

Public Consultation on The Proposed Legislation to Regulate the Sale of First-Hand Residential Properties



Transport and Housing Bureau

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CONSULTATION PAPER ON THE PROPOSED LEGISLATION TO REGULATE THE SALE OF FIRST-HAND RESIDENTIAL PROPERTIES

BACKGROUND

The purchase of a flat is a major undertaking for most people in Hong Kong. They have to take decisions that will see them use a substantial part of their life-time savings and sign up to a major financial commitment that normally spans 10 years or more. Since the purchase of a residential property is likely to be the most significant investment an individual will make, there is general consensus in the community that certain arrangements undertaken by developers relating to the sale of residential properties should be regulated by law in order to enhance consumer protection.

2. For many years, the Hong Kong Special Administrative Region Government has been closely monitoring the arrangements undertaken by developers relating to the sale of residential properties, particularly those involving first-hand uncompleted residential properties. Some administrative practices and measures have been devised and implemented by different bodies, comprising the Lands Department's Consent Scheme (the Consent Scheme), the guidelines issued by the Real Estate Developers Association of Hong Kong (REDA) for compliance by its member developers, the regulatory work of the Estate Agents Authority (EAA) on the estate agency trade, and consumer education undertaken by the Consumer Council. In recent years, the Transport and Housing Bureau (THB) has implemented, through the Consent Scheme and REDA's guidelines, a number of measures to enhance the transparency and clarity of property and transaction information provided for uncompleted first-hand private residential properties. Most notable was the implementation of the "nine new measures" on sales brochures, price lists, show flats and the disclosure of transaction information introduced with effect from 1 June 2010.

3. While the existing measures and practices have been practical and useful in providing transparent, accurate and appropriate property information to prospective purchasers, they are limited in their respective scopes of application such that they do not cover non-Consent Scheme projects and are not applicable to non-REDA members nor to first-hand completed residential developments. There is a general public view that the existing measures and practices are insufficient and that

consumer protection in respect of the sale of all types of first-hand residential properties should be enhanced. A new regulatory regime established under legislation covering the sale of all types of first-hand residential properties is considered to be necessary to achieve the degree of consumer protection required, ensure that the proposed measures are complied with and provide a stronger deterrent effect against malpractices.

STEERING COMMITTEE'S REPORT

4. To enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, the Chief Executive announced in his 2010-11 Policy Address that a Steering Committee would be set up to discuss specific issues on regulating the sale of first-hand flats by legislation. The Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) was formally established in October 2010. After extensive discussions on a range of issues from the scope of the legislative framework, the key features to be regulated under the proposed legislation, to the enforcement mechanism and penalties, the Steering Committee submitted practicable recommendations in a report to the Secretary for Transport and Housing in October 2011 (the report has been uploaded in the website of the THB at <http://www.thb.gov.hk/eng/policy/housing/policy/firstsaleresidential/report2011-e.pdf>).

5. The Steering Committee is of the view that the provision of clear and accurate property information is most important to help prospective purchasers to make an informed decision. In the course of coming up with the recommendations set out in its report, the Steering Committee has made reference to the existing arrangements under the Consent Scheme and the REDA's guidelines. For background reference, the Steering Committee has also taken note of the sales practices in selected overseas jurisdictions. At the same time, the Steering Committee has given full regard to the particular characteristics of the local property market. While the Steering Committee considers that it is important to step up the regulation of the arrangements for sale of first-hand residential properties in Hong Kong by way of legislation to ensure that consumers' interest can be better protected, it recognizes that the regulatory measures should not be overly rigid and should provide developers with a degree of flexibility to allow them to respond to changing market conditions.

6. Having considered the recommendations made by the Steering Committee, THB has prepared draft provisions in the form of proposed legislation to regulate the sale of first-hand residential properties (hereafter referred to as the “proposed legislation”) : a copy is at **Annex A**. The proposed legislation seeks to enhance the transparency and fairness of the sales arrangements of first-hand residential properties. It also aims to strike a balance between enhancing consumer protection on the one hand, and allowing developers to continue to take business decisions in the light of market situations on the other. As this is a new and complicated piece of legislation and there is widespread interest in the community on the subject matter, the Government has decided to publish the draft provisions of the proposed legislation for public consultation for 2 months before formally introducing a bill into the Legislative Council.

MAJOR AREAS COVERED IN THE PROPOSED LEGISLATION

7. The intention of the proposed legislation is to create a clear regime to regulate the arrangements for the sale of all first-hand residential properties including both uncompleted and completed developments. It sets out detailed requirements in relation to the sales brochures, price lists, show flats (if provided) and disclosure of transaction information. The proposed legislation also sets out the sales arrangements and conveyancing procedures for the better protection of prospective purchasers. There are also provisions relating to advertisements and prohibition against misrepresentation and the dissemination of false or misleading information to address public concerns in these areas. Exemptions are proposed under some specific circumstances where certain requirements are not necessary or applicable. To ensure compliance with the requirements in the proposed legislation, penalties at different levels are proposed for the commission of offences under different sections of the proposed legislation. Specific defences are provided for persons charged under these sections. An enforcement authority with certain statutory powers will be established to administer the proposed legislation and to supervise compliance with the provisions therein.

SALIENT PROVISIONS OF THE PROPOSED LEGISLATION

(a) Scope (Part 1 Clause 4)

8. At present, there is no legislation that specifically regulates the arrangements for the sale of first-hand residential properties in Hong Kong. The vendor (i.e. real estate developers) and the purchaser (i.e. individual purchasers) are not on an equal footing. Since the vendor is in a much stronger position than the purchaser, there have been strong calls from the community for enhanced consumer protection by way of regulation over the sale of first-hand residential properties by legislation.

9. Generally speaking, the vendor of first-hand residential properties is a developer. First-hand residential properties under those Consent Scheme projects which have not yet been granted a Certificate of Compliance (CC) or Consent to Assign¹ (CA) by the Director of Lands, and those non-Consent Scheme projects² which have not yet been issued with an Occupation Permit³ (OP) by the Buildings Department (BD), are regarded as uncompleted first-hand residential properties. Once the CC/CA or OP, as appropriate, has been issued in respect of unsold properties, they are regarded as completed first-hand residential properties. At present, only where the Government lease so provides, the Government may regulate the sale of uncompleted first-hand residential properties through the terms of conditions of the Consent Scheme. REDA issues guidelines covering the sale of first-hand uncompleted residential properties, compliance with which is expected of all its member developers. Vendors who are not REDA members are not bound by the REDA guidelines. The sale of uncompleted first-hand residential properties in non-Consent Scheme projects, and completed first-hand residential properties, are currently not subject to the measures mentioned.

¹ CC is granted to Consent Scheme projects when the land grant conditions in respect of the development in its entirety have been fully complied with, whereas CA is granted to a specific phase of development of a Consent Scheme project when land grant conditions in respect of that specific phase have been fully complied with.

² Non-Consent Scheme projects refer to property developments where there are no subsisting lease conditions stipulating that prior consent of the Director of Lands is required for the sale of uncompleted units.

³ An OP will be issued by the BD if it is satisfied with the submission of a certificate on completion of building works resulting in a new building and application for permit to occupy such building by the authorized person. A CC/CA and an OP will be issued in respect of a Consent Scheme project, whereas only an OP but not the CC/CA will be issued in respect of a non-Consent Scheme project.

10. To increase transparency and ensure fairness of sales, we consider the proposed legislation should cover the sale of all first-hand uncompleted and completed residential properties, irrespective of whether they are projects developed under the old lease conditions, Consent Scheme projects⁴ or projects outside the Consent Scheme. The legislation will thus be applicable to residential properties in respect of which no agreement for sale and purchase has ever been entered into.

11. We recognize the argument that for first-hand residential properties which vendors lease out for a reasonably long period rather than sell upon completion, such flats are akin to second-hand flats and as such their sales should not come under the same regulatory regime as first-hand flats. We therefore propose to grant exemption to residential properties where 95% or more of the units of the development or a phase of the development have been leased out for a reasonably long period of time. There is a need to specify, for this specific purpose a duration for leasing out in the legislation and 36 months is considered appropriate to avoid vendors simply withholding the developments for sale in order to circumvent legislative control.

12. Having regard to the growing trend for the building of houses in developments, especially in the New Territories, and in view of the fact that the potential purchasers of these houses are no longer confined to a specific sector in the community, no exemption is proposed to be granted under the legislation for such residential developments. That said, it is noted that there are instances where the vendors are private individuals selling just one first-hand single house, as in the case of New Territories Exempted Houses (NTEHs)⁵. It may be too onerous to require such vendors to meet the requirements of the legislation such as the provision of the sales brochure and the price list, etc. Consideration should be given to granting exemption to vendors selling just one first-hand single house.

⁴ The proposed legislation does not replace the Consent Scheme. When the legislation comes into effect, the provisions in the Consent Scheme concerning those aspects already covered by the legislation will be superseded by the new legislation. However, other requirements by the Director of Lands acting in the capacity of the landlord under the land grant will continue to apply to projects under the Consent Scheme.

⁵ The main features of NTEH is that the building shall neither contain more than three storeys nor exceed a height of 8.23 metres (27 ft.) and the maximum roofed-over area of the house shall not normally exceed 65.03 square metres (700 sq. ft.).

13. In addition to the above, we consider that developments that are constructed by the Housing Authority (HA), namely, the new and residual Home Ownership Scheme (HOS) flats, should be exempted, having regard to the fact that HOS flats are subsidized flats and that the HA has to follow set parameters to dispose of these flats (in terms of determining the target group, setting of sale price and determining flat selection priorities among eligible applicants etc.) which are completely different from normal market practice.⁶

(b) Saleable Area (Part 1 Clause 3)

14. To most, if not all, prospective purchasers, “flat size” and “flat price” are two crucial factors to be taken into account when making a flat purchase decision. In recent years, members of the public have been demanding better information on this front. It is therefore very important that such information is provided to prospective purchasers in a clear, accurate and consistent manner. The information so provided should also facilitate potential purchasers’ ability to compare flat prices of different developments calculated on the same area basis.

15. To enhance the transparency and clarity of information presented in the sales descriptions for uncompleted first-hand residential properties, a standardized definition of “saleable area” was adopted in October 2008⁷ for use under the Consent Scheme and became a requirement under the REDA’s guidelines. The standardized definition of “saleable area” sets out the method to calculate the saleable area, which only includes the area of the unit and any balcony, utility platform or verandah. However, it is common market practice for the vendor to quote unit prices of flats in “gross floor area” (GFA) which includes the “apportioned share of common area” in the calculation. Different

⁶ The proposed legislation aims to regulate the sale of first-hand residential properties. Projects which involve leasing of first-hand residential properties for a long period of time, including the existing Senior Citizen Residences Scheme projects and the proposed Tanner Hill and Tin Shui Wai elderly housing projects under the Hong Kong Housing Society which involve ‘lease-for-life’ arrangement, will not be subject to the proposed legislation (see also paragraph 11).

⁷ The Administration consulted the Hong Kong Institute of Surveyors, the Hong Kong Institute of Architects, the Law Society of Hong Kong, the Consumer Council and the EAA in the course of working out a standardized definition of saleable area. The standardized definition has been in use since 10 October 2008 for all Consent Scheme projects. It is also set out in REDA’s guidelines for its members’ compliance. In addition, Rating and Valuation Department (RVD) has adopted this definition in measuring the saleable area of a residential unit for developments completed as from 10 October 2008.

vendors may include different items⁸ in their calculation of GFA, and thus the methodologies adopted to determine unit prices of flats calculated based on GFA are not transparent and not consistent among vendors.

16. In the light of the fact that there is currently no commonly adopted definition of GFA, the Steering Committee has proposed to adopt the saleable area which has a standardized definition as the only basis to quote unit prices of flats in the sales brochure, price lists and advertisements. We have reflected this recommendation in the proposed legislation, which will enable prospective buyers to better compare flat prices at different new developments calculated on the same basis. We also note that in the course of its deliberations, the Steering Committee has pointed to the need for consumer education during the transitional period, in order for the public to familiarise themselves with the use of saleable area only for price quotation. It is our intention to step up public education in this respect upon enactment of the proposed legislation.

(c) Sales Brochure (Part 2 Division 2; Schedule 1)

17. The sales brochure is a very important source of property information which provides details on the residential properties to be sold. Apart from information on the physical layouts of the developments, it also contains other important information that the purchaser would not have access to even if he pays a visit to the development site in person, such as the salient points of the Deed of Mutual Covenant (DMC) and the land grant conditions. It is therefore crucial for prospective purchasers that information contained in the sales brochures is clear, accurate and comprehensive and that such information should be made public in a timely manner before the sale commences.

18. Having regard to existing practice, the proposed legislation requires the vendor to make public the bilingual sales brochure at least seven calendar days before the commencement of sale. A copy of the sales brochure should also be made available at the sales office and to the authorities as specified in Schedule 2 and uploaded onto the vendor's website. To help prospective purchasers to distinguish sales brochures from promotional booklets, any publication other than the sales brochure cannot be called a "sales brochure".

⁸ In general, the items include lift lobbies, lift shafts, electrical meter rooms, refuse room, clubhouse areas, staircases, transformer rooms etc.

19. The sales brochure should set out the following key property information in the first part of the sales brochure in a specified order and meet specific minimum font size requirements -

1. notes to purchasers of first-hand residential properties
2. information on the development, the vendor and the others involved in the development
3. information on the design of the development and property management
4. a location plan of the development
5. the latest aerial photo of the development
6. relevant statutory plans⁹
7. a master layout plan of the development
8. floor plans
9. area schedule of the units
10. floor plans of car parking spaces
11. a summary of the Preliminary Agreement for Sale and Purchase (PASP)
12. a summary of the Deed of Mutual Covenant
13. a summary of the land grant conditions
14. information on Government, Institutional or Community Facilities, Public Open Space and Public Facilities

20. As regards communal facilities in respect of which the flat owners would not have exclusive use, the vendor should provide area information for such facilities in the sales brochure in a specified format for easy reference by potential purchasers. Taking into account the fact that there are numerous types of communal facilities, the vendor is only required to provide area information in respect of those communal facilities that are of interest to ordinary flat purchasers and where the relevant area information could be verified, i.e. “residents’ clubhouse”, “communal sky garden” and “covered and landscaped play area”. The vendor is free to provide area information on other communal facilities if it so wishes. However, as there is no commonly adopted definition of GFA, the vendor should not quote information about the GFA per flat or unit price based on GFA in the sales brochure (or the price list, see paragraph 24 below). The sales brochure must also not contain any promotional material or artist impression picture or graphic.

⁹ A developer should provide the Outline Zoning Plan or Development Permission Area Plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131), or Development Scheme Plans prepared by the Urban Renewal Authority and considered by the Town Planning Board under section 25 of the Urban Renewal Authority Ordinance (Cap.563).

(d) Price List (Part 2 Division 3)

21. Currently, under the Consent Scheme and REDA's guidelines, vendors selling first-hand uncompleted flats are required to make public each and every price list at least three calendar days in advance of commencement of sale when selling any number of units in a batch. A minimum number of flats to be included is specified for the first price list but not subsequent price lists. It is common practice for the vendor to release residential properties for sale in small batches. This "sell by batches" approach enables the vendor to test the market and make adjustments to the sales strategy in the light of the market response. However, such practice is not sufficiently transparent and potential purchasers are unable to obtain comprehensive information before making purchase decisions.

22. Taking into account existing requirements and the market practice, the proposed legislation requires the vendor to make public the price list at least three calendar days before the sale commences.

23. To enable purchasers to get a fuller picture of the prices of a reasonable number of units in a development at the outset, the proposed legislation sets out clearly the minimum number of units to be included in the first and subsequent price lists. For a development or a phase of development with 30 units or less, all units must be included in the first price list, i.e. only one price list will be allowed. For a development or a phase of development with more than 30 units but less than 100 units, each price list must contain at least 30 units. For a development or a phase of development with 100 units or more, subject to a minimum number of 50 units, the first price list must include at least 20% of the total number of units in a development or a phase of development, and at least 10% of the total number of units in each subsequent price list. This proposal aims to strike a balance between enhancing market transparency and allowing a certain degree of flexibility for the vendor to respond to changing market conditions.

24. The proposed legislation specifies the essential information to be included in the price list. The floor area and unit price per square foot and per square metre of a residential property in the price list should only be quoted on the basis of the saleable area but not GFA. Information on special payment terms including all kinds of gifts, financial advantages and benefits in connection with the sale of the unit affecting the actual price of the unit should be clearly set out in the price list. To facilitate easy comparison between different developments by

prospective purchasers, the vendor has to provide the price lists in a standard format to be promulgated by the enforcement authority.

(e) Show Flats for Uncompleted Development or Phase (Part 2 Division 4)

25. The provision of show flats has been welcome by prospective flat purchasers as show flats provide an easy means for them to visualize the actual flats upon completion. It is common for purchasers of uncompleted units to make purchase decisions after visiting the show flats. The requirements for show flats should therefore be clearly spelt out in the proposed legislation to ensure that the show flats give an accurate depiction of the actual units to be handed over to the purchasers.

26. The proposed legislation specifies that, if show flats are provided, an unmodified show flat should be provided for any type/size of units first before a modified show flat of that same type/size of units can be shown and vendors must make available the sales brochure at the same time when a show flat is opened for public viewing.

27. The size/dimensions of all show flat(s) must be identical to the size/dimensions of the units concerned as specified/described in the sales brochures. All bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs located inside the units, if any, must be featured in the show flats. The floor-to-ceiling height of a show flat should not exceed that specified in the sales brochure. If the height of a show flat is lower than the height of the actual unit, a notice of a conspicuous size stating the height difference must be displayed in a prominent location in the show flat. The fittings, finishes and appliances should be the same as those stated in the sales brochure, otherwise the vendor should provide comparable alternatives and a notice should be displayed stating the difference.

28. For unmodified show flats, all doors, walls, including enclosing/boundary walls and internal partition walls should be provided unless for fire-safety reasons. There should be no additional fittings, finishes and appliances other than those stated in the sales brochure.

29. As for modified show flats, only those walls/doors the removal of which does not require the prior approval of the Buildings Department, may be removed. If there are any fittings, finishes and appliances in addition to those stated in the sales brochure, a notice should be displayed stating which items are to be provided to purchasers and that all others are additional.

30. Visitors should be allowed to take measurements in show flats. Photo-taking and video-making should be allowed in unmodified show flats and the vendor should not impose any pre-conditions on the visitors, such as provision of personal particulars.

(f) Viewing of Property in Completed Development or Phase (Part 2 Division 5)

31. With effect from June 2010, vendors have been required under REDA's guidelines to show visitors on-site unit(s) when selling completed first-hand residential properties in a development.

32. Under the legislation, it is proposed that the vendor should allow the purchaser to view the particular first-hand completed residential property before the vendor can sell that residential property. If it is not reasonably practicable to arrange viewing of that particular unit, the vendor should arrange a comparable unit for viewing. The on-site units for viewing should comply with the relevant requirements for show flats in uncompleted first-hand residential properties. If it is not reasonably practicable to arrange a comparable unit for viewing in place of the particular unit, the vendor is required to obtain a written consent from the purchaser for the requirement for the provision of a comparable unit for viewing be waived before the vendor can sell the unit.

(g) Sales Arrangements (Part 2 Division 6)

33. At present, there are some requirements and guidelines regarding the sales arrangements for the sale of first-hand residential properties. For higher transparency, it is proposed that under the legislation the vendor should make public certain key information relating to logistical arrangements, such as the date and time for the commencement of sales, the sales venue(s), and the method to be used to determine the order of priority of purchasers at least three calendar days

before the commencement of the sale. Such information should be provided on the vendor's website.

34. We note that at present there are no clear guidelines regulating the collection of money in connection with the reservation of units before the signing of the PASP. To ensure fairness to potential purchasers and for higher transparency, it is proposed to set out in the legislation a specific cut-off date before which reservations of units must not be accepted, whether or not payment of money is involved. The Steering Committee has proposed two possible cut-off dates for consideration : (i) the issuance of the price list; or (ii) the commencement of sale. While the proposed legislation has used the former for presentation purposes, we would like to hear the public's views on whether it is more appropriate to allow the collection of such money at an earlier time point i.e. upon the issuance of the price list, or at a later time point i.e. upon the commencement of sale.

(h) Conveyancing Procedures and Related Matters (Part 2 Division 7)

35. Most prospective purchasers of residential properties are not familiar with the conveyancing practices and procedures and rely to a large extent on the advice of estate agents and documents prepared by vendors/estate agents. There is room to enhance consumer protection in this area.

36. At present, for projects which are subject to the Consent Scheme, an Agreement for Sale and Purchaser (ASP) should be signed within five working days after the signing of a PASP, i.e. an ASP must be signed by the purchaser within three working days after signing a PASP and by the vendor within a further two working days thereafter. We have accepted the Steering Committee's recommendation to extend the present "five-working day signing requirement" to six working days and have reflected that in the proposed legislation, i.e., an ASP must be signed by the purchaser within three working days after signing a PASP and by the vendor within six working days after the signing of a PASP.

37. Currently, a purchaser under the Consent Scheme may unilaterally decide not to proceed with the signing of an ASP after the signing of a PASP and the cost of such a decision is capped at a prescribed percentage of the purchase price (i.e. 10% at present). The vendor, on the other hand, must proceed with the signing of an ASP, except where the purchaser who signed a PASP chooses not to sign an ASP.

38. It is suggested that the existing arrangement under the Consent Scheme should be adopted across the board to all sales of first-hand residential properties. In other words, if a purchaser decides not to proceed with the signing of an ASP within three working days after the signing of the PASP, he may do so unilaterally and the cost of such a decision is capped at a prescribed percentage of the purchase price. The vendor, on the other hand, must proceed to sign the ASP, except where the purchaser who signed the PASP chooses not to sign the ASP.

39. Though not the same as a cooling off period, some Steering Committee members noted that this arrangement allows the purchasers to withdraw from the transaction but at a cost. Having taken into account the particular characteristics of the residential property market in Hong Kong, including volatility of the market and the exuberance of speculative activities, and in order to prevent abuse by speculators and to deter hasty purchase decisions by potential purchasers, it is considered that the level of forfeiture should not be set too low. We consider 5% of the purchase price to be an appropriate level.

40. Currently, there are no standard PASPs for the sale of first-hand residential properties in the market and there is only a standard ASP for Consent Scheme projects. For developments outside the Consent Scheme, the Law Society of Hong Kong (Law Society) requires solicitors who act for both the vendor and the purchaser to include certain mandatory clauses in agreements for uncompleted and completed buildings. For better protection of consumers, it is proposed that the new legislation should stipulate certain major provisions as mandatory provisions in the PASP and ASP, and in doing so, to draw reference to the existing practices under the Consent Scheme and those mandated by the Law Society. To safeguard the interest of potential purchasers, the vendor will not be allowed to introduce any provisions to the PASP and ASP which negate the mandatory provisions.

41. The lists of mandatory provisions, which are prepared by drawing reference to the existing practices under the Consent Scheme and the Law Society, are set out at **Annexes B-D** of this consultation document as initial proposals. They will be refined in the light of views collected during this consultation exercise for inclusion in the proposed legislation.

(i) Disclosure of Information on Transactions (Part 2 Division 8)

42. The purchase of a residential property is likely to be the most significant investment an individual will make. Most people would like to gather as much information as they can before making a flat purchase decision. In particular, prospective purchasers would be interested to know the sales performance data such as transaction volume and the transaction prices of the units sold.

