency of routine maintenance inspection;
- (f) Checklist and typical inspection record sheets for routine maintenance inspection; and
- (g) Recommended maintenance cycle of the works and/or installations.

**SEALED** with the Common Seal of the )  
First Owner and **SIGNED** by )  
)  
)  
duly authorized by the Board of Directors )  
whose signature(s) is/are verified by :- )

**SEALED** with the Common Seal of the )  
First Assignee and **SIGNED** by )  
)  
)  
duly authorized by the Board of Directors )  
whose signature(s) is/are verified by :- )

**SEALED** with the Common Seal of the )  
Manager and **SIGNED** by )  
)  
)  
duly authorized by the Board of Directors )  
whose signature(s) is/are verified by :- )

## **ANNEXURE A**

Ground Floor Plan, the First Floor Car Park Plan, the Second Floor Car Park Plan, the Third Floor Car Park Plan, the Fifth Floor Plan, the part plan of Lift Machine Room at Level 22.41, the Sixth, Eighth, Tenth, Twelfth, Sixteenth and Eighteenth Floor Plans, the Seventh, Ninth, Eleventh, Fifteenth and Seventeenth Floor Plans, the Nineteenth Floor Plan, the Twentieth Floor Plan, the Twenty First Floor Plan, the Twenty Second Floor Plan, the Roof Plan, the Upper Roof Floor Plan and the Flushing Pump Room Plan.

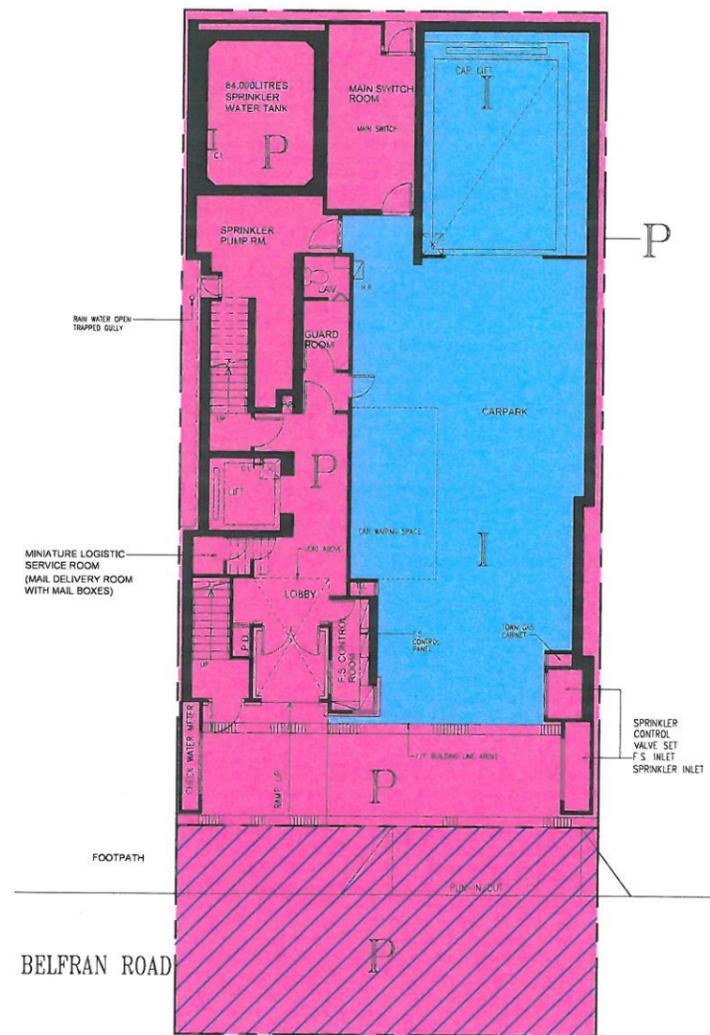
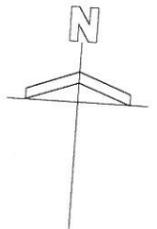
## **ANNEXURE B**

Ground Floor Plan, the First Floor Car Park Plan, the Second Floor Car Park Plan and the Third Floor Car Park Plan, the Part Plan of Lift Machine Room at Level 22.41

