

THIS DEED made this 30th day of November Two thousand and Ten

BETWEEN

- (1) TENNEX DEVELOPMENT LIMITED whose registered office is situate at 22<sup>nd</sup> Floor, South China Building, 1-3 Wyndham Street, Central, Hong Kong (hereinafter called "the Company" which expression shall where the context so admits include its successors and assigns) of the first part;
- (2) QING CHENG INVESTMENTS LIMITED ( 慶成投資有限公司 ) whose registered office is situate at Room 2301C-2E, 23<sup>rd</sup> Floor, Nan Fung Centre, 264-298 Castle Peak Road, Tsuen Wan, New Territories, Hong Kong (hereinafter called "the First Purchaser" which expression shall where the context so admits include its successors and assigns or his executors administrators and assigns) of the second part; and
- (3) SAVILLS PROPERTY MANAGEMENT LIMITED ( 第一太平戴維斯物業管理有限公司 ) whose registered office is situate at Rooms 805-813, 8<sup>th</sup> Floor, Cityplaza One, 1111 King's Road, Taikoo Shing, Hong Kong (hereinafter called "the Manager") of the third part.

WHEREAS:-

1. Immediately prior to the Assignment to the First Purchaser hereinafter referred to the Company was the registered owner of the Land.
2. The Company has developed or is in the course of developing the Development on the Land in accordance with the Approved Plans. The Development has been completed and an Occupation Permit in respect thereof has been issued.
3. For the purposes of sale and defining individual ownership, the Land and the Development have been notionally divided into 2,244 equal undivided parts or shares, the allocation of which is set out in the Third Schedule hereto.
4. By an Assignment bearing even date herewith ("the said Assignment") and made between the Company of the first part and the First Purchaser of the other part the Company assigned unto the First Purchaser All That No.11 Cape Road (also known as House C] ("the said House") of the Development subject to and with the benefit of the Government Lease.
5. The parties hereto have agreed to enter into this Deed for the purpose of making provisions for the management, maintenance, insurance and servicing of the Land and the Development, and their equipment, services and apparatus thereof and for the purpose of defining and regulating the respective rights, interests and obligations of the Owners in respect of the Land and the Development and to provide for a due proportion of the management expenses of the Land and the Development to be borne by the Owners.

NOW THIS DEED WITNESSETH as follows:

DEFINITION AND INTERPRETATION

1. (a) In this Deed the following words and expressions shall have the following meanings ascribed to them whenever the context so permits :-





“Approved Plans”	means the general building plans prepared by the Authorized Person (as hereinafter defined) for the development of the Land approved by the Building Authority under Reference No.[BD2/2022/02] as the same may be amended from time to time with the approval of the Building Authority.
“Authorized Accountant”	means a certified public accountant registered under Professional Accountants Ordinance (Cap.50) of the Laws of the Hong Kong Special Administrative Region.
“Authorized Person”	means Yu Lin Keung of T. K. Tsui & Associates Limited, 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 Company in his place.
“BMO”	means the Building Management Ordinance, Cap.344.
“Common Areas”	means those parts of the Land and the Development intended for the common use and benefit of all Owners as a whole and not for a particular House or Houses which parts are subject to the provisions of this Deed to be used by each Owner and occupier in common with all other Owners and occupiers of the Land and the Development. The said parts include but are not limited to the swimming pool, the Gas Meter Room, Switch Room, Refuse Chamber, Water Pump Room, Filtration Plant Room, F.S. Pump Room, Caretaker’s Office, planter (except specifically assigned), open driveway, covered driveway, HV switch room, LV switch room, transformer room, water meter room, sprinkler water tank, F.S. water tank, F.S. and sprinkler pump room, common staircase to landscape garden and external walls (other than those forming part of a House) and shall include reference to “common parts” as defined in the BMO. The Common Areas are for identification purpose only shown coloured indigo on the floor plans attached hereto.
“Common Areas and Facilities”	means collectively the Common Areas and the Common Facilities.
“Common Facilities”	means all those facilities intended for the common use and benefit of the Development as a whole and not for a particular House or Houses which facilities are subject to the provisions of this Deed to be used and enjoyed by each Owner and occupier in common with all other Owners and occupiers of the Development. The said facilities include but are not limited to all sewers, drains, water courses, cables, pipes, wires, ducts, water mains which are in, under or over or passing through the Land and the Development, all mechanical and electrical facilities, plants, machinery, services and installations, all facilities and installations for fire-fighting and security and safety of the Land and the Development.

“Common Parts Undivided Shares”	means those Undivided Shares allocated and to be allocated to the Common Areas.
“Deed”	means this Deed of Mutual Covenant incorporating Management Agreement made pursuant to the provisions hereunder.
“Development”	means the entire development constructed or to be constructed on the Land to be known as “Nos.7, 9 and 11 Cape Road”.
“Estate Management Budget”	means the budget to be prepared for those parts of the Development more particularly described in Clause 12 hereof.
“Estate Management Expenses”	means all costs, charges, expenses and outgoings reasonably and necessarily incurred by the Manager in relation to the management and maintenance of those parts of the Estate.
“Estate Rules”	means the rules governing the Development and the Common Areas and Facilities as provided by this Deed and as amended and supplemented from time to time by the Manager.
“Government”	means the Government of the Hong Kong Special Administrative Region, the People's Republic of China and includes all Government departments or other person acting or purporting to act with the Government's authority.
“Government Lease”	means the documents of title setting forth the rights and entitlements granted by the Government to the Company in respect of the Land, namely the Government Lease deemed to have been issued upon compliance with certain Agreement and Conditions of Sale deposited and registered in the Land Registry as Conditions of Sale No.UB9679 dated the 11 <sup>th</sup> day of May 1970 made between Siberian Land Investment Company Limited of the one part and the Governor of Hong Kong of the other part for a term of 75 years from the 11 <sup>th</sup> day of May 1970 with a right of renewal for a further term of 75 years as varied or modified by two Modification Letters dated the 7 <sup>th</sup> day of September 2004 and the 3 <sup>rd</sup> day of December 2004 and registered in the Land Registry by Memorial Nos.UB9322557 and 07112802220014 and shall include any subsequent extensions or modifications thereto or renewal thereof, if any.
“House”	means each of the three houses in the Development intended for private residential purposes. Each house is one self-contained unit of residential accommodation including the external walls forming part thereof and any balcony, flat roof(s), upper roof, top roof, lift, A/C plant room or carpark area within the curtilage of the site of the House, and to which Undivided Shares are allocated under this Deed.



“Land”	means All That piece or parcel of land registered in the Land Registry as Rural Building Lot No.855.
“maintain”	means and includes but not limited to inspecting, testing, repairing, upholding, supporting, rebuilding, overhauling, paving, purging, scouring, cleansing, emptying, amending, keeping, replacing, modifying, varying, installing, decorating, renovating and painting or such of the foregoing as may be applicable in the circumstances and in the interest of good estate management and “maintenance” shall be construed accordingly.
“management”	means all the duties and obligations to be performed and observed by the Manager in relation to the Land and the Development pursuant to the Government Lease as herein provided, and “manage” shall be construed accordingly.
“Management Funds”	means all monies received, recovered or held by the Manager which shall be applied as management expenses for the benefit of the Owners of the Development pursuant to this Deed except only the Manager's remuneration;
“Management Shares”	means the shares allocated to the Houses as set out in the Third Schedule hereto for the purpose of determining the amount of contributions towards the management expenses of the Land and the Development to be borne by the Owners.
“month”	means a calendar month by European reckoning.
“Non-enclosed Area”	The balcony, flat roof(s), upper roof, pitch roof and any other non-enclosed part(s) of a House as indicated on the Approved Plans, the particulars thereof are mentioned in Clause 32 in the Second Schedule hereto.
“Occupation Permit”	means an occupation permit or temporary occupation permit of the Development or any part thereof issued by the Building Authority under the Buildings Ordinance.



“Owner”	means the person or persons for the time being who appears from the records at the Land Registry to be the owner of an Undivided Share in the Land and the Development and includes his executors, administrators, successors and assigns and every joint tenants or tenants in common of any Undivided Share, and where any Undivided Share has been assigned or charged under a mortgage or charge, the word "Owner" shall include both mortgagor and mortgagee or, as the case may be, chargor and chargee but in respect of the mortgagee or chargee only if such mortgagee or chargee is in possession or in receipt of the rents and profits of that part of the Land or the Development relating to such Undivided Share PROVIDED however that subject to the provisions of such mortgage or charge the voting rights attached to such Undivided Share by the provisions of this Deed shall be exercisable by the mortgagor or chargor unless the mortgagee or chargee is in possession or in receipt of the rents and profits of such Undivided Share or has foreclosed.
“Owners’ Committee”	means a committee of the Owners of the Development established under the provisions of this Deed.
“Owners’ Incorporation”	means a corporation formed by the Owners under the BMO.
“Slopes and Retaining Structures”	means all the slopes, retaining walls, toe walls, screen walls, feature walls, soldier pile walls and mass concretes within and outside the Land which are required to be maintained by all the Owners at their own expenses under the Government Lease. The Slopes and Retaining Structures are for identification purpose shown coloured brown on the Plan of Retaining Wall attached hereto.
“Special Fund”	means the fund to be established and maintained by the Manager under Clause 16(a)(ii) of this Deed.
"Undivided Share"	means an equal undivided 2,244 <sup>th</sup> part or share of and in the Land and the Development allocated as set out in the Third Schedule hereto.
Works and Installations	means the major works and installations in the Development as provided in the Fourth Schedule hereto subject to revision as mentioned in Clause 36 hereof.

- (b) Headings are inserted for reference purpose only and shall not be deemed to be part of or affect the interpretation of any provision herein.
- (c) References to any statute or statutory provision shall include any statute or statutory provision which amends or replaces, or has amended or replaced it and shall include any subordinate legislation made under the relevant statute.



- (d) In this Deed (if the context so permits or requires) words in plural shall include the singular and vice versa; words importing a gender shall include every gender; and words importing persons shall include individual, firm, body corporate or unincorporated body.
2. The Company shall at all times hereafter subject to and with the benefit of the Government Lease have the full and exclusive right and privilege to hold use occupy and enjoy to the exclusion of the First Purchaser All Those portions of and in the Development now or hereafter erected on the Land and not intended for common use Together with the appurtenances thereto and the entire rents and profits thereof SAVE AND EXCEPT the said House assigned to the First Purchaser as aforesaid and SUBJECT TO the rights and privileges granted to the First Purchaser by the said Assignment AND SUBJECT TO the provisions of this Deed.
3. The First Purchaser shall at all times hereafter subject to and with the benefit of the Government Lease have the full and exclusive right and privilege to hold use occupy and enjoy to the exclusion of the Company the said House assigned to the First Purchaser by the said Assignment together with the appurtenances thereto and the entire rents and profits thereof.
4. Each Undivided Share Together with the full and exclusive right and privilege to hold use occupy and enjoy the House allocated thereto shall be held by the person or persons from time to time entitled thereto subject to and with the benefit of the easements, rights, privileges and obligations set out in the First Schedule hereto and the express covenants and provisions herein contained.
5. The Owner or Owners for the time being of each Undivided Share and the resident(s) for the time being of the House to which such Undivided Share is allocated shall at all times hereafter be bound by and shall observe and perform the covenants, provisions and restrictions contained herein and in the Second Schedule hereto.
6. (a) Subject to the Government Lease and this Deed, each Owner for the time being of any Undivided Share(s) shall have the full right and liberty without reference to the Owner(s) of any other Undivided Share(s) or any person or persons to sell, assign, transfer, mortgage, charge, let, license or otherwise dispose of or deal with his Undivided Share(s) together with the exclusive right and privilege to hold use occupy and enjoy the House and appurtenances held therewith PROVIDED THAT any such sale, transfer, assignment, mortgage, charge, lease or licence shall be expressly subject to and with the benefit of this Deed AND Provided further that such Owner shall be responsible to the other Owners of the Land and the Development for the due performance and observance on the part of his tenant or lessee or occupier of the terms and conditions hereof.
- (b) Every Owner with the exclusive right and privilege to hold, use, occupy and enjoy any House shall have the full right and liberty (in common with others having like rights) to go pass and repass over and along and to use the Common Areas and Facilities for all purposes connected with the proper use and enjoyment of the same SUBJECT ALWAYS TO the provisions herein.



7. (a) In the event that the Owner shall cease to be the owner of any Undivided Share and the premises enjoyed therewith, such Owner shall within one month of such cessation notify the Manager of such cessation and of the name and address of the new Owner and/or residents for the time being as the case may be. Each former Owner shall remain liable for all sums payable in accordance with the provisions of this Deed and for the observance and performance of the covenants and conditions hereof up to the date he ceases to be the Owner of any Undivided Share.
- (b) All persons on acquiring any House other than from the Company direct shall first ascertain from the Manager whether there are any outstanding payments in respect of that House.
8. The Company shall for as long as it remains the beneficial owner of any Undivided Share (and in addition to any other rights which it may have reserved under the said Assignment to the First Purchaser or otherwise) have the right in its absolute and unfettered discretion at any time or times and from time to time as it shall deem fit to do all or any of the following acts or deeds and to exercise all or any of the following rights :-
- (a) Full right and liberty to enter into and upon all parts of the Land and the Development from time to time with all necessary equipment, plant and materials for the purposes of constructing and completing the other parts of the Development and/or of constructing such other buildings or structures thereon in accordance with the Government Lease and/or of carrying out all or any works for implementation of the building plans (as provided in sub-clause (c) of this Clause 8) and may, for such purposes, carry out all such works in, under, on or over the Land and the Development as it may from time to time see fit PROVIDED THAT nothing herein shall absolve the Company from obtaining any Government approval which may be required for the same. The right of the Company to enter the Land and the Development as aforesaid to carry out such works shall extend equally to all necessary contractors, agents, workers and other persons authorized by the Company. The Company in pursuance of such works must from time to time issue in writing to the Owners prior instructions as to the areas or parts of the Land and the Development that the Owners, their tenants, servants, agents or licensees may or may not use while such works are being carried out and the Company shall not incur any liability except for criminal liability, dishonesty or negligence of any nature whatsoever to any Owner by reason of such construction works PROVIDED THAT the exercise of such right shall not unreasonably interfere with an Owner's exclusive right to the physical use and occupation of the House which such Owner owns or unreasonably impede or restrict the access to and from any such House or affect the Owner's rights to enjoy any part of the Common Areas and Facilities AND PROVIDED THAT the Company shall at its own expense make good any damage or loss that may be caused by or arise from such construction, demolition or other works or such right of entry and shall ensure that such works and such right of entry shall cause the least disturbance and shall indemnify all loss and damage resulting from the Company exercising the right under this sub-clause (a).