43. To ensure that prospective purchasers have easy access to transaction information, the proposed legislation requires the vendor to compile a single Register for a single development or a single phase of the development which should be updated continuously. The vendor should disclose transaction information in a standard format to be specified by the enforcement authority and made available at the sales office and on the vendor's website.

44. In order to provide timely transaction information to prospective purchasers, the vendor is required to disclose the relevant information within 24 hours upon the signing of a PASP. The vendor must also enter information concerning an ASP on the Register within one working day after he enters into an ASP. The Steering Committee has recommended that if an ASP is not duly signed, vendors should indicate this information on the seventh working day after the signing of the PASP. However, after taking into account the fact that the purchaser must sign an ASP within three working days after the signing of the PASP (see paragraph 36 above), failing which the transaction will not proceed further, we consider that the vendor should, where appropriate, indicate that an ASP is not duly signed on the fourth working day. This would enable more timely release of transaction information. The Register should also disclose whether a transaction would involve a director of the vendor, immediate family members¹⁰ of a director of the vendor or a manager¹¹ of the vendor. Vendors are required to maintain records of each transaction, including information on cancelled transactions, in the Register until the Assignment of the last unit in the development or in a phase of the development being offered for sale has been registered with the Land Registry.

¹⁰ Immediate family members include a parent, spouse or child.

¹¹ A 'manager' is as defined by section 2(1) of the Companies Ordinance (Cap 32).

(j) Exceptions and Additional Requirements (Part 2 Division 9)

45. Under particular circumstances, certain requirements on the sales brochure, the price lists and show flats may not be applicable and the proposed legislation grants specific exemptions to those properties. For first-hand uncompleted and completed residential properties sold on an “en bloc” basis under a single transaction, the proposed legislation exempts the developer from the requirements in respect of the sales brochure, the price list and show flats. This is because the purchaser(s) in this case are not general members of the public. However, the developer is still required to make public the transaction information. When the properties are subsequently offered for sale to individual flat purchasers, the owner(s) must observe all the requirements under the legislation.

46. In the case of first-hand completed flats to be sold to an existing tenant who has continuously rented the unit for a reasonable period of time of at least one year, the vendor can be exempted from the requirement relating to the provision of the sales brochure upon the written agreement of the prospective purchaser (i.e. the existing tenant) on waiving such a requirement. The vendor is however required to provide a Vendor’s Information Form (VIF) with essential and up-to-date information to the existing tenant who wishes to purchase the unit. The transaction information will also need to be disclosed by the vendor. The issuance of the price list is not applicable under such circumstances.

47. For flats which were first marketed when uncompleted but are left unsold after the issue of OP, thus becoming completed flats, the vendor is required to make available the latest version of the sales brochure, plus a VIF to prospective purchasers to provide some essential up-to-date information. We consider that there is no need under the circumstances to require a new sales brochure to be prepared by the vendor to avoid unnecessary duplication of work. All other requirements in respect of provision of price lists, show flats and disclosure of transaction information will apply.

48. To avoid creating a loophole in the proposed legislation, we consider that first-hand residential properties sold by way of auction and tender should not be exempted from the proposed legislation, except that the requirements on the issue of price lists do not apply, given the nature of such types of transactions.

(k) Advertisements (Part 3)

49. In the Hong Kong property market, information on new residential developments is usually first promulgated to the public through advertisements which may take many different forms such as advertisements in newspapers, on television, on the Internet, on public transport, etc. Some recent promotional approaches are very innovative and often sell more nebulous concepts like an idealistic lifestyle to be achieved by living in the new developments on sale. To ensure that potential purchasers will not be misled by advertisements, there is a need to enhance control over the information presented in advertisements for the sale of first-hand residential properties.

50. The proposed legislation requires that advertisements made by or on behalf of vendor must state that the vendor is the source of the information contained in the advertisements if that is the case. For uncompleted developments, the vendor should provide the anticipated completion date of the development to the best of its knowledge. As there is a standardized definition of saleable area but not GFA, unit prices of flats if quoted must be based on saleable area only. In respect of the provision of certain mandatory information in printed advertisements, the vendor has to comply with specific font size requirements.

51. For advertisements released on or after the sales brochure has been made available, the vendor should remind prospective purchasers to refer to the sales brochure. It is further proposed that inclusion of any false or misleading information in a material particular be prohibited in all forms of advertisements. A person who publishes or causes to be published an advertisement containing information that is false or misleading in a material particular and he knows that, or is reckless as to whether, the information is false or misleading as to a material particular, commits an offence. Specific defence provisions are provided where a contravention took place by an issue or a reproduction, retransmission or live broadcast of the advertisement.

(l) Misrepresentation and Dissemination of False or Misleading Information (Part 4)

52. From time to time, there has been public concern about misrepresentation and the dissemination of misleading or false information in respect of property sales. There have been suggestions that specific provisions prohibiting such behaviour in respect of the sale

of first-hand residential properties should be introduced with a view to further protecting the purchasers' interests.

53. In the proposed legislation, a person who makes a fraudulent misrepresentation or a reckless misrepresentation for the purpose of inducing another person to purchase first-hand residential properties commits an offence. A person also commits an offence if he disseminates or authorizes information that is likely to induce another person to purchase first-hand residential properties and if he knows that, or is reckless as to whether, the information is false or misleading as to a material fact. Specific defence provisions are provided for false or misleading information which is disseminated or authorized by an issue or a reproduction, retransmission or live broadcast.

(m) Penalties and Defence Provisions (Part 5 and relevant provisions in Part 2, Part 3, Part 4 and Part 6)

54. In addition to offences in paragraphs 51 and 53, the proposed legislation sets out specific requirements on the provision of key information in the form of sales brochures, price lists, show flats and transaction data, etc. to protect purchasers of first-hand residential properties. There is a need to set out clearly the types and levels of penalties for breaches of the requirements and the time limit for prosecution. The penalties should be fixed at appropriate levels to serve as an effective deterrent.

55. The proposed penalty levels are determined by reference to various general principles : (i) the penalty for minor offences that are regulatory in nature (e.g. a failure to provide building plans for free public inspection, and failure to deposit sales brochures with specified authorities within the required timeframe) should be subject to a fine at level 6 (i.e. \$100,000); (ii) for offences that may directly affect and potentially bring financial loss to prospective purchasers (e.g. failure to disclose transaction information), the proposed penalties are a fine of \$500,000 to \$1,000,000; and (iii) regarding serious offences (e.g. misrepresentation and dissemination of false or misleading information), proposed penalties range from a fine of \$500,000 to \$5,000,000 plus imprisonment up to a maximum of 6 months to 7 years. Penalties for different offences have been laid down in the relevant sections of the proposed legislation.

56. The above proposals are made having regard to the Steering Committee's recommendations. However, having taken into consideration relativity among similar offences under the proposed legislation, penalties for certain offences have been adjusted.

57. The proposed legislation provides for defence provisions as appropriate, including that of due diligence, for offences under the legislation. For specific defence provisions provided for issue or a reproduction, retransmission or live broadcast, please refer to paragraphs 51 and 53 above.

(n) Liability of Company Officers for Offence Committed by Company and Prosecution Time Limit (Part 5 Division 3)

58. It is proposed that if a company commits an offence under the proposed legislation and if the commission of the offence is aided, abetted, counselled, procured or induced by an officer of the company or the offence is committed with the consent or connivance of, or is attributable to any recklessness on the part of, an officer of the company, such officer (i.e. director, manager and secretary of the corporation) should also be guilty of the offence and shall be liable to be punished accordingly. The definition of "officer" of a corporation is modeled on other relevant legislation, i.e., the Trade Descriptions Ordinance (Cap. 362) and the Securities and Future Ordinance (Cap. 571).

59. If no prosecution time limit is proposed in the new legislation, section 26 of the Magistrates Ordinance (Cap. 227) which specifies that "*In any case of an offence, other than an indictable offence, where no time is limited by any enactment for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information laid within 6 months from the time when the matter of such complaint or information respectively arose*" would apply to the summary offences in the proposed legislation. The Steering Committee considers it necessary to extend the time limit for prosecuting summary offences to 3 years. This recommendation is reflected in the proposed legislation.

(o) Enforcement Authority (Part 6)

60. To effectively enforce the proposed legislation, it is proposed that an enforcement authority should be set up to (a) monitor the sales of first-hand residential properties (including keeping track of the timely release of sales brochures and price lists and the updating of transaction information for individual developments, and conducting visits to show flats); (b) handle complaints and undertake investigations as appropriate; (c) issue practice guidelines and prescribe forms; (d) maintain data and statistics; and (e) carry out public education. The enforcement authority will be vested with appropriate and necessary investigation powers under the legislation.

61. To facilitate early implementation of the legislation and to maximize the use of public resources, the enforcement authority is proposed to be established under the Housing Branch of THB. It is also recommended that the Government should keep open the option of transforming the enforcement authority to a statutory body at an appropriate time.

62. We have carefully considered the scope and type of requirements to be met by vendors which should be covered in the proposed legislation. Key and important requirements, such as the provision of the sales brochure, price lists and transaction information etc., should be stipulated in the legislation. Procedural and logistical requirements, such as giving notice of certain information to designated authorities prior to the commencement of flat sales and the maintenance of order at sales offices, should be set out in the form of administrative guidelines to be issued by the new and dedicated enforcement authority which will be set up under the proposed legislation. This approach is flexible and would enable the enforcement authority to react quickly to changes in circumstances as they arise.

(p) Online Property Information Platform (Part 6, Clause 67)

63. We note that, at present, the general public may obtain information on new residential developments from different sources, including the websites maintained by vendors and various Government bureaux/departments. To achieve market transparency and to facilitate easy access to information in the private residential property market, it is proposed to establish an online centralized information platform providing comprehensive property market information regarding

first-hand private residential properties in Hong Kong. Vendors are required under the legislation to provide sales brochures, price lists and transaction information to the designated body which will develop and administer the platform. Failure to provide the requisite information to the designated body will constitute an offence. The proposed legislation authorizes the enforcement authority to set up the platform or delegate its functions in this regard to a public officer or a person whom it thinks fit.

PUBLIC PARTICIPATION

64. Members of the public are invited to give their comments on the proposed legislation and this consultation document. Please send us your views by email, facsimile or post or via the designated e-forum on or before 28 January 2012 :

Email address: firsthandsale@thb.gov.hk

Fax number: 2761 6100

Address: Transport and Housing Bureau
2/F, Block 1, Housing Authority
Headquarters
33 Fat Kwong Street, Ho Man Tin
Kowloon, Hong Kong

E-forum: <http://forum2011.thb.gov.hk>

65. It is voluntary for any member of the public to supply his/her personal data upon providing views on this consultation document. The submissions and any personal data collected may be transferred to the relevant Government bureaux and departments for purposes directly related to this consultation exercise. The Government bureaux and departments receiving the data may only use the data for such purposes.

66. The names and views of individuals and organisations who/which put forth submissions in response to this consultation document (“senders”) may be published for public viewing. We may, either in discussion with others, whether privately or publicly, or in any subsequent report, cite comments submitted in response to this consultation document. To safeguard senders’ data privacy, we will remove senders’ relevant data, such as residential/return addresses, email

addresses, identity card numbers, telephone numbers, facsimile numbers and signatures, where provided, when publishing their submissions. If you do not wish your submission and/or your name and/or your organizations/affiliation to be published, please state so when making your submission.

67. We will respect the wish of senders to remain anonymous and/or keep the views confidential in part or in whole. If the senders request anonymity in the submissions, their names will be removed when publishing their views. If the senders request confidentiality, their submissions will not be published. If the senders do not request anonymity or confidentiality in the submissions, it will be assumed that the senders can be named and the views can be published in their entirety.

68. Any sender providing personal data to this Bureau in the submission will have rights of access and correction with respect to such personal data. Any request for data access and correction of personal data should be made in writing to :

Address: Executive Officer /Private Housing(2)
Transport and Housing Bureau
2/F, Block 1, Housing Authority
Headquarters
33 Fat Kwong Street, Ho Man Tin
Kowloon, Hong Kong

Fax number: 2761 6100

Email Address: firsthandsale@thb.gov.hk

**Transport and Housing Bureau
November 2011**

**Proposed Legislation :
Residential Properties
(First-hand Sales) Bill**

Residential Properties (First-hand Sales) Bill

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Residential Properties (First-hand Sales) Bill

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A BILL To

Regulate the provision of sales brochures and price lists and the use of show flats in connection with the sale of residential properties in respect of which no agreement for sale and purchase has ever been entered into, to regulate the viewing of such properties before sale, to regulate the publication of sale arrangements and the execution of agreements for sale and purchase in connection with such properties, to provide for registers of transactions in connection with such properties, to regulate advertisements promoting the sale of such properties, to provide for offences in connection with misrepresentations and dissemination of false and misleading information, and to provide for incidental and connected matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Residential Properties (First-hand Sales) Ordinance.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Interpretation

- (1) In this Ordinance—

approved building plans (經批准的建築圖則), in relation to a development, means plans that are approved by the Building Authority for the purposes of section 14(1) of the Buildings Ordinance (Cap. 123) in respect of building works for the development;

Authority (監督) means the public officer appointed under section 64(1)(a) to be the authority for the purposes of this Ordinance;

authorized institution (認可機構) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);

authorized person (認可人士)—

- (a) in relation to a development in respect of which a certificate of exemption is issued under section 5(a) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), means—
 - (i) the developer; or
 - (ii) a person appointed by the developer in respect of building works for the development or the phase; or
- (b) in relation to any other development or a phase of any other development, means an authorized person who is appointed under section 4(1)(a) or (2) of the Buildings Ordinance (Cap. 123) as the co-ordinator of building works for the development or the phase;

company (公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 32);

completed development (已落成發展項目) means a development in respect of which an occupation permit has been issued;

completed phase (已落成期數), in relation to a development divided into 2 or more phases, means a phase of the development in respect of which an occupation permit has been issued;

deed of mutual covenant (公契) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344);

holding company (控股公司) means a holding company within the meaning of the Companies Ordinance (Cap. 32);

material date (關鍵日期), in relation to an uncompleted development or a phase of an uncompleted development—

- (a) where, under the land grant, the consent of the Director of Lands is required to be given for the sale and purchase, means—
 - (i) the date on which a certificate of compliance is issued by the Director of Lands; or
 - (ii) the date on which the requisite consent to assign is obtained from the Director of Lands; or
- (b) where, under the land grant, the consent of the Director of Lands is not required to be given for the sale and purchase, means the date on which the occupation permit is issued;

occupation permit (佔用許可證) means an occupation permit or temporary occupation permit issued under section 21(2) of the Buildings Ordinance (Cap. 123);

partner (東主), in relation to a firm, whether constituted of a sole proprietor or as a partnership, means the sole proprietor or a partner of the firm;

price list (價單), in relation to a development or a phase of a development—

- (a) means a document prepared by the vendor for the development or the phase under section 17(1) or (2); and
- (b) includes a price list revised by the vendor under section 17(4);

Register of Transactions (成交紀錄冊), in relation to a development or a phase of a development, means the register of transactions kept for the development or the phase under section 41(1) or (2);

registered general building contractor (註冊一般建築承建商), in relation to a development or a phase of a development, means

a registered general building contractor who is appointed under section 9(1) or (3) of the Buildings Ordinance (Cap. 123) to carry out building works for the development or the phase;

residential property (住宅物業), in relation to a development, means any real property in the development constituting a separate unit used or intended to be used solely or principally for residential purposes;

sales brochure (售樓說明書), in relation to a development or a phase of a development—

- (a) means the publication prepared by the vendor for the development or the phase under section 7(1) or (2); and
- (b) includes a Sales Brochure revised by the vendor under section 8(2)(a);

specified residential property (指明住宅物業) means a residential property to which this Ordinance applies by virtue of section 4;

uncompleted development (未落成發展項目) means a development in respect of which no occupation permit has been issued;

uncompleted phase (未落成期數), in relation to a development divided into 2 or more phases, means a phase of the development in respect of which no occupation permit has been issued;

working day (工作日) means a day that is not—

- (a) a general holiday; or
- (b) a black rainstorm warning day or gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).

(2) A note located in the text of this Ordinance is provided for information only and has no legislative effect.

3. Saleable area and related expressions

(1) In this Ordinance—

saleable area (實用面積), in relation to a residential property—

- (a) means the floor area of the residential property;
 - (b) includes the floor area of the following (if any) forming part of the residential property—
 - (i) a balcony;
 - (ii) an utility platform;
 - (iii) a verandah; and
 - (c) excludes the area of the following (if any) forming part of the residential property—
 - (i) a cockloft;
 - (ii) a stairhood;
 - (iii) a bay window;
 - (iv) a car parking space;
 - (v) a yard;
 - (vi) a terrace;
 - (vii) a garden;
 - (viii) a flat roof;
 - (ix) a roof;
 - (x) an air-conditioning plant room;
 - (xi) any other facilities for the residential property.
- (2) For the purposes of this Ordinance, the floor area of a residential property—
- (a) subject to subsection (5), is to be measured from the exterior of the enclosing walls of the residential property;
 - (b) includes the area of the internal partitions and columns within the residential property; and

-
- (c) excludes the area of any common part outside the enclosing walls of the residential property.
- (3) For the purposes of this Ordinance, the floor area of a balcony, an utility platform, or a verandah, forming part of a residential property—
- (a) subject to subsections (5) and (6), is to be measured from the exterior of the enclosing walls of the balcony, utility platform or verandah;
 - (b) includes the area of the internal partitions and columns within the balcony, utility platform or verandah; and
 - (c) excludes—
 - (i) the area of any common part outside the enclosing walls of the balcony, utility platform or verandah; and
 - (ii) the area covered by any enclosing wall that abuts onto the residential property.
- (4) For the purposes of this Ordinance—
- (a) the area of a cockloft, or a stairhood, forming part of a residential property—
 - (i) is to be measured from the interior of the enclosing walls of the cockloft or stairhood; and
 - (ii) includes the area of the internal partitions and columns within the cockloft or stairhood;
 - (b) the area of a bay window forming part of a residential property—
 - (i) is to be measured from the exterior of the enclosing walls or glass windows of the bay window, and from the point on the floor level of the residential property that is directly underneath the point where the bay window meets the wall of the residential property; and
 - (ii) excludes the area covered by that wall;

- (c) the area of a car parking space forming part of a residential property is to be measured from the centre of its demarcating lines or (if applicable) the interior face of its enclosing walls;
- (d) the area of a yard, a garden, a flat roof, an air-conditioning plant room, or any facilities specified in paragraph (c)(xi) of the definition of *saleable area* in subsection (1), forming part of a residential property is to be measured from—
 - (i) the interior of the boundary lines; or
 - (ii) if a boundary line is a wall, the interior of the wall.
- (5) If any enclosing wall separates a residential property, balcony, utility platform or verandah from an adjoining residential property, balcony, utility platform or verandah, the measurement is to be taken from the middle of the wall.
- (6) If a balcony, utility platform or verandah is enclosed by a wall that is not a solid wall, the floor area is to be measured from the external boundary of the balcony, utility platform or verandah.

4. Application of this Ordinance

- (1) This Ordinance applies to any residential property in a development situated in Hong Kong in respect of which property no agreement for sale and purchase has ever been entered into.
- (2) Despite subsection (1), this Ordinance does not apply in any of the 3 situations specified in subsections (3), (4) and (5).
- (3) The first situation is that—
 - (a) the development is a completed development;
 - (b) either—
 - (i) where the development is not divided into 2 or more phases, at least 95% of the number of

residential properties in the development as set out in the occupation permit; or

- (ii) where the development is divided into 2 or more phases, at least 95% of the number of residential properties in the phase of which the specified residential property forms part, as set out in the occupation permit,

has been held under lease since the occupation permit has been issued; and

- (c) each of those residential properties has been held under lease—
 - (i) for a continuous period of at least 36 months; or
 - (ii) for several periods that, in the aggregate, equal at least 36 months.
- (4) The second situation is that—
 - (a) the development comprises one building only;
 - (b) the building is not part of a collection of 2 or more buildings that can be regarded as a single project by reason of the engineering, structural or architectural connection between the buildings; and
 - (c) a certificate of exemption is issued under section 5(a) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) in respect of the building.
- (5) The third situation is that the development is constructed by the Hong Kong Housing Authority.
- (6) For the purposes of subsection (1), if an agreement for sale and purchase has been entered into in respect of a residential property, and the agreement has been terminated or has been declared void by a court, the agreement for sale and purchase is not to be regarded as having been entered into in respect of the residential property.

- (7) For the purposes of subsection (1), if residential properties are sold to one person under one agreement for sale and purchase as described in section 45(2)(a), (3)(a) or (4)(a), the agreement for sale and purchase is not to be regarded as having been entered into in respect of any of those residential properties.
-

Part 2

Sales Practices in Relation to Specified Residential Property

Division 1—Preliminary

5. Interpretation of Part 2

(1) In this Part—

owner (擁有人) means the legal or beneficial owner;

relevant price list (有關價單), in relation to a sale of a specified residential property, means the price list for the development, or a phase of the development, that sets out the price of the residential property;

show flat (示範單位), in relation to a residential property, means a property unit, or a structure resembling a property unit, that depicts the residential property for viewing by prospective purchasers or by the general public;

vendor (賣方), in relation to a residential property, means the owner of the residential property.

(2) For the purposes of this Part, there is a sale of a residential property if—

(a) the residential property is sold by the owner to another person; or

(b) the residential property is offered by the owner to be sold to any other person.

(3) For the purposes of this Part, a residential property is offered by a person to be sold to any other person if—

(a) the person offers to sell the residential property to any other person; or

(b) the person invites any other person to offer to purchase the residential property.

- (4) For the purposes of this Part, a development is divided into 2 or more phases if plans are approved by the Building Authority for the purposes of section 14(1) of the Buildings Ordinance (Cap. 123) in respect of building works for those phases of the development.

6. Application of Part 2

- (1) Divisions 2, 3, 6, 7 and 8 apply if there is a sale of a specified residential property.
- (2) Division 4 applies if there is a sale of—
 - (a) a specified residential property in an uncompleted development; or
 - (b) for a development divided into 2 or more phases, a specified residential property in an uncompleted phase of the development.
- (3) Division 5 applies if there is a sale of—
 - (a) a specified residential property in a completed development; or
 - (b) for a development divided into 2 or more phases, a specified residential property in a completed phase of the development.
- (4) This section is subject to Division 9.

Division 2—Sales Brochure

7. Sales brochure to be prepared by vendor

- (1) Subject to subsection (2), the vendor must prepare a publication for the development that is entitled “Sales Brochure” in English and “售樓說明書” in Chinese.
- (2) If the development is divided into 2 or more phases, the vendor must prepare a publication for each phase that is entitled “Sales Brochure” in English and “售樓說明書” in Chinese.

- (3) A vendor who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$1,000,000.

