



SABAH, MALAYSIA

Warta Kerajaan

Tambahan Kedua

Diterbitkan dengan kuasa

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ENAKMEN PEMAJUAN PERUMAHAN
(KAWALAN DAN PELESENAN) 1978

KAEDAH-KAEDAH PEMAJUAN PERUMAHAN
(KAWALAN DAN PELESENAN) 2008

Pada menjalankan kuasa yang diberikan oleh seksyen 26 Enakmen Pemajuan Perumahan (Kawalan dan Pelesenan) 1978, Menteri membuat kaedah-kaedah yang berikut:

Nama dan permulaan kuat kuasa

- (1) Kaedah-kaedah ini bolehlah dinamakan Kaedah-Kaedah Pemajuan Perumahan (Kawalan dan Pelesenan) 2008.
- (2) Kaedah-Kaedah ini mula berkuat kuasa pada tarikh penyiarannya dalam *Warta*.

Tafsiran

- Dalam Kaedah-Kaedah ini, melainkan konteksnya menghendaki makna yang lain –
“bahagian” ertinya bahagian pecah sempadan mana-mana tanah yang terkandung dalam dokumen hakmilik yang dibuat di bawah seksyen 40 Ordinan;
“bangunan yang dipecah bahagi” ertinya sesuatu bangunan yang mempunyai dua tingkat atau lebih yang boleh dipecahbahagikan kepada petak-petak sebagaimana yang ditakrifkan dalam seksyen 2 Enakmen Tanah (Hakmilik Subsidiari) 1972;

“Enakmen” ertinya Enakmen Pemajuan Perumahan (Kawalan dan Pelesenan) 1978;

“filem” meliputi –

- (a) filem sinematografi;
- (b) pita video;
- (c) cakera padat;
- (d) cakera padat video;
- (e) cakera video digital; dan
- (f) suatu rekod, tidak kira bagaimana sekalipun dibuat, bagi suatu urutan imej gambar tampak, yang merupakan suatu rekod yang dapat digunakan sebagai suatu cara untuk menunjukkan urutan itu sebagai suatu gambar bergerak;

“gadaian” ertinya sebagaimana yang ditakrifkan dalam seksyen 4 Ordinan;

“iklan” ertinya apa-apa pemberitahuan atau pemakluman mengenai pemajuan perumahan –

- (a) yang disiarkan dalam mana-mana akhbar, jurnal atau majalah, atau dalam bentuk brosur atau apa-apa bentuk lain; atau
- (b) yang dipamerkan pada mana-mana papan dendeng, papan-papan, bumbung, dinding, paling, pagar, bingkai, papan tanda, plat, kain, bar, tiang, tonggak, tuangan dawai atau binaan, struktur atau rekaan lain; atau
- (c) yang disampaikan melalui filem atau komunikasi; atau
- (d) yang disampaikan dengan cara lain sama ada lisan atau tulisan dan sama ada daripada jenis yang sama atau tidak sebagaimana yang dinyatakan dalam perenggan (a) hingga (c);

“komunikasi” ertinya apa-apa komunikasi, sama ada antara orang dengan orang, benda dengan benda, atau orang dengan benda, dalam bentuk bunyi, data, teks, imej gambar tampak, isyarat atau apa-apa bentuk lain atau gabungan mana-mana bentuk tadi, dan termasuklah Internet;

“Ordinan” ertinya Ordinan Tanah (Bab 68);

“Pihak Berkuasa Yang Berkenaan” ertinya mana-mana pihak berkuasa yang pada masa ini diberi kuasa di bawah mana-mana undang-undang bertulis yang berkuat kuasa di Sabah untuk meluluskan pelan pembangunan dan bangunan, pecah sempadan tanah, pecah bahagian bangunan, pengeluaran dokumen hakmilik dan menguatkuasakan undang-undang kecil atau peraturan-peraturan berhubung dengan bangunan dan termasuklah mana-mana syarikat yang diberikan lesen untuk memberikan perkhidmatan elektrik, telefon, pembetungan dan perkhidmatan lain yang berkaitan;

“tanah” ertinya tanah yang di atasnya seseorang pemaju perumahan berlesen bercadang hendak mendirikan atau yang di atasnya seseorang pemaju perumahan itu sedang mendirikan rumah tempat tinggal dan termasuk tanah yang bersangkutan dengan rumah tempat tinggal itu;

“tuan punya” ertinya mana-mana orang atau badan yang pada masa itu didaftarkan sebagai tuan punya mana-mana tanah beri milik.

Permohonan bagi lesen

3. (1) Seseorang pemaju perumahan yang memohon lesen di bawah subseksyen 5(1) Enakmen hendaklah –

- (a) mengemukakan permohonannya dalam borang yang ditetapkan dalam Jadual A berserta dengan apa-apa dokumen sebagaimana yang dinyatakan dalam subseksyen 5(3) Enakmen; dan
- (b) membekalkan apa-apa butir atau maklumat berkaitan lain sebagaimana yang dikehendaki oleh Pengawal.

(2) Pengawal boleh, menurut budi bicaranya, memberikan sesuatu lesen dengan mengenakan atau tidak mengenakan apa-apa syarat atau syarat-syarat ke atasnya atau enggan memberikan sesuatu lesen.

(3) Sesuatu lesen yang dikeluarkan di bawah kaedah ini hendaklah dalam bentuk yang ditetapkan dalam Jadual B.