- (b) The right to change, amend, vary, add to or alter the Approved Plans in respect of any part of the Development without the concurrence or approval of the Owners or any of the parties hereto Provided that such change, amendment, variation, addition or alteration will not interfere with the Owners' right to the exclusive use occupation and enjoyment of their Houses but nothing herein shall absolve the Company from the requirements of obtaining the prior written consent of the Director of Lands or other relevant Government authorities. No such change, amendment, variation, addition or alteration shall give to the Owners or any person having an interest in the Land any right of action against the Company.
- (c) The right to effect surrenders to the Government as required under the Government Lease or whenever required by the Government so to do for public use of any portion of the Land not being within the exclusive use occupation and enjoyment of the Owners and the Owners shall renounce and release all right title interest benefit claim and demand whatsoever of and in such portion of the Land the Company shall be at liberty to surrender the same to the Government free of any claim or demand of the Owner or compensation to the Owner whether by any agreement or otherwise howsoever Provided that the exercise of the aforesaid right shall be subject to the prior written approval of the Owners' Committee or the Owners' Incorporation (if formed). Any compensation money received in respect of the surrenders shall form part of the Management Funds and be applied accordingly.
- (d) The right to obtain the grant of any rights, rights of way or easements or quasi-easements (including but not limited to the right to use any roads, passageways, walkways, footpaths, pedestrian bridges, gardens, open spaces, nullahs and culverts, recreational areas and facilities, sewage treatment plants and facilities, refuse collection and disposal areas and facilities, drainage system and gas, water and electricity storage, transformation and supply systems) over any adjoining or neighbouring lands or to obtain any similar rights by modification of the Government Lease or licence for the benefit of the Land and the Development on such terms and conditions and from such persons as the Company shall deem fit Provided that prior written approval from the Owners' Committee or the Owners' Incorporation (if formed) should be obtained and Provided further that the exercise of such right shall not affect the right and interest of the Owners of the Development.
9. (a) The Owners hereby jointly and severally and irrevocably APPOINT the Company to be their attorney and grant unto the Company the full right power and authority (whether acting by itself or by any of the professionals, contractors and agents engaged, appointed or employed by the Company) to do all acts deeds matters and things and to execute and sign seal and as their acts and deeds deliver such deeds and to sign such documents or instruments as may be necessary for the exercise of or incidental to the Company's rights mentioned in Clause 8 and the Owners hereby further jointly and severally and irrevocably undertake to do all acts deeds matters and things and to execute sign seal and deliver such deed or deeds and to sign such documents or instruments as may be necessary to give effect to the abovementioned grant.



- (b) Each Assignment of the Houses shall include a covenant in substantially the following terms : "The Purchaser covenants with the Vendor for itself and as agent for Tennex Development Limited ("the Company" which expression shall include their successors assigns and attorneys) to the intent that such covenants shall bind the Property and the owner or owners thereof for the time being and other person or persons deriving title under the Covenanting Purchaser (each and all of whom including the Purchaser is and are hereinafter included in the expression "the Covenanting Purchaser") and shall enure for the benefit of the Estate and be enforceable by the Company and their successors and assigns that :-
- (i) the Covenanting Purchaser confirms and acknowledges the covenants, rights, entitlements, exceptions and reservations granted and conferred on the Company under Clause 8 of a Deed of Mutual Covenant and Management Agreement dated the            day of            and the Covenanting Purchaser shall not do or permit anything to be done which will in any way affect or hinder the exercise of the said rights by the Company;
  - (ii) the Covenanting Purchaser shall, if required by the Company, do everything necessary, including giving express consents in writing to the exercise of the said rights by the Company, to facilitate the exercise of the said rights by the Company; and
  - (iii) the Covenanting Purchaser hereby expressly and irrevocably appoints the Company to be its attorney and grants unto the Company the full right power and authority to give all consents and to do all acts deeds matters and things and to execute and sign seal and as the acts and deeds of the Covenanting Purchaser deliver such deeds and to sign such documents or instruments as may be necessary for the exercise of or incidental to the exercise of the rights conferred on the Company as aforesaid and the Covenanting Purchaser hereby further covenants to do all acts deeds matters and things and to execute sign seal and deliver such deed or deeds and to sign such documents or instruments as may be necessary to give effect to such appointment and grant."
- (c) The parties hereto covenant with each other to comply with the terms and conditions of the Government Lease so long as they remain as Owners and Manager.

#### MANAGEMENT

10. (a) The parties hereto have agreed with the Manager for the Manager to undertake the management and maintenance of the Land and the Development for a term of two (2) years from the date of this Deed and to be continued thereafter until termination of the Manager's appointment in the manner hereinafter provided PROVIDED THAT nothing herein shall restrict or prohibit the termination of the appointment of the Manager during such initial term or at any time thereafter under the following circumstances :-



- (i) the appointment is terminated by the Manager by giving not less than three (3) calendar months' notice of termination in writing by sending such notice to the Owners' Committee or where the Owners' Committee has not yet been established pursuant to the provisions of this Deed, by serving such notice on each of the Owners and by displaying such notice in a prominent place in the Development. For this purpose, service of such notice on an Owner may be effected personally upon the Owner; or by post addressed to the Owner at his last known address; or by leaving such notice at the House owned by the Owner or depositing the notice in the Owner's letter box; or
  - (ii) upon the passing of a resolution of the Owners of not less than 50% of the Undivided Shares (excluding the Undivided Shares allocated to the Common Areas) at a general meeting convened for the purpose, the appointment of the Manager may be terminated without compensation by the Owners' Committee giving to the Manager not less than three (3) calendar months' notice of termination in writing; or
  - (iii) in the event that the Manager is wound up or has a receiving order made against it.
- (b) Where an Owners' Incorporation has been formed, an Owners' Incorporation may, by the passing of a resolution of the Owners of not less than 50% of the Undivided Shares (excluding the Undivided Shares allocated to the Common Areas) to be determined at a general meeting convened for the purpose, remove the Manager without compensation by the Owners' Incorporation giving to the Manager not less than 3 calendar months' notice of termination in writing. In this respect, such resolution shall have effect only if such notice of termination is in writing; the length of notice specified therein is for a period of not less than 3 months; such notice is accompanied by a copy of the resolution terminating the Manager's appointment; and such notice and the copy of the resolution is served upon the Manager not more than 14 days after the date of the meeting. For this purpose, service of such notice and the copy of the resolution required to be served may be effected personally upon the Manager; or by post addressed to the Manager at its last known address or by leaving the notice at the address of the registered office of the Manager.
- (c) The Manager's appointment may not be terminated under Sub-clause (b) above :-
  - (i) if, within the previous 3 years, the appointment of a previous Manager was terminated under Sub-clause (b) above; or
  - (ii) if the Manager was appointed by the Owners' Incorporation under Sub-clause (d)(ii) below.
- (d) If a notice to terminate a Manager's appointment is given under Sub-clause (b) above :-
  - (i) no appointment of a new Manager shall take effect unless the appointment is approved by a resolution of the Owners' Committee (if any); and



- (ii) if no such appointment is approved under Sub-clause (d)(i) above by the time the notice expires, the Owners' Incorporation may appoint another Manager and, if it does so, the Owners' Incorporation shall have exclusive power to appoint any subsequent Manager.
- (e) The Manager shall within 2 months of the date its appointment ends :-
  - (aa) prepare :-
    - (1) an income and expenditure account for the period beginning with the commencement of the financial year in which its appointment ends and ending on the date its appointment ended; and
    - (2) a balance sheet as at the date its appointment ended, and shall arrange for that account and balance sheet to be audited by an Authorised Accountant or by some other independent auditor specified in a resolution of the Owners' Committee or, in the absence of any such specification, by such Authorised Accountant or other independent auditor as may be chosen by the Manager; and
  - (bb) deliver to the Owners' Committee or the Manager appointed in its place any books or records of account, papers, documents and other records in respect of the control, management and administration of the Development that are under its control or in its custody or possession.
- (c) If the service of the Manager is terminated in accordance with Sub-clause (a) of this Clause 10, the Owners' Committee themselves or at the option of the Owners' Committee, any other management or service company or agent which the Owners' Committee may appoint to undertake the management of the Development or such lesser management services as the Owners' Committee may decide shall have power notwithstanding any rule of law or equity regulating the delegation of power and notwithstanding that the Owners' Committee only holds office for one year at a time to enter into an agreement with any person firm or company under which such person firm or company, may undertake the management of the Development or such lesser management services as aforesaid for such period at such remuneration and on such terms and conditions (not being inconsistent with this Deed and/or the Government Lease) as the Owners' Committee may in their discretion determine.

#### POWERS AND FUNCTIONS OF THE MANAGER

- 11. (a) Except as otherwise herein expressly provided, the Manager duly appointed, who shall be subject to the provisions of the BMO, shall have the authority to act for and on behalf of all Owners in accordance with the provisions of this Deed and shall be responsible for and shall have full authority to do all such acts and things as may in its opinion be necessary or requisite for the proper and efficient management of the Land and the Development. The Manager shall well and properly maintain and manage the Land and the Development and in particular the Common Areas and Facilities by and with all manner of needful and necessary repairs, cleansings and amendments whatsoever, the whole to be done in accordance with this Deed.



- (b) (i) The Manager shall not, in any financial year, enter into any contract that involves an average annual expenditure of more than 20% of the budget or revised budget, as the case may be, for that financial year or of such greater amount as the Secretary for Home Affairs may specify by notice in the Gazette unless the contract complies with such standards and guidelines as may be specified in a Code of Practice referred to in Section 20A of the BMO and relating to procurement and tender procedures and at intervals of not more than 3 years.
- (ii) The Manager shall not effect any improvements to facilities or services which involve expenditure in excess of 10% of the current annual management budget except with the prior approval by a resolution of Owners at an Owners' meeting convened hereunder.
- (c) Reference in this Deed to "the Manager" shall unless the context otherwise requires include the Manager or the Owners' Committee or the Owners' Incorporation when respectively undertaking the management of the Development (where applicable) and any service company or agent from time to time appointed under the powers herein contained.
- (d) Without in any way limiting the generality of the foregoing the Manager shall have the following powers and duties namely :-
- (i) To demand, collect and receive all amounts payable by the Owners under the provisions of this Deed.
- (ii) To manage and control the parking, loading and unloading of vehicles within the Development and the flow of vehicular traffic over all driveways and ramps and other areas intended for such purposes within the Development.
- (iii) (aa) To take out appropriate insurance against public liabilities (including public liabilities caused by negligence of the management staff) occupier's liabilities and other legal liabilities in connection with the management of the Land and the Development up to such amounts as the Manager may from time to time determine employers' liability insurance and workmen's compensation or other insurance as the Manager shall deem reasonably necessary with some reputable insurance company or companies in the name of the Manager for and on behalf of the Owners of the Land and the Development according to their respective interest and to pay all premia required to keep such insurance policies in force. All monies received as a result of damage to the Land and the Development or any part of it shall be applied (subject as provided in Clause 20 hereof) towards reinstating and making good the loss or damage in respect of which such monies were paid.



- (bb) To insure and keep insured the Common Areas and Facilities (and if deem fit, the Development as a whole) against loss or damage by fire and other perils to their respective full new reinstatement value with some reputable insurance company or companies in the name of the Manager for and on behalf of the Owners of the Land and the Development according to their respective interest and to pay all premia required to keep such insurance policies in force. All monies received as a result of damage to the Land and the Development or any part of it shall be applied (subject as provided in Clause 20 hereof) towards reinstating and making good the loss or damage in respect of which such monies were paid.
- (iv) To arrange for the disposal of refuse from the Common Areas and from areas designated by the Manager as refuse collection area in the Development. Provided that in the case of refuse the nature or quality or quantity of which shall in the opinion of the Manager require special arrangement or facilities for its disposal shall remain the liability of the Owner(s) thereof.
- (v) To maintain keep in good order and repair the lighting and ventilation of the Common Areas and all fire fighting equipment which form part of the Common Facilities.
- (vi) To inspect maintain and carry out all necessary works for the maintenance of the Development and the Works and Installations.
- (vii) To repair and keep in good repair and condition and to keep in clean and sanitary condition the main structure and fabric of the Common Areas and Facilities and the equipment, apparatus, services, facilities thereof and if necessary to repair replace or upgrade the same or any part(s) thereof.
- (viii) To impound and/or remove any cars or other vehicles parked in any area not reserved or designated for parking.
- (ix) To maintain paint white-wash tile or otherwise treat as may be appropriate the Common Areas at such intervals as the same may in the opinion of the Manager reasonably be required to be done and in any event if so required by the Government.
- (x) To replace any glass in Common Areas that may be broken.
- (xi) To keep such of the lavatories (if any) drains and sewers as are in common use and not for the use of any particular Houses in good, clean and sanitary repair and condition and to renew or replace any parts that may become damaged or defective.