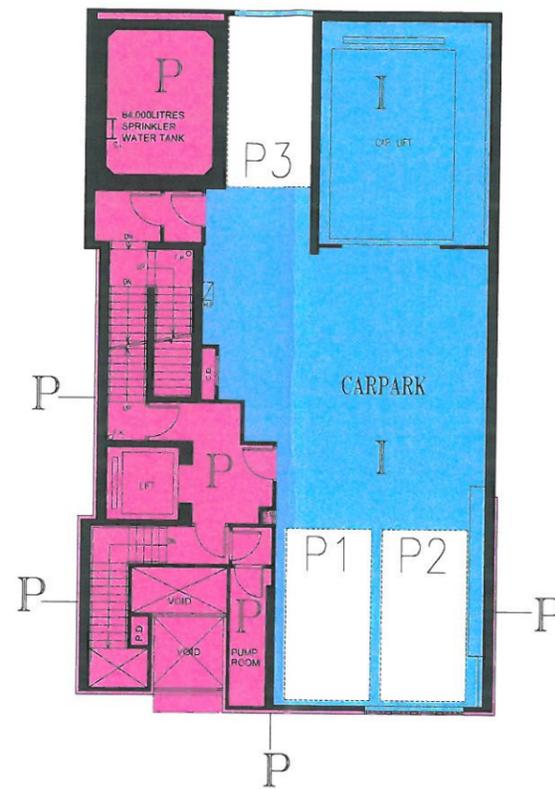
**ANNEXURE C**

**First Floor Car Park Plan**

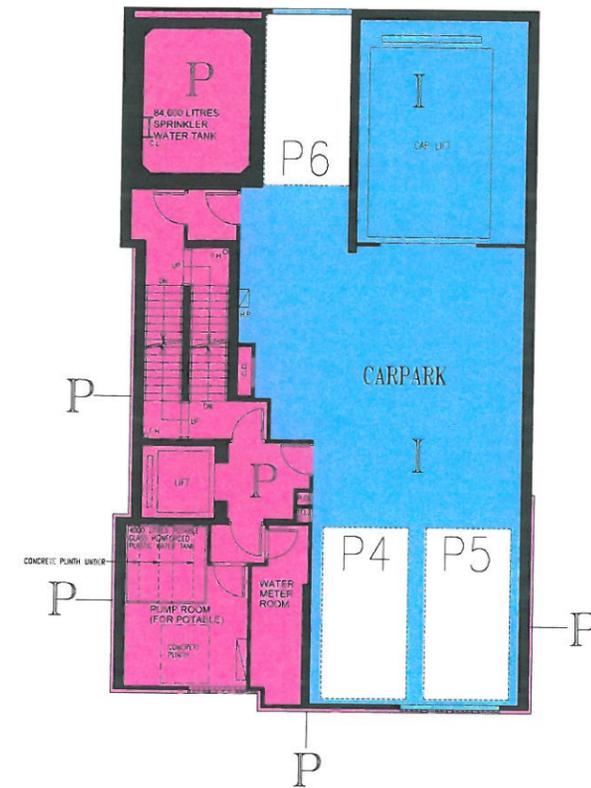
# THE REMAINING PORTION OF SECTION C OF KOWLOON INLAND LOT NO.3281



GROUND FLOOR PLAN



1/F CAR PARK PLAN



2/F CAR PARK PLAN

LEGENDS:

- DEVELOPMENT COMMON AREAS AND FACILITIES
- CARPARK COMMON AREAS AND FACILITIES
- SUBSECTION 1 OF SECTION C OF KOWLOON INLAND LOT NO.3281  
(PINK HATCHED BLUE AREA TO BE SURRENDERED TO GOVERNMENT)

I HEREBY CERTIFY THE ACCURACY OF THIS PLAN

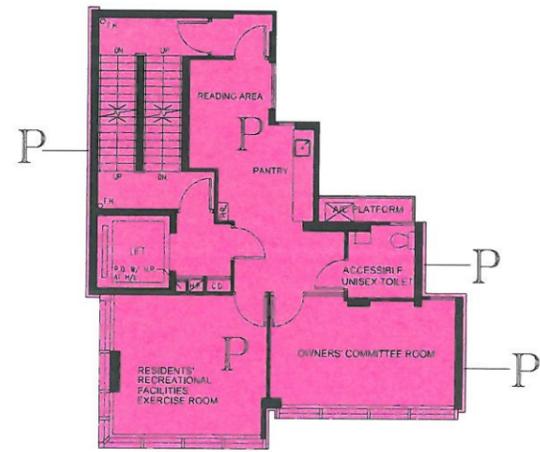
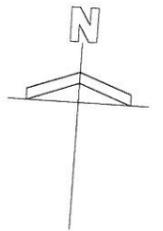
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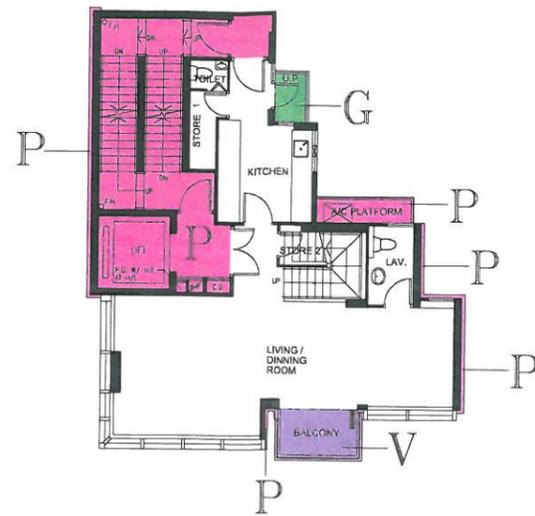
Authorized Person - Architect