(4) Sesuatu lesen adalah dikehendaki berkenaan dengan setiap pemajuan perumahan dan jika sesuatu pemajuan perumahan itu dimajukan berperingkat-peringkat, suatu lesen adalah dikehendaki bagi setiap peringkat pemajuan perumahan itu.

(5) Fi yang kena dibayar apabila memohon suatu lesen di bawah kaedah ini ialah lima ratus ringgit setahun atau sebahagian dari setahun.

(6) Apa-apa salah nyataan mengenai butir-butir atau maklumat yang dikehendaki di bawah subkaedah (1) adalah suatu kesalahan di bawah Kaedah-Kaedah ini.

(7) Mana-mana pemaju perumahan berlesen yang membuat salah nyataan apa-apa butir atau maklumat di bawah subkaedah (1) atau melanggar apa-apa syarat dalam lesen di bawah subkaedah (2) adalah bersalah atas suatu kesalahan dan apabila disabitkan boleh dikenakan denda tidak lebih daripada lima ribu ringgit atau penjara bagi tempoh tidak lebih daripada tiga tahun atau kedua-duanya.

Pembaharuan lesen pemajuan perumahan

4. (1) Sesuatu permohonan untuk memperbaharui lesen pemajuan perumahan boleh dibuat sebelum tarikh habis tempoh lesen dan Pengawal boleh memberikan pembaharuan lesen itu dengan mengenakan atau tidak mengenakan apa-apa syarat atau syarat-syarat ke atasnya atau enggan memberikan pembaharuan lesen itu.

(2) Seseorang pemaju perumahan berlesen yang memohon pembaharuan lesen pemajuan perumahan hendaklah –

- (a) mengemukakan permohonan dalam borang yang ditetapkan dalam Jadual C;
- (b) memberikan butir-butir mengenai apa-apa perubahan kepada syarikat;
- (c) memberikan butir-butir mengenai apa-apa perubahan ke atas lot-lot yang hendak dimajukan; dan
- (d) membekalkan apa-apa butir atau maklumat berkaitan lain yang dikehendaki oleh Pengawal.

(3) Fi yang kena dibayar bagi pembaharuan sesuatu lesen ialah lima ratus ringgit setahun atau sebahagian dari setahun.

(4) Apa-apa salah nyataan mengenai butir-butir atau maklumat yang dikehendaki di bawah subkaedah (2) adalah suatu kesalahan di bawah Kaedah-Kaedah ini.

(5) Mana-mana pemaju perumahan berlesen yang melanggar apa-apa syarat dalam lesen di bawah subkaedah (1) atau membuat salah nyataan apa-apa butir atau maklumat di bawah subkaedah (2) adalah bersalah atas suatu kesalahan dan apabila disabitkan boleh dikenakan denda tidak lebih daripada lima ribu ringgit atau penjara bagi tempoh tidak lebih daripada tiga tahun atau kedua-duanya.

Permit iklan dan jualan

5. (1) Tiada iklan atau jualan boleh dibuat oleh mana-mana pemaju perumahan tanpa mendapat permit iklan dan jualan terlebih dahulu daripada Pengawal.

(2) Seseorang pemohon yang memohon permit iklan dan jualan hendaklah mengemukakan permohonannya dalam borang yang ditetapkan dalam Jadual D dan hendaklah memberikan yang berikut:

- (a) satu salinan pelan bangunan yang diluluskan;
- (b) dua salinan iklan yang dicadangkan termasuk brosur yang mengandungi butir-butir yang ditetapkan di bawah subkaedah 6(1) Kaedah-Kaedah ini; dan
- (c) apa-apa butir atau maklumat berkaitan lain sebagaimana yang dikehendaki oleh Pengawal.

(3) Pengawal boleh, menurut budi bicaranya, memberikan suatu permit iklan dan jualan dengan mengenakan atau tidak mengenakan apa-apa syarat atau syarat-syarat ke atasnya atau enggan memberikan suatu permit.

(4) Sesuatu permit iklan dan jualan yang dikeluarkan di bawah kaedah ini hendaklah dalam borang yang ditetapkan dalam Jadual E.

(5) Tiada permit iklan dan jualan boleh dikeluarkan atau apa-apa iklan atau jualan boleh dibuat bagi mana-mana pemajuan perumahan yang berkenaan dengannya –

- (a) pemaju perumahan berlesen itu bukan tuan punya tanah yang di atasnya pemajuan perumahan itu dicadangkan hendak dijalankan;
- (b) perenggan 5(5)(a) tidak terpakai jika tuan punya tanah telah melaksanakan suatu perjanjian dengan pemaju perumahan berlesen itu yang bermaksud bahawa –
 - (i) tuan punya bersetuju tentang jualan tanah itu bagi maksud pemajuan perumahan yang berkenaan; dan
 - (ii) tuan punya bersetuju patuh kepada peruntukan kaedah 11 Kaedah-Kaedah ini;
- (c) tanah yang di atasnya pemajuan perumahan dicadangkan hendak dijalankan digadaikan bagi suatu amaun lebih daripada lima puluh peratus (50%) nilai pasaran tanah itu termasuk faedah tahunan ke atas jumlah tersebut dan gadaian itu adalah kepada mana-mana orang, kumpulan orang, syarikat, firma atau pertubuhan selain daripada suatu bank atau syarikat kewangan yang mempunyai lesen yang dikeluarkan di bawah Akta Bank dan Institusi-Institusi Kewangan 1989 [Akta 372] atau Akta Bank Islam 1983 [Akta 276], Akta Bank Simpanan Nasional Berhad 1997 [Akta 571], Akta Bank Kerjasama Rakyat Malaysia Berhad 1978 [Akta 202], Akta Bank Pertanian Malaysia Berhad 2008 [Akta 684].