- (xii) To prevent the obstruction of any of the Common Areas and Facilities and in particular the staircases, loading and unloading area, driveways and ramps within the Development; and to remove and/or impound such item or article causing the obstruction and the costs therefor shall be paid by the Owner(s) or residents of any House(s) causing such obstruction or his family, servants, tenants, licensees and invitees.
- (xiii) To remove and/or impound any structure, installation, signboard, advertisement, sunshade, bracket, fitting or other thing in or on the Common Areas or any part thereof which has been erected without the written permission of the Manager (or if such permission has been given upon the expiration or withdrawal of the same) and to demand and recover from the person by whom such structure or other thing as aforesaid was erected or installed: the cost of such removal and the making good of any damage thereby caused to the satisfaction of the Manager.
- (xiv) To appoint solicitors or other appropriate legal counsel to advise upon any point which arises in the management of the Development necessitating professional legal advice and with authority to accept service on behalf of all Owners of all legal proceedings relating to the Development and its services, apparatus, facilities and equipment or any part thereof (but not proceedings relating to rights and obligations of individual Owners inter se) and, in particular but without limiting the foregoing, in all proceedings in which the Government shall be a party and at all times within 7 days of being requested so to do by the Director of Lands or other competent Government officer, to appoint a solicitor who shall undertake to accept service on behalf of all Owners for the purpose of Order 10 Rule 1 of the Rules of the High Court (or any provisions amending or in substitution for the same) or otherwise.
- (xv) To prevent (by legal action if necessary) any person from unlawfully occupying or using otherwise than in accordance with the written permission of the Manager or the provisions of this Deed any of the Common Areas.
- (xvi) To prevent and to take legal action if necessary to remedy any breach by any Owner or other person of any provisions of the Government Lease and of this Deed.
- (xvii) To prevent any person detrimentally altering or injuring any part of the Development, or any of the equipment, apparatus, services or facilities thereof.
- (xviii) To represent the Owners in all matters and dealings with the Government or any utility company or other competent authority or any other person whomsoever in any way touching or concerning the management of the Development as a whole, the Common Areas and Facilities, equipment, apparatus, facilities and services and management staff.



- (xix) To enter into contracts and to engage, employ, remunerate and dismiss solicitors, architects, accountants and other professional advisers and consultants contractors, office staff, agents, workmen, servants, cleaners, gardeners, watchmen, caretakers and other management staff. The powers provided for in this Clause shall extend to the engagement of firms or companies to provide any of the above services Provided always that the Manager shall not transfer or assign his rights or obligations under this Deed to any such persons or firms or companies and such persons or firms or companies shall remain answerable to the Manager.
- (xx) To provide a satisfactory security system for the Development and whenever necessary repair, maintain and replace the whole or any part or parts thereof.
- (xxi) To commence, conduct, carry on and defend legal and other proceedings touching or concerning the Development as one single estate or the management thereof all in the name of the Manager for and on behalf of the Owners.
- (xxii) To enforce the due observance and performance by the Owners of the covenants and conditions of this Deed and to take action in respect of any breach thereof including the commencement, conduct and defence of legal proceedings and the registration and enforcement of charges as hereinafter mentioned.
- (xxiii) To post the House number the owner of which is in default or in breach of the covenants and conditions of this Deed together with particulars of the default or breach on the notice boards within the Development Provided that seven days' prior written notice has been given to the defaulting Owner/resident.
- (xxiv) To keep and maintain the landscape works in the Common Areas in a clean, neat, tidy, functional and healthy condition all to the satisfaction of the Director of Lands.
- (xxv) To take possession of and to maintain and manage the Common Areas with full power to control the use thereof. The Manager shall have power to provide within such areas such fixtures, fittings, furniture and other equipment as it may consider appropriate and will have the same power to repair, replace and maintain all such facilities as it has in respect of the Development the costs, charges and expenses thereof forming part of the management expenses as a whole.



- (xxvi) Subject to the prior written approval of the Owners' Committee or Owners' Incorporation (if formed), to grant or obtain such easement, quasi-easement, rights, privileges and informal arrangements in relation to the Common Areas as it shall consider necessary to ensure the efficient management of the Development and to execute any documents for and on behalf of all Owners Provided that any such easements, quasi-easements, rights, privileges and informal arrangements shall not interfere with any Owner's right to hold use occupy and enjoy that part of the Development he owns or impede or restrict the access to and from any such part of the Development and Provided further that all money received shall be credited to the Management Funds of the Development and be applied accordingly.
- (xxvii) To convene and attend such meetings of the Owners as may be necessary and requisite provided that sufficient prior notice in writing should be given to the Owners.
- (xxviii) To establish and to maintain a Special Fund to meet contingencies or expenditure of a capital and/or non-recurrent nature for the maintenance of the Common Areas and Facilities.
- (xxix) To engage suitable qualified personnel to inspect keep and maintain in good and substantial repair and condition and to carry out any necessary works in respect of the Slopes and Retaining Structures in compliance with the Government Lease and in accordance with "Geoguide 5 – Guide to Slope Maintenance" issued by the Geotechnical Engineering Office (as amended from time to time) and the Maintenance Manual for the Slopes and Retaining Structures referred to in Clause 33 of the Second Schedule hereto and to collect from the Owners all the costs lawfully incurred or to be incurred in carrying out the necessary slope maintenance works and related works.
- (xxx) To keep and make available for inspection by the Owners in its office plans prepared by the Company and certified as to their accuracy by the Authorised Person of the Development showing the Common Areas and to make available for inspection by the Owners who can also obtain copies of such plans upon request to the Manager and payment of a reasonable charge.
- (xxxi) To provide such festive decorations for the Development as the Manager may think appropriate.
- (xxxii) To keep proper accounts of all income received and expenditure incurred by and all payments made to the Manager in respect of carrying out of its duties hereunder.
- (xxxiii) To appoint an Authorised Accountant to audit and/or certify the accounts and records of the Manager concerning the management of the Development and to certify the said accounts.
- (xxxiv) To pay on behalf of the Owners the Government rents, if any, payable in respect of the Common areas.



- (xxxv) To give or withhold in its discretion its written consent or approval to anything which requires its written consent or approval pursuant to this Deed or the Estate Rules (provided that such consent not to be unreasonably withheld) and to impose conditions or additional conditions including payment of administrative fees relative thereto and where any consent or approval is required from the Manager by an Owner, the Manager shall be entitled to charge and maintain a reasonable administrative fee for processing such consent, and which administrative fee shall be paid into the Management Funds.
- (xxxvi) To maintain the FS installation and equipment of the Development to the satisfaction of the Director of Fire Services if such system is installed in the Development.
- (xxxvii) (a) To provide appropriate and sufficient waste separation and recovery facilities including, but not limited, to waste separation bins at such locations within the Common Areas as it may consider suitable and convenient to facilitate waste separation and recovery by the Owners and occupiers of the Development. The Manager shall ensure that the recovery facilities shall consist of material that will not cause any fire hazard and shall be placed in locations so as not to cause obstruction to any fire escape route, and that recyclable materials recovered from the facilities or through the regular cleansing process shall be properly collected, stored, and sent for recycling. The Manager shall maintain the facilities in an environmentally acceptable and hygienic manner to avoid creating nuisance to the Owners and occupiers of the Development.
- (b) To organize any activities as it may consider appropriate on a regular basis to promote the environmental awareness of the Owners and occupiers of the Development and it shall encourage them to participate in such activities with a view to improving the environmental conditions of the Development.
- (c) To make house rules to require the Owners and occupiers of the Development to dispose of their rubbish properly for waste separation and recycling purposes.
- (xxxviii) To assign the Common Areas and Facilities free of costs or consideration to his successor as manager on termination of his appointment or to the Owners' Incorporation (if formed) at any time, if so required by it.
- (xxxix) To do all such things as are reasonably necessary or incidental to the proper and efficient management of the Development in accordance with and subject to the provisions of this Deed.



- (e) All the Common Areas and Facilities shall be under the exclusive management and control of the Manager who is hereby appointed the agent therefor for and on behalf of all Owners and shall, for the proper and efficient management of the Land and the Development, have full power to regulate and control the use thereof by the Owners their licensees, invitees or residents of the Development.
- (f) All acts and decisions of the Manager arrived at in accordance with the provisions of this Deed in respect of any of the matters aforesaid shall be binding in all respects on all the Owners for the time being of the Development.
- (g) The Manager, its servants, agents or contractors shall not be liable to the Owners or any of them or to any person or persons whomsoever whether claiming through, under or in trust for any Owner or otherwise, for or in respect of any act, deed, matter or thing done or omitted in pursuance or purported pursuance of the provisions of this Deed not being an act or omission involving criminal liability or dishonesty or negligence and the Owners shall fully and effectually indemnify the Manager, its servants, agents or contractors from and against all actions, proceedings, claims and demands whatsoever arising directly or indirectly out of or in connection with any such act, deed, matter or thing done or omitted as aforesaid and all costs and expenses in connection therewith Provided that nothing in this Deed shall be construed to exclude the liability of the Manager to the Owners for any act or omission involving criminal liability, dishonesty or negligence on the part of the Manager or its servant or agent and no Owner shall be required to indemnify the Manager or its servant or agent from and against any action or claim arising out of any such act or omission. Without in any way limiting the generality of the foregoing, the Manager, its servants, agents or contractors shall not be held liable for any damage, loss or injury caused by or in any way arising out of :-
- (i) any defect in or failure or breakdown of any of the Common Areas and Facilities, or
  - (ii) any failure, malfunction or suspension of the supply of water, electricity or other utility or service to the Land and the Development, or
  - (iii) fire or flooding or the overflow or leakage of water from anywhere whether within or outside the Land and the Development, or
  - (iv) the activity of termites, cockroaches, rats, mice or other pests or vermin, or
  - (v) theft, burglary or robbery within the Land and the Development;

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



- (h) The Manager may appoint or employ agents, contractor or sub-manager, who may include professional property management companies, to carry out certain aspects of the management works or management works in respect of certain area(s) of the Development but the Manager shall not transfer or assign his rights or obligation under this Deed to any such persons, firms or companies and such persons, firms or companies shall remain answerable to the Manager. Subject to the proviso of Clause 10(a) of this Deed, the Manager shall at all times be responsible for the management and control of the Land and the whole Development (including any part thereof) and no provisions in this Deed shall attempt to take away or reduce such responsibility.
- (i) Each Owner shall be responsible for and shall indemnify the Manager and the other Owners and occupiers for the time being against all actions, proceedings, claims and demands whatsoever arising out of or in respect of any loss or damage to any person or property caused by or as the result of the act or negligence of such Owner or any occupier of any House of which he has the exclusive use or any person using such House with his consent express or implied or by, or through, or in any way owing to the overflow of water or spread of fire therefrom and to pay all costs, charges and expenses incurred in repairing or making good any loss or damage to the Land and the Development or any part or parts thereof or any of the Common Areas and Facilities therein or thereon caused by the act, neglect or default of all such persons. In the case of loss or damage which the Manager is empowered by this Deed to make good or repair, such costs, charges and expenses shall be recoverable by the Manager as herein provided and in the case of loss or damage suffered by other Owners or occupiers for which the Manager is not empowered by this Deed or for which the Manager has elected not to repair or make good, such costs, charges and expenses together with all other damages recoverable by law shall be recoverable by the person or persons sustaining the loss or damage.
- (j) The Manager must deposit the revised maintenance manual for the Works and Installations in the management office within one month from the date of its preparation for inspection by all Owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.
- (k) The Manager may enter into contracts for the installation or use of aerial broadcast distribution or telecommunications network facilities and contracts for the provision of broadcast distribution network or telecommunications network services only if subject to the following conditions :
- (i) the term of the contract will not exceed 3 years;
  - (ii) the right to be granted under the contract must be non-exclusive and must provide for sharing the use of the facilities and network with other service providers; and

no Owner is required to make any payment in any form attributable to the installation or provision of the facilities or services, unless he is a subscriber to the relevant service.



## MANAGEMENT BUDGETS

12. (a) For the purpose of fixing the contribution payable by the Owners an annual budget showing the estimated management expenses for the ensuing year shall be prepared by the Manager. Every annual budget (except for the period from the date of this Deed to the 31st day of March of the calendar year next following the date of this Deed) shall be prepared by the Manager in consultation with the Owners' Committee. Every annual budget shall cover the estimated management expenses which in the opinion of the Manager (whose decision shall be conclusive save for manifest error) are attributable to all the Owners of the Development.
- (b) The first financial year shall, for the purpose of the annual budget, commence on the date of this Deed and end on the 31st day of March of the calendar year next following the date of this Deed and thereafter shall commence on the 1st day of April of each and every subsequent year. Such financial year shall not be changed until the expiry of a period of 5 years from the first financial year except with the prior approval of the Owners' Committee.
- (c) The management expenses in the management budget shall include but shall not be limited to the following, namely :
- (i) The Government rent (other than the amounts which have been apportioned by the Government to individual Owner(s)) and all sums (other than the premium) payable under the Government Lease unless and until separate assessment in respect of each House has been made by the Government Provided where there is a substantial increase in the Government rent the whole of the Government rent of the Land shall be borne and paid directly by the Owner(s) in the proportion of the Undivided Shares owned by them instead of having the same paid out of the ordinary management fee receivable hereunder Provided further that the Manager shall have the discretion in deciding whether or not an increase in Government rent is substantial.
  - (ii) Premia payable for the insurance of the Common Areas and Facilities, against damage by fire, public liability, occupier's liability, employer's liabilities, workmen's compensation and such other risks and losses as the Manager considers appropriate.
  - (iii) The costs of maintaining, repairing and keeping in good and tenable repair and condition the Common Areas and Facilities and also the costs and expenses for any re-instatement or replacement or renewal thereof (except as regards damage caused by or resulting from any act, default or negligence of any individual Owner or Owners or person(s) for whom he/they is/are responsible which shall be made good by such individual Owner(s)).