8. Provision supplementary to section 7

- (1) No person except the vendor may prepare any publication for the development that is entitled “Sales Brochure” in English and “售樓說明書” in Chinese.
- (2) If there is any change to the specified information set out in the sales brochure for the development in compliance with Part 1 of Schedule 1, the vendor—
- (a) must, as soon as practicable after the change, revise the sales brochure to reflect the change; and
- (b) must, within 3 working days after the date of the revision, notify in writing each of the entities specified in Schedule 2 of the revision.
- (3) A revision under subsection (2)(a) must be done in such a way that the sales brochure will set out the specified information, as revised, in compliance with Part 1 of Schedule 1.
- (4) Subsection (2) does not apply to a completed development.
- (5) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$1,000,000.
- (6) If subsection (2) or (3) is contravened, the vendor commits an offence and is liable to a fine at level 6.
- (7) In this section—

specified information (指明資料) means the information specified in section 10(2)(b) or (c).

9. Title of sales brochure

- (1) The sales brochure for the development must have the expressions “Sales Brochure” and “售樓說明書” printed as its title on the cover of the brochure.

- (2) For the expression “Sales Brochure”, the size of the letters must not be smaller than the size of the same letters in 18 point Times New Roman typeface.
- (3) For the expression “售樓說明書”, the size of the characters must not be smaller than the size of the same characters in 18 point “新細明體” typeface.
- (4) If subsection (1), (2) or (3) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine at level 6.

10. Contents of sales brochure: information required to be set out

- (1) The sales brochure for the development must first set out the steps that a person is advised to take for the person’s own protection before deciding to purchase a residential property in the development.

Note—

The Authority is empowered under section 66 to issue guidelines providing guidance on the operation of this section.

- (2) The sales brochure for the development must then set out the following information in compliance with Part 1 of Schedule 1—
 - (a) information on the development;
 - (b) information on the vendor and the others involved in the development;
 - (c) the relationship between the parties involved in the development;
 - (d) information on the design of the development;
 - (e) information on the property management;
 - (f) a location plan of the development;
 - (g) the latest aerial photograph of the development as at the date on which the sales brochure is printed;
 - (h) either of the following plans relating to the development—

-
- (i) the outline zoning plan or development permission area plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131);
 - (ii) a plan, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131);
 - (i) a master layout plan of the development;
 - (j) floor plans of the residential properties in the development;
 - (k) the area of the residential properties in the development;
 - (l) floor plans of the car parking spaces;
 - (m) a summary of the preliminary agreement for sale and purchase;
 - (n) a summary of the deed of mutual covenant;
 - (o) a summary of the land grant;
 - (p) information on—
 - (i) any facilities that are required to be constructed and provided for the Government, or for public use, under the land grant;
 - (ii) any open space or facilities that are required to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development under the land grant; or
 - (iii) any part of the land (on which the development is situated) that is dedicated to the public for the purposes of regulation 22(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F).

- (3) The sales brochure for the development must then set out the information required by Part 2 of Schedule 1.
- (4) The information specified in subsection (2) must be set out in the sales brochure in the order in which the information is so specified.
- (5) If the sales brochure for the development is required by subsection (2), or by Part 2 of Schedule 1 as applied by subsection (3), to set out any information that is not applicable to the development, the sales brochure—
 - (a) must include a paragraph for the information with the appropriate heading; and
 - (b) must state in that paragraph that the information is not applicable to the development.
- (6) If subsection (1), (2), (3), (4) or (5) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine of \$500,000.
- (7) The sales brochure for the development is not to be regarded as contravening subsection (2) or (3) for not setting out any information that is not applicable to the development if it complies with subsection (5) in relation to the information.

11. Contents of sales brochure: further information

- (1) If—
 - (a) the Building Authority has exercised the power under section 42(1) of the Buildings Ordinance (Cap. 123) in permitting modification of regulation 23(3)(a) of the Building (Planning) Regulations (Cap. 123 sub. leg. F) in relation to a building in the development;
 - (b) the plot ratio for a building in the development exceeds the permitted plot ratio by virtue of regulation 22(1)(b) of those Regulations;

- (c) the Building Authority has given a permit under regulation 22(2)(b) of those Regulations in relation to a building of the development; or
 - (d) the Building Authority has exercised the power under regulation 23(3)(b) of those Regulations in disregarding any floor space in determining the gross floor area of a building in the development for the purposes of regulations 20, 21 and 22 of those Regulations,
- the sales brochure must, in compliance with Part 3 of Schedule 1, set out the information that has been submitted to the Building Authority in the application made for the purposes of that section 42(1) or regulation 22(1)(b) or (2)(b) or 23(3)(b).
- (2) The sales brochure for the development—
 - (a) may set out one plan showing one elevation of the development; and
 - (b) in setting out the plan, must comply with Part 3 of Schedule 1.
 - (3) If the information specified in subsection (1) or (2) is set out in the sales brochure, it must be set out after the information required by section 10.
 - (4) The sales brochure for the development—
 - (a) may set out any information that is authorized to be set out in the sales brochure under Part 4 of Schedule 1; and
 - (b) in setting out any such information, must comply with Part 4 of Schedule 1.
 - (5) The sales brochure for the development must set out the address of the website designated by the vendor for the development for the purposes of this Part. That address must be set out in such a manner that it is reasonably visible to any person reading the sales brochure.

- (6) If subsection (1), (2)(b), (3), (4)(b) or (5) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine at level 6.

12. Contents of sales brochure: other requirements for information

- (1) The sales brochure for the development must state the date on which it is printed.
- (2) The information set out in the sales brochure for the development must be accurate as at the date on which it is printed.
- (3) The sales brochure for the development must state that there may be future changes to the development and the surrounding areas.
- (4) If subsection (1) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine of \$500,000.
- (5) If subsection (2) is contravened, the vendor who prepares the sales brochure commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 12 months.
- (6) If subsection (3) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine at level 6.

13. Sales brochure must not set out other information

- (1) The sales brochure for the development must not set out any information other than the information required or authorized by this Ordinance.
- (2) If subsection (1) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine of \$500,000.

14. Sales brochure to be printed bilingually

- (1) The sales brochure for the development must be printed in English and Chinese.

- (2) For the English text, the size of a letter or number—
 - (a) must not be smaller than the size of the same letter or number set in 10 point Times New Roman typeface; or
 - (b) in the case of an explanatory note or remark for the main text of the sales brochure, must not be smaller than the size of the same letter or number set in 8 point Times New Roman typeface.
- (3) For the Chinese text, the size of a character or number—
 - (a) must not be smaller than the size of the same character or number set in 10 point “新細明體” typeface; or
 - (b) in the case of an explanatory note or remark for the main text of the sales brochure, must not be smaller than the size of the same character or number set in 8 point “新細明體” typeface.
- (4) Subsections (2) and (3) do not apply to letters, characters or numbers that appear in a plan, diagram or map.
- (5) If subsection (1) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine of \$500,000.
- (6) If subsection (2) or (3) is contravened, the vendor who prepares the sales brochure commits an offence and is liable to a fine at level 6.

15. Sales brochure to be made available to general public

- (1) During a period of at least 7 days before a date of the sale mentioned in section 6(1), the vendor must make hard copies of the sales brochure for the development available for collection by the general public free of charge.
- (2) On a date of the sale mentioned in section 6(1), the vendor must make hard copies of the sales brochure for the development available for collection by the general public free of charge at the place where the sale takes place.

- (3) During a period of at least 7 days before a date of the sale mentioned in section 6(1), and on such a date, the vendor must make a copy of the sales brochure for the development available for inspection on the website designated by the vendor for the development for the purposes of this Part.
- (4) On the first day on which the vendor makes a copy of the sales brochure for the development available for the purposes of subsection (1), the vendor—
 - (a) must provide a hard copy of the sales brochure for the development to each of the entities specified in Schedule 2; and
 - (b) must provide an electronic copy of the sales brochure for the development to the following for the purpose of the electronic database established under section 67(1)—
 - (i) if a public officer or person is delegated under section 67(2) with the power to establish and maintain that database, the public officer or person;
 - (ii) if no public officer or person is so delegated, the Authority.
- (5) A person must not make available to the general public copies of any publication for the development that is entitled “Sales Brochure” in English, or “售樓說明書” in Chinese, except copies of the sales brochure for the development.
- (6) In this section, a reference to a sales brochure is, if the sales brochure has been revised under section 8(2)(a), a reference to the sales brochure as last revised.
- (7) A vendor who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$1,000,000.
- (8) A vendor who contravenes subsection (3) or (4) commits an offence and is liable to a fine at level 6.
- (9) A person who contravenes subsection (5) commits an offence and is liable for a fine of \$1,000,000.

16. Application of sections 8, 9, 10, 11, 12, 13, 14 and 15 in case of phased development

- (1) If the development is divided into 2 or more phases, sections 8, 9, 10, 11, 12, 13, 14 and 15 apply to the sales brochure for the phase of which the specified residential property forms part as if, subject to subsection (2), a reference in those sections to the development were a reference to that phase.
- (2) Subsection (1) does not apply to a reference in section 10(2)(f), (h) and (i) to the development.

Division 3—Price List**17. Price list to be prepared by vendor**

- (1) Subject to subsection (2), the vendor must prepare a document setting out the price of each specified residential property in the development.
- (2) If the development is divided into 2 or more phases, the vendor must prepare a document setting out the price of each specified residential property in each phase.
- (3) The price of a specified residential property in a development may only be set out in—
 - (a) in the case of subsection (1), any one price list for the development; or
 - (b) in the case of subsection (2), any one price list for the phase of which the residential property forms part.
- (4) If there is a change to the price of a specified residential property, the vendor must revise the price list that sets out the price to reflect the change.
- (5) A vendor who contravenes subsection (1), (2) or (4) commits an offence and is liable to a fine of \$1,000,000.
- (6) If subsection (3) is contravened, the vendor who prepares the price list commits an offence and is liable to a fine of \$500,000.

18. Number of properties to be covered in price list

- (1) If there are 30 or fewer specified residential properties in the development, a price list for the development must set out the prices of all the specified residential properties in the development.
- (2) Subject to subsection (3), if there are more than 30 but less than 100 specified residential properties in the development, each price list for the development must set out the prices of at least 30 specified residential properties in the development.
- (3) A price list is to be regarded as having complied with subsection (2) if—
 - (a) the prices of less than 30 specified residential properties in the development have never been set out in any price list for the development; and
 - (b) the price list sets out the prices of all those specified residential properties.
- (4) Subject to subsection (5), if there are 100 or more specified residential properties in the development—
 - (a) the first price list for the development must set out the prices of at least whichever is the greater of the following—
 - (i) 20% of the number of specified residential properties in the development;
 - (ii) 50 specified residential properties; and
 - (b) each subsequent price list for the development must set out the prices of at least 10% of the number of specified residential properties in the development.
- (5) A price list is to be regarded as having complied with subsection (4) if—
 - (a) the prices of less than 10% of the number of specified residential properties in the development have never been set out in any price list for the development; and

- (b) the price list sets out the prices of all those specified residential properties.
- (6) If the development is divided into 2 or more phases, subsections (1), (2), (3), (4) and (5) apply to a price list for a phase of the development as if a reference in those subsections to the development were a reference to that phase.
- (7) If subsection (1), (2) or (4) is contravened, the vendor who prepares the price list commits an offence and is liable to a fine of \$1,000,000.
- (8) The Secretary for Transport and Housing may, by notice published in the Gazette—
 - (a) amend subsection (4)(a)(i) by substituting another percentage for the percentage specified in that subsection;
 - (b) amend subsection (4)(a)(ii) by substituting another number for the number specified in that subsection; or
 - (c) amend subsections (4)(b) and (5)(a) at the same time by substituting another percentage for the percentage specified in each of those subsections.
- (9) For the purposes of subsection (8)(c), the percentage substituted for the percentage specified in subsection (4)(b) and the percentage substituted for that specified in subsection (5)(a) must be the same.

19. Contents of price list

- (1) A price list for the development—
 - (a) must set out the name and location of the development;
 - (b) must state its order among all the price lists for the development in terms of the date of preparation; and
 - (c) must set out the total number of specified residential properties in the development.
- (2) In setting out the price of a specified residential property, a price list for the development must also set out the following

information in relation to the residential property in the form specified by the Authority—

- (a) a description of the residential property;
 - (b) the saleable area of the residential property;
 - (c) the price of the residential property per square foot of the saleable area, and that price per square metre of the saleable area;
 - (d) the floor area of the following (if any) forming part of the residential property—
 - (i) a balcony;
 - (ii) a utility platform;
 - (iii) a verandah;
 - (e) the area of the following (if any) forming part of the residential property—
 - (i) a cockloft;
 - (ii) a stairhood;
 - (iii) a bay window;
 - (iv) a car parking space;
 - (v) a yard;
 - (vi) a terrace;
 - (vii) a garden;
 - (viii) a flat roof;
 - (ix) a roof;
 - (x) an air-conditioning plant room;
 - (xi) any other facilities for the residential property.
- (3) A price list for the development—
- (a) must set out an area under subsection (2)(b), (d) or (e) in both square feet and square metres; and

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- (b) must state that such an area is calculated in accordance with section 3.
 - (4) A price list for the development—
 - (a) must set out the contents of sections 38(1) and 39(1) and (2); and
 - (b) must state that a prospective purchaser is advised to refer to the sales brochure for the development for any information on the development.
 - (5) A price list for the development must set out—
 - (a) the terms of payment;
 - (b) the basis on which any discount on the price is available; and
 - (c) any gift, or any financial advantage or benefit, to be made available in connection with the purchase of a specified residential property in the development.
 - (6) A price list for the development—
 - (a) must state who is liable to pay the solicitors' fees in connection with the sale and purchase of a specified residential property in the development; and
 - (b) must set out any charges that are payable by a purchaser for execution of any document in relation to the sale and purchase of a specified residential property in the development.
 - (7) A price list for the development must set out the address of the website designated by the vendor for the development for the purposes of this Part. That address must be set out in such a manner that it is reasonably visible to any person reading the price list.
 - (8) If the vendor has appointed an estate agent to act in the sale of any specified residential property in the development, a price list for the development—
 - (a) must set out the name of the estate agent; and

- (b) must state that a person may appoint that estate agent or another estate agent to act in the purchase of any specified residential property in the development but need not do so.
- (9) A price list for the development must not set out any information in relation to a specified residential property of the development other than the information required by this section.
- (10) If the development is divided into 2 or more phases—
 - (a) the price list for a phase of the development must also set out the phase number of that phase; and
 - (b) subsections (1), (2), (3), (4), (5), (6), (7), (8) and (9) apply to the price list as if a reference in those subsections to the development were a reference to that phase.
- (11) If subsection (1), (2), (3), (4), (5), (6), (8) or (9) is contravened, the vendor who prepares the price list commits an offence and is liable to a fine of \$500,000.
- (12) If subsection (7) is contravened, the vendor who prepares the price list commits an offence and is liable to a fine at level 6.

20. Price list to be made available to general public

- (1) During a period of at least 3 days before a date of the sale mentioned in section 6(1), the vendor must make hard copies of the relevant price list available for collection by the general public free of charge.
- (2) On a date of the sale mentioned in section 6(1), the vendor must make hard copies of the relevant price list available for collection by the general public free of charge at the place where the sale takes place.
- (3) During a period of at least 3 days before a date of the sale mentioned in section 6(1), and on such a date, the vendor must make a copy of the relevant price list available for inspection

- on the website designated by the vendor for the development for the purposes of this Part.
- (4) On the first day on which the vendor makes a copy of a relevant price list available for the purposes of subsection (1), the vendor—
- (a) must provide a hard copy of the relevant price list to each of the entities specified in Schedule 2; and
 - (b) must provide an electronic copy of the relevant price list to the following for the purpose of the electronic database established under section 67(1)—
 - (i) if a public officer or person is delegated under section 67(2) with the power to establish and maintain that database, the public officer or person;
 - (ii) if no public officer or person is so delegated, the Authority.
- (5) A vendor who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$1,000,000.
- (6) A vendor who contravenes subsection (3) or (4) commits an offence and is liable to a fine at level 6.

21. No reservation before price list made available

- (1) Before the vendor makes copies of the relevant price list available under section 20(3), the vendor must not accept a reservation, whether or not involving a payment of money, by any person for securing that the vendor—
- (a) will sell to the person or any other person any specified residential property the price of which is to be set out in the relevant price list;
 - (b) will offer to sell to the person or any other person any such specified residential property; or
 - (c) will invite the person or any other person to make an offer to purchase any such specified residential property.

- (2) A vendor who contravenes subsection (1) commits an offence and is liable to a fine of \$500,000.

22. Sale of specified residential property at price in relevant price list

- (1) This section applies if there is a sale of a specified residential property that falls within the meaning of section 5(2)(a).
- (2) The vendor may only sell the specified residential property—
- (a) at the price of that property, as set out in the relevant price list copies of which have been made available under section 20(1), (2) and (3); or
- (b) where the relevant price list has been revised under section 17(4) to reflect a change of the price of that property, at that price as last revised, as set out in the relevant price list copies of which have been made available under section 20(1), (2) and (3).
- (3) A vendor who contravenes subsection (2) commits an offence and is liable to a fine of \$1,000,000.

Divison 4—Show Flats for Uncompleted Development or Phase

23. Unmodified show flat

- (1) For the purposes of this Division, a show flat of a residential property is an unmodified show flat of the residential property if—
- (a) any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat are the same as those in the residential property as depicted in the sales brochure for the development;
- (b) the dimensions of the show flat, and of any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat, are the same as those specified in relation to the residential property in—

- (i) that sales brochure; and
 - (ii) the approved building plans for the development by reference to which the information in that sales brochure is set out;
 - (c) the show flat is provided with a ceiling in such a way that the floor-to-ceiling height of the show flat does not exceed that specified in relation to the residential property in—
 - (i) that sales brochure; and
 - (ii) those approved building plans;
 - (d) the internal partitions in the show flat are the same as those specified in relation to the residential property in those approved building plans; and
 - (e) the fittings, finishes and appliances in the show flat are the same as those in the residential property as depicted in that sales brochure.
- (2) Even though any fitting, finish or appliance in the show flat is different from that in the residential property as depicted in the sales brochure for the development, subsection (1)(e) is to be regarded as being satisfied if—
- (a) the vendor displays in the show flat a notice stating the difference; and
 - (b) the quality of the fitting, finish or appliance in the show flat is comparable to the quality of that in the residential property as depicted in that sales brochure.
- (3) A notice under subsection (2)(a) must be displayed in such a manner that the notice is reasonably visible to any person entering the show flat.

24. Modified show flat

For the purposes of this Division, a show flat of a residential property is a modified show flat of the residential property if—

- (a) any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat are the same as those in the residential property as depicted in the sales brochure for the development;
- (b) the dimensions of the show flat, and of any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat, are the same as those specified in relation to the residential property in—
 - (i) that sales brochure; and
 - (ii) the approved building plans for the development by reference to which the information in that sales brochure is set out; and
- (c) the show flat is provided with a ceiling in such a way that the floor-to-ceiling height of the show flat does not exceed that specified in relation to the residential property in—
 - (i) that sales brochure; and
 - (ii) those approved building plans.

25. Setting up of show flat

- (1) The vendor is not required to set up any show flat.
- (2) If the vendor wishes to set up—
 - (a) in the case of section 6(2)(a), a show flat of a residential property in the uncompleted development; or
 - (b) in the case of section 6(2)(b), a show flat of a residential property in the uncompleted phase,the vendor must first set up an unmodified show flat of the residential property.
- (3) If the vendor has set up an unmodified show flat of a residential property under subsection (2), the vendor may also set up a modified show flat of the residential property.

- (4) If the vendor has set up a show flat under this section, the vendor must not make the show flat available for viewing by prospective purchasers, or by the general public, before the vendor has made copies of the sales brochure for the development or the phase available under section 15(1).
- (5) If subsection (2) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.
- (6) A vendor who contravenes subsection (4) commits an offence and is liable to a fine of \$500,000.

26. Requirements for unmodified and modified show flats

- (1) This section applies to an unmodified or modified show flat of a residential property set up under section 25(2) or (3).
- (2) The vendor must provide any balcony, utility platform or verandah in the show flat with boundary walls or parapets.
- (3) The vendor must display in the show flat in accordance with subsection (6) a plan of the show flat that shows the dimensions of—
 - (a) the show flat; and
 - (b) the internal partitions, and any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs, in the show flat.
- (4) If a passageway or door is provided through an enclosing or boundary wall of the show flat as a means of escape for the purposes of regulation 41(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F), the vendor—
 - (a) must display in the show flat in accordance with subsection (6) a notice stating that there is no such passageway or door in the residential property; and
 - (b) must provide a solid line on the floor showing the position and thickness of the enclosing or boundary wall.
- (5) If the floor-to-ceiling height of the show flat is less than that specified in relation to the residential property in—

- (a) the sales brochure for the development; or
- (b) the approved building plans for the development by reference to which the information in that sales brochure is set out,

the vendor must display in the show flat in accordance with subsection (6) a notice stating the difference between those heights.

- (6) A plan under subsection (3), or a notice under subsection (4) or (5), must be displayed in such a manner that the plan or notice is reasonably visible to any person entering the show flat.
- (7) A vendor who contravenes subsection (2), (3) or (4) commits an offence and is liable to a fine of \$500,000.
- (8) A vendor who contravenes subsection (5) commits an offence and is liable to a fine at level 6.

27. Additional requirements for unmodified show flat

- (1) This section applies to an unmodified show flat of a residential property set up under section 25(2).
- (2) The vendor must provide enclosing walls and boundary walls for, and internal partitions and doors in, the show flat in the same way as they will be provided in the residential property as depicted in the sales brochure for the development.
- (3) A vendor who contravenes subsection (2) commits an offence and is liable to a fine of \$500,000.

28. Additional requirements for modified show flat

- (1) This section applies to a modified show flat of a residential property set up under section 25(3).
- (2) Subject to subsection (3), the vendor must provide enclosing walls and boundary walls for, and internal partitions and doors in, the show flat in the same way as they will be provided in

- the residential property as depicted in the sales brochure for the development.
- (3) The vendor is not required to provide an internal partition or a door in the show flat if, by virtue of section 41(3) of the Buildings Ordinance (Cap. 123), the partition or the door may be removed from the residential property without the approval of the Building Authority.
 - (4) If the vendor does not provide an internal partition in the show flat by virtue of subsection (3), the vendor—
 - (a) must mark a solid line on the floor of the show flat showing the position and thickness of the partition; and
 - (b) must display in the show flat in accordance with subsection (6) a plan of the residential property showing the layout, orientation and thickness of all the internal partitions in the residential property.
 - (5) The vendor must display in the show flat in accordance with subsection (6) a notice—
 - (a) setting out which (if any) of the fittings, finishes and appliances in the show flat are those to be included in the residential property as depicted in the sales brochure for the development; and
 - (b) stating that any other fittings, finishes and appliances in the show flat will not be included in the residential property.
 - (6) A plan under subsection (4)(b), or a notice under subsection (5), must be displayed in such a manner that the plan or notice is reasonably visible to any person entering the show flat.
 - (7) A vendor who contravenes subsection (2) or (4) commits an offence and is liable to a fine of \$500,000.
 - (8) A vendor who contravenes subsection (5) commits an offence and is liable to a fine at level 6.

29. Measurements and photographs to be taken in show flat

- (1) If the vendor has set up an unmodified show flat of a residential property under section 25(2), the vendor must not restrict any person who views the show flat from taking measurements, or taking photographs or making video recordings, of the show flat.
- (2) If the vendor has set up a modified show flat of a residential property under section 25(3), the vendor must not restrict any person who views the show flat from taking measurements of the show flat.
- (3) Subsections (1) and (2) do not apply to any restriction that is reasonable in the circumstances for ensuring the safety of the persons viewing the show flat.
- (4) A vendor who contravenes subsection (1) or (2) commits an offence and is liable to a fine at level 6.