(6) Sesuatu permit iklan dan jualan adalah dikehendaki berkenaan dengan setiap pemajuan perumahan dan apa-apa iklan yang berhubung dengan pemajuan perumahan yang sama, yang berbeza daripada iklan yang permit telah diberikan pada mulanya, boleh dibuat tetapi tertakluk kepada perubahan itu dikemukakan untuk mendapat kefulusan terlebih dahulu daripada Pengawal.

(7) Fi yang kena dibayar bagi suatu permit di bawah kaedah ini ialah dua ratus lima puluh ringgit setahun atau sebahagian dari setahun.

(8) Apa-apa salah nyataan butir-butir atau maklumat yang dikehendaki di bawah subkaedah (2) adalah suatu kesalahan di bawah Kaedah-Kaedah ini.

(9) Mana-mana pemaju perumahan yang melanggar subkaedah (1) atau membuat salah nyataan apa-apa butir atau maklumat di bawah subkaedah (2) atau melanggar apa-apa syarat dalam sesuatu permit iklan atau jualan di bawah subkaedah (3) adalah bersalah atas suatu kesalahan dan apabila disabitkan boleh dikenakan denda tidak lebih daripada lima ribu ringgit atau penjara bagi tempoh tidak lebih daripada tiga tahun atau kedua-duanya.

Butir-butir yang hendak dimasukkan ke dalam iklan

6. (1) Apa-apa iklan, selain daripada yang disampaikan melalui alat penerima radio atau melalui alat penerima televisyen, yang dibuat oleh mana-mana pemaju perumahan berlesen hendaklah mengandungi butir-butir yang berikut:

- (a) nombor dan tarikh kesahan lesen pemaju perumahan;
- (b) nombor dan tarikh kesahan permit iklan dan jualan;

- (c) nama dan alamat pemaju perumahan berlesen dan ejen-ejennya yang diberi kuasa, jika ada, sebagaimana yang diluluskan oleh Pengawal;
- (d) pemegangan tanah, jika tanah itu pegangan pajak, tarikh tamat tempohnya dan bebanan, jika ada, yang padanya tanah itu tertakluk;
- (e) perihal rumah tempat tinggal yang dicadangkan;
- (f) nama pemajuan perumahan, jika ada;
- (g) tarikh pemajuan perumahan yang dicadangkan dijangka siap;
- (h) harga jualan bagi setiap jenis rumah tempat tinggal;
- (i) bilangan unit setiap jenis yang ada;
- (j) nama Pihak Berkuasa Yang Berkenaan yang meluluskan pelan bangunan dan nombor rujukannya;
- (k) suatu penyata yang menyatakan butir-butir Akaun Pemajuan Perumahan dengan institusi kewangan masing-masing; dan
- (l) suatu pernyataan yang menyatakan bahawa tiga puluh peratus (30%) rumah tempat tinggal diuntukkan dan lima peratus (5%) diskaun atas harga jualan rumah tempat tinggal bagi Bumiputera.

(2) Seseorang pemaju perumahan berlesen hendaklah memasang papan tanda berkenaan dengan rumah tempat tinggal itu di tapak yang dicadangkan dengan mudah dilihat dengan jelas dan hendaklah mengandungi butir-butir yang diperuntukkan di bawah subkaedah 6(1).

Penggunaan nama atau lambang bagi tapak bina

7. (1) Tiap-tiap pemaju perumahan berlesen, sebelum menggunakan apa-apa nama atau lambang untuk merujuk sesuatu pemajuan perumahan, hendaklah mendapat kebenaran bertulis Pengawal bagi penggunaan itu.

(2) Pengawal boleh, menurut budi bicaranya, memberikan kebenaran bagi penggunaan itu dengan mengenakan atau tidak mengenakan apa-apa syarat atau syarat-syarat ke atasnya atau enggan memberikan kebenaran bagi penggunaan itu.

(3) Mana-mana pemaju perumahan berlesen yang melanggar subkaedah (1) atau melanggar apa-apa syarat kebenaran di bawah subkaedah (2) adalah bersalah atas suatu kesalahan dan apabila disabitkan boleh dikenakan denda tidak lebih daripada lima ribu ringgit atau penjara bagi tempoh tidak lebih daripada tiga tahun atau kedua-duanya.