- (iv) The costs of employing all necessary persons whether as servants, agents or advisers to provide the services requisite for the proper management and maintenance of the Development and the due performance of the duties of the Manager as herein set out together with the costs of providing all equipment, accommodation, clothing, medical expenses, provident fund, long service payment or other statutory payments under the Employment Ordinance of the Laws of the Hong Kong Special Administrative Region or other similar Ordinances for management staff and materials reasonably necessary for such purposes.
- (v) The costs of purchasing or hiring all necessary plant and equipment for common use in the Development as a whole.
- (vi) The costs of providing and maintaining appropriate lighting for all the Common Areas and Facilities and external lighting.
- (vii) Such legal, accountancy, auditing and other professional fees, costs and expenses together with all actual costs and expenses incurred by the Manager in performance of any duty or in exercise of any power hereunder or in connection with or incidental to any legal proceedings or otherwise.
- (viii) The costs of electricity, water, gas and other similar charges of or in connection with the Development as a whole and not in respect of the use of or consumption in any particular House(s).
- (ix) The costs of refuse disposal.
- (x) The costs of the supply of flushing and fresh water to all taps and lavatories within the Development for common use.
- (xi) The costs of cleaning the Common Areas and Facilities in particular the driveways, ramps and footpaths.
- (xii) The costs for the provision of security services for the Development including the maintenance of the security system installed.
- (xiii) The costs of postage, stationery and other sundry items incurred by the Manager in connection with the management of the Development.
- (xiv) The costs of fuel, oil or electricity incurred in connection with the operation of the plant, equipment and machinery provided for the benefit of Owners or residents of the Development as a whole.
- (xv) Any tax (except profit tax) payable by the Manager on any of the sums received or held by them under the provisions hereof.
- (xvi) The costs and expenses of carrying out all and any of the duties of the Manager as set out in Clause 11 hereof.



- (xvii) All costs and expenses lawfully incurred or to be incurred by the Manager in carrying out maintenance, repair and any other works in respect of the Slopes and Retaining Structures.
  - (xviii) Any other items of expenditure which are in the absolute discretion of the Manager considered as necessary for the management of the Land and the Development including but not limited to all staff, facilities, office, accountancy, professional, supervisory and clerical expenses incurred by the Manager in respect thereof.
- (d) In preparing the annual budgets under this Clause 12, the Manager shall adopt the following principles :-
- (i) All existing and future taxes, rates, assessments, Government rent (which has been specifically apportioned by the Government to individual Owner(s)) property tax and outgoings of every description for the time being payable in respect of any Houses shall be borne by the Owner of that House owned by him.
  - (ii) The costs and expenses for keeping in good and tenantable repair and condition the interior, fixture and fittings and the windows and doors of any Houses and the erection, installation, maintenance and renewal thereof and all plumbing, electrical installations, flues or pipes or other plants, equipment, apparatus or services used exclusively by any Houses, shall be solely borne by the Owner or Owners for the time being of that particular House or Houses.
  - (iii) Where any expenses do not fall within the preceding Sub-Clauses (i) and (ii), but relate to or are for the benefit of all the Owners of the Development, such expenses shall be apportioned between all the Owners by reference to the Management Shares held by each of them.

Provided Always that in determining whether any expenses fall within the preceding Sub-Clauses (i), (ii) and (iii), the Manager's decision shall be conclusive and binding on all the Owners save for manifest error.

- (e) Paragraph 1 of the Seventh Schedule to the BMO shall apply to the budgets mentioned in Clause 12 and the Manager shall observe and comply with the provisions in the said paragraph 1.

#### MANAGEMENT FEES

13. (a) Each Owner (save for the Owner of the Common Parts Undivided Shares) shall bear and pay for a due proportion of the total sum budgeted by the Manager to cover the management expenses and the Manager's remuneration specified in Clause 17 of this Deed (hereinafter collectively called "the management fees") in manner hereinafter more particularly specified in this Clause 13, whether or not his House or Houses are vacant or occupied and whether or not such House or Houses have been let or leased to a tenant or is occupied by the Owner himself or any other person or persons Provided always that no Owner may be called upon to pay more than his fair share of the management fees.



- (b) As from the date of this Deed, the Owner of each House shall pay in advance on the first day of each calendar month 1/12<sup>th</sup> of the due proportion of the budgeted management fees in respect of the Land and the Development such proportion shall be the same proportion as the number of Management Shares allocated to his House bears to the total number of Management Shares allocated to all the Houses as specified in the Third Schedule hereto.
- (c) The Manager may at any time if they deem it fit for the proper management of the Development do the following :-
  - (i) Subject to Sub-clause (ii) hereunder, if the total contribution receivable as hereinbefore mentioned by the Manager shall be insufficient to meet the management expenses by reason of any further management fees whether incurred or to be incurred over and above the sum budgeted by the Manager, such deficiency shall be carried forward to and recouped by adjusting the annual budget and the management fee for the next financial year Provided always that the Manager may, upon approval by the Owners, from time to time demand from each Owner on giving not less than one month's prior notice in writing additional monthly contribution payable by each Owner to recover such deficiency or that in exceptional circumstances such deficiency may be recovered by special contribution i.e. one lump sum as the Manager may after consulting the Owners deem fit to meet the said further management fees due thereon.
  - (ii) Any revision of management fee as provided for in the preceding Sub-clause (i) shall be in accordance with Sub-clause (a) of this Clause 13.
- (d) Notwithstanding Clause 7(a) hereof, all outgoings including management fees up to and inclusive of the date of assignment of each House from the Company direct shall be borne and paid by the Company.

#### INTEREST ON AND RECOVERY OF MANAGEMENT EXPENSES

- 14. (a) If any Owner shall fail to pay any amount payable under any provisions of this Deed within 30 days of demand (in respect of the monthly management fee the due date shall be deemed to be the 1st day of each month) he shall further be liable to pay and the Manager shall have the right to collect from him the following liquidated damages :-
  - (i) Interest calculated at the rate of 2% per annum above the prime rate from time to time specified by The Hongkong and Shanghai Banking Corporation Limited from the date of demand to the actual date of payment, and
  - (ii) A collection charge not exceeding 10% of the amount due to cover the cost (in addition to the legal costs as hereinafter mentioned) of the extra work occasioned by the default,

Provided that such interest and charge received shall be credited to the Management Funds.



- (b) Without prejudice to the liability of the Owners hereunder all amounts which may be or become payable by any Owner for the time being of any House in accordance with the provisions of this Deed (including the said liquidated damages referred to in Sub-clause (a) of this Clause 14) shall be recoverable by the Manager from the Owner(s) and/or residents for the time being of such House and the provisions of sections 25 and 26 of the BMO or any statutory amendment, modification to or replacement thereof shall apply thereto.
- (c) All amounts which may be or become payable by any Owner or any residents for the time being of any House in the Development in accordance with the provisions of this Deed including the said liquidated damages (referred to in Sub-clause (a) of this Clause 14) and all other expenses incurred in or in connection with recovering or attempting to recover the same shall be recoverable by civil action at the suit of the Manager. In addition to the foregoing, the defaulting Owner or resident shall be liable for legal costs of the Manager on a solicitor and own client basis in such action. In any such action, the Manager shall conclusively be deemed to be acting as the agent or agents for and on behalf of all the Owners other than the defaulting owner and no Owner or residents sued under the provisions of this Deed shall raise or be entitled to raise any defence of want of authority or take objection to the right of the Manager as plaintiff to sue or to recover such amounts as may be found to be due.
- (d) In the event of any Owner or residents failing to pay any such amount due and payable by him in accordance with the provisions of this Deed within 30 days of the date on which the same becomes payable, the amount thereof including the said liquidated damages (referred to in Sub-clause (a) of this Clause 14) costs and expenses which may be incurred in recovering or attempting to recover the same and the legal expenses referred to in Sub-clause (c) of this Clause 14 and in registering the charge hereinafter referred to, shall be charged on the Undivided Share(s) of the defaulting Owner in the Development and the Manager shall be entitled without prejudice to any other remedy hereunder to register a Memorial of such charge in the Land Registry against the Undivided Share(s) of the House(s) of the defaulting Owner. Such charge shall remain valid and enforceable as hereinafter mentioned notwithstanding that judgment has been obtained for the amount thereof provided such judgment has not been satisfied in full.
- (e) Any charge registered in accordance with the last preceding paragraph shall be enforceable as an equitable charge by action at the suit of the Manager for an order for the sale of the Undivided Share(s) of the defaulting Owner in the Development together with the right to exclusive use, occupation and enjoyment of his House held therewith and the provisions of Sub-clause (c) of this Clause 14 shall apply equally to any such action.
- (f) The Manager shall further have power to commence proceedings for the purpose of enforcing the observance and performance by any Owner or residents of any Houses of the covenants, conditions and provisions of this Deed and of the Estate Rules and of recovering damages for the breach, non-observance or non-performance thereof. The provisions of Sub-clause (d) of this Clause 14 shall apply to all such proceedings and to the recovery of any costs, damages or other moneys awarded therein.



- (g) The Manager may discontinue providing management services to Owners who fail to pay any such amounts or to comply with any provisions under this Deed.

#### DEPOSITS AND OTHER PAYMENT

15. (a) Subject to Sub-clause (b) below, each Owner (save and except the Company) shall upon taking up the assignment of his House from the Company :-
- (i) pay to the Manager a sum equivalent to 1 month's management fees based on the relevant annual budget as payment in advance of the management fees for his House;
  - (ii) deposit with the Manager as security for the due payment of all amounts which may be or become payable by him under this Deed a sum equal to 3 times of the monthly management fees for his House based on the relevant annual budget which deposit shall not be used by the Owner to set off against any contribution payable by him under this Deed but shall be transferable as provided in Clause 16(h) of this Deed, it being agreed that in any proceedings by the Manager against an Owner in respect of a payment default under this Deed, such Owner shall have no right to require the Manager to mitigate its loss by setting off the said deposit against any sums payable by the Owner under this Deed;
  - (iii) pay to the Manager a sum equivalent to 2 months' management fees based on the relevant annual budget as initial contribution to the Special Fund which shall be non-transferable and non-refundable.
  - (iv) pay to the Manager a sum equivalent to 1 month's management fee based on the relevant annual budget as debris removal fee which shall be non-refundable and non-transferable.
  - (v) pay to the Manager his due share (to be decided by the number of Undivided Shares allocated to his House) of the deposits paid for public water and electricity meters and for the supply of other utilities to the Common Areas and Facilities and which deposits or balance thereof (as the case may be) shall be non-interest bearing and non-refundable but transferable.
- (b) The Company shall in respect of any Houses which remain unsold within three months after the date of this Deed pay to the Manager the deposit and sum mentioned in Sub-clause (a)(i) [to (v)] of this Clause 15 in respect of each unsold House.



## MANAGEMENT FUNDS

16. (a) (i) The Manager shall be deemed to be a trustee for and on behalf of the Owners in respect of all money received on their behalf and unless otherwise authorized by the Owners' Committee must pay the money into a specifically designated interest bearing account in respect of the Development at a licensed bank. The Manager may retain a reasonable amount to cover day-to-day expenditure, such amount to be approved from time to time by the Owners' Committee and the Manager shall keep proper accounts of all such money and the expenditure thereof and shall once every year produce an annual set of accounts to the Owners which accounts will be certified by the Authorized Accountant hereinafter referred to as providing an accurate summary of all items of income and expenditure during the preceding year.
- (ii) There shall be established and maintained by the Manager as trustee for and on behalf of the Owner at such time as it shall deem appropriate a Special Fund towards payment of expenses of a capital nature for the replacement or improvement of installation, plant and equipment in respect of the Common Areas and Facilities and/or for the proper management of the Common Areas and Facilities and such fund shall not be refundable nor transferable Provided always that such fund shall be the property of the Owners and shall be deposited in a specifically designated interest bearing bank account designated as a trust account for the Owners. Special reference shall be made to this Special Fund in the annual accounts and an estimate shall be given as to the time of any likely need to draw on the fund. Any contribution to such fund and the time and manner for making such contribution shall be approved by the Owners in annual meeting.
- (b) The Manager shall prepare annual accounts for the management of the Land and the Development from the date of this Deed. The Manager shall have power to appoint an Authorized Accountant and from time to time to replace such Authorized Accountant and to appoint another Authorized Accountant in his place to audit at the expense of the Owners the accounts and records of the Manager concerning the management of the Land and the Development and to certify the annual accounts prepared in accordance with the foregoing paragraph. The Owners in general meeting convened under Clause 19 hereof may by resolution replace any Authorized Accountant appointed by the Manager and appoint another Authorized Accountant in his place as the Owners may deem necessary from time to time.
- (c) The annual summary of accounts and the estimated budget for the following year shall be posted for not less than 7 days upon the notice boards in the Development provided by the Manager. In addition, the Manager shall also prepare a quarterly summary of income and expenditure every 3 months and shall publish the same for a reasonable period of time on the notice boards of the Development.



- (d) The Manager shall maintain a complete set of accounts and other financial records relating to the management of the Land and the Development and will produce all such records to the Authorized Accountant for the purpose of the audit and certification referred to in Sub-clause (b) of this Clause 16.
- (e) All money, costs and expenses collected or recovered by the Manager under this Deed and all fees charged by the Manager for giving his consent or permission given hereunder shall be credited to the Management Funds.
- (f) On reasonable notice the Manager shall make available for inspection annual accounts and the quarterly summary of income and expenditure by any Owner and against payment of reasonable copying charges make available copies of the same to those Owners who may request copies thereof.
- (g) The Owners at an Owners' meeting shall have power to require the annual accounts to be audited by an independent auditor of their choice.
- (h) Any person ceasing to be the Owner of any Undivided Share(s) in the Development shall in respect of the Undivided Share(s) of which he ceases to be the Owner thereupon cease to have any interest in the funds held by the Manager to the intent that all such funds shall be held and applied for the management of the Development as herein provided irrespective of changes in ownership of the Undivided Share(s) therein PROVIDED that any security deposit paid by such Owner and still held by the Manager may be transferred into the name of the new Owner of such Undivided share(s) AND PROVIDED further that upon the rights and obligations hereunder being released as provided in Clause 20 hereof or upon the Development reverting to the Government any balance of the said funds shall be divided and distributed amongst the Owners for the time being of the Development in proportion to the Undivided Shares allocated to their respective House immediately prior to such release or reversion.