30. Application of sections 23, 24, 26, 27 and 28 in case of phased development

If the vendor sets up, in the case of section 6(2)(b), a show flat of a residential property in the uncompleted phase of the development, sections 23, 24, 26, 27 and 28 apply to the show flat as if a reference in those sections to the sales brochure for the development were a reference to the sales brochure for the uncompleted phase.

Division 5—Viewing of Property in Completed Development or Phase**31. Viewing before sale**

- (1) Before the vendor sells the specified residential property to a person, the vendor must make the residential property available for viewing by the person.

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- (2) Subsection (1) does not require the vendor to make the specified residential property available for viewing by the person—
- (a) if it is not reasonably practicable for the specified residential property to be viewed by the person; and
 - (b) if—
 - (i) the vendor has made a comparable residential property in the completed development (in the case of section 6(3)(a)) or completed phase (in the case of section 6(3)(b)) available for viewing by the person; or
 - (ii) it is not reasonably practicable for any such comparable residential property to be viewed by the person, and the person agrees in writing that the vendor is not required to make such a comparable residential property available for viewing by the person before selling the specified residential property to the person.
- (3) A vendor who contravenes subsection (1) commits an offence and is liable to a fine of \$500,000.

32. Requirements for comparable residential property for viewing

- (1) This section applies to a comparable residential property made available for viewing for the purposes of section 31(2)(b)(i).
- (2) The vendor must display in the comparable residential property in accordance with subsection (3) a notice—
 - (a) setting out which (if any) of the fittings, finishes and appliances in it are those included in the specified residential property as depicted in the sales brochure for the development or the phase; and
 - (b) stating that any other fittings, finishes and appliances in it are not included in the specified residential property.

- (3) A notice under subsection (2) must be displayed in such a manner that the notice is reasonably visible to any person entering the residential property.
- (4) A vendor who contravenes subsection (2) commits an offence and is liable to a fine at level 6.

33. Measurements and photographs to be taken in residential property for viewing

- (1) The vendor must not restrict any person who views a residential property for the purposes of section 31(1) or (2)(b)(i) from taking measurements, or taking photographs or making video recordings, of the residential property.
- (2) Subsection (1) does not apply to any restriction that is reasonable in the circumstances for ensuring the safety of the persons viewing the residential property.
- (3) A vendor who contravenes subsection (1) commits an offence and is liable to a fine at level 6.

Division 6—Sales Arrangements and Other Information

34. Sales arrangements to be made available on website

- (1) During a period of at least 3 days before a date of the sale mentioned in section 6(1), and on such a date, the vendor must make the following information available for inspection on the website designated by the vendor for the development for the purpose of this Part in accordance with subsection (2)—
 - (a) the date and time when, and the place where, the specified residential property will be offered to be sold;
 - (b) the number of specified residential properties in the development that will be offered by the vendor to be sold at that date, time and place;
 - (c) a description of the specified residential properties mentioned in paragraph (b);

- (d) the method to be used to determine the order of priority in which each of the persons interested in buying any of those specified residential properties will select the residential property that the person wishes to purchase;
 - (e) the method to be used, in any case where 2 or more persons are interested in purchasing a particular specified residential property, to determine the order of priority in which each of those persons will proceed with the purchase.
- (2) The information must be published under subsection (1) in such a manner that the information is reasonably visible to any person browsing the website.
 - (3) The sale mentioned in section 6(1) must not take place before the date and time published under subsection (1)(a).
 - (4) A vendor who contravenes subsection (1) commits an offence and is liable to a fine of \$500,000.
 - (5) If subsection (3) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

35. Plans and documents to be made available to general public

- (1) On a date of the sale mentioned in section 6(1), the vendor must make the following available for inspection by the general public free of charge at the place where the sale takes place—
 - (a) a copy of either of the following plans relating to the development—
 - (i) the outline zoning plan or development permission area plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131);
 - (ii) a plan, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), deemed to be a draft plan prepared by the Town Planning

Board for the purposes of the Town Planning Ordinance (Cap. 131);

- (b) a copy of the approved building plans for the development;
 - (c) a copy of one of the following—
 - (i) for an uncompleted development, the latest draft deed of mutual covenant as at that date;
 - (ii) for a completed development in respect of which a deed of mutual covenant has been executed, the deed of mutual covenant;
 - (iii) for a completed development in respect of which a deed of mutual covenant has not been executed, the latest draft deed of mutual covenant as at that date;
 - (d) a copy of the land grant;
 - (e) the aerial photograph of the development as set out in the sales brochure for the development.
- (2) For the purposes of subsection (1)(e), the aerial photograph—
- (a) must be at a scale within the range of 1:700 to 1:800; and
 - (b) is not required to comply with section 7(3)(a) of Schedule 1.
- (3) A vendor who contravenes subsection (1) commits an offence and is liable to a fine at level 6.

36. Deed of mutual covenant and aerial photograph to be made available on website

- (1) On a date of the sale mentioned in section 6(1), the vendor must make the following available for inspection on the website designated by the vendor for the development for the purposes of this Part—
- (a) a copy of one of the following—

- (i) for an uncompleted development, the latest draft deed of mutual covenant as at that date;
 - (ii) for a completed development in respect of which a deed of mutual covenant has been executed, the deed of mutual covenant;
 - (iii) for a completed development in respect of which a deed of mutual covenant has not been executed, the latest draft deed of mutual covenant as at that date;
 - (b) the aerial photograph of the development as set out in the sales brochure for the development.
- (2) For the purposes of subsection (1)(b), the aerial photograph is not required to comply with section 7(3)(a) of Schedule 1.
- (3) A vendor who contravenes subsection (1) commits an offence and is liable to a fine at level 6.

37. Application of sections 34, 35 and 36 in case of phased development

- (1) If the development is divided into 2 or more phases—
- (a) section 34 applies as if a reference in that section to the development were a reference to the phase of which the specified residential property forms part; and
 - (b) sections 35 and 36 apply as if—
 - (i) a reference in sections 35(1)(c)(i) and 36(1)(a)(i) to an uncompleted development were a reference to an uncompleted phase;
 - (ii) a reference in sections 35(1)(c)(ii) and (iii) and 36(1)(a)(ii) and (iii) to a completed development were a reference to a completed phase; and
 - (iii) subject to subsection (2), a reference in sections 35 and 36 to the development were a reference to the phase of which the specified residential property forms part.

- (2) Subsection (1)(b)(iii) does not apply to a reference in section 35(1)(a) and (b) to the development.

Division 7—Preliminary Agreement and Agreement

38. Deposit on entering into preliminary agreement

- (1) Only a preliminary deposit of 5% of the purchase price is payable by a person to the vendor on entering into a preliminary agreement for sale and purchase in respect of the specified residential property with the vendor.
- (2) The Secretary for Transport and Housing may, by notice published in the Gazette, amend subsection (1) by substituting another percentage for the percentage specified in that subsection.

39. Execution of agreement for sale and purchase

- (1) If the person executes an agreement for sale and purchase in respect of the specified residential property within 3 working days after the date on which the person enters into the preliminary agreement for sale and purchase, the vendor must execute the agreement for sale and purchase within 6 working days after that date.
- (2) If the person does not execute an agreement for sale and purchase in respect of the specified residential property within 3 working days after the date on which the person enters into the preliminary agreement for sale and purchase—
- (a) the preliminary agreement is terminated;
 - (b) the preliminary deposit is forfeited; and
 - (c) the vendor does not have any further claim against the person for the failure.
- (3) A vendor who contravenes subsection (1) commits an offence and is liable to a fine of \$1,000,000.

40. Provisions incorporated into preliminary agreement and agreement

- (1) The provisions set out in Schedule 3 are to be regarded as impliedly incorporated into the preliminary agreement for sale and purchase of the specified residential property.
- (2) The provisions set out in Schedule 4 are to be regarded as impliedly incorporated into the agreement for sale and purchase of the specified residential property if—
 - (a) the development is an uncompleted development; or
 - (b) for a development divided into 2 or more phases, the phase of which the specified residential property forms part is an uncompleted phase.
- (3) The provisions set out in Schedule 5 are to be regarded as impliedly incorporated into the agreement for sale and purchase of the specified residential property if—
 - (a) the development is a completed development; or
 - (b) for a development divided into 2 or more phases, the phase of which the specified residential property forms part is a completed phase.
- (4) The provisions incorporated into a preliminary agreement for sale and purchase, or an agreement for sale and purchase, by virtue of this section prevail over any other provision of the preliminary agreement or agreement that is inconsistent with them.

Division 8—Register of Transactions**41. Register of Transactions to be kept by vendor**

- (1) Subject to subsection (2), the vendor must keep one register of transactions for the development.
- (2) If the development is divided into 2 or more phases, the vendor must keep one register of transactions for each phase.

- (3) A vendor who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$500,000.

42. Contents of, and entries in, Register of Transactions

- (1) The Register of Transactions for the development must, in relation to each specified residential property in the development, set out the following information in the form specified by the Authority—
- (a) a description of the residential property;
 - (b) the date of any preliminary agreement for sale and purchase;
 - (c) the date of any agreement for sale and purchase;
 - (d) the price of any transaction;
 - (e) the terms of payment (including any discount on the price, and any gift, or any financial advantage or benefit, made available in connection with the purchase);
 - (f) the date on which any agreement for sale and purchase is terminated;
 - (g) whether the purchaser is or is not a related party to the vendor.
- (2) Within 24 hours after the vendor enters into a preliminary agreement for sale and purchase in respect of a specified residential property in the development with another person, the vendor must enter in the Register of Transactions for the development the following particulars—
- (a) a description of the residential property;
 - (b) the date of that preliminary agreement;
 - (c) the price of the transaction;
 - (d) the terms of payment (including any discount on the price, and any gift, or any financial advantage or benefit, made available in connection with the purchase);

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- (e) whether the person is or is not a related party to the vendor.
- (3) Within 1 working day after the date on which the vendor enters into an agreement for sale and purchase in respect of the specified residential property with that other person, the vendor—
- (a) must enter the date of that agreement in the Register of Transactions for the development; and
- (b) if there is a change in the particulars of the transaction mentioned in subsection (2)(e), must revise the entry in that Register of Transactions.
- (4) If that other person has not entered into an agreement for sale and purchase in respect of the specified residential property with the vendor within 3 working days after the date on which the preliminary agreement for sale and purchase is entered into, the vendor must, on the 4th working day after that date, indicate that fact in the Register of Transactions for the development in relation to the specified residential property.
- (5) Within 1 working day after the date on which the agreement for sale and purchase of the specified residential property is terminated, the vendor must enter that date in the Register of Transactions for the development.
- (6) If subsection (1) is contravened, the vendor who keeps the Register of Transactions commits an offence and is liable to a fine of \$500,000.
- (7) A vendor who contravenes subsection (2), (3), (4) or (5) commits an offence and is liable to a fine of \$500,000.
- (8) In this section, a person is a related party to a vendor if—
- (a) where the vendor is a company, the person is—
- (i) a director of the vendor;
- (ii) a parent, spouse or child of a director of the vendor; or

- (iii) a manager of the vendor, as defined by section 2(1) of the Companies Ordinance (Cap. 32); or
 - (b) where the vendor is an individual, the person is a parent, spouse or child of the vendor.
- (9) In this section, a reference to a preliminary agreement for sale and purchase, or an agreement for sale and purchase, of a specified residential property includes a preliminary agreement for sale and purchase, or an agreement for sale and purchase, of both a specified residential property and a car parking space.

43. Register of Transactions to be made available to general public

- (1) On a date of the sale mentioned in section 6(1), the vendor must make the Register of Transactions for the development available for inspection by the general public free of charge at the place where the sale takes place.
- (2) During the period specified in subsection (3), the vendor must make an electronic copy of the Register of Transactions available for inspection on the website designated by the vendor for the development for the purposes of this Part.
- (3) The period is one that begins on the date on which the Register of Transactions is first made available under subsection (1) and ends on the date on which the first assignment of each specified residential property in the development has been registered in the Land Registry.
- (4) As soon as practicable after the vendor has made an entry into the Register of Transactions for the development under section 42(2), (3), (4) or (5), the vendor must provide an electronic copy of that Register of Transactions to the following person for the purpose of the electronic database established under section 67(1)—
 - (a) if a public officer or person is delegated under section 67(2) with the power to establish and maintain that database, the public officer or person;

- (b) if no public officer or person is so delegated, the Authority.
- (5) A vendor who contravenes subsection (1) commits an offence and is liable to a fine of \$500,000.
- (6) A vendor who contravenes subsection (2) or (4) commits an offence and is liable to a fine at level 6.

44. Application of sections 42 and 43 in case of phased development

If the development is divided into 2 or more phases, sections 42 and 43 apply to a Register of Transactions for the phase of which the specified residential property forms part as if a reference in those sections to the development were a reference to that phase.

Division 9—Exceptions and Additional Requirements

45. Exception: all residential properties in development or phase sold under one agreement etc.

- (1) Divisions 2, 3, 4, 5, 6 and 7 do not apply in any of the 3 situations specified in subsections (2), (3) and (4).
- (2) The first situation is that in the case of a development consisting of one or more multi-storey buildings but not houses, all the residential properties in one of those buildings (being specified residential properties)—
 - (a) are sold by the owner to one person under one agreement for sale and purchase; or
 - (b) are offered by the owner to be sold to any other person on the condition that those residential properties will only be sold to one person under one agreement for sale and purchase.
- (3) The second situation is that in the case of a development consisting of houses but not multi-storey buildings, all the residential properties in the development (being specified residential properties)—

- (a) are sold by the owner to one person under one agreement for sale and purchase; or
 - (b) are offered by the owner to be sold to any other person on the condition that those residential properties will only be sold to one person under one agreement for sale and purchase.
- (4) The third situation is that in the case of a development consisting of one or more multi-storey buildings as well as houses, all the residential properties in one of the buildings (being specified residential properties), or all the residential properties in those houses (being specified residential properties), or both—
- (a) are sold by the owner to one person under one agreement for sale and purchase; or
 - (b) are offered by the owner to be sold to any other person on the condition that those residential properties will only be sold to one person under one agreement for sale and purchase.
- (5) In the first, second or third situation, the fact that the residential properties are sold, or offered to be sold, with other properties in the development is not relevant. Subsection (1) does not operate to disapply Divisions 2, 3, 4, 5, 6 and 7 in the case of those other properties.
- (6) If the development is divided into 2 or more phases, a reference in this section to a development is a reference to a phase of the development.

46. Exception and additional requirement: property sold or offered to be sold to sitting tenant

- (1) Divisions 3, 4, 5 and 6 do not apply in the situation specified in subsection (2).
- (2) The situation is that the specified residential property is sold by the owner, or is offered by the owner to be sold, to another person—

- (a) who is the tenant of that property; and
 - (b) who, as at the date of the property being sold or offered to be sold (as the case may be), has been the tenant of that property for a continuous period of at least one year.
- (3) Division 2 does not apply in the situation specified in subsection (2) if that other person agrees in writing that the Division does not apply.
- (4) In the situation specified in subsection (2), the vendor must, as soon as practicable after the property is offered to be sold to that other person, provide that other person one document (*vendor's information form*) printed within the previous 3 months.
- (5) The vendor's information form must set out the information required by Schedule 6.
- (6) The vendor's information form must state the date on which the document is printed.
- (7) The information set out in the vendor's information form must be accurate as at the date on which that form is printed.
- (8) A vendor who contravenes subsection (4) commits an offence and is liable to a fine of \$500,000.
- (9) If subsection (5), (6), or (7) is contravened, the vendor who provides the vendor's information form commits an offence and is liable to a fine of \$500,000.

47. Exception: property sold or offered to be sold by way of auction or tender

Division 3 does not apply if the specified residential property is sold by the owner, or is offered by the owner to be sold, to another person by way of auction or tender.

48. Additional requirement: unsold property in completed development

- (1) If—

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- (a) a specified residential property in a completed development, or a completed phase of a development, is offered to be sold to a person; and
- (b) the specified residential property has been offered to be sold to any other person when the development or the phase was an uncompleted development or phase,
- the vendor must, as soon as practicable after the offer mentioned in paragraph (a) is made, provide the person one document (*vendor's information form*) printed within the previous 3 months.
- (2) The vendor's information form must set out the information required by Schedule 6.
- (3) The vendor's information form must state the date on which the document is printed.
- (4) The information set out in the vendor's information form must be accurate as at the date on which that form is printed.
- (5) A vendor who contravenes subsection (1) commits an offence and is liable to a fine of \$500,000.
- (6) If subsection (2), (3) or (4) is contravened, the vendor who provides the vendor's information form commits an offence and is liable to a fine of \$500,000.
- (7) The requirement under subsection (1) is in addition to any other requirements that apply by virtue of Division 2, 3, 5, 6, 7 or 8.

Part 3

Advertisement of Specified Residential Property

49. Application of Part 3

This Part applies to an advertisement purporting to promote the sale of a specified residential property.

50. Advertisement must not contain false or misleading information

- (1) A person commits an offence if the person—
 - (a) publishes or causes to be published an advertisement containing information that is false or misleading in a material particular; and
 - (b) the person knows that, or is reckless as to whether, the information is false or misleading as to the material particular.
- (2) A person who commits an offence under subsection (1) is liable—
 - (a) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.

51. General requirements for advertisement

- (1) If the information set out in an advertisement is provided by the vendor of the specified residential property, the advertisement must state that fact.
- (2) In the case of an advertisement purporting to promote the sale of a specified residential property in an uncompleted development, the advertisement must state a date that is, to the best of the vendor's knowledge, the estimated material date of the development.

- (3) In the case of an advertisement purporting to promote the sale of any specified residential property in an uncompleted phase in a development—
 - (a) subsection (2) does not apply; and
 - (b) the advertisement must state a date that is, to the best of the vendor's knowledge, the estimated material date of the phase.
- (4) An advertisement must not give information on the unit price of any specified residential property otherwise than by reference to the saleable area of that property.
- (5) If subsection (1) is contravened, the person who publishes or causes to be published the advertisement commits an offence and is liable to a fine at level 6.
- (6) If subsection (2), (3) or (4) is contravened, the person who publishes or causes to be published the advertisement commits an offence and is liable to a fine of \$500,000.
- (7) In this section—

unit price (面積單位售價), in relation to a specified residential property, includes—

 - (a) the price of the property per square foot; and
 - (b) the price of the property per square metre.

52. Advertisement must contain statement about sales brochure

- (1) This section applies if the sales brochure for the development, or the sales brochure for the phase of which the specified property forms part, has been made available under section 15(1) at the time when the advertisement is published.
- (2) An advertisement comprising moving visual images—
 - (a) if the advertisement is solely or principally in English, must contain the statement specified in subsection (5);
 - (b) if the advertisement is solely or principally in Chinese, must contain the statement specified in subsection (6); or

- (c) if the advertisement is in both English and Chinese and does not fall within paragraph (a) or (b), must contain the statements specified in subsections (5) and (6).
- (3) An advertisement comprising solely sound broadcasting—
 - (a) if the advertisement is solely or principally in English, must contain the statement specified in subsection (5); or
 - (b) if the advertisement is solely or principally in Cantonese, Putonghua or other Chinese dialect, must contain the statement in that language or dialect specified in subsection (6).
- (4) Any other advertisement must contain a notice to the effect that a prospective purchaser is advised to refer to the sales brochure for any information on the development or the phase.
- (5) The statement specified for the purposes of subsections (2)(a) and (c) and (3)(a) is—

“Please refer to the sales brochure for details.”.
- (6) The statement specified for the purposes of subsections (2)(b) and (c) and (3)(b) is—

“請參閱售樓說明書。”.
- (7) If subsection (2), (3) or (4) is contravened, a person who publishes or causes to be published the advertisement commits an offence and is liable to a fine at level 6.

53. Additional requirements for printed advertisement

- (1) This section applies to—
 - (a) an advertisement in a newspaper;
 - (b) an advertisement by the display of posters, notices, signs, labels, showcards or goods; or
 - (c) an advertisement by the distribution of circulars, brochures, catalogues or any other materials.
- (2) An advertisement must state—

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- (a) the district in which the development is situated, as stated in a plan relating to the development and specified in subsection (8);
 - (b) the name of the street at which the development is situated; and
 - (c) the street number allocated by the Commissioner of Rating and Valuation for the purpose of distinguishing the development.
- (3) An advertisement must state the name of the following—
- (a) the vendor, and if the vendor is a company, every holding company of the vendor;
 - (b) the authorized person for the development, and the firm or company of which that authorized person is a partner, director or employee in his or her professional capacity;
 - (c) the registered general building contractor for the development;
 - (d) the firm of solicitors acting for the vendor in relation to the sale of residential properties in the development;
 - (e) any authorized institution that makes a loan, or undertakes to provide finance, for the construction of the development;
 - (f) any other person who makes a loan for the construction of the development.
- (4) An advertisement must state the address of the website designated or to be designated by the vendor for the development for the purposes of Part 2.
- (5) An advertisement must state the date on which it is printed.
- (6) If an advertisement contains a picture, image, drawing or sketch showing an artist's impression of the development or its surrounding area, the advertisement must contain a statement specified in section 54.

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- (7) For a statement contained in an advertisement for the purposes of subsection (2), (4) or (6)—
- (a) if the size of the advertisement is not larger than 11.5 inches × 14 inches, the letters, characters and numbers must be printed in at least 10 point typeface;
 - (b) if the size of the advertisement is larger than 11.5 inches × 14 inches but is not larger than 23 inches × 14 inches, the letters, characters and numbers must be printed in at least 12 point typeface;
 - (c) if the size of the advertisement is larger than 23 inches × 14 inches but is not larger than 23 inches × 28 inches, the letters, characters and numbers must be printed in at least 16 point typeface; or
 - (d) if the size of the advertisement is larger than 23 inches × 28 inches, the letters, characters and numbers must occupy at least 3% of the area of the advertisement.
- (8) The plan specified for the purposes of subsection (2)(a) is—
- (a) the outline zoning plan or development permission area plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131); or
 - (b) a plan, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131).
- (9) In the case of an advertisement purporting to promote the sale of a specified residential property in a phase of a development, subsections (2)(b) and (c), (3), (4) and (6) apply to the advertisement as if a reference in those sections to the development were a reference to that phase.
- (10) If subsection (2) is contravened, a person who publishes or causes to be published the advertisement commits an offence and is liable to a fine of \$500,000.

- (11) If subsection (3), (4), (5), (6) or (7) is contravened, a person who publishes or causes to be published the advertisement commits an offence and is liable to a fine at level 6.

54. Provision supplementary to section 53(6)

The statement specified for the purposes of section 53(6) is—

- (a) if the advertisement is solely or principally in English, the statement set out below—

“The photographs, images, drawings or sketches shown in this advertisement/promotional material represent an artist’s impression of the development concerned only. They are not drawn to scale and/or may have been edited and processed with computerized imaging techniques. Prospective purchasers should make reference to the sales brochure for details of the development. The vendor also advises prospective purchasers to conduct on-site visit for a better understanding of the development site, its surrounding environment and the public facilities nearby.”;

- (b) if the advertisement is solely or principally in Chinese, the statement set out below—

“本廣告/宣傳資料內載列的相片、圖像、繪圖或素描顯示純屬畫家對該發展地盤之想像。有關相片、圖像、繪圖或素描並非按照比例繪畫及/或可能經過電腦修飾處理。準買家如欲了解本發展項目的詳情，請參閱售樓說明書。賣方亦建議準買家到該發展地盤作實地考察，以對該發展地盤、其周邊地區環境及附近的公共設施有較佳了解。”; or

- (c) if the advertisement is in both English and Chinese and does not fall within paragraph (a) or (b), the statement set out in paragraph (a) and the statement set out in paragraph (b).