Iklan tidak boleh mengandungi perihalan tertentu

8. (1) Apa-apa nama dalam apa-apa bahasa yang dengannya mana-mana tapak bina yang menjadi sebahagian daripada sesuatu pemajuan perumahan dicadangkan hendak dinamakan atau apa-apa lambang yang digunakan berhubungan dengannya tidaklah boleh mengandungi apa-apa jua yang membayangkan atau dikira membayangkan –

- (a) penaungan Yang di-Pertuan Agong atau mana-mana anggota keluarga Baginda;
- (b) penaungan Raja atau Ketua Negeri bagi mana-mana Negeri dalam Malaysia;
- (c) apa-apa perhubungan dengan –
 - (i) Kerajaan Persekutuan;
 - (ii) Kerajaan mana-mana Negeri dalam Malaysia;
 - (iii) mana-mana Dewan Bandaraya atau Majlis Perbandaran atau Lembaga Bandaran atau Majlis Daerah;
 - (iv) mana-mana pertubuhan atau badan yang ditubuhkan dan diperbadankan oleh undang-undang;
 - (v) mana-mana bangunan awam; atau
 - (vi) mana-mana tempat awam;
- (d) apa-apa perhubungan dengan Kerajaan mana-mana negara asing atau dengan Bangsa-Bangsa Bersatu; atau
- (e) apa-apa sifat yang pemaju perumahan berlesen tidak boleh sebenarnya membuat tuntutan yang wajar.

(2) Kaedah ini adalah sebagai tambahan kepada dan tidak mengurangkan peruntukan-peruntukan Enakmen Lambang dan Nama (Mencegah Salah Menggunakan) 1979.

Memperbaharui permit iklan dan jualan

9. (1) Sesuatu permohonan untuk memperbaharui permit iklan dan jualan hendaklah dalam borang yang ditetapkan dalam Jadual F dan hendaklah memberi –

- (a) butir-butir pemajuan perumahan;
- (b) dua salinan iklan yang dicadangkan; atau
- (c) apa-apa butir atau maklumat berkaitan lain sebagaimana yang dikehendaki oleh Pengawal.

(2) Pengawal boleh, menurut budi bicaranya, memberikan pembaharuan sesuatu permit iklan dan jualan dengan mengenakan atau tidak mengenakan apa-apa syarat atau syarat-syarat ke atasnya atau enggan memberikan pembaharuan permit itu.

(3) Fi untuk memperbaharui permit iklan dan jualan ialah dua ratus lima puluh ringgit setahun atau sebahagian dari setahun.

(4) Apa-apa salah nyataan butir-butir atau maklumat yang dikehendaki di bawah subkaedah (1) adalah suatu kesalahan di bawah Kaedah-Kaedah ini.

(5) Mana-mana pemaju perumahan berlesen yang membuat salah nyataan apa-apa butir atau maklumat di bawah subkaedah (1) atau melanggar apa-apa syarat dalam sesuatu permit iklan atau jualan di bawah subkaedah (2) adalah bersalah atas suatu kesalahan dan apabila disabitkan boleh dikenakan denda tidak lebih daripada lima ribu ringgit atau penjara bagi tempoh tidak lebih daripada tiga tahun atau kedua-duanya.

Membayar fi tempahan

10. (1) Seseorang pembeli rumah tempat tinggal termasuk tanah tidak dikehendaki membayar suatu fi tempahan lebih daripada dua persepuluh lima peratus (2.5%) daripada harga beli rumah tempat tinggal termasuk tanah itu.

(2) Walau apa pun yang terkandung dalam subkaedah (1), tiada seseorang pun pembeli rumah tempat tinggal termasuk tanah dikehendaki membayar fi tempahan lebih daripada seribu ringgit.

(3) Bagi maksud kaedah ini, istilah “fi tempahan” hendaklah termasuk apa-apa bayaran dengan apa nama jua pun yang pembayarannya itu memberikan pembeli itu suatu opsyen atau hak untuk membeli rumah tempat tinggal termasuk tanah itu.

Tuan punya hendaklah menjadi pihak dalam kontrak jualan

11. Tiada seorang pun pemaju perumahan berlesen yang bukan tuan punya tanah yang di atasnya sesuatu pemajuan perumahan itu dijalankan boleh membuat apa-apa kontrak jualan bagi apa-apa rumah tempat tinggal dalam pemajuan perumahan itu melainkan jika tuan punya tanah itu adalah juga pihak dalam kontrak jualan itu dan bersetuju dengan jualan tanah itu bagi maksud yang dinyatakan dalam kontrak jualan itu.

Kontrak jualan

12. (1) Tiap-tiap kontrak jualan bagi jualan dan belian sesuatu rumah tempat tinggal bersama dengan bahagian tanah yang telah dipecah bahagi yang bersangkutan dengannya hendaklah dalam bentuk seperti yang ditetapkan dalam Jadual G dan jika kontrak jualan itu ialah bagi jualan dan belian sesuatu rumah tempat tinggal di dalam sesebuah bangunan yang dipecah bahagi maka hendaklah dalam bentuk seperti yang ditetapkan dalam Jadual H.

(2) Subkaedah (1) tidak terpakai jika pada masa sesuatu kontrak jualan disempurnakan, perakuan layak menduduki bagi sesuatu rumah tempat tinggal telah pun dikeluarkan dan salinan yang disahkan bagi perakuan itu telah diserahkan kepada pembeli.

(3) Tiada seorang pun pemaju perumahan boleh mengutip apa-apa bayaran dengan nama apa jua pun kecuali sebagaimana yang ditetapkan oleh kontrak jualan.

(4) Jika Pengawal berpuas hati bahawa oleh kerana hal keadaan yang khas atau kesusahan atau keperluan, mana-mana peruntukan di dalam kontrak jualan tidak boleh atau tidak perlu dipatuhi, Pengawal boleh, dengan perakuan bertulis, mengetepikan atau mengubah suai peruntukan berkenaan.