#### REMUNERATION OF THE MANAGER

- 17. (a) The remuneration of the Manager shall be payable as from the date of this Deed and in the sum which shall not in any event exceed TWENTY PER CENT of the total expenditure for the financial year necessarily and reasonably incurred in the management of the Development which shall be payable by way of monthly payments in advance. The amount of such monthly payments shall be determined by the Manager by reference to the total budgeted expenses with adjustments to be made at the end of each financial year when the final annual management expenses are ascertained. The Owners' Committee or Owners' Incorporation (if formed) shall have power to review the percentage by resolution at meetings of Owners.



- (b) For the purpose of calculating the Manager's remuneration, the total expenditure incurred in the management of the Land and the Development or any portion of it shall exclude (i) the Manager's Remuneration itself and (ii) any capital expenditure provided that the Owners' Committee (or the Owners' Incorporation, if formed) shall have the power and right to decide to include, at its own discretion, any capital expenditure for calculating the Manager's remuneration at the rate specified in Sub-clause (a) of this Clause 17 or at such lower rate as the Owners' Committee (or Owners' Incorporation, if formed) may consider appropriate. "Capital expenditure" shall mean expenditure of a kind not incurred annually.
- (c) The sums payable to the Manager under the provisions of this Clause 17 shall be the net remuneration of the Manager for their service as Manager and shall not include the costs, expenses and fees for any management staff, facilities, accountancy services, or other professional services or supervision which said costs and expenses shall be a direct charge upon the Management Funds.

#### OWNERS' COMMITTEE

- 18. (a) There shall be an Owners' Committee consisting of not less than three members whom shall be elected by resolution of the Owners as hereinafter mentioned at a meeting of the Owners.
- (b) The Manager shall call the first meeting of the Owners as soon as possible, but, in any event, not later than 9 months after the date of this Deed, which meeting shall appoint a Chairman and the Owners' Committee or shall appoint a management committee for the purpose of forming an Owners' Incorporation under the BMO.
- (c) Any Owner (including any one or two or more co-owners) shall be eligible for election to the Owners' Committee and, in the event of an Owner being a corporate body, any representative appointed by such Owner. The appointment of a representative by a corporate body shall be in writing addressed to the Owners' Committee and may be revoked at any time prior to the meeting of the Owners in writing given to the Owners' Committee.
- (d) (i) A member of the Owners' Committee shall hold office until the annual meeting of Owners next following his appointment or election provided that he shall nevertheless cease to hold office if :-
  - (aa) he resigns by notice in writing to the Owners' Committee;
  - (bb) he ceases to be eligible;
  - (cc) he becomes bankrupt or insolvent or is convicted of a criminal offence other than a summary offence not involving dishonesty;
  - (dd) he becomes incapacitated by physical or mental illness;
  - (ee) he is removed from office by the Owners by ordinary resolution passed at an extra-ordinary general meeting of the Owners called for the purpose.

- (ii) If at any annual meeting at which an election of Owners' Committee members should take place, the office of the retiring members or any of them is not filled, or if in any year no annual meeting is held, the Owners' Committee members shall continue to be in office until the next annual meeting.
- (e) Retiring Owners' Committee members shall be eligible for re-election.
- (f) The Owners' Committee may co-opt any eligible Owner to fill any casual vacancy or as an additional member for the current term provided that the maximum number of members specified in Clause 18(a) hereof is not exceeded.
- (g) The Owners' Committee may continue to act notwithstanding any vacancies in their number provided that the number is not reduced below three (3). In the event that the number is reduced below 3, the remaining Owners' Committee member may act but only for the purpose of appointing another owner or eligible person to be a member of the Owners' Committee.
- (h) Any one or more members of the Owners' Committee may be removed from office by resolution passed at a meeting of the Owners and by such resolution new members of the Owners' Committee may be elected in the place of those removed from office.
- (i) During such times as the Manager is acting as Manager of the Development, the function of the Owners' Committee shall be limited to representing the Owners in all dealings with the Manager, giving to and receiving from the Manager notices on behalf of all the Owners concerned including any notice to terminate the appointment of the Manager as hereinbefore mentioned, and undertaking such other duties as the Manager may, with their approval, delegate to them. Subject thereto and to any appointment of a service company or agent by the Owners' Committee under the powers in that behalf hereinbefore contained the Owners' Committee shall be responsible for and shall have full power to undertake the management of the Land and the Development and to exercise all the powers conferred on the Manager by this Deed.
- (j) The Owners' Committee shall have full power to make rules and byelaws regulating the conduct and procedure of its meetings and the performance of its duties and obligations provided that no such regulation or byelaw shall be contrary to or inconsistent with the provisions of this Deed.
- (k) The officers of the Owners' Committee shall be :-
  - (i) the chairman.
  - (ii) the secretary.
  - (iii) such other officers (if any) as the Owners' Committee may from time to time elect.
- (l) The officers of the Owners' Committee shall be elected by the members of the Owners' Committee themselves, such election to be held at or as soon as reasonably possible after the annual meeting at which the Owners' Committee is elected and at such other times as may be necessary.



- (m) All casual vacancies of the officers shall be filled by election or appointment by the members of the Owners' Committee as it may from time to time determine.

#### MEETING OF THE OWNERS

19. From time to time as occasion may require there shall be meetings of the Owners for the time being of the Undivided Shares in the Land and the Development to discuss and decide matters concerning the same and in regard to such meetings the following provisions shall apply :-

- (a) One such meeting to be known as the annual meeting shall be held once in each calendar year (commencing with the annual meeting held in accordance with Clause 19(c) hereof) for the purpose of electing or removing members of the Owners' Committee and that the Manager shall be entitled to convene and attend all such meetings.
- (b) A meeting may be convened by the Manager or the Owners of not less than 5% of the total number of Undivided Shares.
- (c) Notice of a meeting shall be served by the person or persons convening the meeting upon each Owner at least fourteen (14) days before the date of the meeting, and that notice shall specify the place, date and time of the meeting and the resolutions (if any) that are to be proposed.
- (d) No business shall be transacted at any meeting unless a quorum is present when the meeting proceeds to business and 50% of the Owners shall be a quorum. For the purposes of this Sub-clause (d), the reference above to "50% of the Owners" shall be construed as the Owners of 50% of the Undivided Shares (excluding the Common Parts Undivided Shares).
- (e) The chairman of the Owners' Committee shall be the chairman of such meeting and in his absence the Owners present at each meeting shall choose one of them to be chairman of the meeting.
- (f) The chairman shall cause a record to be kept of the persons present at the meeting and the proceedings thereof.
- (g) Every Owner shall have one vote in respect of each Undivided Share in the Land and the Development vested in him and in the case of Owners who are jointly entitled to such Undivided Share such Owners shall jointly have the vote and in case of dispute the first named of such Owners in the register of the Land Registry in relation to such Undivided Share shall have the right to vote.
- (h) In case of any equality of votes the chairman shall have a second or casting vote.
- (i) Votes may be given either personally or by proxy.
- (j) Except as herein mentioned, any resolution on any matter concerning the Development passed at a validly convened meeting by a simple majority of the votes of the Owners present in person or by proxy and voting in proportion to number of Undivided Shares (excluding the Common Parts Undivided Shares) held at such meeting and shall be binding on all the Owners of the Development Provided that :-



- (i) the notice convening the meeting shall have specified the intention to raise and/or discuss and/or propose a resolution or resolutions concerning the matter in respect of which the resolution is passed;
- (ii) any resolution purporting to be passed at such meeting concerning any other matter not specified in the notice shall not be valid;
- (iii) no resolution shall be valid if it is contrary to the provisions of this Deed;
- (iv) a resolution to rebuild or reinstate the Development in accordance with Clause 20 hereof shall be required to be passed by a 75% majority of those Owners present and voting at a meeting at which the Owners of not less than 75% of all the Undivided Shares (excluding the Common Parts Undivided Shares) allocated to that part of the Development that has been damaged are present in person or by representative proxy;
- (v) Notwithstanding any provisions to the contrary in Sub-clause (j) of this Clause 19 any resolution for the removal of the Manager of the Development shall only be valid if passed by the Owners of not less than 50% of the total number of Undivided Shares of and in the Land and the Development (excluding the Common Parts Undivided Shares).
- (k) The accidental omission to give notice as aforesaid to any Owner shall not invalidate the proceedings at any meeting or any resolution passed thereat.
- (l) The Common Parts Undivided Shares shall not carry any voting rights or liabilities to pay fees under this Deed, nor shall such Common Parts Undivided Shares be taken into account for the purpose of calculating the quorum of any meeting. For the avoidance of doubt and for the purpose of this Clause 19 only, the Owners shall exclude the Owner of the Common Areas.
- (m) The Owners may, by a resolution of Owners at an Owners' meeting convened under this Deed, decide on revisions to be made to the schedule and the maintenance manual for the Works and Installations, in which event the Manager must procure from a qualified professional or consultant the revised schedule and the revised maintenance manual for the Works and Installations within such time as may be prescribed by the Owners in an Owners' meeting convened under this Deed. All costs incidental to the preparation of the revised schedule and the revised maintenance manual for the Works and Installations will be paid out of the Special Fund.



#### EXTINGUISHMENT OF RIGHTS UNDER THIS DEED

20. (a) In the event of any building or buildings or portion thereof on the Development being so damaged by fire, typhoon, earthquake, subsidence or other cause so as to render the same substantially unfit for habitation the Manager shall convene a meeting of the Owners in whom the right to the exclusive use, occupation and enjoyment of the House or the Houses in that portion of the Development are vested and such meeting may resolve by not less than 75% majority of the Owners in person or by proxy voting at a meeting of Owners of not less than 75% of the Undivided Shares allocated to that part of the Development or building or buildings that shall have been damaged (excluding the Common Parts Undivided Shares) that by reason of insufficiency of insurance monies, changes in building laws and/or regulations or any other circumstances whatsoever, it is not practicable to reinstate such building or buildings or portion thereof and in such event the Undivided Shares representing such House or Houses in such portion thereof shall be acquired by the Manager and the Owners of such Undivided Shares shall in such event be obliged to assign the same and all rights and appurtenances thereto to the Manager upon trust to forthwith dispose of the same by public auction or otherwise and to distribute the net proceeds of sale amongst the Owners of such Undivided Shares in proportion to the respective Undivided Shares previously held by such former Owners. All insurance moneys received in respect of any policy of insurance on such building or portion thereof shall likewise be distributed amongst such former Owners. In such event, all the rights, privileges, obligations and covenants of such former Owners under this Deed or any other Deed shall be extinguished so far as the same relate to such former Owners of that building or buildings or portion thereof Provided Always if it is resolved to reinstate such building or buildings or portion thereof each Owner shall pay his due proportion of the excess of the cost of reinstatement of such building or buildings or portion thereof in question damaged as aforesaid over and above the proceeds recoverable from the insurance of such building or buildings or portion thereof and that until such payment the same will become a charge upon his interest in the Development and be recoverable as a civil debt.
- (b) The Manager shall be free to stipulate in such sale that the purchaser shall be entitled to enjoy the Common Facilities.
- (c) Notwithstanding any provisions to the contrary herein contained if the Development shall be damaged by fire, typhoon, earthquake, subsidence or any cause (not attributable to the act or default of any of the Owners of the Development or for which any of them is responsible) as to render the Development wholly unfit for habitation and to necessitate the rebuilding thereof then and in such event unless within 180 days of such occurrence a resolution is passed by the Owners to rebuild and reinstate the same, each Owner shall be released by each and every other Owner from the covenants to be performed hereunder and these presents shall cease to have effect except in relation to the distribution of surplus management funds (if any) and any antecedent obligation or breach hereunder.

#### RIGHTS OF OWNERS TO CLAIM INDEMNITY



21. (a) Nothing herein contained shall affect the right of any Owner to claim indemnity or contribution from any other Owner or person in respect of any payment for any work or thing requiring or having to be done as a result of or in consequence of the act, omission, neglect or default of such other Owner or person or some other person for whom such Owner or person is legally responsible.
- (b) The power of enforcement conferred by this Deed on the Manager shall be in addition to and not to the exclusion of the rights of any Owner to take such action as he may think fit to enforce the covenants, terms and conditions of this Deed.

SPECIAL PROVISIONS APPLICABLE TO THE DEVELOPMENT  
AND SPECIAL PARTS THEREOF

22. (a) The Development

The Development or any part thereof shall only be used for the purpose for which they are designed, constructed or intended to be used in accordance with the Government Lease and the Occupation Permit.

- (b) Houses

All Houses shall be used for private residential purposes only and in particular shall not be used as an apartment house or for any form of commercial letting or occupancy in bed spaces or cubicles.

- (c) Common Walls

Owners who have common walls adjoining their respective Houses ("the common walls") shall each have the right to the use of the interior surface of the common walls on the side of his House. Neither Owner shall use any portion of the common walls so as to interfere with the use and enjoyment of the other Owner. Neither Owner shall put structures of any kind onto the common walls as to cause leakage of water or damage to the other side thereof or as to be likely to cause the said walls to collapse. The common walls shall be maintained, repaired or rebuilt at the joint cost and expense of the Owners concerned, with each Owner bearing half of such cost and expense Provided that if any of the common walls or any part thereof is damaged or injured as a result of the act or negligence of the Owner of one of the two Houses concerned, such Owner shall at his own cost and expense repair or rebuilt the common walls to the satisfaction of the other Owner.

- (d) Staircases landings lobbies and passages

No part of the staircases, landings, lobbies, passages or other Common Areas shall be obstructed or incumbered or used for any private purpose.

- (e) Refuse Room

The refuse room shall be used only in the manner and subject to such rules and regulations as the Manager may from time to time determine.