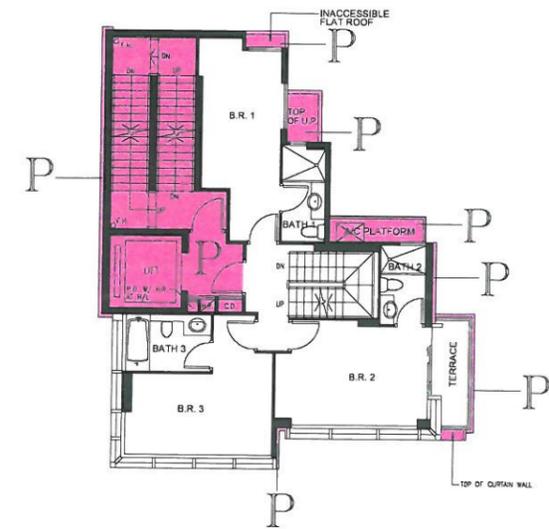
# THE REMAINING PORTION OF SECTION C OF KOWLOON INLAND LOT NO.3281



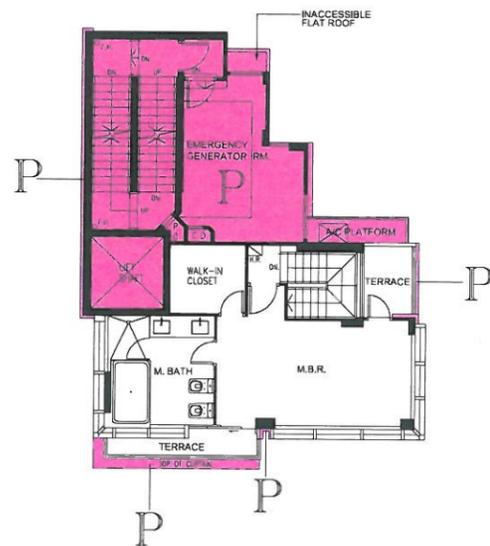
19/F PLAN  
(RECREATIONAL FACILITIES)



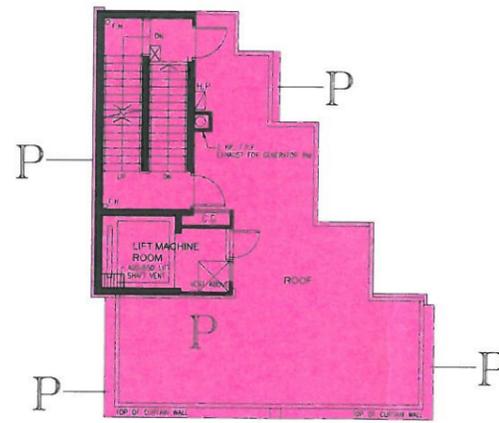
20/F PLAN  
(LOW ZONE TRIPLEX PLAN)



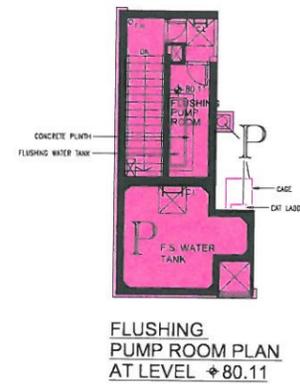
21/F PLAN  
(MID ZONE TRIPLEX PLAN)



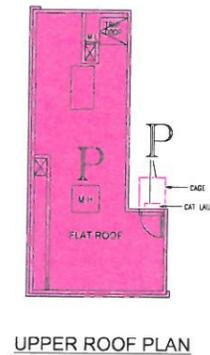
22/F PLAN  
(HIGH ZONE TRIPLEX PLAN)



ROOF PLAN



FLUSHING  
PUMP ROOM PLAN  
AT LEVEL +80.11



UPPER ROOF PLAN

## LEGENDS:

- P DEVELOPMENT COMMON AREAS AND FACILITIES
- G UTILITY PLATFORM
- V BALCONY

⊕ DENOTES HEIGHT (IN METRES) ABOVE THE HONG KONG PRINCIPAL DATUM

I HEREBY CERTIFY THE ACCURACY OF THIS PLAN

*Lam Kin Ning*

LAM KIN NING

Authorized Person - Architect