(5) Tiada pengecualian atau ubah suai kontrak jualan boleh diluluskan sekiranya permohonan baginya dibuat selepas tamat tempoh masa penyerahan milikan kosong di bawah kontrak jualan atau selepas tempoh sah apa-apa lanjutan masa, jika ada, yang diberikan oleh Pengawal.

(6) Mana-mana pemaju perumahan berlesen yang melanggar subkaedah (3) adalah bersalah atas suatu kesalahan dan apabila disabitkan boleh dikenakan denda tidak lebih daripada lima ribu ringgit atau penjara bagi tempoh tidak lebih daripada tiga tahun atau kedua-duanya.

Persetujuan untuk penyerahhakan

13. (1) Tertakluk kepada subkaedah (2), jika jualan sesuatu rumah tempat tinggal tidak dikeluarkan hakmilik berasingan atau hakmilik strata, tiada seorang pun pemaju perumahan boleh mengenakan apa-apa fi pentadbiran atau apa-apa fi walau apa pun namanya terhadap mana-mana pembeli atau pembeli kemudian kerana memberikan persetujuan, sekiranya dikehendaki, untuk pembeli itu menjual semula rumah tempat tinggal itu sekiranya fi itu melebihi kosong persepuluh lima peratus (0.5%) daripada harga beli atau lima ratus ringgit, yang mana lebih rendah.

(2) Tiada seorang pun pemaju perumahan boleh memungut apa-apa fi walau apa pun namanya kerana memberikan persetujuan kepada mana-mana pembeli atau pembeli kemudian sesuatu rumah tempat tinggal bagi menyerahhakan hak dan faedah dalam kontrak jualan kepada mana-mana institusi kewangan yang memperuntukkan pinjaman kepada pembeli itu untuk membiayai sepenuhnya atau sebahagian daripada pembelian rumah tempat tinggal itu.

(3) Kaedah ini hendaklah berkuat kuasa walau apa pun yang bertentangan dalam mana-mana perjanjian.

Rayuan

14. Walau apa pun yang berlawanan dalam Kaedah-Kaedah ini, mana-mana pemaju perumahan yang terkilan dengan keputusan Pengawal di bawah subkaedah 3(2), subkaedah 4(1), subkaedah 5(3), subkaedah 9(2) atau subkaedah 12(4) boleh, dalam tempoh empat belas (14) hari selepas seseorang itu diberitahu mengenai keputusan Pengawal, merayu terhadap keputusan tersebut kepada Menteri; dan keputusan Menteri bagi rayuan itu adalah muktamad dan tidak boleh dipersoalkan dalam mana-mana mahkamah.

Penalti bagi kesalahan yang tidak diperuntukkan

15. (1) Mana-mana pemaju perumahan yang disabitkan atas suatu kesalahan di bawah Kaedah-Kaedah ini yang baginya tidak ada penalti diperuntukkan dengan nyata boleh apabila disabitkan dikenakan denda tidak lebih daripada lima ribu ringgit atau penjara tidak lebih daripada tiga tahun atau kedua-duanya.

(2) Mana-mana orang yang dengan disedarinya dan bersengaja membantu, bersubahat, menasihati, memujuk atau mengarahkan supaya melakukan sesuatu kesalahan terhadap apa-apa peruntukan Kaedah-Kaedah ini boleh dihukum dengan hukuman yang diperuntukkan bagi kesalahan itu.

Kecualian

16. (1) Walau apa pun peruntukan-peruntukan Kaedah-Kaedah ini mana-mana pemaju perumahan berlesen, yang telah menjalankan perniagaan pemajuan perumahan sebelum Kaedah-Kaedah ini berkuat kuasa, boleh meneruskan perniagaan itu bagi sekian tempoh dan tertakluk kepada apa-apa syarat yang dinyatakan dalam lesen.

(2) Tiada apa-apa jua dalam Kaedah-Kaedah ini akan menyentuh penggunaan kontrak jualan mengikut permit iklan dan jualan yang telah dikeluarkan sebelum berkuat kuasanya Kaedah-Kaedah ini sehingga kesemua rumah tempat tinggal di dalam pemajuan perumahan itu telah dijual.

Pemansuhan

17. Kaedah-Kaedah Perumahan (Kawalan dan Pelesenan Pemaju) 1980 adalah dengan ini dimansuhkan.

Dibuat 15 Oktober 2008.

DATUK HAJI HAJJI HAJI MOHD. NOOR,
Menteri Kerajaan Tempatan dan Perumahan.

[No. JPBN.600-1/28 Klt. 4

HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978

HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008

In exercise of the power conferred by section 26 of the Housing Development (Control and Licensing) Enactment 1978, the Minister makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the Housing Development (Control and Licensing) Rules 2008.

(2) These Rules come into operation on the date of its publication in the *Gazette*.