Part 4

Misrepresentation, and Dissemination of False or Misleading Information etc.

55. Misrepresentation

- (1) A person commits an offence if the person makes a fraudulent misrepresentation or reckless misrepresentation for the purpose of inducing another person to purchase a specified residential property.
- (2) A person who commits an offence under subsection (1) is liable—
 - (a) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.
- (3) For the purposes of this section, a person makes a fraudulent misrepresentation—
 - (a) if the person makes a statement that, when it is made, is to the person's knowledge false, misleading or deceptive;
 - (b) if the person makes a promise that, when it is made—
 - (i) is to the person's knowledge incapable of being fulfilled; or
 - (ii) the person has no intention of fulfilling; or
 - (c) if—
 - (i) the person makes a statement; and
 - (ii) the person intentionally omits a material fact from the statement, with the result that the statement is rendered false, misleading or deceptive when it is made.

- (4) For the purposes of this section, a person makes a reckless misrepresentation—
- (a) if the person recklessly makes a statement that, when it is made, is false, misleading or deceptive;
 - (b) if the person recklessly makes a promise that, when it is made, is incapable of being fulfilled; or
 - (c) if—
 - (i) the person makes a statement; and
 - (ii) the person recklessly omits a material fact from the statement, with the result that the statement is rendered false, misleading or deceptive when it is made.

56. Dissemination of false or misleading information

- (1) A person commits an offence—
- (a) if the person disseminates, or authorizes or is concerned in the dissemination of, information that is likely to induce another person to purchase a specified residential property; and
 - (b) if—
 - (i) the information is false or misleading as to a material fact, and the person knows that, or is reckless as to whether, the information is false or misleading as to the material fact; or
 - (ii) the information is false or misleading through the omission of a material fact, and the person knows that, or is reckless as to whether, the information is false or misleading through the omission of the material fact.
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years; or

(b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.

(3) In this section—

disseminate (傳布) includes circulate or disclose.

Part 5

Defence Provisions, and Other Supplementary Provisions on Offences

Division 1—Defence of Reasonable Precautions and Due Diligence

57. Defence

If a person is charged with an offence under Part 2 or 3 (other than section 50), it is a defence to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by that person.

Division 2—Defence for offences in relation to false or misleading information

58. Application of Division 2

- (1) This Division applies in either of the 2 situations specified in subsections (2) and (3).
- (2) The first situation is where—
 - (a) a person is charged with an offence under section 56(1) for disseminating, or authorizing or being concerned in the dissemination, of false or misleading information; and
 - (b) the contravention took place by reason only of—
 - (i) an issue or reproduction of the information;
 - (ii) a re-transmission of the information; or
 - (iii) a live broadcast of the information.
- (3) The second situation is where—

- (a) a person is charged with an offence under section 50 for publishing or causing to be published an advertisement containing any information that is false or misleading in a material particular; and
- (b) the contravention took place by reason only of—
 - (i) an issue or reproduction of the advertisement;
 - (ii) a re-transmission of the advertisement; or
 - (iii) a live broadcast of the advertisement.

59. Defence: issue or reproduction of information or advertisement

- (1) In the case of section 58(2)(b)(i) or (3)(b)(i), it is a defence to prove that—
 - (a) the issue or reproduction of the information or advertisement took place in the ordinary course of a business (whether or not carried on by the person charged with the offence), the principal purpose of which was issuing or reproducing materials provided by others;
 - (b) the person specified in subsection (2) did not devise the contents of the information or advertisement, either in whole or in part;
 - (c) the person specified in subsection (2) did not select, add to, modify or otherwise exercise control over the contents of the information or advertisement for the purpose of the issue or reproduction; and
 - (d) at the time of the issue or reproduction, the person charged with the offence did not know—
 - (i) for section 58(2)(b)(i), that the information was false or misleading as to a material fact or was false or misleading through the omission of a material fact; or

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- (ii) for section 58(3)(b)(i), that the information contained in the advertisement was false or misleading in a material particular.
 - (2) The person specified for the purposes of subsection (1)(b) and (c) is—
 - (a) if the business was carried on by the person charged with the offence, that person or any officer, employee or agent of that person; or
 - (b) if the business was not carried on by the person charged with the offence, that person.
 - (3) In this section, a reference to issuing materials—
 - (a) includes publishing, circulating, distributing or otherwise disseminating materials or their contents, whether—
 - (i) by any visit in person;
 - (ii) in a newspaper, magazine, journal or other publication;
 - (iii) by the display of posters or notices;
 - (iv) by means of circulars, brochures, pamphlets or handbills;
 - (v) by an exhibition of photographs or cinematograph films;
 - (vi) by any information system or other electronic device; or
 - (vii) by any other means, whether mechanically, electronically, magnetically, optically, manually or by any other medium, or by way of production or transmission of light, image or sound or any other medium; and
 - (b) also includes causing or authorizing materials to be issued.

60. Defence: re-transmission of information or advertisement

- (1) In the case of section 58(2)(b)(ii) or (3)(b)(ii), it is a defence to prove that—
- (a) the re-transmission of the information or advertisement took place in the ordinary course of a business (whether or not carried on by the person charged with the offence), the normal conduct of which involved the re-transmission of information to other persons within an information system or from one information system to another information system (wherever situated), whether directly or by facilitating the establishment of links between such other persons and third parties;
 - (b) the person specified in subsection (2) did not devise the contents of the information or advertisement, either in whole or in part;
 - (c) the person specified in subsection (2) did not select, add to, modify or otherwise exercise control over the contents of the information or advertisement for the purposes of the re-transmission;
 - (d) the re-transmission of the information or advertisement—
 - (i) was accompanied by a message to the effect specified in subsection (3); or
 - (ii) was effected following acknowledgment by the persons to whom it was re-transmitted of their understanding of the matter specified in subsection (3); and
 - (e) at the time of the re-transmission—
 - (i) the person charged with the offence did not know—
 - (A) for section 58(2)(b)(ii), that the information was false or misleading as to a material fact

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- or was false or misleading through the omission of a material fact; or
- (B) for section 58(3)(b)(ii), that the information contained in the advertisement was false or misleading in a material particular; or
- (ii) the person charged with the offence knew that the information was so false or misleading, but—
- (A) where the business was carried on by the person charged with the offence, in the circumstances of the case that person could not reasonably be expected to prevent the re-transmission; or
- (B) where the business was not carried on by the person charged with the offence, in the circumstances of the case that person has taken all reasonable steps to bring the fact that the information was so false or misleading to the attention of a person in a position to take steps to cause the re-transmission to be prevented (even if the re-transmission in fact took place).
- (2) The person specified for the purposes of subsection (1)(b) and (c) is—
- (a) if the business was carried on by the person charged with the offence, that person or any officer, employee or agent of that person; or
- (b) if the business was not carried on by the person charged with the offence, that person.
- (3) The effect or matter specified for the purposes of subsection (1)(d) is that—
- (a) if the business was carried on by the person charged with the offence, that person or any officer, employee or agent of that person—

- (i) did not devise the contents of the information or advertisement, either in whole or in part;
 - (ii) did not take responsibility for the information or advertisement; and
 - (iii) did not endorse the accuracy of the information or advertisement; or
- (b) if the business was not carried on by the person charged with the offence, the person who carried on the business or any officer, employee or agent of the person who carried on the business—
- (i) did not devise the contents of the information or advertisement, either in whole or in part;
 - (ii) did not take responsibility for the information or advertisement; and
 - (iii) did not endorse the accuracy of the information or advertisement.

61. Defence: live broadcast of information or advertisement

- (1) In the case of section 58(2)(b)(iii) or (3)(b)(iii), it is a defence to prove that—
- (a) the broadcast of the information or advertisement took place in the ordinary course of the business of a broadcaster (whether or not the person charged with the offence was the broadcaster);
 - (b) the person specified in subsection (2) did not devise the contents of the information or advertisement, either in whole or in part;
 - (c) the person specified in subsection (2) did not select, add to, modify or otherwise exercise control over the contents of the information or advertisement for the purposes of the broadcast;
 - (d) either—

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- (i) where the person charged with the offence was the broadcaster, that person acted in accordance with the terms and conditions of the broadcasting licence (if any) held by that person, and with the broadcasting guidelines applicable to that person as a broadcaster, in relation to the broadcast; or
 - (ii) where the person charged with the offence was not the broadcaster, that person believed and had reasonable grounds to believe that another person who was the broadcaster acted in accordance with the terms and conditions of the broadcasting licence (if any), and with the broadcasting guidelines applicable to that other person as a broadcaster, in relation to the broadcast; and
- (e) at the time of the broadcast—
- (i) the person charged with the offence did not know—
 - (A) for section 58(2)(b)(iii), that the information was false or misleading as to a material fact or was false or misleading through the omission of a material fact; or
 - (B) for section 58(3)(b)(iii), that the information contained in the advertisement was false or misleading in a material particular; or
 - (ii) the person charged with the offence knew that the information was so false or misleading, but—
 - (A) where the person charged with the offence was the broadcaster, in the circumstances of the case that person could not reasonably be expected to prevent the broadcast; or
 - (B) where the person charged with the offence was not the broadcaster, in the circumstances of the case that person has taken all reasonable steps to bring the fact that the

information was so false or misleading to the attention of a person in a position to take steps to cause the broadcast to be prevented (even if the broadcast in fact took place).

- (2) The person specified for the purposes of subsection (1)(b) or (c) is—
- (a) if the person charged with the offence was the broadcaster, that person or any officer, employee or agent of that person; or
 - (b) if the person charged with the offence was not the broadcaster, that person.
- (3) In this section—

broadcasting guidelines (廣播指引) means guidelines or codes of practice (however described) issued under or pursuant to the Telecommunications Ordinance (Cap. 106) or the Broadcasting Ordinance (Cap. 562);

broadcasting licence (廣播牌照), in relation to a person, means the licence by which the person became entitled to broadcast as a broadcaster.

Division 3—Other Supplementary Provisions on Offences

62. Liability of company officers etc. for offence committed by company

- (1) This section applies—
- (a) if a company commits an offence under this Ordinance; and
 - (b) if—
 - (i) the commission of the offence is aided, abetted, counselled, procured or induced by an officer of the company or by a person purporting to act as such an officer; or

- (ii) the offence is committed with the consent or connivance of, or is attributable to any recklessness on the part of, an officer of the company or a person purporting to act as such an officer.
- (2) The officer or the person purporting to act as an officer of the company, as well as the company—
 - (a) commits the offence; and
 - (b) is liable to be proceeded against and punished accordingly.
- (3) In this section—

officer (高級人員), in relation to a company, means—

 - (a) a director or secretary of the company; or
 - (b) a manager of the company, as defined by section 2(1) of the Companies Ordinance (Cap. 32).

63. Time limit for prosecution

Despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings in respect of an offence under this Ordinance, other than an indictable offence, may be brought within 3 years after the commission of the offence.

Part 6

Administrative and Miscellaneous Provisions

Division 1—Administration

64. Appointment of Authority

- (1) The Secretary for Transport and Housing—
 - (a) may appoint a public officer to be the authority for the purposes of this Ordinance; and
 - (b) may appoint other public officers to assist the Authority in the performance of the Authority's functions.
- (2) An appointment under subsection (1) is to be notified in the Gazette.

65. Functions of Authority

The functions of the Authority are—

- (a) to administer the provisions of this Ordinance;
- (b) to supervise compliance with Parts 2, 3 and 4, and section 71, of this Ordinance; and
- (c) to perform other functions conferred on the Authority by or under this Ordinance or any other enactment.

66. Authority may issue guidelines

- (1) The Authority may issue guidelines—
 - (a) indicating the manner in which the Authority proposes to perform any function or exercise any power; or
 - (b) providing guidance on the operation of any provision of this Ordinance.
- (2) The Authority—

- (a) must publish the guidelines in a manner appropriate to bring them to the notice of persons affected by them; and
 - (b) must make copies of the guidelines available to the public (in hard copy form or electronic form).
- (3) Guidelines issued under this section are not subsidiary legislation.
- (4) The Authority may amend or revoke any of the guidelines. Subsections (2) and (3) apply to an amendment or revocation of guidelines in the same way as they apply to the guidelines.
- (5) A person does not incur any civil or criminal liability only because the person has contravened any of the guidelines. However, if, in any legal proceedings, the court is satisfied that a guideline is relevant to determining a matter that is in issue—
- (a) the guideline is admissible in evidence in the proceedings; and
 - (b) proof that the person contravened or did not contravene the guideline may be relied on by any party to the proceedings as tending to establish or negate the matter.

67. Electronic database for information about residential properties

- (1) The Authority may establish and maintain an electronic database of—
- (a) information and statistics on the residential property market in Hong Kong; and
 - (b) information and statistics on any development situated in Hong Kong (other than a development that falls within section 4(3), (4) or (5)).
- (2) The Authority may delegate, in writing, to a public officer, or any person whom the Authority thinks fit, the power given to the Authority under subsection (1).

Division 2—Investigation by Authority

68. Investigation powers for suspected contravention

- (1) If the Authority has reasonable cause to believe that a person may have contravened a provision of this Ordinance, the Authority, or a public officer appointed under section 64(1)(b), may exercise the powers under this section for the purpose of investigating the contravention or the question whether or not there has been such a contravention.
- (2) The Authority or public officer may, in writing, require a person specified in subsection (3)—
 - (a) to produce, within the time and at the place specified in the requirement, any record or document specified in the requirement—
 - (i) that is or may be relevant to any matter under investigation; and
 - (ii) that is in the person's possession;
 - (b) to attend before the Authority or officer at the time and place specified in the requirement, and answer any question relating to any matter under investigation that the Authority or officer may raise with the person;
 - (c) to respond to any written question relating to any matter under investigation that the Authority or officer may raise with the person; or
 - (d) to give the Authority or officer any assistance in connection with the investigation that the person is reasonably able to give.
- (3) The person specified for the purposes of subsection (2) is—
 - (a) a person whom the Authority has reasonable cause to believe may have contravened a provision of this Ordinance; or
 - (b) a person whom the Authority or officer has reasonable cause to believe—

- (i) to be in possession of any record or document that contains, or that is likely to contain, information relevant to any matter under investigation; or
 - (ii) to be otherwise in possession of such information.
- (4) If a person produces a record or document in compliance with a requirement imposed under subsection (2)(a), the Authority or officer may require the person to give an explanation or further particulars in respect of the record or document.
- (5) If a person gives any answer, response, explanation or particulars in compliance with a requirement imposed under subsection (2) or (4), the Authority or officer may, in writing, require the person to verify within the time specified in the requirement, the answer, response, explanation or particulars by a statutory declaration.
- (6) If, for the reason that the information concerned is not within the person's knowledge or possession, a person does not give any answer, response, explanation or particulars in compliance with a requirement imposed under subsection (2) or (4), the Authority or officer may, in writing, require the person to verify, within the time specified in the requirement, that reason and fact by a statutory declaration.

69. Offences relating to section 68

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a specified requirement imposed on the person.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with a specified requirement imposed on the person.
- (3) A person commits an offence if—
 - (a) in purported compliance with a specified requirement imposed on the person, the person produces any record or document, or gives an answer or response, or gives

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- any explanation or particulars, that are false or misleading in a material respect; and
- (b) the person knows that, or is reckless as to whether, the record or document, or the answer or response, or the explanation or particulars, are false or misleading in a material respect.
- (4) A person commits an offence if, in purported compliance with a specified requirement imposed on the person, the person, with intent to defraud, produces any record or document, or gives an answer or response, or gives any explanation or particulars, that are false or misleading in a material respect.
- (5) A person commits an offence if, being an officer or employee of a company, the person, with intent to defraud—
- (a) causes or allows the company to fail to comply with a specified requirement imposed on the company; or
- (b) causes or allows the company, in purported compliance with a specified requirement imposed on the company, to produce any record or document, or give an answer or response, or give any explanation or particulars, that are false or misleading in a material respect.
- (6) A person is not excused from complying with a specified requirement imposed on the person only on the ground that to do so might tend to incriminate the person.
- (7) A person who commits an offence under subsection (1) is liable to a fine of \$500,000 and to imprisonment for 6 months.
- (8) A person who commits an offence under subsection (2), (3), (4) or (5) is liable—
- (a) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years; or
- (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.
- (9) In this section—

specified requirement (指明要求) means a requirement imposed under section 68.

70. Use of incriminating evidence in proceedings

- (1) If the Authority, or a public officer appointed under section 64(1)(b), requires a person to give an answer or response to any question, or to give an explanation or further particulars, under section 68, the Authority or officer must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of—
 - (a) the requirement; and
 - (b) the question and the answer or response, or the explanation or particulars.
- (2) Despite anything in this Part, if—
 - (a) the Authority, or a public officer appointed under section 64(1)(b), requires a person to give an answer or response to any question, or to give an explanation or further particulars, under section 68; and
 - (b) the answer or response, or the explanation or particulars, might tend to incriminate the person, and the person so claims before giving the answer or response or giving the explanation or particulars,
the requirement, as well as the question and the answer or response, or the explanation or particulars, are not admissible in evidence against the person in criminal proceedings in a court of law other than those specified in subsection (3).
- (3) The criminal proceedings are those in which the person is charged with an offence under section 69(1), (2), (3), (4) or (5), or under Part V of the Crimes Ordinance (Cap. 200), or for perjury, in respect of the answer or response, or the explanation or particulars.

Division 3—Other Miscellaneous Provisions

71. Floor plan of specified residential property

- (1) This section applies if the vendor makes available for collection or inspection by the general public a floor plan of any specified residential properties (other than a floor plan made available in the sales brochure).
- (2) The floor plan must have the scale to which it is drawn marked on that plan.
- (3) If furniture is shown on the floor plan—
 - (a) the furniture must be drawn to the scale marked on the floor plan; and
 - (b) the dimensions of the furniture must be shown on the floor plan.
- (4) If subsection (2) or (3) is contravened, the vendor commits an offence and is liable to a fine at level 6.

72. Amendment of Schedules

The Secretary for Transport and Housing may, by notice published in the Gazette, amend Schedule 1, 2, 3, 4, 5 or 6.

Schedule 1

[ss. 8(2) & (3),
10(2), (3) & (5),
11(1), (2)(b) &
(4)(b), 35(2)(b)
& 36(2)]

Information in Sales Brochure

Part 1

Detailed Requirements for Specific Information Required to be Set Out (See Section 10(2))

1. Information on the development

- (1) The sales brochure must set out the information specified in section 10(2)(a) in compliance with this section.
- (2) The sales brochure must state—
 - (a) the name of the street at which the development is situated; and
 - (b) the street number allocated by the Commissioner of Rating and Valuation for the purpose of distinguishing the development.
- (3) If the development consists of one or more multi-storey buildings, the sales brochure must state—
 - (a) the total number of storeys of each building;
 - (b) the floor numbering in each building as provided in the approved building plans for the development;
 - (c) the omitted floor numbers in each building in which the floor numbering is not in consecutive order; and
 - (d) the refuge floors (if any) of each building.

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- (4) If the development consists of houses, the sales brochure must state—
- (a) the total number of houses;
 - (b) the house numbering as provided in the approved building plans for the development; and
 - (c) (where the house numbering is not in consecutive order) the omitted house numbers.
- (5) If the development is an uncompleted development, the sales brochure—
- (a) must state the estimated material date of the development, as provided by the authorized person for the development;
 - (b) must state that the estimated material date is subject to any extension of time that permitted under the agreement for sale and purchase; and
 - (c) must state that for the purpose of the agreement for sale and purchase—
 - (i) where, under the land grant, the consent of the Director of Lands is required to be given for the sale and purchase, the development is completed on the date on which the Director of Lands issues a certificate of compliance, or a consent to assign, under the land grant; or
 - (ii) where, under the land grant, the consent of the Director of Lands is not required to be given for the sale and purchase, the development is completed on the date on which an occupation permit for the development is issued.

2. Information on vendor and others involved in the development

- (1) The sales brochure must set out the information specified in section 10(2)(b) in compliance with this section.
- (2) The sales brochure must state the names of the following—

- (a) the vendor, and if the vendor is a company, every holding company of the vendor;
- (b) the authorized person for the development, and the firm or company of which that authorized person is a partner, director or employee in his or her professional capacity;
- (c) the registered general building contractor for the development;
- (d) the firm of solicitors acting for the vendor in relation to the sale of residential properties in the development;
- (e) any authorized institution that makes a loan, or undertakes to provide finance, for the construction of the development;
- (f) any other person who makes a loan for the construction of the development.

3. Relationship between parties involved in the development

- (1) The sales brochure must set out the information specified in section 10(2)(c) in compliance with this section.
- (2) The sales brochure must state the following fact (if it exists)—
 - (a) the vendor, or the registered general building contractor for the development, is a natural person, and that vendor or contractor is an immediate family member of the authorized person for the development;
 - (b) the vendor, or the registered general building contractor for the development, is a company, and a director or the secretary of that vendor or contractor (or a holding company of that vendor) is an immediate family member of that authorized person;
 - (c) the vendor, or the registered general building contractor for the development, is a natural person, and that vendor or contractor is an immediate family member of an associate of that authorized person;

- (d) the vendor, or the registered general building contractor for the development, is a company, and a director or the secretary of that vendor or contractor (or a holding company of that vendor) is an immediate family member of such an associate;
 - (e) the vendor, or the registered general building contractor for the development, is a natural person, and that vendor or contractor is an immediate family member of a partner of a firm of solicitors acting for the vendor in relation to the sale of residential properties in the development;
 - (f) the vendor, or the registered general building contractor for the development, is a company, and a director or the secretary of that vendor or contractor (or a holding company of that vendor) is an immediate family member of such a partner.
- (3) For the purposes of subsection (2)—
- (a) the sales brochure must also—
 - (i) in the case of subsection (2)(a), (b), (c) or (d), state the name of the authorized person; or
 - (ii) in the case of subsection (2)(e) or (f), state the name of the firm of solicitors;
 - (b) the sales brochure is not required to state whether the authorized person, associate or partner is—
 - (i) a spouse;
 - (ii) a parent;
 - (iii) a child;
 - (iv) a sibling;
 - (v) a grandparent; or
 - (vi) a grandchild,of the vendor, contractor, director or secretary; and

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- (c) the sales brochure is not required, in the case of subsection (2)(b), (d) or (f), to state the name of the director or secretary.
- (4) The sales brochure must state the following fact (if it exists)—
- (a) the vendor, a holding company of the vendor, or the registered general building contractor for the development, is a private company, and the authorized person for the development, or an associate of that authorized person, holds at least 10% of the issued shares in that vendor, holding company or contractor;
 - (b) the vendor, a holding company of the vendor, or the registered general building contractor for the development, is a listed company, and that authorized person, or such an associate, holds at least 1% of the issued shares in that vendor, holding company or contractor;
 - (c) the vendor, or the registered general building contractor for the development, is a company, and that authorized person, or such an associate, is an employee, director or secretary of that vendor or contractor or of a holding company of that vendor;
 - (d) the vendor, a holding company of the vendor, or the registered general building contractor for the development, is a private company, and a partner of a firm of solicitors acting for the vendor in relation to the sale of residential properties in the development holds at least 10% of the issued shares in that vendor, holding company or contractor;
 - (e) the vendor, a holding company of the vendor, or the registered general building contractor for the development, is a listed company, and such a partner holds at least 1% of the issued shares in that vendor, holding company or contractor;

- (f) the vendor, or the registered general building contractor for the development, is a company, and such a partner is an employee, director or secretary of that vendor or contractor or of a holding company of that vendor;
 - (g) the vendor, or the registered general building contractor for the development, is a company, and the company of which the authorized person is a director or employee in his or her professional capacity is an associate corporation of that vendor or contractor or of a holding company of that vendor;
 - (h) the vendor, and the registered general building contractor for the development, is a company, and that contractor is an associate corporation of that vendor or of a holding company of that vendor.
- (5) For the purposes of subsection (4)—
- (a) the sales brochure must also—
 - (i) in the case of subsection (4)(a), (b) or (c), state the name of the authorized person; or
 - (ii) in the case of subsection (4)(d), (e) or (f), state the name of the firm of solicitors; and
 - (b) the sales brochure is not required, in the case of subsection (4)(a), (b), (d) or (e), to state the percentage or number of share holding.
- (6) In this section—
- associate** (有聯繫人士), in relation to an authorized person, means—
- (a) a partner of the firm of which the authorized person is a partner in his or her professional capacity; or
 - (b) a director of the company of which the authorized person is a director in his or her professional capacity;
- associate corporation** (有聯繫法團), in relation to a company, means—

- (a) a subsidiary of the company; or
- (b) a subsidiary of a holding company of the company;

subsidiary (附屬公司) means a subsidiary within the meaning of the Companies Ordinance (Cap. 32).