(f) Management office and Caretakers' quarters

The management office and caretakers' quarters shall be reserved for such purposes under the control of the Manager.

(g) Public lighting, transformer rooms, pump rooms, pumps, apparatus, equipment and services and other Common Areas and Facilities

Subject only to the rights of the supply companies or statutory undertakers where applicable all the above shall be under the exclusive control of the Manager and no Owner shall have the right to enter into, alter, repair, connect to or in any other way interfere with or affect the working of the same without the prior written consent of the Manager.

(h) Pipes, Drains, Flues, Wires, Cables, Aerials, Structures etc.

The Manager shall have the power on reasonable notice (except in an emergency) to enter upon the House or any part thereof for the purpose of repairing, maintaining, replacing, removing any existing pipes, drains, flues, wires, cables, aerials or structures or otherwise installing, affixing or adding any of the aforesaid for the common benefit use or enjoyment of the Development. The Manager shall make good any damage caused and be responsible for the negligent, wilful or criminal act of its own and its contractors and workmen.

CONTROL OF ADVERTISING, POLLUTION, FUEL, ETC.

23. (a) No external signs, signboards, notices, advertisements, flags, banners, poles, cages or other projections or structures whatsoever shall be erected, installed or otherwise affixed or projected from the House of any Owner or any part of the Development in common ownership and no washing, clothing or other articles shall be hung, dried or otherwise exposed at the garden, roof, flat roof(s) or balcony of any House.
- (b) No Owner shall throw out or discard or permit or suffer to be thrown out or discarded from any House owned by him any refuse, rubbish, litter or other article or thing whatsoever except in the course of the proper disposal thereof and the Manager may charge and recover from any Owner who or whose tenants, licensees, servants or agents have violated this provision such sum as the Manager may determine to cover the costs and expenses of cleaning up and/or removing any such refuse, rubbish, litter, or other article or thing as aforesaid.
- (c) No Owner shall use the drive-way, ramps, corridors, staircases or any other Common Areas for the purpose of drying laundry or hanging or placing or storing any dustbins, garbage cans, furniture, machinery, goods or chattels or other things thereon or therein.
- (d) Except with the prior written consent of the Director of Environmental Protection, no Owner shall install or permit or suffer to be installed in his House any machinery, furnace or boiler or any other equipment or use or permit or suffer to be used any fuel or any method of process of manufacture or treatment that might result in the discharge or emission of any pollutant or any noxious, harmful or corrosive matter, whether it be in the form of gas, smoke, liquid, solid or otherwise.



- (e) No Owner shall use any fuel in his House other than town gas, liquefied petroleum gas, natural gas, or kerosene.

#### ESTATE RULES

24. (a) The Manager shall have power from time to time with the approval of the Owners' Committee or Owners' Incorporation (if formed) to make, revoke and amend Estate Rules regulating the use, occupation, maintenance and control of the Development and the Common Areas and Facilities.
- (b) Such Estate Rules shall be supplementary to the terms and conditions contained in this Deed and shall not in any way conflict with or be inconsistent with such terms and conditions.
- (c) Copies of the Estate Rules from time to time in force shall be posted on the public notice boards and copies thereof shall be supplied to each Owner on request upon payment of a reasonable fee. Such Estate Rules shall be binding on all the Owners and may be enforced as herein provided.

#### MISCELLANEOUS PROVISIONS

25. Subject to Clause 7(a) hereof, no person shall, after ceasing to be the Owner of any Undivided Share(s), be liable for any debt, liability or obligation under the covenants, terms and conditions of this Deed in respect of such Undivided Share(s) and the House(s) held therewith save and except in respect of any breach, non-observance or non-performance by such person of any such covenant, term or condition prior to his ceasing to be such Owner thereof.

26. (a) Each Owner shall notify the Manager of the name and address of the person authorized by him to accept service of process. Any Owner not occupying or using his House must provide the Manager with an address within the jurisdiction of Hong Kong for service of notices under the terms of this Deed, failing which the address of his House shall be deemed to be his address for service. If such address in Hong Kong is so furnished, the Manager shall send notices to such address.
- (b) Subject as hereinbefore provided in the case of notices to be affixed to the public notice boards, all notices or demands required to be served hereunder shall be sufficiently served if addressed to the party intended to receive the same and sent by prepaid post to or left at the House of which the party to be served is the Owner notwithstanding that such party shall not personally occupy the same or if a copy is also left at or sent to the last known address (if any) in Hong Kong of such Owner notified to the Manager PROVIDED however that where notice is to be given to an Owner who is a mortgagor, such notice shall also be served on the mortgagee, if a company, at its registered office or last place of business in Hong Kong and, if an individual, at his residence last known to the Manager. All notices required to be given to the Manager shall be properly served if sent to or left at the Manager's office on the Development.



27. The right to the exclusive use occupation and enjoyment of any House or any part(s) thereof shall not be sold, assigned, mortgaged, charged, leased or otherwise dealt with separately from the Undivided Share or Shares with which the same is/are held PROVIDED ALWAYS that the provisions of this Clause shall not extend to leases or tenancies for terms not exceeding 10 years.

28. Nothing herein shall prejudice in any way the operation of the BMO and any amendment or amendments thereof or any substitutions thereof and to the extent that any provisions contained herein shall be in conflict with the BMO, the BMO shall prevail. During the existence of an Owners' Incorporation, the general meeting of the Owners' Incorporation shall take the place of the meeting of Owners under this Deed, and the management committee of the Owners' Incorporation shall take the place of the Owners' Committee under this Deed.

29. Notwithstanding anything herein contained, no provision in this Deed shall contravene the provisions of the BMO and no provision in this Deed shall be in breach of the Government Lease. The provisions of the Seventh Schedule and the Eighth Schedule to the BMO (as may be amended from time to time) shall be deemed to have been incorporated in and form part of this Deed. Should any provision herein be in conflict with the provisions of the said Schedules of the BMO, the latter shall prevail.

30. Where any Undivided Share has been mortgaged, assigned or charged by way of a mortgage or legal charge, the voting rights conferred on the Owner of such Undivided Share by the provision of this Deed shall subject to the provisions of the mortgage or the legal charge, be exercisable only by the mortgagor or chargor unless the mortgagee or chargee is in possession of such Undivided Share or is in receipt of the rents and profits thereof or has obtained a foreclosure order absolute against the mortgagor or the chargor and has duly served notice of such fact on the Manager PROVIDED THAT once the mortgagee or the chargee has taken possession of such Undivided Share or was in receipt of the rents and profits thereof or has obtained a foreclosure order absolute against the mortgagor or the chargor he shall become fully liable for the payment of all the management expenses, manager's remuneration and other monies hereunder reserved and contributions payable in respect of the relevant House under this Deed including any arrears thereof.

31. Not later than one month after the execution of this Deed, the Company shall at its own cost provide a direct translation in Chinese of this Deed. Such translation shall be made available for inspection in the offices of the Manager within the Development and any Owner or his duly authorized representative shall be entitled to a copy thereof upon payment of a reasonable charge to cover the cost of copying the same. All charges received must be credited to the Special Fund. In the event of dispute as to the effect of the Chinese translation and the English version of this Deed, the English version shall prevail.

32. A set of plans prepared by the Company showing the Common Areas and certified as to their accuracy by or on behalf of an Authorised Person shall be kept at the management office. All plans showing the Common Areas and kept in the management office shall be made available by the Owners for inspection during normal office hours.



33. (a) The Company shall upon execution of this Deed assign the Common Parts Undivided Shares relating to the Common Areas to the Manager free of cost or consideration to be held on trust for all the Owners subject to the Government Lease and to this Deed.

(b) Such Common Parts Undivided Shares shall upon such assignment(s) to the Manager be held by the Manager as trustee for all the Owners for the time being and in the event the Manager shall resign or be wound up or have a receiving order made against it or is removed and another manager be appointed in its stead in accordance with this Deed, then the outgoing Manager or the liquidator or the receiver shall assign such Common Parts Undivided Shares to the new manager free of costs or consideration to hold as such trustee as aforesaid PROVIDED ALWAYS THAT nothing herein contained shall in any way fetter or diminish the rights, powers, authorities and entitlements of the Manager contained in this Deed PROVIDED FURTHER THAT when the Owners' Incorporation has been formed, it may request the Manager to assign the Common Parts Undivided Shares and transfer the management responsibilities to it free of costs or consideration, in which event the Owners' Incorporation must hold them on trust for the benefit of all the Owners for the time being of Undivided Shares in the Land and the Development.

34. There shall be public notice boards at such places in the Development as the Manager may from time to time determine. There shall be exhibited on each of such public notice boards a copy of the Estate Rules from time to time in force and all notices which under this Deed are required to be exhibited thereon and such other notices and announcements as the Manager may from time to time decide to exhibit or approve for exhibition thereon. Except in the case of a notice required by this Deed or by law to be served personally or in any other manner, the exhibition of a notice on such public notice boards for 7 consecutive days shall be due notice of the contents thereof to each Owner, his tenants, licensees, servants and agents.

35. A full copy of the maintenance manual for the Works and Installations must be deposited in the management office within one month of the date of this Deed for inspection by all Owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.

36. The Fourth Schedule hereto and the maintenance manual for the Works and Installations may be revised if necessary (e.g. the addition of works and installations in the Development, the updating of maintenance strategies in step with changing requirements etc.).



## THE FIRST SCHEDULE REFERRED TO IN CLAUSE 4 OF THIS DEED

### Part I

Easements, rights and privileges the benefit of which is held with each Undivided Share or part of and in the Land and the Development thereon Together with the exclusive right and privilege to hold, use, occupy and enjoy the House held therewith PROVIDED that all such easements, rights and privileges shall also be held and enjoyed subject to the provisions of this Deed:

1. Full right and liberty for the Owner of a House and his servants, agents and licensees (in common with all other persons having the like right) to go pass and repass over and along the Common Areas and to use the Common Areas and Facilities for all purposes connected with the proper use and enjoyment of his House PROVIDED that in exercising such rights of use no Owner shall interfere with or permit or suffer to be interfered with any of the Common Areas and Facilities.
2. The right to subjacent and lateral support from all other parts of the Development.
3. The free and uninterrupted passage and running of water, sewage, gas, electricity and any other services from and to the House through the Common Areas and Facilities.
4. The right for the Owner or residents for the time being of a House with the prior written approval of the Manager and in accordance with such terms or conditions as the Manager may impose with or without servants, workmen and others at all reasonable times on reasonable written notice (except in the case of emergency) to enter into and upon the other Houses and the Common Areas for the purposes of carrying out any work for the maintenance and repair of his own House or its services (such work not being the responsibility of the Manager hereunder) causing as little disturbance as possible and forthwith making good any damage caused thereby.

### Part II

Easements, rights, and privileges subject to which each Undivided Share Together with the exclusive right to hold, use, occupy and enjoy the House is held:

1. Full right and privilege for the Manager with or without agents, surveyors, workmen and others at all reasonable times on reasonable notice (except in case of emergency) to enter into and upon each House for the purposes of rebuilding, inspecting, repairing, renewing, maintaining, cleansing, painting or decorating the Common Areas or any part or parts thereof or any Common Facilities therein or any other apparatus and equipment used or installed for the benefit of the Development or any part thereof as part of the amenities thereof and not by any individual Owner for his own purposes or enjoyment causing as little disturbance as possible and forthwith making good any damages caused thereby and the Manager shall be liable for any negligent, wilful or criminal acts of the Manager, the management staff, contractors and workers.
2. Easements, rights and privileges from, over, along and through each House similar to those set forth in Clauses 2 to 4 both inclusive of Part I of this Schedule.



## THE SECOND SCHEDULE ABOVE REFERRED TO

Covenants, provisions and restrictions referred to in Clause 5 of this Deed :

1. To include in every Assignment of any Undivided Share of and in the Development an express covenant by all Owners to notify the Manager within one month of any change of ownership.
2. To pay the due proportion hereinbefore mentioned of all costs, charges and expenses which may be or become payable for or in connection with the management of the Development in accordance with the provisions of this Deed including but not limited to those costs, charges and expenses as are set out in Clause 12(c) of this Deed.
3. To pay and discharge all existing and future taxes, rates, Government rent (if specifically apportioned by the Government), assessments and outgoings of every kind and description for the time being assessed or payable in respect of each House of which he is the Owner and to indemnify the other Owners from and against all liability therefor.
4. To keep and maintain the interior and/or exterior of each House and everything forming part thereof, of which he is for the time being the Owner and all electrical and sanitary appliances and other services therein in good repair and condition and to maintain the same in a manner so as to avoid any loss, damage, nuisance or annoyance to the Owner or residents of any other portion(s) in the Development.
5. Not to make any structural alteration to the House of which he is the Owner which may damage or affect or interfere with the rights of the other Owners or the use and enjoyment of any other part of the Development whether in separate or common occupation or use, nor cut, injure, damage, alter or interfere with any of the main walls or beams or floors or any part or parts of the Development in common use or any of the sewers, drains, water-courses, conduits, pipes, cable wiring, fixtures, equipment, apparatus or services of any part of the Development in common use. This restriction shall apply to the Manager as well. Nothing herein contained shall prevent an Owner from taking legal action against another Owner in this respect.
6. Not to erect, affix or place or cause or permit or suffer or allow to be erected, affixed or placed any structure or partition of any material whether of a permanent or temporary nature on the landscape garden which forms part of the House and/or other landscape area(s) of the Development.
7. Not to use or permit or suffer the House of which he is the Owner to be used for any illegal or immoral purposes nor do, cause or permit or suffer to be done any act or thing in any such House or other portion of the Development which may be or become a nuisance or annoyance to or cause damage to other Owners and residents for the time being of the Development.
8. To comply with the terms and conditions of the Government Lease so long as they are Owners and to comply with the provisions of the BMO and the Schedules thereto.
9. Not to do or permit or suffer to be done any act or thing in contravention of the Government Lease or whereby any insurance on the Development or any of them or any part or parts thereof may become void or voidable or whereby the premium for any such insurance may be increased and in the event of any breach



of this Clause in addition to any other liability incurred thereby to pay the amount of any increase on premium caused by or on account of such breach. In the event that any part of the Development is damaged or destroyed by fire and the insurance money being wholly or partially irrecoverable by reason of such default, the defaulting Owner shall indemnify the other Owners of the Development against all losses, damages and expenses as a result thereof.