Interpretation

2. In these Rules, unless the context otherwise requires –

“Advertisement” means any notification or intimation of housing development –

- (a) published in any newspaper, journal or magazine, or in the form of a brochure or in any other form; or
- (b) displayed on any hoarding, boarding, roof, wall, paling, fence, frame, signboard, plate, cloth, bar, pillar, post, wire-casting or other erection, structure or contrivance; or
- (c) conveyed by means of films or communications; or
- (d) conveyed by other means oral or written and whether of the same kind or not as set out in paragraphs (a) to (c);

“Appropriate Authority” means any authority for the time being authorised under any written law in force in Sabah to approve development and building plans, subdivision of land, subdivision of buildings, the issue of documents of title and to enforce building by-laws or regulations and includes any company licensed to provide electricity, telephone, sewerage services and other related services;

“charge” means charge as defined in section 4 of the Ordinance;

“communication” means any communication, whether between persons and persons, things and things, or persons and things in the form of sound, data, text, visual images, signals or any other form or any combination of those forms, and includes the Internet;

“Enactment” means the Housing Development (Control and Licensing) Enactment 1978;

“film” includes –

- (a) a cinematograph film;
- (b) a videotape;
- (c) a compact disc;
- (d) a video compact disc;
- (e) a digital video disc; and
- (f) a record, howsoever made, of a sequence of visual images, which is a record capable of being used as a means of showing that sequence as a moving picture;

“land” means the land on which a licensed housing developer proposes to erect, or on which he is erecting, housing accommodation and includes the land appurtenant to the housing accommodation;

“Ordinance” means the Land Ordinance (Cap. 68);

“portion” means a subdivisional portion of any land comprised in any document of title made under section 40 of the Ordinance;

“proprietor” means any person or body for the time being registered as the proprietor of any alienated land;

“subdivided building” means a building having two or more storeys which is capable of being subdivided into parcels as defined in section 2 of the Land (Subsidiary Titles) Enactment 1972.

Application for a licence

3. (1) A housing developer who applies for a licence under subsection 5(1) of the Enactment shall –

- (a) submit his application in the form prescribed in Schedule A together with such documents as are specified in subsection 5(3) of the Enactment; and
- (b) supply such other relevant particulars or information as may be required by the Controller.

(2) The Controller may, in his discretion, grant a licence with or without attaching any condition or conditions thereto or refuse to grant a licence.

(3) A licence issued under this rule shall be in the form prescribed in Schedule B.

(4) A licence shall be required in respect of each housing development and where a housing development is to be developed in phases, a licence shall be required for each phase of such housing development.

(5) The fee payable upon the application of a licence under this rule shall be five hundred ringgit per year or part of a year.

(6) Any misrepresentation of the particulars or information required under subrule (1) shall be an offence under these Rules.

(7) Any licensed housing developer who misrepresents any of the particulars or information under subrule (1) or breaches any condition in a licence under subrule (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Renewal of a housing development licence

4. (1) An application for the renewal of a housing development licence may be made before the date of expiry and the Controller may grant a renewal of the licence with or without attaching any condition or conditions thereto or refuse to grant a renewal of such licence.

(2) A licensed housing developer applying for the renewal of a housing development licence shall –

- (a) submit the application in the form prescribed in Schedule C;
- (b) give particulars of any change to the company;
- (c) give particulars of any change to the lots to be developed; and
- (d) supply such other relevant particulars or information as may be required by the Controller.

(3) The fee payable for the renewal of a licence shall be five hundred ringgit per year or part of a year.

(4) Any misrepresentation of the particulars or information required under subrule (2) shall be an offence under these Rules.

(5) Any licensed housing developer who breaches any condition in a licence under subrule (1) or who misrepresents any of the particulars or information under subrule (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Advertisement and sale permit

5. (1) No advertisement or sale shall be made by any housing developer without an advertisement and sale permit having first been obtained from the Controller.

(2) An applicant for an advertisement and sale permit shall submit his application in the form prescribed in Schedule D and shall supply the following:

- (a) a copy of the approved building plans;
- (b) two copies of the proposed advertisement including the brochure containing particulars as prescribed under subrule 6(1) of these Rules; and
- (c) such other relevant particulars or information as may be required by the Controller.

(3) The Controller may, in his discretion, grant an advertisement and sale permit with or without attaching any condition or conditions thereto or refuse to grant a permit.

(4) An advertisement and sale permit issued under this rule shall be in the form prescribed in Schedule E.

(5) No advertisement and sale permit shall be issued nor shall any advertisement or sale be made for any housing development in respect of which –

- (a) the licensed housing developer is not the proprietor of the land upon which the housing development is proposed to be carried out;

- (b) paragraph 5(5)(a) shall not apply if the proprietor of such land has executed an agreement with the licensed housing developer to the effect that –
- (i) the proprietor agrees to the sale of the land for the purpose of the housing development concerned; and
 - (ii) the proprietor agrees to abide by the provisions of rule 11 of these Rules;
- (c) the land upon which the housing development is proposed to be carried out is charged for an amount exceeding fifty per centum (50%) of the market value of the land inclusive of annual interest on such amount and such charge is to any person, body of persons, company, firm or society other than a bank or a finance company which is in possession of a licence issued under the Banking and Financial Institutions Act 1989 [Act 372], the Islamic Banking Act 1983 [Act 276], the Bank Simpanan Nasional Berhad Act 1997 [Act 571], the Bank Kerjasama Rakyat Malaysia Berhad Act 1978 [Act 202] or the Bank Pertanian Malaysia Berhad Act 2008 [Act 684].

(6) An advertisement and sale permit shall be required in respect of each housing development and any advertisement in relation to the same development, which differs from that for which the permit was first granted, may be made but subject to such variation being submitted for the prior approval of the Controller.

(7) The fee payable for a permit under this rule shall be two hundred and fifty ringgit per year or part of a year.

(8) Any misrepresentation of the particulars or information required under subrule (2) shall be an offence under these Rules.