- (7) For the purposes of this section, a person is an immediate family member of another person if he or she is a spouse, parent, child, sibling, grandparent or grandchild of that other person.

4. Information on design of the development

- (1) The sales brochure must set out the information specified in section 10(2)(d) in compliance with this section.
- (2) The sales brochure must state—
 - (a) for a completed development, whether there are any non-structural prefabricated external walls, or any curtain walls, forming part of the enclosing walls; or
 - (b) for an uncompleted development, whether there will be any such non-structural prefabricated external walls or curtain walls.
- (3) If there are or will be (as applicable) non-structural prefabricated external walls forming part of the enclosing walls, the sales brochure must state—
 - (a) the range of thickness of the non-structural prefabricated external walls of each block; and
 - (b) the total area of the non-structural prefabricated external walls of each residential property.
- (4) If there are or will be (as applicable) curtain walls forming part of the enclosing walls, the sales brochure must state—
 - (a) the range of thickness of the curtain walls of each building; and
 - (b) the total area of the curtain walls of each residential property.

5. Information on property management

- (1) The sales brochure must set out the information specified in section 10(2)(e) in compliance with this section.
- (2) The sales brochure must state the identity of—
 - (a) for an uncompleted development, the person proposed to be appointed as the manager of the development under the latest draft deed of mutual covenant as at the date on which the sales brochure is printed;
 - (b) for a completed development in respect of which a deed of mutual covenant has been executed, the person appointed as the manager of the development under the deed of mutual covenant; or
 - (c) for a completed development in respect of which a deed of mutual covenant has not been executed, the person proposed to be appointed as the manager of the development under the latest draft deed of mutual covenant as at the date on which the sales brochure is printed.

6. Location plan of the development

- (1) The sales brochure must set out the information specified in section 10(2)(f) in compliance with this section.
- (2) The location plan—
 - (a) must be at least 16 centimetres in length and 16 centimetres in width with the font size of the legends for that plan being at least 10 point typeface; and
 - (b) must show—
 - (i) the location of the development;
 - (ii) the name of every street that is situated within 250 metres from the boundary of the development; and
 - (iii) every building, facility or structure (if any) specified in subsection (4) that is situated within 250 metres from the boundary of the development.

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- (3) The location plan must have the scale to which it is drawn marked on that plan.
- (4) The building, facility or structure is one the principal use of which is the following—
- (a) a crematorium;
 - (b) a columbarium;
 - (c) a mortuary;
 - (d) a slaughterhouse;
 - (e) a bus depot;
 - (f) a railway depot;
 - (g) a ventilation shaft for the Mass Transit Railway;
 - (h) a library;
 - (i) a museum;
 - (j) a barrack;
 - (k) a cargo working area;
 - (l) a petrol filling station;
 - (m) a LPG filling station;
 - (n) an oil depot;
 - (o) an aviation fuel depot;
 - (p) a marine fuel depot;
 - (q) sewage treatment works and facilities;
 - (r) landfills (including ex-landfills);
 - (s) a landfill gas flaring plant;
 - (t) a power plant (including electricity sub-stations);
 - (u) a pylon;
 - (v) a correctional institution (including a prison);
 - (w) an addiction treatment centre;
 - (x) a helicopter landing pad;

- (y) a clinic;
- (z) a fire station;
- (za) an ambulance depot;
- (zb) a funeral parlour;
- (zc) a cemetery;
- (zd) judicial facilities (including a court and a magistracy);
- (ze) a refuse collection point;
- (zf) a hospital;
- (zg) a market (including a wet market and a wholesale market);
- (zh) a police station;
- (zi) a public carpark (including a lorry park);
- (zj) a public convenience;
- (zk) a public transport terminal (including a rail station);
- (zl) a public utility installation;
- (zm) a religious institution (including a church, a temple and a Tsz Tong);
- (zn) a school (including a kindergarten);
- (zo) social welfare facilities (including an elderly centre and a home for the mentally disabled);
- (zp) sports facilities (including a sports ground and a swimming pool);
- (zq) a public park.

7. Aerial photograph of the development

- (1) The sales brochure must set out the information specified in section 10(2)(g) in compliance with this section.
- (2) The aerial photograph of the development must be taken by the Survey and Mapping Office of the Lands Department at a flying height below 7 000 feet.

- (3) The aerial photograph of the development—
 - (a) must be at least 16 centimetres in length and 16 centimetres in width; and
 - (b) must show the development and the surrounding area within 250 metres from the boundary of the development.

8. Outline zoning plan etc. relating to the development

- (1) The sales brochure must set out the information specified in section 10(2)(h) in compliance with this section.
- (2) The outline zoning plan or development permission area plan, or the plan deemed to be a draft plan—
 - (a) must be at least 16 centimetres in length and 16 centimetres in width with the font size of the legends for that plan being at least 10 point typeface; and
 - (b) must show the existing and proposed uses of all land situated within 500 metres from the development.

9. Master layout plan of the development

- (1) The sales brochure must set out the information specified in section 10(2)(i) in compliance with this section.
- (2) The master layout plan—
 - (a) must have the scale to which it is drawn marked on that plan;
 - (b) must show the location and layouts of the buildings, the open areas, the facilities, and the undeveloped land (with the intended use), within the boundary of the development; and
 - (c) if any of the buildings or facilities are not yet completed, must state the estimated date of completion of these buildings or facilities, as provided by the authorized person for the development.

10. Floor plans of residential properties in the development

- (1) The sales brochure must set out the information specified in section 10(2)(j) in compliance with this section.
- (2) Each of the floor plans of the residential properties in the development—
 - (a) must be drawn to a scale of at least 1:200 and have that scale marked on the plans;
 - (b) must state the following in accordance with the approved building plans for the development—
 - (i) the external dimensions of each residential property;
 - (ii) the internal dimensions of each residential property;
 - (iii) the thickness of the internal partitions of each residential property;
 - (iv) the thickness of the floor slabs (excluding plaster) of each residential property;
 - (v) the external dimensions of individual compartments in each residential property;
 - (vi) the floor-to-floor height of each residential property; and
 - (c) must state that the internal areas of the residential properties on the upper floors will generally be slightly larger than those on the lower floors because of the reducing thickness of the structural walls on the upper floors.

11. Area of residential properties in the development

- (1) The sales brochure must set out the information specified in section 10(2)(k) in compliance with this section.

-
- (2) The sales brochure must set out the following information in relation to each residential property in the development in the form specified by the Authority—
- (a) the saleable area of the residential property;
 - (b) the floor area of the following (if any) forming part of the residential property—
 - (i) a balcony;
 - (ii) a utility platform;
 - (iii) a verandah;
 - (c) the area of the following (if any) forming part of the residential property—
 - (i) a cockloft;
 - (ii) a stairhood;
 - (iii) a bay window;
 - (iv) a car parking space;
 - (v) a yard;
 - (vi) a terrace;
 - (vii) a garden;
 - (viii) a flat roof;
 - (ix) a roof;
 - (x) an air-conditioning plant room;
 - (xi) any other facilities for the residential property.
- (3) The sales brochure must state that an area under subsection (2) is calculated in accordance with section 3.
- (4) An area under subsection (2) must be set out in square feet and in square metres.

12. Floor plans of car parking spaces

- (1) The sales brochure must set out the information specified in section 10(2)(1) in compliance with this section.

- (2) Each of the floor plans of the car parking spaces—
 - (a) must show the location of the car parking spaces;
 - (b) must state the number of the car parking spaces; and
 - (c) must state the dimensions and area of each of the car parking spaces.

13. Summary of preliminary agreement for sale and purchase

- (1) The sales brochure must set out the information specified in section 10(2)(m) in compliance with this section.
- (2) The sales brochure must contain a summary of the provisions of the preliminary agreement for sale and purchase that deal with the following matters—
 - (a) that a preliminary deposit of 5% is payable on the signing of that preliminary agreement;
 - (b) that the preliminary deposit paid by the purchaser on the signing of that preliminary agreement will be held by a firm of solicitors acting for the vendor, as stakeholders;
 - (c) that if the purchaser fails to execute the agreement for sale and purchase within 3 working days after the date on which the purchaser signs that preliminary agreement—
 - (i) that preliminary agreement is terminated;
 - (ii) the preliminary deposit is forfeited; and
 - (iii) the vendor does not have any further claim against the purchaser for the failure.

14. Summary of deed of mutual covenant

- (1) The sales brochure must set out the information specified in section 10(2)(n) in compliance with this section.
- (2) The sales brochure must contain a summary of the deed of mutual covenant concerning the following—
 - (a) the common parts of the development;

- (b) the number of undivided shares assigned to each residential property in the development;
- (c) the term of years for which the manager of the development is appointed;
- (d) the basis on which the management expenses are shared among the owners of the residential properties in the development;
- (e) the basis on which the management fee deposit is fixed;
- (f) the area (if any) in the development retained by the vendor for its own use.

15. Summary of land grant

- (1) The sales brochure must set out the information specified in section 10(2)(o) in compliance with this section.
- (2) The sales brochure must contain a summary of the provisions of the land grant concerning the following—
 - (a) the lot number of the land on which the development is situated;
 - (b) the term of years under the lease;
 - (c) the user restrictions applicable to that land;
 - (d) the facilities that are required to be constructed and provided for the Government, or for public use;
 - (e) the grantee's obligations to lay, form or landscape any areas, or to construct or maintain any structures, within or outside that land;
 - (f) the lease conditions that are onerous to a purchaser.

16. Information on public facilities and public open space

- (1) The sales brochure must set out the information specified in section 10(2)(p) in compliance with this section.
- (2) The sales brochure—

-
- (a) must contain a description of the facilities that are required to be constructed and provided for the Government, or for public use, under the land grant;
 - (b) must contain a description of the facilities that are required to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development under the land grant;
 - (c) must set out the size of the open space that is required to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development under the land grant; and
 - (d) must contain a description of the part of the land (on which the development is situated) that is dedicated to the public for the purposes of regulation 22(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F).
- (3) The sales brochure must set out a plan—
- (a) that shows the location of those facilities and open space, and the part of the land, mentioned in subsection (2) as far as it is practicable to do so; and
 - (b) that have those facilities and open spaces, and the part of the land, coloured or shaded in the same colour, format or pattern (as applicable) as in the land grant or the deed of dedication (as the case may be).
- (4) The sales brochure must, in relation to those facilities or open space, and the part of the land, mentioned in subsection (2) that are for public use, state that the general public has the right to use the facilities or open space in accordance with the land grant or the deed of dedication (as the case may be).
- (5) The sales brochure must, in relation to those facilities or open space mentioned in subsection (2)(b) or (c), state—
- (a) that those facilities or open space are required to be managed, operated or maintained at the expense of the owners of the residential properties in the development; and

- (b) that those owners are required to meet a proportion of the expense of managing, operating or maintaining those facilities or open space in the management expenses apportioned to the residential properties concerned.
- (6) The sales brochure must set out the provisions of the land grant, the deed of mutual covenant, and the deed of dedication, that concern those facilities and open space, and the part of the land, mentioned in subsection (2).

Part 2

Additional Information Required to be Set Out (See Section 10(3))

17. Warning to purchasers

- (1) The sales brochure—
 - (a) must state that the purchaser has the choice of instructing the firm of solicitors acting for the vendor, or instructing another firm of solicitors, to act for the purchaser in relation to the transaction; and
 - (b) must recommend the purchaser to instruct another firm of solicitors to act for the purchaser in relation to the transaction.
- (2) The sales brochure must state—
 - (a) that if the purchaser instructs another firm of solicitors to act for the purchaser in relation to the transaction, that firm will be able to give independent advice to the purchaser;
 - (b) that if the purchaser instructs the firm of solicitors acting for the vendor to act for the purchaser as well, and there is a conflict of interests between the vendor and the purchaser—

- (i) that firm may not be able to protect the purchaser's interests; and
- (ii) the purchaser may have to instruct another firm of solicitors; and
- (c) that in the case of paragraph (b)(ii), the total solicitors' fees payable by the purchaser may be higher than the fees that would have been payable if the purchaser had instructed another firm of solicitors in the first place.

18. Information on common facilities in the development

- (1) The sales brochure must set out the area, in both square feet and square metres, of each of the following (if any)—
 - (a) a residents' clubhouse;
 - (b) a communal sky garden;
 - (c) a covered and landscaped play area.
- (2) The sales brochure must state whether or not the facilities specified in subsection (1)(a) and (b) are covered by a roof.

19. Inspection of plans and deed of mutual covenant

- (1) The sales brochure must state the address of the website on which a copy of a plan specified in section 10(2)(h)(i) or (ii) relating to the development is available.
- (2) The sales brochure must state—
 - (a) that a copy of the following is available for inspection at the place at which the residential property is offered to be sold—
 - (i) for an uncompleted development, the latest draft deed of mutual covenant as at the date on which the sales brochure is printed;
 - (ii) for a completed development in respect of which a deed of mutual covenant has been executed, the deed of mutual covenant;

- (iii) for a completed development in respect of which a deed of mutual covenant has not been executed, the latest draft deed of mutual covenant as at the date on which the sales brochure is printed; and
- (b) that the inspection is free of charge.

20. Fittings, finishes and appliances

- (1) The sales brochure must, in relation to each item in the development specified in column 1 of the following table, set out the description specified opposite to it in column 2 of the table.
- (2) The sales brochure must, in relation to items 4(a) and 6 in the development specified in the following table, contain an undertaking by the vendor that if lifts or appliances of the specified brand name or model number are not installed in the development, lifts or appliances of comparable quality will be installed.

Table

Column 1 Item	Column 2 Description
1. Exterior finishes	
(a) External wall	Type of finishes.
(b) Window	Material of the frame and glass.
(c) Bay window	Material and window sill finishes.
(d) Planter	Type of finishes.
(e) Verandah or balcony	(i) Type of finishes. (ii) Whether it is covered.
(f) Drying facilities for clothing	Type and material.
2. Interior finishes	

-
- | | |
|-------------------------------|---|
| (a) Lobby | Type of wall, floor and ceiling finishes. |
| (b) Internal wall and ceiling | Type of wall and ceiling finishes for living room, dining room and bedroom. |
| (c) Internal floor | Material of floor and skirting for living room, dining room and bedroom. |
| (d) Bathroom | (i) Type of wall, floor and ceiling finishes.
(ii) Whether the wall finishes run up to the ceiling. |
| (e) Kitchen | (i) Type of wall, floor, ceiling and cooking bench finishes.
(ii) Whether the wall finishes run up to the ceiling. |
| 3. Interior fittings | |
| (a) Doors | Material, finishes and accessories. |
| (b) Bathroom | (i) Type and material of fittings and equipment.
(ii) Type and material of water supply system.
(iii) Type and material of bathing facilities (including shower or bath tub, if applicable).
(iv) Size of bath tub, if applicable. |
| (c) Kitchen | (i) Material of sink unit.
(ii) Material of water supply system.
(iii) Material and finishes of kitchen cabinet. |

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- | | |
|--------------------------------------|--|
| | (iv) Type of all other fittings and equipment. |
| (d) Bedroom | Type and material of fittings (including built-in wardrobe). |
| (e) Telephone | Location and number of connection points. |
| (f) Aerials | Location and number of connection points. |
| (g) Electrical installations | (i) Electrical fittings (including safety devices).
(ii) Whether conduits are concealed or exposed.
(iii) Location and number of power points, sockets and air-conditioner points. |
| (h) Gas supply | Type, system and location. |
| (i) Washing machine connection point | Location and design. |
| (j) Water supply | (i) Material of water pipes.
(ii) Whether water pipes are concealed or exposed.
(iii) Whether hot water is available. |
| 4. Miscellaneous | |
| (a) Lifts | (i) Brand name and model number.
(ii) Number and floors served by them. |
| (b) Letter box | Material. |
| (c) Refuse collection | (i) Means of refuse collection.
(ii) Location of refuse room. |
| (d) Water meter, | (i) Location. |

electricity meter
and gas meter

(ii) Whether they are separate or communal meters for residential properties.

5. Security facilities

Security system and equipment (including details of built-in provisions and their locations).

6. Appliances

Brand name and model number.

21. Service agreements

The sales brochure must set out information on any agreement with a utility company for providing utility service for the residential property.

22. Government rent

The sales brochure must state the date up to which the vendor is liable for the Government rent payable for the residential property.

23. Miscellaneous payments by purchaser

(1) The sales brochure—

(a) must state that, on the delivery of the vacant possession of the residential property to the purchaser, the purchaser is liable to reimburse the vendor for the deposits for water, electricity and gas; and

(b) must state whether, on that delivery, the purchaser is also liable to pay to the vendor a debris removal fee.

(2) Subsection (1) applies even though the amount of the deposits or fee is yet to be ascertained at the date on which the sales brochure is printed.

24. Defect liability warranty period

The sales brochure must state the duration of the period during which the vendor is liable to make good any defect in the

residential property, as provided in the agreement for sale and purchase.

25. Maintenance of slopes

- (1) If the land grant requires the owners of the residential properties in the development to maintain any slope at their own cost, the sales brochure—
 - (a) must state the terms of the requirement;
 - (b) must state that each of the owners is obliged to contribute towards the costs of the maintenance work; and
 - (c) must set out a plan showing—
 - (i) the slope; and
 - (ii) any retaining wall or related structures constructed, or to be constructed, within or outside the land on which the development is situated; and
 - (d) must comply with subsection (3).
- (2) If the vendor has undertaken to maintain any slope in relation to the development at the vendor's own cost, the sales brochure—
 - (a) must state the terms of the undertaking; and
 - (b) must set out a plan showing—
 - (i) the slope; and
 - (ii) any retaining wall or related structures constructed, or to be constructed, within or outside the land on which the development is situated.
- (3) If, under the deed of mutual covenant, the manager of the development has the owners' authority to carry out the maintenance work, the sales brochure must state this fact.

26. Modification

If the vendor has applied to the Government for a modification of the land grant, and the application is not yet granted, the sales brochure must state—

- (a) the nature of the modification sought; and
- (b) the condition sought to be modified.

Part 3**Further Information to Follow Information Required to
be Set Out
(See Section 11(1) and (2))****27. Information in application for concession on gross floor area of building**

- (1) In setting out the information specified in section 11(1), the sales brochure must comply with this section.
- (2) The sales brochure must set out—
 - (a) information on those areas in relation to which the power is exercised;
 - (b) the environmental assessment of the building; and
 - (c) information on the estimated energy performance or consumption for the common parts of the development.

Note—

The Authority is empowered under section 66 to issue guidelines providing guidance on the operation of this section.

28. Elevation plan

- (1) In setting out the information specified in section 11(2)(a), the sales brochure must comply with this section.
- (2) The plan showing elevation of the development must be in colour.

- (3) The plan showing elevation of the development must be certified by the authorized person for the development that the elevation—
 - (a) is prepared on the basis of the approved building plans for the development as of a date specified by the authorized person; and
 - (b) is in general accordance with the outward appearance of the development.

Part 4

Other Further Information (See Section 11(4))

29. Previous aerial photograph

- (1) The sales brochure may, in addition to the latest aerial photograph of the development specified in section 10(2)(g), set out any previous aerial photograph of the development.
- (2) In setting out any previous aerial photograph of the development under subsection (1), the sales brochure must comply with subsection (3).
- (3) The sales brochure—
 - (a) must set out any previous photograph of the development in that part of the sales brochure that sets out the latest aerial photograph of the development specified in section 10(2)(g); and
 - (b) must do so in compliance with section 7 of this Schedule as if the reference in that section to an aerial photograph of the development were a reference to the previous aerial photograph of the development.

30. Other common facilities

- (1) The sales brochure may, in addition to the information on the common facilities specified in section 18 of this Schedule, set out the information on any other facilities or area for common use.
- (2) In setting out the information, the sales brochure must comply with subsection (3).
- (3) The sales brochure—
 - (a) must set out the information in that part of the sales brochure that sets out the information on the common facilities specified in section 18 of this Schedule; and
 - (b) must do so in compliance with that section as if the reference in that section to those common facilities were a reference to those other facilities and area for common use.

Part 5**Phased Development****31. Application of this Schedule in case of phased development**

- (1) If the development is divided into 2 or more phases, Parts 1, 2, 3 and 4 of this Schedule apply to the sales brochure for the phase of which the specified residential property forms part as if—
 - (a) a reference in those Parts to an uncompleted development were a reference to an uncompleted phase;
 - (b) a reference in those Parts to a completed development were a reference to a completed phase;
 - (c) subject to subsection (2), a reference in those Parts to the development were a reference to the phase of which the specified residential property forms part.