10. To be responsible for and indemnify the Manager and all other Owners and residents against all actions, proceedings, claims and demands whatsoever arising out of or in respect of any loss or damage to any person or property caused by or as the result of the act or negligence of any residents and/or visitors of any House or any other portion of the Development of which he is the Owner or any person using such House or portion of the Development with his consent, express or implied or by, or through or in any way owing to the overflow of water therefrom.
11. Each Owner shall be responsible to the other Owners for the time being for the acts and omissions of all persons occupying any House of which he has the exclusive use with his consent, express or implied and to pay all costs, charges and expenses incurred in repairing or making good any loss or damage caused by the act, neglect or default of all such persons. In the case of loss or damage which the Manager (in the capacity as Manager) are responsible to make good or repair, such costs, charges and expenses shall be recoverable by the Manager as hereinafter provided and in the case of loss or damage suffered by other Owners or residents of the Development for which the Manager are not responsible to repair or make good, such costs, charges and expenses together with all other damages recoverable by law shall be recoverable by the person or persons sustaining the loss or damage.
12. Not at any time to exercise or attempt to exercise any statutory or common law right to partition the Land and the Development.
13. To observe and perform all the covenants, conditions and provisions of this Deed and the Estate Rules.
14. The Owner's responsibilities and liabilities in respect of services and utilities are limited to all electrical cables and wires, pipes (including supports and conduits) ducts, within his House and contained within or passing through walls, ceilings and floors to the median point and in the case of the main supply connection through walls and along and within public areas up to the supply company's meter. In respect of foul water (sewage) and storm water, the Owner shall be responsible for the cleansing and free flow of solid and liquid waste along piping and up to the main connection with the vertical common piped sewer system.
15. Not to store or permit to be stored in any House any hazardous, dangerous, explosive or combustible goods or materials except such as may be reasonably required for the purpose of domestic cooking and heating.
16. Not to cut, injure, damage, alter, cover up or interfere with any of the Common Areas and Facilities whether such facilities are outside or within the House of which he is the Owner and in the event of any breach of this covenant, to indemnify the Manager from and against all liabilities arising therefrom.
17. No Owner including the Company shall have the right to convert any of the Common Areas and Facilities to his own use or for his own benefit or to convert any of his own areas to Common Areas and Facilities unless approved by the Owners' Committee or Owners' Incorporation. Any payment received for the approval must be credited to the Special Fund.



18. No Owner or residents shall send any employee of the Manager out of the Development on any private business
19. Save as for maintenance purpose as provided herein no Owner shall paint or otherwise renovate the external walls/glasses of the House or any part thereof or do or permit to be done anything which would in any way alter the facade or exterior appearances of any part of the House and/or the Development except with the prior written consent of the Manager.
20. No Owner or residents shall use or permit to be used any part of the Development for the purposes of a funeral parlour, coffin shop, temple or Buddhist hall for the performance of the ceremony known as "Ta Chai" (打 齋) or for any similar ceremony, or as a boarding house, apartment house or metal beater's shop, or for any offensive trade or business.
21. No Owner or residents shall make or permit any disturbing noise in his House especially outside normal working hours or do or permit anything to be done which will interfere with the rights comfort and convenience of other occupants. No musical instruments may be played nor shall wireless or sound production, reproduction or recording equipment be operated between 11:00 p.m. and 7:00 a.m. in such a way as to disturb or annoy any other residents of the Development or any part thereof
22. No Owner shall permit the playing of mahjong in his House between 11:00 p.m. and 7:00 a.m. in such a way as to cause disturbance to the Owners or residents of any other House of the Development.
23. No Owner shall bring on to or keep any livestock, birds, poultry, animals or any type of pets on any part of the Development except such pets as the Manager may allow PROVIDED THAT live poultry, birds, animals or any type of pets may be kept in a House unless the same has been the cause of reasonable complaint (in this connection, the Manager's decision shall be conclusive and binding on all Owners) by at least two (2) Owners or residents of any part of the Development.
24. Children shall not play in the public halls, passages, stairways or driveways. Any damage to any part of the Common Areas and Facilities or discolouration to decorations caused thereto by children shall be paid for by the Owner or residents of the House(s) in which the child or children concerned reside.
25. Water closets and other water apparatus in any of the Development shall not be used for any purpose other than those for which they were constructed, nor shall any sweepings, rubbish, rags or any other articles be thrown into the same. Any damage resulting from misuse of any water closets or apparatus shall be paid for by the Owner or residents in whose House(s) it shall have been caused.
26. Bicycles, baby carriages or similar vehicles shall not be allowed to stand unattended in the Common Areas and Facilities or any part thereof.
27. No Owner or residents shall store or keep anywhere in any part of the Development any arms or ammunitions or gunpowder (without the prior licence of the Commissioner of Police and the prior written consent of the Manager) or fireworks or any other dangerous, combustible or explosive goods or substance other than kerosene, liquefied petroleum gas or other fuel in small quantities for household use or as the case may be in such quantities as shall have been sanctioned by the Director of Fire Services or other competent Government authorities for the time being concerned.



28. The Manager shall have power on reasonable ground to revoke at any time any consent or approval previously given by them to any Owner(s) hereunder by giving to such Owner(s) not less than 14 days' written notice to that effect except in cases of emergency. On the expiry of such notice, such consent or approval shall be deemed to be revoked.
29. No Owner or residents shall leave or cause or permit or suffer to be left any furniture, boxes, goods, articles or refuse in any of the Common Areas or caused any obstruction whatsoever thereto.
30. No carparking space or area inside or forming part of the House shall be used for any purpose other than for the parking of motor vehicles registered under the Road Traffic Ordinance and belonging to the residents of the Development and their bona fide visitors or invitees and in particular the carparking spaces or area inside or forming part of the Houses shall not be used for the storage, display or exhibition of motor vehicles for sale or otherwise.
31. Each Owner shall be responsible for the safety of the users of swimming pool. A child/person who cannot swim, with or without floatation aids, is the direct responsibility of the Owner of the House and/or the accompanying adult to the exclusion of the Manager, its servants, agents, contractors and employees of such agents and/or contractors.
32. (a) The Non-enclosed Area must remain non-enclosed and the Owner of the Non-enclosed Area shall keep the walls, parapets, kerbs, the whole of metal railing, balustrade and glass parapet of such Non-enclosed Area in good and substantial repair and condition and shall use the same in all respects in compliance with the Occupation Permit, the Buildings Ordinance and such other Ordinances, bye-laws and regulations of the Government.
- (b) The Owner of the Non-enclosed Area shall not erect, affix or place or cause or permit or suffer or allow to be erected, affixed or placed any structure or partition of any material whether of a permanent or temporary nature on the Non-enclosed Area or any part thereof or alter the appearance of the surfaces of any walls forming part of the Non-enclosed Area.
- (c) The Owner of the Non-enclosed Area shall not cause, permit, suffer or allow the Non-enclosed Area to be enclosed by any material of whatsoever kind or nature, it being the obligation of such Owner to keep and maintain the Non-enclosed Area in the design and layout as drawn under the Approved Plans.
33. The Owners shall at their own expense maintain and carry out all works in respect of the Slopes and Retaining Structures and in accordance with "Geoguide 5 – Guide to Slope Maintenance" issued by the Geotechnical Engineering Office (as amended from time to time) and the Maintenance Manual for the Slopes and Retaining Structures. The Manager (which for the purpose of this Clause shall include the Owners' Committee or Owners' Incorporation) is hereby given full authority by the Owners to engage suitable qualified personnel to inspect keep and maintain in good substantial repair and condition, and carry out any necessary works in respect of any such Slopes and Retaining Structures in compliance with the Government Lease and in accordance with the said Maintenance Manuals and all guidelines issued from time to time by the appropriate Government department regarding the maintenance of slopes, retaining walls and related structures. Within one month of the execution of this Deed, the Company shall deposit at the office of the Manager in the Development a full set of the Maintenance Manual for the Slopes and Retaining Structures for inspection during office hours by all Owners free of charge. All



Owners shall pay to the Manager all costs lawfully incurred or to be incurred by it in carrying out such maintenance, repair and any other works in the same proportions as the number of Management Shares allocated to their respective Houses bears to the total number of Management Shares allocated to the Development. The Manager shall not be personally liable for carrying out any such requirements of the Government Lease which shall remain the responsibility of the Owners if, having used all reasonable endeavours, it has not been able to collect the costs of the required works from the Owners.

34. The Company shall compile for the reference of the Owners and the Manager a maintenance manual for the Works and Installations ("maintenance manual for the Works and Installations") setting out the following details :
- (i) As-built record plans of the building and services installations together with the necessary technical information (such as specifications of materials and design standard) for maintenance of all facilities and equipment;
  - (ii) All warranties and guarantees provided by contractors (together with the names of the companies providing the warranty and the contact telephone numbers) in respect of all facilities and equipment;
  - (iii) Recommended maintenance strategy and procedures;
  - (iv) A list of items of the Works and Installations requiring routine maintenance;
  - (v) Recommended frequency of routine maintenance inspection;
  - (vi) Checklist and typical inspection record sheets for routine maintenance inspection; and
  - (vii) Recommended maintenance cycle of the Works and Installations.



THE THIRD SCHEDULE ABOVE REFERRED TO

Allocation of Undivided Shares and Management Shares

<u>House</u>	<u>Undivided Shares</u>	<u>Management Shares</u>
No.7 Cape Road (also known as House A)	570	570
No.9 Cape Road (also known as House B)	540	540
No.11 Cape Road (also known as House C)	563	563
<b>Common Areas</b>	571	---
<b>Total :</b>	<u>2,244</u> =====	<u>1,673</u> =====



#### THE FOURTH SCHEDULE ABOVE REFERRED TO

Items of the Works and Installations in the Development (whether forming part of the Common Areas and Facilities or not) which will require regular maintenance on a recurrent basis are as follows :

- (i) structural elements;
- (ii) external wall finishes and roofing materials;
- (iii) fire safety elements;
- (iv) the slope structures (if applicable);
- (v) plumbing system;
- (vi) drainage system;
- (vii) fire services installations and equipment;
- (viii) electrical wiring system;
- (ix) lift installations;
- (x) gas supply system;
- (xi) window installations;
- (xii) [other major items (e.g. central air-conditioning and ventilation system, escalator etc.)]



IN WITNESS whereof the parties hereto have executed this Deed the day and year above written.

SEALED with the Common Seal of  
the Company and SIGNED by

*Cheung Kai Hoo*

duly authorised by its Board of  
Directors whose signature(s) is/are  
verified by :

*Chan Wai Yee, Dora*  
**CHAN WAI YEE, DORA**  
Solicitor, Hong Kong SAR  
Woo, Kwan, Lee & Lo

For and on behalf of  
**TENNEX DEVELOPMENT LIMITED**  
德迅發展有限公司

*[Signature]*  
Authorized Signature(s)



SEALED with the Common Seal of  
the Purchaser and SIGNED by  
SO PAK WING, CHENG SIU ANG and  
SO KWAN JANET , its director(s)

-----  
duly authorised by its Board of  
Directors in the presence of :

*Gina S.K. Wong*  
**Gina S.K. Wong**  
Clerk to Messrs Wong & Poon.  
Solicitors, Hong Kong SAR

For and on behalf of  
**慶成投資有限公司**  
**QING CHENG INVESTMENTS LIMITED**

*[Signature]*  
Authorized Signature(s)



I hereby verify the signature  
of Gina S.K. Wong

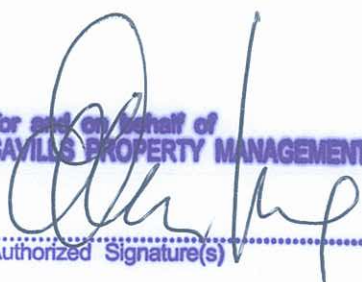
**TAI SIU HUNG**

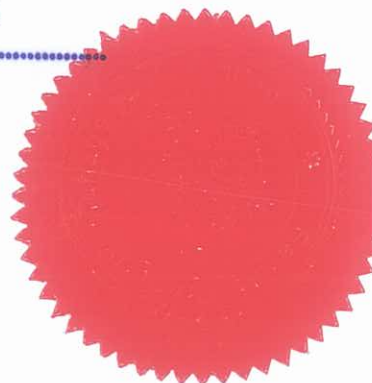
*[Signature]*  
Solicitor, Messrs Wong & Poon.  
Solicitors, Hong Kong SAR

SEALED with the Common Seal of )  
the Manager and SIGNED by )  
Leung Chun Yuen, Kendrew, )  
director --- )  
duly authorised by its Board of )  
Directors whose signature(s) is/are )  
verified by : )



CHAN WAI YEE, DORA  
Solicitor, Hong Kong SAR  
Woo, Kwan, Lee & Lo

For and on behalf of  
**SAYILLIS PROPERTY MANAGEMENT LIMITED**  
  
Authorized Signature(s)