(9) Any housing developer who contravenes subrule (1) or who misrepresents any of the particulars or information under subrule (2) or breaches any condition in an advertisement and sale permit under subrule (3) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Particulars to be included in advertisement

6. (1) Any advertisement, other than those conveyed by means of broadcast sound receivers or through television receivers, made by any licensed housing developer shall include the following particulars:

- (a) the housing developer's licence number and validity date;
- (b) the advertisement and sale permit number and validity date;
- (c) the name and address of the licensed housing developer and his authorised agent, if any, as approved by the Controller;
- (d) the tenure of the land if the land is lease hold, its expiry date and encumbrances, if any, to which the land is subject;

- (e) the description of the proposed housing accommodation;
- (f) the name of the housing development, if any;
- (g) the expected date of completion of the proposed housing development;
- (h) the selling price of each type of housing accommodation;
- (i) the number of units of each type available;
- (j) the name of the Appropriate Authority approving the building plans and the reference number;
- (k) a statement stating the particulars of the Housing Development Account with the respective financial institution; and
- (l) a statement stating that thirty per centum (30%) of the housing accommodation are reserved for Bumiputera and five per centum (5%) discount on the selling price of the housing accommodation for Bumiputera.

(2) A licensed housing developer shall erect a sign board in respect of the housing accommodation at the proposed site and shall contain particulars as provided under subrule (1) conspicuously noticeable.

Use of name or emblem for site

7. (1) Every licensed housing developer shall, before using any name or emblem to refer to a housing development, obtain the written permission of the Controller for such use.

(2) The Controller may, in his discretion, grant permission for such use with or without attaching any condition or conditions thereto or refuse to grant permission for such use.

(3) Any licensed housing developer who contravenes subrule (1) or breaches any condition in a permission under subrule (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Advertisement shall not contain certain descriptions

8. (1) Any name in any language by which any site forming part of a housing development is proposed to be called or any emblem used in connection therewith shall not contain anything which suggests or is calculated to suggest –

- (a) the patronage of the Yang di-Pertuan Agong or of any member of his family;
- (b) the patronage of the Ruler or Head of State of any State in Malaysia;
- (c) any connection with --
 - (i) the Federal Government;
 - (ii) the Government of any State in Malaysia;

- (iii) any City Hall or Municipal Council or Town board or District Council;
- (iv) any society or body established and incorporated by statute;
- (v) any public building; or
- (vi) any public place;
- (d) any connection with the Government of any foreign country or with the United Nations; or
- (e) any attribute to which the licensed housing developer can not genuinely lay proper claim.

(2) This rule shall be in addition to and shall not be in derogation of the provisions of the Emblems and Names (Prevention of Improper Use) Enactment 1979.

Renewal of advertisement and sale permit

9. (1) An application for the renewal of an advertisement and sale permit shall be in the form prescribed in Schedule F and shall provide –

- (a) particulars of the housing development;
- (b) two copies of the proposed advertisement; and
- (c) any other relevant particulars or information as may be required by the Controller.

(2) The Controller may, in his discretion, grant the renewal of an advertisement and sale permit with or without attaching any condition or conditions thereto or refuse to grant a renewal of such permit.

(3) The fee for the renewal of an advertisement and sale permit shall be two hundred and fifty ringgit per year or part of a year.

(4) Any misrepresentation of the particulars or information required under subrule (1) shall be an offence under these Rules.

(5) Any licensed housing developer who misrepresents any of the particulars or information under subrule (1) or who breaches any condition in an advertisement and sale permit under subrule (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Payment of booking fee

10. (1) A purchaser of housing accommodation including the land shall not be required to pay a booking fee of a sum exceeding two point five per centum (2.5%) of the purchase price of such housing accommodation including the land.

(2) Notwithstanding subrule (1), no purchaser of a housing accommodation including the land shall be required to pay a booking fee of a sum exceeding one thousand ringgit.

(3) For the purpose of this rule, the term “booking fee” shall include any payment by whatever name called which payment gives the purchaser an option or right to purchase the housing accommodation including the land.

Proprietor to be a party to a contract of sale

11. No licensed housing developer who is not the proprietor of the land upon which a housing development is carried out shall enter into any contract of sale of any housing accommodation in that housing development unless the proprietor of the land is also a party to such contract of sale and agrees to the sale of the land for the purposes specified in such contract of sale.

Contract of sale

12. (1) Every contract of sale for the sale and purchase of a housing accommodation together with the subdivisonal portion of land appurtenant thereto shall be in the form prescribed in Schedule G and where the contract of sale is for the sale and purchase of a housing accommodation in a subdivided building, it shall be in the form prescribed in Schedule H.

(2) Subrule (1) shall not apply if at the time of execution of the contract of sale, the certificate of fitness for occupation for the housing accommodation has been issued and a certified true copy of which has been forwarded to the purchaser.

(3) No housing developer shall collect any payment by whatever name called except as prescribed by the contract of sale.

(4) Where the Controller is satisfied that owing to special circumstances or hardship or necessity, compliance with any of the provisions in the contract of sale is impracticable or unnecessary, he may, by a certificate in writing, waive or modify such provisions.

(5) No such waiver or modification of the contract of sale shall be approved if such application is made after the expiry of the time stipulated for the handing over of vacant possession under the contract of sale or after the validity of any extension of time, if any, granted by the Controller.