- (2) Subsection (1)(c) does not apply to a reference in section 6, 8 and 9 of this Schedule to the development.
-

Schedule 2

[ss. 8(2)(b),
15(4)(a) &
20(4)(a)]

**Entities Specified for Purposes of Sections 8(2)(b),
15(4)(a) and 20(4)(a)**

1. The Authority
 2. The Consumer Council
 3. The Estate Agents Authority
 4. The Director of Lands
-

Schedule 3

[s. 40(1)]

**Provisions Incorporated into Preliminary Agreement
for Sale and Purchase**

Schedule 4

[s. 40(2)]

**Provisions Incorporated into Agreement for Sale and
Purchase (Uncompleted Development)**

Schedule 5

[s. 40(3)]

**Provisions Incorporated into Agreement for Sale and
Purchase (Completed Development)**

Schedule 6[ss. 46(5) &
48(2)]**Vendor's Information Form****1. Information to be given in vendor information form**

- (1) A vendor's information form mentioned in section 46 or 48 must set out the following information—
 - (a) the saleable area of the specified residential property;
 - (b) the floor area of the following (if any) forming part of the specified residential property—
 - (i) a balcony;
 - (ii) a utility platform;
 - (iii) a verandah;
 - (c) the availability of the following in the specified residential property—
 - (i) fresh water;
 - (ii) flushing water;
 - (iii) drainage;
 - (iv) gas;
 - (v) electricity;
 - (d) the amount of the management fee that is payable for the specified residential property;
 - (e) the amount of the Government rent (if any) that is payable for the specified residential property;
 - (f) the name of the owners' incorporation (if any);
 - (g) the name of the manager of the development;
 - (h) any notice received by the vendor from the Government or management office concerning sums required to be

contributed by the owners of the residential properties in the development;

- (i) any pending claim affecting the specified residential property that is known to the vendor;
 - (j) a master layout plan of the development;
 - (k) a floor plan of the specified residential property.
- (2) If—
- (a) the Building Authority has exercised the power under section 42(1) of the Buildings Ordinance (Cap. 123) in permitting modification of regulation 23(3)(a) of the Building (Planning) Regulations (Cap. 123 sub. leg. F) in relation to a building in the development;
 - (b) the plot ratio for a building in the development exceeds the permitted plot ratio by virtue of regulation 22(1)(b) of those Regulations;
 - (c) the Building Authority has given a permit under regulation 22(2)(b) of those Regulations in relation to a building of the development; or
 - (d) the Building Authority has exercised the power under regulation 23(3)(b) of those Regulations in disregarding any floor space in determining the gross floor area of a building in the development for the purposes of regulations 20, 21 and 22 of those Regulations,

the vendor's information form must set out the environmental assessment of the building that has been submitted to the Building Authority in the application made the purpose of that section 42(1) or regulation 22(1)(b) or (2)(b) or 23(3)(b).

2. Application of section 1 of this Schedule in case of phased development

If the development is divided into 2 or more phases, section 1 of this Schedule applies to the vendor's information form as if a reference in section 1(1)(g) and (h) and (2) of this Schedule to the

development were a reference to the phase of which the specified residential property forms part.

**Proposed Mandatory Provisions
for Preliminary Agreement
for Sale and Purchase**

**Proposed Mandatory Provisions for
Preliminary Agreement for Sale and Purchase**

Mandatory Provision

1. The measurements, fittings, finishes and appliances of the Property have been listed in Schedules 1 and 2 respectively.
2. The purchase price of the Property shall be HK\$_____ which shall be paid by the Purchaser to the Vendor in the manner as follows:-
Preliminary deposit in the sum of HK\$_____, which is equal to 5% of the purchase price shall be paid upon signing of this Agreement.
3. Deposits payable by the Purchaser shall be held by the Vendor's solicitors as stakeholder.
4. It is intended that this Agreement is to be superseded by a Formal Agreement for Sale and Purchase ("the Formal Agreement") to be signed by the Purchaser on or before _____ (to insert a date, being the third working day after the signing of this Agreement) and by the Vendor on or before _____ (i.e. a further three working days after that date).
5. The ad valorem stamp duty, if any, payable on this Agreement, the Formal Agreement and the subsequent Assignment shall be borne by *the Vendor/the Purchaser.
6. The Special Stamp Duty, if any, payable on this Agreement, the Formal Agreement and the subsequent Assignment shall be borne by *the Vendor/the Purchaser.

* Delete as appropriate

@ A schedule of fittings, finishes and appliances must be included in this Agreement

7. If the Purchaser fails to sign the Formal Agreement within 3 working days after the signing of this Agreement, this Agreement shall be terminated; the preliminary deposit paid by the Purchaser shall be forfeited to the Vendor and the Vendor shall not have any further claim against the Purchaser for the failure.
8. It is hereby declared that the sale and purchase hereof shall include the fittings, finishes and appliances as set out in Schedule 2.
9. The Vendor shall not restrict the Purchaser's right to raise requisition or objection in respect of title.
10. The Purchaser has acknowledged receipt of a copy of a bilingual version of "Warning to Purchasers" at Schedule 3 and fully understands the contents thereof.

<p>* Delete as appropriate @ A schedule of fittings, finishes and appliances must be included in this Agreement</p>

SCHEDULE 1

Measurements of the Property

(a) Saleable Area: -

[] square metres/[]square feet *[of which []square metres/[]square feet belong to the balcony] *[and [] square metres/[]square feet belong to the utility platform] *[and [] square metres/[]square feet belong to the verandah]

(b) Areas other than Saleable Area: -

*[[] square metres/[]square feet for the cockloft]

*[[] square metres/[]square feet for the stairhood]

*[[] square metres/[]square feet for the bay window]

*[[] square metres/[]square feet for the car parking space]

*[[] square metres/[]square feet for the yard]

*[[] square metres/[]square feet for the terrace]

*[[] square metres/[]square feet for the garden]

*[[] square metres/[]square feet for the flat roof]

*[[] square metres/[]square feet for the roof]

*[[] square metres/[]square feet for the air-conditioning plant room]

*[[] square metres/[]square feet for the other facilities for the Property]

* Delete as appropriate

@ A schedule of fittings, finishes and appliances must be included in this Agreement

SCHEDULE 2

@Fittings, Finishes and Appliances

* Delete as appropriate
@ A schedule of fittings, finishes and appliances must be included in this Agreement

SCHEDULE 3

Warning to Purchasers

1. Before you sign the formal agreement for sale and purchase which you have to sign if you go on with your purchase you should instruct a solicitor to protect your interests and to ensure that your purchase is properly completed.
2. You can instruct your own independent solicitor to act for you to conduct the purchase or you can instruct the vendor's solicitor to act for you as well as for the vendor.
3. **YOU ARE RECOMMENDED TO INSTRUCT YOUR OWN SOLICITOR**, who will be able, at every stage of your purchase, to give you independent advice.
4. If you instruct the solicitor for the vendor to act for you as well and if a conflict arises between you and the vendor he will not be able to protect your interests and you will then have to instruct your own solicitor anyway, in which case the total fees you will have to pay may be higher than the fees which you would have had to pay if you had instructed your own solicitor in the first place.
5. You are free to choose whichever option you prefer. Please think carefully before deciding whether to instruct your own independent solicitor, or the vendor's solicitor, to protect your interests.

<p>* Delete as appropriate @ A schedule of fittings, finishes and appliances must be included in this Agreement</p>

**Proposed Mandatory Provisions
for Agreement for Sale and Purchase
for Uncompleted Development**

**Proposed Mandatory Provisions for
Agreement for Sale and Purchase for Uncompleted Development**

Mandatory Provision

1. In this Agreement the following expressions shall have the following meanings except where the context otherwise permits or requires: -
2. “Authorized Person” means [], and this expression shall include any other authorized person or persons as defined in section 2(1) of the Buildings Ordinance for the time being appointed by the Vendor in his place.
3. **[“Building” means the building or buildings comprised in Phase [] of the Development of which the Property forms part.]
4. * [“Building Mortgage” means the [] dated the [] day of [] made between the Vendor of the one part and [] of the other part and registered in the Land Registry by Memorial No. [].]
5. “building plans” means the general building plans and specifications prepared by the Authorized Person and approved by the Building Authority under Reference No. [] and includes any approved amendments thereto.
6. “business day” means a day other than Saturdays, Sundays and public holidays and on which banks are open for business in the Hong Kong Special Administrative Region.

- | |
|--|
| * Delete as appropriate |
| ** For phased development only |
| θ For phased development only except for the final phase of the development |
| @ Insert AP’s estimated date of compliance |
| ∇ Numbering to be renamed for individual contracts |
| ¤ Insert an amount equivalent to 5% of the purchase price |
| § A schedule of fittings, finishes and appliances must be included in this Agreement |

7. “Certificate of Compliance” means the certificate issued or to be issued by or on behalf of the Director of Lands to the effect that all the positive obligations of the Vendor under the Government Grant in relation to the land have been complied with.
8. “Construction Costs” means: -
- (a) any sum incurred or to be incurred in connection with any works done or to be done, and materials or goods supplied or to be supplied, in connection with the site formation on the land and the substructure and superstructure construction for ^{**}[Phase [] of] the Development (including the communal ^{*}[and recreational] facilities as set out in Schedule 5), and the making of ^{**}[Phase [] of] the Development fit to qualify for the issue of an Occupation Permit and to comply with the Government Grant ^{**} [in so far as they relate to Phase [] of the Development];
 - (b) any sums needed to be incurred by the Vendor to install the fittings, finishes and appliances of ^{**}[Phase [] of] the Development (including the fittings, finishes and appliances as set out in Schedule 4) and in making every unit in ^{**}[Phase [] of] the Development ready for handover to purchasers on completion of the sale and purchase; and
 - (c) any other sums (excluding the Professional Fees) which in the reasonable opinion of the Authorized Person needed to be incurred to complete the construction of ^{**}[Phase [] of] the Development fit to qualify for the issue of an Occupation Permit and to comply with the Government Grant ^{**} [in so far as they relate to Phase [] of the Development] and this Agreement.

*	Delete as appropriate
**	For phased development only
θ	For phased development only except for the final phase of the development
@	Insert AP’s estimated date of compliance
∇	Numbering to be renamed for individual contracts
¤	Insert an amount equivalent to 5% of the purchase price
§	A schedule of fittings, finishes and appliances must be included in this Agreement

9. “Development” means [**insert** brief description of the development giving as much information as reasonably practicable so that a purchaser will have a general understanding as to the nature and composition of the development, the communal and recreational facilities (if any) provided therein, other special features (if any), etc.] now being constructed or to be constructed on the land in accordance with the building plans and intended to be known as [“
”].
10. ***“Exclusion Order”** means the Exclusion Order dated the [] day of [] and registered in the Land Registry by Memorial No. [] including any orders amending it.
11. ***“expiry date of the Building Covenant Period”** means the date by which the Development is required to be completed under the * Government Grant/Exclusion Order or any extended period granted by the Government.
12. **“Government”** means the Government of the Hong Kong Special Administrative Region.
13. **“Government Grant”** means the Government Grant document specified in Schedule 1.
14. **“land”** means all that piece or parcel of land known and registered in the Land Registry as [**insert** lot number].
15. **“Measurements”** means the measurements of the Property set out in Schedule 2.

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16. “Occupation Permit” means the written permission to be issued by the Building Authority under the provisions of the Buildings Ordinance for the *Building/Development to be occupied and includes a Temporary Occupation Permit.
17. “office hours” means 10:00 a.m. to 4:30 p.m.
18. **“Phase []” means the Phase of the Development comprising Blocks [].
19. “Professional Fees” means any sums incurred or to be incurred by the Vendor for the employment of the Authorized Person and other professional persons or consultants in relation to completion of ** [Phase [] of] the Development.
20. “Saleable Area” means the “saleable area” within the meaning of Clause 3 of the Residential Properties (First-hand Sales) Ordinance.
21. “Temporary Occupation Permit” means the temporary permit to be issued by the Building Authority under the provisions of the Buildings Ordinance for the *Building/Development or any part thereof comprising the Property to be occupied.
22. The purchase price shall be the sum set out in Schedule 3 and shall be paid by the Purchaser to the Vendor’s solicitors as stakeholders in the manner set out in Schedule 3.
23. The Vendor shall: -
 - (a) continue the construction of the Development with all due expedition;

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(b) comply with the requirements of the Building Authority and of any other relevant Government authority relating to the Development; and

(c) complete ^θ[Phase [] of] the Development in all respects in compliance with the conditions of the Government Grant ^θ[in so far as they relate to Phase [] of the Development], the building plans and this Agreement, incorporating the fittings, finishes and appliances as set out in Schedule 4 into the Property, on or before the [@][] day of [] subject to such extensions of time as may be granted by the Authorized Person in accordance with [mandatory provision no. 29[∇]].

24. Notwithstanding [mandatory provision no. 23(c)[∇]], if there is an expiry date of the Building Covenant Period, the Vendor shall complete the Development in all respects in accordance with the building plans by the expiry date of the Building Covenant Period. If at any time it appears likely in the opinion of the Authorized Person that the Development will not be completed by the expiry date of the Building Covenant Period, the Vendor shall promptly apply for and obtain such extension of time for completing the Development as shall be required and shall pay any premium to the Government for such extension. The Vendor shall notify the Purchaser in writing of such application and the terms of extension granted within 30 days after each event.

OR

Notwithstanding [mandatory provision no. 23(c)[∇]], if the land is subject to a Redevelopment Order, the Vendor shall complete the Development in all respects in accordance with the building plans by the expiry date of the period allowed by the Redevelopment Order. If at any time it appears likely in the opinion of the Authorized Person that the Development will not be completed by the expiry date of the period allowed by the Redevelopment Order, the Vendor shall promptly apply for and obtain such extension of time for completing the Development as

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shall be required and shall pay any premium to the Government for such extension. The Vendor shall notify the Purchaser in writing of such application and the terms of extension granted within 30 days after each event.

25. If the Vendor fails to apply for and obtain any necessary extension of time for completing the Development under [mandatory provision no. 24[∇]] and fails to complete the Development by the expiry date of the *Building Covenant Period/period allowed by the Redevelopment Order or such extension period may have been granted, the Purchaser shall be entitled, ** [unless the completion of the sale and purchase herein has taken place], in addition to any other remedy that he may have, to give the Vendor notice in writing to rescind this Agreement and upon service of such notice, this Agreement shall be rescinded, and the Vendor shall, within 7 days thereafter, repay to the Purchaser all amounts paid by the Purchaser hereunder together with interest thereon at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts were paid to the date of repayment, the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor hereunder.
26. Subject to [mandatory provision no. 27[∇]], if the Vendor fails to complete ^θ[Phase[] of] the Development by the date specified in [mandatory provision no. 23(c)[∇]] as extended by any extensions of time granted by the Authorized Person under [mandatory provision no. 29[∇]], the Purchaser shall be at liberty, in addition to any other remedy that he may have, by notice in writing to the Vendor to rescind this Agreement and upon service of such notice, this Agreement shall be rescinded, and the Vendor shall, within 7 days thereafter, repay to the Purchaser all amounts paid by the Purchaser hereunder together with interest thereon at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts were paid up to the date of repayment,

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the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor hereunder.

27. If the Purchaser does not rescind this Agreement under [mandatory provision no. 26[∇]] within 28 days after the date specified in [mandatory provision no. 23(c)[∇]] or any extended date under [mandatory provision no. 29[∇]], he shall be deemed, without prejudice to his rights under [mandatory provision no. 28[∇]] hereof, to have elected to wait for completion of ^θ[Phase [] of] the Development. In such event the Vendor shall pay to the Purchaser interest at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time on all amounts paid under this Agreement from the date following the date specified in [mandatory provision no. 23(c)[∇]] or any extended date under [mandatory provision no. 29[∇]] up to the date of completion of ^θ[Phase[] of] the Development. Such interest shall be paid or allowed as a credit to the Purchaser in respect of the purchase price on completion of the sale and purchase.
28. Notwithstanding [mandatory provision no. 26[∇]] and [mandatory provision no. 27[∇]], if ^θ[Phase[] of] the Development is not completed in accordance with the building plans and the other provisions of this Agreement within a period of 6 months from the date specified in [mandatory provision no. 23(c)[∇]] or any extended date under [mandatory provision no. 29[∇]], the Purchaser shall be at liberty either to rescind this Agreement in which event the provisions of [mandatory provision no. 26[∇]] relating to repayment and interest shall apply or to await the completion of ^θ[Phase[] of] the Development in which event the provisions of [mandatory provision no. 27[∇]] relating to the payment of interest shall apply.

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29. The Vendor shall be entitled to such extensions of time for completion of ^θ[Phase [] of] the Development beyond the date stated in [mandatory provision no. 23(c)[∇]] as shall be granted by the Authorized Person and appear to him to be reasonable having regard to delays caused exclusively by any one or more of the following reasons: -

- (a) strike or lock-out of workmen;
- (b) riots or civil commotion;
- (c) force majeure or Act of God;
- (d) fire or other accident beyond the Vendor's control;
- (e) war; or
- (f) inclement weather.

For the purpose of this Agreement, "inclement weather" means rainfall in excess of 20 millimetres in a twenty-four hour period (mid-night to mid-night) as recorded at the Hong Kong Observatory, a Black Rainstorm Warning Signal is issued or the hoisting of Typhoon Signal No. 8 or above at any time between the hours of 8:00 a.m. and 5:00 p.m.

30. The Vendor shall within 14 days after the issue of any such extensions of time granted by the Authorized Person under [mandatory provision no. 29[∇]] furnish the Purchaser with a copy of the relevant certificate of extension.

31. The Vendor shall apply in writing for *an Occupation Permit/a Certificate of Compliance or the consent of the Director of Lands to assign in respect of *[the Building]^θ[[Phase [] of] the Development] within 14 days after its having completed *[the Building]^θ[[Phase [] of] the Development] as stipulated in [mandatory provision no. 23(c)[∇]].

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32. For the purposes of [mandatory provisions nos. 23 to 29 and 31[∇]], the *Building/Development is deemed to be completed on the date on which the Occupation Permit is issued.

OR

For the purpose of [mandatory provisions nos. 23 to 29 and 31[∇]], the issue of a Certificate of Compliance or consent to assign by the Director of Lands shall be conclusive evidence that ^θ[Phase [] of] the Development has been completed or is deemed to be completed as the case may be and nothing in this Clause shall preclude the Vendor from proving that it has complied with [mandatory provision no. 23(c)[∇]] by any other means.

33. The Vendor shall notify the Purchaser in writing that it is in a position validly to assign the Property within one month after the issue of *the Occupation Permit/the Certificate of Compliance or the consent of the Director of Lands to assign, whichever shall first happen.
34. The sale and purchase shall be completed at the offices of Messrs. [] during office hours within 14 days after the date of the notification to the Purchaser that the Vendor is in a position validly to assign the Property to the Purchaser.
35. Subject to [mandatory provision no. 37[∇]], the Vendor shall not restrict the Purchaser's right to raise requisition or objection in respect of title.

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36. The Vendor hereby warrants: -
- (a) that the fittings, finishes and appliances specified in Schedule 4 shall, on or before completion of the construction of ⁰[Phase [] of] the Development, be incorporated into the Property Provided Always that if the Vendor is prevented by force majeure or other reason beyond its control from obtaining such fittings, finishes and appliances, other fittings, finishes and appliances certified by the Authorized Person to be of comparable quality may be substituted;
 - (b) that subject to [mandatory provisions nos. 41-43[∇]], the Property will, on completion of the construction of ⁰[Phase [] of] the Development, be as shown on the plan attached hereto and the measurements of the Property will be the Measurements; and
 - (c) that on completion of the Development the Vendor shall provide the communal ^{*}[and recreational] facilities set out in Schedule 5.
37. The Purchaser shall raise no objection if the Vendor's interest in the Property is an equitable interest and not a legal estate.
38. The ad valorem stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the ^{*}Purchaser/Vendor.
39. The Special Stamp Duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the ^{*}Purchaser/Vendor.
40. Time shall in every respect be of the essence of this Agreement.

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41. Notwithstanding anything hereinbefore contained, the Vendor hereby reserves the right to alter the building plans whenever the Vendor considers necessary Provided That the Vendor shall notify the Purchaser in writing of such alteration if the same affects in any way the Property within 14 days after its having been approved by the Building Authority. If, as a result of such alteration, the measurements of the Property or any part thereof according to such amended plans shall differ from the Measurements, then the purchase price shall be adjusted in proportion to the variation of the measurements of the parts of the Property affected Provided That if the increase or reduction in the measurements of the Property or any part thereof shall exceed 5% of the Measurements, then the Purchaser shall be at liberty to rescind this Agreement, in which event all moneys paid by him hereunder shall be returned to him with interest thereon at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates of payment to the date of repayment. The Purchaser shall exercise his right of rescission by notice in writing to the Vendor within 30 days after the Purchaser being notified in writing by the Vendor of the approval of such amended plans by the Building Authority, and if no such notice is received by the Vendor within such time, the Purchaser shall be deemed to have accepted such plans.

42. Any dispute as to: -

- (a) the extent of any variation in the Measurements under [mandatory provision no. 41[∇]];
- (b) the extent of any adjustment of the purchase price as a result thereof; or
- (c) whether the proviso to [mandatory provision no. 36(a)[∇]] has been complied with and, if it has not, as to the extent of the damages which should be paid

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

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43. If either party is dissatisfied with the decision of the Authorized Person made pursuant to [mandatory provision no. 42[∇]], such party shall within 14 days after the decision being communicated to him give to the other party notice in writing of his intention to refer the decision to another authorized person as defined in section 2(1) of the Buildings Ordinance acting as an expert, otherwise the decision of the Authorized Person shall be final and binding on the parties. Should the parties fail to agree on such other authorized person to be appointed within 30 days after the giving of such notice, either party shall be entitled to apply within 7 days thereafter to the President of The Hong Kong Institute of Surveyors for the appointment of a member of the Institute whose decision shall be final and binding on both parties. If a party, after giving to the other party notice in writing of his intention to refer the decision of the Authorized Person to another authorized person as aforesaid, fails to refer the decision to another authorized person within 44 days after the giving of such notice, then the decision of the Authorized Person shall be final and binding on the parties. The costs of the Authorized Person shall be paid as directed by him in his award.
44. Subject as hereinafter provided, any part of the purchase price paid by the Purchaser to Messrs. [] shall be held by them as stakeholders pending completion of the sale and purchase and shall be applied and released in the following manner only: -
- (a) first, towards payment of the Construction Costs and the Professional Fees to the Vendor from time to time in such amount or amounts as shall be certified by the Authorized Person as having been expended or having become payable on the construction of ^{**}[Phase [] of] the Development;
- (b) second, towards repayment of funds drawn under the Building Mortgage (if any) for payment of the Construction Costs and the Professional Fees and interest thereon;

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(c) third, in the event of Messrs. [] at any time holding as stakeholders a sufficient sum to cover the entire outstanding balance of the Construction Costs and the Professional Fees as certified by the Authorized Person from time to time and other sums referred to in sub-clause (b) above, towards payment of any other moneys secured by the Building Mortgage (if any); and

(d) fourth, in the event of Messrs. [] at any time holding as stakeholders a sufficient sum to cover the total of the sums referred to in sub-clause (c) above, then Messrs. [] may release the excess amount to the Vendor.

Provided Always that: -

(i) in respect of any payment under sub-clause (a) above Messrs. [] shall not at any time release to the Vendor any sum in excess of the amount certified by the Authorized Person as having been paid and/or become payable towards the Construction Costs and the Professional Fees at that time less the amount which the Vendor has drawn under the Building Mortgage (if any) for payment of the Construction Costs and the Professional Fees; and

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

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45. Any notice required to be given hereunder shall be deemed to have been validly given if addressed to the party to whom the notice is given and sent by ordinary prepaid post to the address of such party herein stated or to his last known address if a notification of change of address has previously been given to the other party or his solicitors and shall be deemed to have been served on the second business day after the date of posting.
46. The Vendor shall, at its own cost and as soon as reasonably practicable after receipt of a written notice served by the Purchaser within 6 months after the date of completion of the sale and purchase under [mandatory provision no. 34[∇]], remedy any defects to the Property, the fittings, finishes or appliances specified in Schedule 4, caused otherwise than by the act or neglect of the Purchaser. The provisions of this Clause are without prejudice to any other rights or remedies that the Purchaser may have at common law or otherwise.
47. The Vendor undertakes with the Purchaser to use its best endeavours to enforce all defects and maintenance obligations under all contracts relating to the construction of the Development in so far as such defects relate to or affect the Property or the common areas or common parts and common facilities of the Development.
48. In the event of the winding-up (whether voluntary or otherwise) or dissolution of the Vendor, the benefit and rights of and in all warranties and guarantees under all contracts relating to the construction of the Development shall be assigned by the Vendor to the Owners' Corporation incorporated under the Building Management Ordinance or if no such corporation exists to the manager of the Development for the time being to be held in trust for the Purchaser and all other purchasers of units in the Development.