# PLAN OF RETAINING WALL ON R.B.L. 855 Nos. 7, 9 & 11 CAPE ROAD, HONG KONG



註冊編號 M/N: 10122800470015 A4C

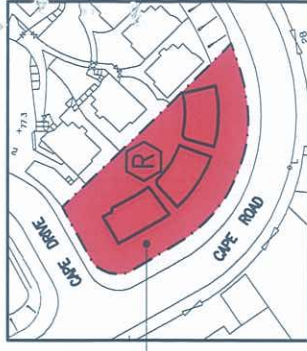


## LEGEND

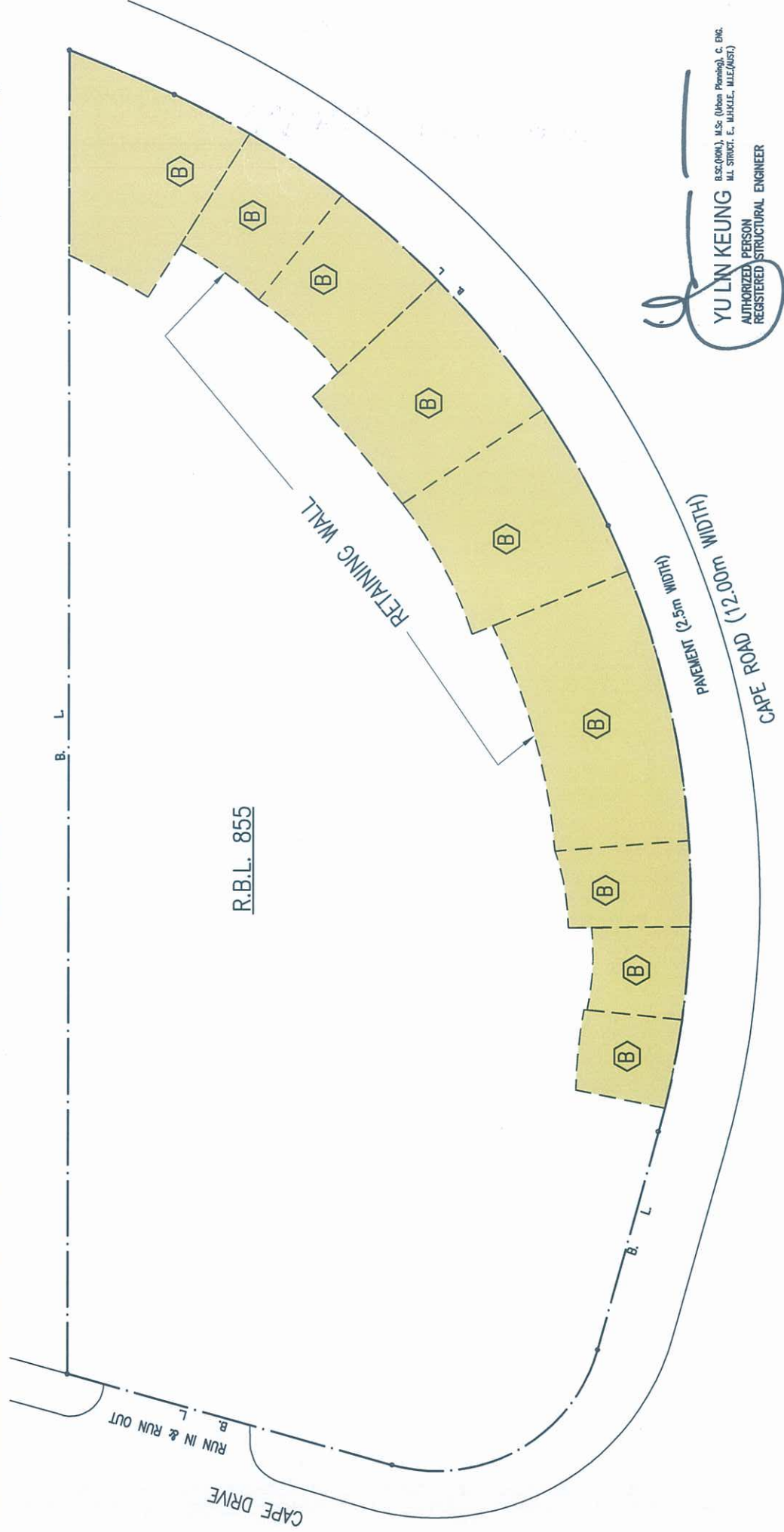
- █ RED
- █ BROWN



R.B.L. 855  
Nos. 7, 9 & 11  
Cape Road



BLOCK PLAN  
(SCALE : 1 : 1500)



YU LIN KEUNG  
B.Sc.(HON.), M.Sc. (Urban Planning), C. Eng.  
ML. STRUCT. E. (HKKLE, MLE/AUST.)  
AUTHORIZED PERSON  
REGISTERED STRUCTURAL ENGINEER

# PLAN OF DMC ON R.B.L. 855

## Nos. 7, 9 & 11 CAPE ROAD, HONG KONG

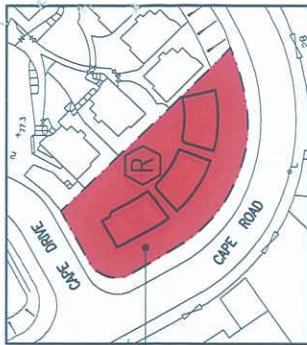
### GROUND FLOOR PLAN



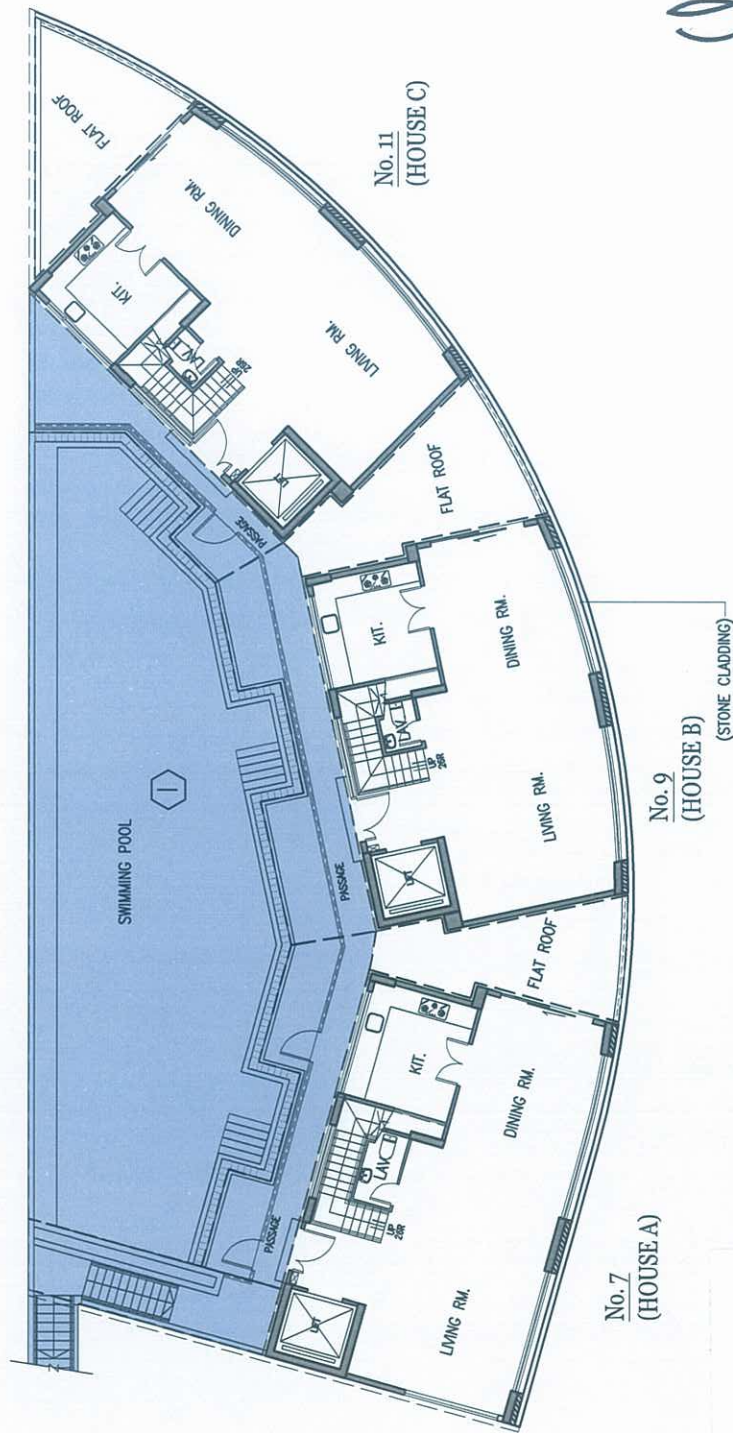
LEGEND  
RED  
INDIGO



R.B.L. 855  
Nos. 7, 9 & 11  
Cape Road



BLOCK PLAN  
(SCALE : 1 : 1500)



註冊樓宇編號 M/N: 10122900470015 A4C

YU LIN KEUNG  
B.Sc.(Hon.), M.Sc. (Urban Planning), C. Eng.  
M.I. STRUCT. E., M.H.K.L.E., M.I.E.(AUST.)  
AUTHORIZED PERSON  
REGISTERED STRUCTURAL ENGINEER



# PLAN OF DMC ON R.B.L. 855

## Nos. 7, 9 & 11 CAPE ROAD, HONG KONG



註冊摘要編號 MIN: 10122800470015 A4C



R.B.L. 855  
Nos. 7, 9 & 11  
Cape Road

### LEGEND

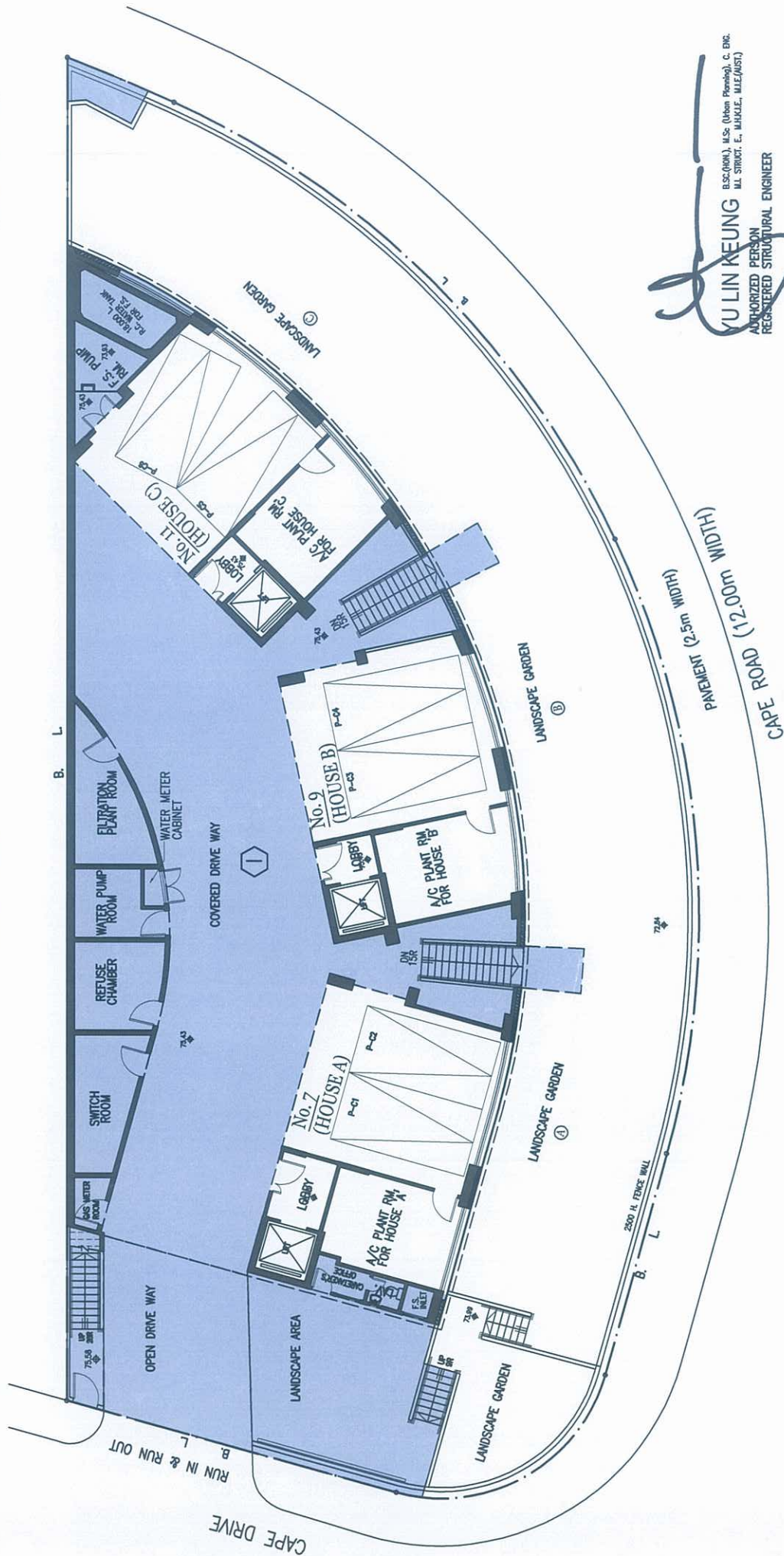
- RED
- INDIGO

### LOWER GROUND FLOOR PLAN



### BLOCK PLAN

(SCALE: 1:1500)



**YU LIN KEUNG**  
B.Sc.(HON.), M.Sc. (Urban Planning), C. Eng.  
ALL STRUCT. E. MATHS. MLE(AUST.)  
AUTHORIZED PERSON  
REGISTERED STRUCTURAL ENGINEER

Dated the 30th day of November 2010

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DEED OF MUTUAL COVENANT  
AND MANAGEMENT AGREEMENT

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註冊摘要編號 Memorial No.:

**10122900470015**

本文書於2010年12月29日在土地註冊處  
以上述註冊摘要編號註冊。

This instrument was registered in the  
Land Registry by the above Memorial  
No. on 29 December 2010.

*Nip Sei Fan*

土地註冊處處長  
Land Registrar

WOO, KWAN, LEE & LO,  
Solicitors & C.,  
25th Floor, Jardine House,  
No.1 Connaught Place,  
Central, Hong Kong SAR.

Docu.DMC (Nos.9-11 Cape Road)  
Ref. : DC