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49. The provisions of [mandatory provisions nos. 36, 46, 47 and 48[∇]] shall survive completion of the sale and purchase by the Assignment.
50. If any date stipulated for payment herein or the day on which completion of the sale and purchase is to take place as hereinbefore provided shall fall on a day which is not a business day or on a day on which Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9:00 a.m. and 5:00 p.m., such date for payment or completion of the sale and purchase shall be automatically postponed to the immediately following day which is a business day and on which no Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9:00 a.m. and 5:00 p.m.

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SCHEDULE 1

Government Grant

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

(a) Parties :

(b) Date :

(c) Term : years from expiring on

(d) User :

(e) Lot Number :

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SCHEDULE 2

Measurements of the Property

(a) Saleable Area: -

[] square metres/[]square feet *[of which []square metres/[]square feet belong to the balcony] *[and [] square metres/[]square feet belong to the utility platform] *[and [] square metres/[]square feet belong to the verandah]

(b) Areas other than Saleable Area: -

- *[[] square metres/[]square feet for the cockloft]
- *[[] square metres/[]square feet for the stairhood]
- *[[] square metres/[]square feet for the bay window]
- *[[] square metres/[]square feet for the car parking space]
- *[[] square metres/[]square feet for the yard]
- *[[] square metres/[]square feet for the terrace]
- *[[] square metres/[]square feet for the garden]
- *[[] square metres/[]square feet for the flat roof]
- *[[] square metres/[]square feet for the roof]
- *[[] square metres/[]square feet for the air-conditioning plant room]
- *[[] square metres/[]square feet for the other facilities for the Property]

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SCHEDULE 4

§Fittings, Finishes and Appliances

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SCHEDULE 5

Communal ^{*}[and Recreational] Facilities

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**Proposed Mandatory Provisions
for Agreement for Sale and Purchase
for Completed Development
– Part 1**

**Proposed Mandatory Provisions for
Agreement for Sale and Purchase for Completed Development – Part 1**

This Part applies to those Completed Developments where:

- (a) under the land grant, the consent of the Director of Lands is required to be given for the sale and purchase; and
- (b) no certificate of compliance or consent to assign has been issued by the Director of Lands.

Mandatory Provision

- 1. In this Agreement the following expressions shall have the following meanings except where the context otherwise permits or requires: -
- 2. “Authorized Person” means [], and this expression shall include any other authorized person or persons as defined in section 2(1) of the Buildings Ordinance for the time being appointed by the Vendor in his place.
- 3. **[“Building” means the building or buildings comprised in Phase [] of the Development of which the Property forms part.]
- 4. * [“Building Mortgage” means the [] dated the [] day of [] made between the Vendor of the one part and [] of the other part and registered in the Land Registry by Memorial No. [].]
- 5. “building plans” means the general building plans and specifications prepared by the Authorized Person and approved by the Building Authority under Reference No. [] and includes any approved amendments thereto.

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6. “business day” means a day other than Saturdays, Sundays and public holidays and on which banks are open for business in the Hong Kong Special Administrative Region.
7. “Certificate of Compliance” means the certificate issued or to be issued by or on behalf of the Director of Lands to the effect that all the positive obligations of the Vendor under the Government Grant in relation to the land have been complied with.
8. “Construction Costs” means: -
- (a) any sum incurred or to be incurred in connection with any works done or to be done, and materials or goods supplied or to be supplied, in connection with the site formation on the land and the substructure and superstructure construction for ^{**}[Phase [] of] the Development (including the communal ^{*}[and recreational] facilities as set out in Schedule 5), and the making of ^{**}[Phase [] of] the Development fit to qualify for the issue of an Occupation Permit and to comply with the Government Grant ^{**}[in so far as they relate to Phase [] of the Development];
- (b) any sums needed to be incurred by the Vendor to install the fittings, finishes and appliances of ^{**}[Phase [] of] the Development (including the fittings, finishes and appliances as set out in Schedule 4) and in making every unit in ^{**}[Phase [] of] the Development ready for handover to purchasers on completion of the sale and purchase; and
- (c) any other sums (excluding the Professional Fees) which in the reasonable opinion of the Authorized Person needed to be incurred to complete the construction of ^{**}[Phase [] of] the Development fit to qualify for the issue of an Occupation Permit and to comply with the Government Grant ^{**}[in so far as they relate to Phase [] of the Development] and this Agreement.

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9. “Development” means [**insert** brief description of the development giving as much information as reasonably practicable so that a purchaser will have a general understanding as to the nature and composition of the development, the communal and recreational facilities (if any) provided therein, other special features (if any), etc.] now being constructed or to be constructed on the land in accordance with the building plans and intended to be known as [“
”].
10. “Government” means the Government of the Hong Kong Special Administrative Region.
11. “Government Grant” means the Government Grant document specified in Schedule 1.
12. “land” means all that piece or parcel of land known and registered in the Land Registry as [**insert** lot number].
13. “Measurements” means the measurements of the Property set out in Schedule 2.
14. “Occupation Permit” means the written permission to be issued by the Building Authority under the provisions of the Buildings Ordinance for the *Building/Development to be occupied and includes a Temporary Occupation Permit.
15. “office hours” means 10:00 a.m. to 4:30 p.m.
16. **“Phase []” means the Phase of the Development comprising Blocks [].

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- § A schedule of fittings, finishes and appliances must be included in this Agreement

17. “Professional Fees” means any sums incurred or to be incurred by the Vendor for the employment of the Authorized Person and other professional persons or consultants in relation to completion of ^{**}[Phase [] of] the Development.
18. “Saleable Area” means the “saleable area” within the meaning of Clause 3 of the Residential Properties (First-hand Sales) Ordinance.
19. “Temporary Occupation Permit” means the temporary permit to be issued by the Building Authority under the provisions of the Buildings Ordinance for the ^{*}Building/Development or any part thereof comprising the Property to be occupied.
20. The purchase price shall be the sum set out in Schedule 3 and shall be paid by the Purchaser to the Vendor’s solicitors as stakeholders in the manner set out in Schedule 3.
21. The Vendor shall: -
 - (a) continue the construction of the Development with all due expedition;
 - (b) comply with the requirements of the Building Authority and of any other relevant Government authority relating to the Development; and
 - (c) complete ^θ[Phase [] of] the Development in all respects in compliance with the conditions of the Government Grant ^θ[in so far as they relate to Phase [] of the Development], the building plans and this Agreement, incorporating the fittings, finishes and appliances as set out in Schedule 4 into the Property, on or before the [@][] day of [] subject to such extensions of time as may be granted by the Authorized Person in accordance with [mandatory provision no. 25[∇]].

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22. Subject to [mandatory provision no. 23[∇]], if the Vendor fails to complete ^θ[Phase [] of] the Development by the date specified in [mandatory provision no. 21(c)[∇]] as extended by any extensions of time granted by the Authorized Person under [mandatory provision no. 25[∇]], the Purchaser shall be at liberty, in addition to any other remedy that he may have, by notice in writing to the Vendor to rescind this Agreement and upon service of such notice, this Agreement shall be rescinded, and the Vendor shall, within 7 days thereafter, repay to the Purchaser all amounts paid by the Purchaser hereunder together with interest thereon at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts were paid up to the date of repayment, the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor hereunder.
23. If the Purchaser does not rescind this Agreement under [mandatory provision no. 22[∇]] within 28 days after the date specified in [mandatory provision no. 21(c)[∇]] or any extended date under [mandatory provision no. 25[∇]], he shall be deemed, without prejudice to his rights under [mandatory provision no. 24[∇]] hereof, to have elected to wait for completion of ^θ[Phase [] of] the Development. In such event the Vendor shall pay to the Purchaser interest at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time on all amounts paid under this Agreement from the date following the date specified in [mandatory provision no. 21(c)[∇]] or any extended date under [mandatory provision no. 25[∇]] up to the date of completion of ^θ[Phase [] of] the Development. Such interest shall be paid or allowed as a credit to the Purchaser in respect of the purchase price on completion of the sale and purchase.

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24. Notwithstanding [mandatory provision no. 22[∇]] and [mandatory provision no. 23[∇]], if ^θ[Phase[] of] the Development is not completed in accordance with the building plans and the other provisions of this Agreement within a period of 6 months from the date specified in [mandatory provision no. 21(c)[∇]] or any extended date under [mandatory provision no. 25[∇]], the Purchaser shall be at liberty either to rescind this Agreement in which event the provisions of [mandatory provision no. 22[∇]] relating to repayment and interest shall apply or to await the completion of ^θ[Phase[] of] the Development in which event the provisions of [mandatory provision no. 23[∇]] relating to the payment of interest shall apply.
25. The Vendor shall be entitled to such extensions of time for completion of ^θ[Phase[] of] the Development beyond the date stated in [mandatory provision no. 21(c)[∇]] as shall be granted by the Authorized Person and appear to him to be reasonable having regard to delays caused exclusively by any one or more of the following reasons: -
- (a) strike or lock-out of workmen;
 - (b) riots or civil commotion;
 - (c) force majeure or Act of God;
 - (d) fire or other accident beyond the Vendor's control;
 - (e) war; or
 - (f) inclement weather.

For the purpose of this Agreement, "inclement weather" means rainfall in excess of 20 millimetres in a twenty-four hour period (mid-night to mid-night) as recorded at the Hong Kong Observatory, a Black Rainstorm Warning Signal is issued or the hoisting of Typhoon Signal No. 8 or above at any time between the hours of 8:00 a.m. and 5:00 p.m.

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26. The Vendor shall within 14 days after the issue of any such extensions of time granted by the Authorized Person under [mandatory provision no. 25[∇]] furnish the Purchaser with a copy of the relevant certificate of extension.
27. The Vendor shall apply in writing for a Certificate of Compliance or the consent of the Director of Lands to assign in respect of ^θ[Phase [] of] the Development within 14 days after its having completed ^θ[Phase [] of] the Development as stipulated in [mandatory provision no. 21(c)[∇]].
28. For the purpose of [mandatory provisions nos. 21 to 25 and 27[∇]], the issue of a Certificate of Compliance or consent to assign by the Director of Lands shall be conclusive evidence that ^θ[Phase [] of] the Development has been completed or is deemed to be completed as the case may be and nothing in this Clause shall preclude the Vendor from proving that it has complied with [mandatory provision no. 21(c)[∇]] by any other means.
29. The Vendor shall notify the Purchaser in writing that it is in a position validly to assign the Property within one month after the issue of the Certificate of Compliance or the consent of the Director of Lands to assign, whichever shall first happen.
30. The sale and purchase shall be completed at the offices of Messrs. [] during office hours within 14 days after the date of the notification to the Purchaser that the Vendor is in a position validly to assign the Property to the Purchaser.
31. Subject to [mandatory provision no. 33[∇]], the Vendor shall not restrict the Purchaser's right to raise requisition or objection in respect of title.

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32. The Vendor hereby warrants: -
- (a) that the fittings, finishes and appliances specified in Schedule 4 shall, on or before completion of the construction of ^θ[Phase [] of] the Development, be incorporated into the Property Provided Always that if the Vendor is prevented by force majeure or other reason beyond its control from obtaining such fittings, finishes and appliances, other fittings, finishes and appliances certified by the Authorized Person to be of comparable quality may be substituted;
 - (b) that the Property will, on completion of the construction of ^θ[Phase [] of] the Development, be as shown on the plan attached hereto and the measurements of the Property will be the Measurements; and
 - (c) that on completion of the Development the Vendor shall provide the communal ^{*}[and recreational] facilities set out in Schedule 5.
33. The Purchaser shall raise no objection if the Vendor's interest in the Property is an equitable interest and not a legal estate.
34. The ad valorem stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the ^{*}Purchaser/Vendor.
35. The Special Stamp Duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the ^{*}Purchaser/Vendor.
36. Time shall in every respect be of the essence of this Agreement.

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37. Subject as hereinafter provided, any part of the purchase price paid by the Purchaser to Messrs. [] shall be held by them as stakeholders pending completion of the sale and purchase and shall be applied and released in the following manner only: -

- (a) first, towards payment of the Construction Costs and the Professional Fees to the Vendor from time to time in such amount or amounts as shall be certified by the Authorized Person as having been expended or having become payable on the construction of ^{**}[Phase [] of] the Development;
- (b) second, towards repayment of funds drawn under the Building Mortgage (if any) for payment of the Construction Costs and the Professional Fees and interest thereon;
- (c) third, in the event of Messrs. [] at any time holding as stakeholders a sufficient sum to cover the entire outstanding balance of the Construction Costs and the Professional Fees as certified by the Authorized Person from time to time and other sums referred to in sub-clause (b) above, towards payment of any other moneys secured by the Building Mortgage (if any); and
- (d) fourth, in the event of Messrs. [] at any time holding as stakeholders a sufficient sum to cover the total of the sums referred to in sub-clause (c) above, then Messrs. [] may release the excess amount to the Vendor.

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Provided Always that: -

- (i) in respect of any payment under sub-clause (a) above Messrs. [] shall not at any time release to the Vendor any sum in excess of the amount certified by the Authorized Person as having been paid and/or become payable towards the Construction Costs and the Professional Fees at that time less the amount which the Vendor has drawn under the Building Mortgage (if any) for payment of the Construction Costs and the Professional Fees; and
 - (ii) the Vendor shall not in any circumstances draw under the Building Mortgage (if any) any part of the Construction Costs and the Professional Fees already paid under sub-clause (a) above.
38. Any notice required to be given hereunder shall be deemed to have been validly given if addressed to the party to whom the notice is given and sent by ordinary prepaid post to the address of such party herein stated or to his last known address if a notification of change of address has previously been given to the other party or his solicitors and shall be deemed to have been served on the second business day after the date of posting.
39. The Vendor shall, at its own cost and as soon as reasonably practicable after receipt of a written notice served by the Purchaser within 6 months after the date of completion of the sale and purchase under [mandatory provision no. 30[∇]], remedy any defects to the Property, the fittings, finishes or appliances specified in Schedule 4, caused otherwise than by the act or neglect of the Purchaser. The provisions of this Clause are without prejudice to any other rights or remedies that the Purchaser may have at common law or otherwise.

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40. The Vendor undertakes with the Purchaser to use its best endeavours to enforce all defects and maintenance obligations under all contracts relating to the construction of the Development in so far as such defects relate to or affect the Property or the common areas or common parts and common facilities of the Development.
41. In the event of the winding-up (whether voluntary or otherwise) or dissolution of the Vendor, the benefit and rights of and in all warranties and guarantees under all contracts relating to the construction of the Development shall be assigned by the Vendor to the Owners' Corporation incorporated under the Building Management Ordinance or if no such corporation exists to the manager of the Development for the time being to be held in trust for the Purchaser and all other purchasers of units in the Development.
42. The provisions of [mandatory provisions nos. 32, 39, 40 and 41[∇]] shall survive completion of the sale and purchase by the Assignment.
43. If any date stipulated for payment herein or the day on which completion of the sale and purchase is to take place as hereinbefore provided shall fall on a day which is not a business day or on a day on which Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9:00 a.m. and 5:00 p.m., such date for payment or completion of the sale and purchase shall be automatically postponed to the immediately following day which is a business day and on which no Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9:00 a.m. and 5:00 p.m.

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SCHEDULE 1

Government Grant

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

(a) Parties :

(b) Date :

(c) Term : years from expiring on

(d) User :

(e) Lot Number :

- | |
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SCHEDULE 2

Measurements of the Property

(a) Saleable Area: -

[] square metres/[]square feet *[of which []square metres/[]square feet belong to the balcony] *[and [] square metres/[]square feet belong to the utility platform] *[and [] square metres/[]square feet belong to the verandah]

(b) Areas other than Saleable Area: -

- *[] square metres/[]square feet for the cockloft]
- *[] square metres/[]square feet for the stairhood]
- *[] square metres/[]square feet for the bay window]
- *[] square metres/[]square feet for the car parking space]
- *[] square metres/[]square feet for the yard]
- *[] square metres/[]square feet for the terrace]
- *[] square metres/[]square feet for the garden]
- *[] square metres/[]square feet for the flat roof]
- *[] square metres/[]square feet for the roof]
- *[] square metres/[]square feet for the air-conditioning plant room]
- *[] square metres/[]square feet for the other facilities for the Property]

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SCHEDULE 3

Purchase Price

The purchase price mentioned in [mandatory provision no. 20[∇]] shall be HK\$[], payable by the Purchaser to Messrs. [] as follows: -

- (i) the amount of 𠄎[], being 5% of the purchase price has been paid as deposit on signing the agreement preliminary to this Agreement;
- (ii) [**insert** payment terms as the case may be provided that nothing in this Schedule 3 shall affect completion of the sale and purchase of the Property which shall take place in accordance with [mandatory provision no. 30[∇]]].

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SCHEDULE 4

§Fittings, Finishes and Appliances

- * Delete as appropriate
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SCHEDULE 5

Communal ^{*}[and Recreational] Facilities

- * Delete as appropriate
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**Proposed Mandatory Provisions
for Agreement for Sale and Purchase
for Completed Development
– Part 2**

**Proposed Mandatory Provisions for
Agreement for Sale and Purchase for Completed Development – Part 2**

This Part applies to all Completed Developments, other than those Completed Developments to which Part 1 of Annex D is applicable.

Mandatory Provision

1. In this Agreement the following expressions shall have the following meanings except where the context otherwise permits or requires: -
2. “business day” means a day other than Saturdays, Sundays and public holidays and on which banks are open for business in the Hong Kong Special Administrative Region.
3. “Development” means [**insert** brief description of the development giving as much information as reasonably practicable so that a purchaser will have a general understanding as to the nature and composition of the development, the communal and recreational facilities (if any) provided therein, other special features (if any), etc.] which has been constructed *[and/or in the course of being constructed] on the land and known as [“ ”].
4. “land” means all that piece or parcel of land known and registered in the Land Registry as [**insert** lot number].
5. “Measurements” means the measurements of the Property set out in Schedule 1.
6. “office hours” means 10:00 a.m. to 4:30 p.m.
7. “Saleable Area” means the “saleable area” within the meaning of Clause 3 of the Residential Properties (First-hand Sales) Ordinance.

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8. The purchase price shall be the sum set out in Schedule 2 and shall be paid by the Purchaser to the Vendor's solicitors as stakeholders in the manner set out in Schedule 2.
9. The sale and purchase shall be completed at the office of Messrs. [] during office hours on or before [] day of [] 20[].
10. Subject to [mandatory provision no. 12[∇]], the Vendor shall not restrict the Purchaser's right to raise requisition or objection in respect of title.
11. The Vendor hereby warrants: -
 - (a) that the fittings, finishes and appliances specified in Schedule 3 shall be incorporated into the Property;
 - (b) that the Property will be as shown on the plan attached hereto and the measurements of the Property will be the Measurements; and
 - (c) that the Vendor shall provide the communal *[and recreational] facilities set out in Schedule 4.
12. The Purchaser shall raise no objection if the Vendor's interest in the Property is an equitable interest and not a legal estate.
13. The ad valorem stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.
14. The Special Stamp Duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.
15. Time shall in every respect be of the essence of this Agreement.

- * Delete as appropriate
- ∇ Numbering to be renamed for individual contracts
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16. Any notice required to be given hereunder shall be deemed to have been validly given if addressed to the party to whom the notice is given and sent by ordinary prepaid post to the address of such party herein stated or to his last known address if a notification of change of address has previously been given to the other party or his solicitors and shall be deemed to have been served on the second business day after the date of posting.
17. The Vendor shall, at its own cost and as soon as reasonably practicable after receipt of a written notice served by the Purchaser within 6 months after the date of completion of the sale and purchase under [mandatory provision no. 9[∇]], remedy any defects to the Property, the fittings, finishes or appliances specified in Schedule 3, caused otherwise than by the act or neglect of the Purchaser. The provisions of this Clause are without prejudice to any other rights or remedies that the Purchaser may have at common law or otherwise.
18. The Vendor undertakes with the Purchaser to use its best endeavours to enforce all defects and maintenance obligations under all contracts relating to the construction of the Development in so far as such defects relate to or affect the Property or the common areas or common parts and common facilities of the Development.
19. In the event of the winding-up (whether voluntary or otherwise) or dissolution of the Vendor, the benefit and rights of and in all warranties and guarantees under all contracts relating to the construction of the Development shall be assigned by the Vendor to the Owners' Corporation incorporated under the Building Management Ordinance or if no such corporation exists to the manager of the Development for the time being to be held in trust for the Purchaser and all other purchasers of units in the Development.
20. The provisions of [mandatory provisions nos. 11 and 17-19[∇]] shall survive completion of the sale and purchase by the Assignment.

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| <ul style="list-style-type: none">* Delete as appropriate∇ Numbering to be renamed for individual contracts⊠ Insert an amount equivalent to 5% of the purchase price§ A schedule of fittings, finishes and appliances must be included in this Agreement |
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21. If any date stipulated for payment herein or the day on which completion of the sale and purchase is to take place as hereinbefore provided shall fall on a day which is not a business day or on a day on which Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9:00 a.m. and 5:00 p.m., such date for payment or completion of the sale and purchase shall be automatically postponed to the immediately following day which is a business day and on which no Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9:00 a.m. and 5:00 p.m.

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SCHEDULE 1

Measurements of the Property

(a) Saleable Area: -

[] square metres/[]square feet *[of which []square metres/[]square feet belong to the balcony] *[and [] square metres/[]square feet belong to the utility platform] *[and [] square metres/[]square feet belong to the verandah]

(b) Areas other than Saleable Area: -

- *[] square metres/[]square feet for the cockloft]
- *[] square metres/[]square feet for the stairhood]
- *[] square metres/[]square feet for the bay window]
- *[] square metres/[]square feet for the car parking space]
- *[] square metres/[]square feet for the yard]
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- *[] square metres/[]square feet for the flat roof]
- *[] square metres/[]square feet for the roof]
- *[] square metres/[]square feet for the air-conditioning plant room]
- *[] square metres/[]square feet for the other facilities for the Property]

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SCHEDULE 2

Purchase Price

The purchase price mentioned in [mandatory provision no. 8[∇]] shall be HK\$[], payable by the Purchaser to Messrs. [] as follows: -

- (i) the amount of [⊠][], being 5% of the purchase price has been paid as deposit on signing the agreement preliminary to this Agreement;
- (ii) [**insert** payment terms as the case may be provided that nothing in this Schedule 2 shall affect completion of the sale and purchase of the Property which shall take place in accordance with [mandatory provision no. 9[∇]]].

- * Delete as appropriate
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SCHEDULE 3

§Fittings, Finishes and Appliances

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SCHEDULE 4

Communal ^{*}[and Recreational] Facilities

- * Delete as appropriate
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- ⊠ Insert an amount equivalent to 5% of the purchase price
- § A schedule of fittings, finishes and appliances must be included in this Agreement