(6) Any housing developer who contravenes subrule (3) shall be guilty of an offence and shall be on conviction be liable to a fine not exceeding five thousand ringgit or to a term of imprisonment not exceeding three years or to both.

Consent to assignment

13. (1) Subject to subrule (2), where in the sale of a housing accommodation to which no separate or strata title has been issued, no housing developer shall impose any administrative fee or any fee by whatever name called upon any purchaser or subsequent

purchaser for giving his consent. if required, for such purchaser to resell the housing accommodation if such fee shall exceed zero point five per centum (0.5%) of the purchase price or five hundred ringgit, whichever is the lower.

(2) No housing developer shall collect any fee by whatever name called for giving his consent to any purchaser or subsequent purchaser of a housing accommodation to assign his rights and benefits to and in the contract of sale to any financial institution providing a loan for such purchaser to finance or part finance the purchase of the housing accommodation.

(3) This rule shall have effect notwithstanding anything to the contrary in any agreement.

Appeal

14. Notwithstanding anything to the contrary in these Rules, any housing developer aggrieved by the decision of the Controller under subrule 3(2), subrule 4(1), subrule 5(3), subrule 9(2) or subrule 12(4) may, within fourteen (14) days after having been notified of the decision of the Controller, appeal against such decision to the Minister; and the decision of the Minister made thereon shall be final and shall not be questioned in any court.

Penalty for offences not otherwise provided for

15. (1) Any housing developer convicted of an offence under these Rules for which no penalty is expressly provided shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Any person who knowingly and wilfully aids, abets, counsels, procures or commands the commission of an offence against any provision of these Rules shall be liable to be punished with the same punishment provided for the offence.

Saving

16. (1) Notwithstanding the provisions of these Rules any licensed housing developer, who before the coming into operation of these Rules was carrying on the business of housing development, may continue to carry on such business for such period and subject to such conditions as may be specified in the licence.

(2) Nothing in these Rules shall affect the use of the contract of sale under the advertisement and sale permit issued prior to the coming into operation of these Rules until all the housing accommodations in the housing development have been sold.

Repeal

17. The Housing (Control and Licensing of Developers) Rules 1980 are hereby repealed.

Made 15 October 2008.

DATUK HAJI HAJJI HAJI MOHD. NOOR,
Minister of Local Government and Housing.

SCHEDULE A

HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978

HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008
(Subrule 3(1))

APPLICATION FOR A HOUSING DEVELOPMENT LICENCE

To,

The Controller of Housing,
Ministry of Local Government and Housing,
88999 KOTA KINABALU.

1. *I/We the undersigned hereby apply for a housing developer's licence in accordance with the provisions of the Housing Development (Control and Licensing) Enactment 1978 and the Housing Development (Control and Licensing) Rules 2008 and for the purpose of complying with such provisions, *I/We submit the following:

- 1.1 A copy of a statutory declaration (Appendix A) stating that the applicant has complied with all the conditions or restrictions set out in subsection 6(1) of the Enactment.
- 1.2 Form 24 and Form 49 under the Companies Act 1965 (for limited company only).
- 1.3 A copy of Director's Guarantee (Appendix B).
- 1.4 Estimated total development cost prepared and certified by a Quantity Surveyor or Architect or Engineer:
 - 1.4.1 Land cost.
 - 1.4.2 Land premium, survey and subdivision fees.
 - 1.4.3 Capital contribution to Sabah Electricity Board.
 - 1.4.4 Estimated cost of construction (Building and Infrastructure works).
 - 1.4.5 Professional fees.
 - 1.4.6 Administration and promotion expenses.
 - 1.4.7 Financing charges.

- 1.5 Name of the bridging and end financier.
- 1.6 A copy of the land title and whether any encumbrances on the land proposed for housing development.
- 1.7 Copy of application for the subdivision of the land and a copy of approval for the conversion of the land for building purpose and for the subdivision.
- 1.8 Copy of agreement:
 - 1.8.1 If the housing developer is the proprietor of the land, a copy of the sale and purchase agreement between the house purchaser and the developer.
 - OR
 - 1.8.2 If the housing developer is NOT the proprietor of the land,
 - 1.8.2.1 the tripartite sale and purchase agreement between the land owner, the housing Developer and the house purchaser, and
 - 1.8.2.2 a copy of the agreement between the land owner and the developer to develop the land into housing development.
- 1.9 A copy of list of legal firms who undertake the sales and purchase agreement.
- 1.10 All existing agreements relating to the proposed development.
- 1.11 A planned schedule of works in the form of Bar Chart, which is up to the stage of application for occupation certificate and within a period of twenty-four (24) months.
- 1.12 A cash flow programme which must tally with the total development cost.
- 1.13 Fee payable for the new Developer's Licence in the form of Postal Order or Cashier's Order at five hundred ringgit (RM500.00) per annum.
- 1.14 Approved Development Plan and Building Plan (copy endorsed by the appropriate local authority) together with the approval letter.
- 1.15 Name of the project to be approved by the relevant local authority.
- 1.16 Past record of housing development undertaken.
- 1.17 Intended selling price.
- 1.18 Sales records if any.
- 1.19 NRIC No./Passport No. of all Directors.
- 1.20 Profit Margin.

2. *I/We also submit the following documents duly verified in accordance with subsection 5(3) of the Enactment:

| Applicant | Document to be submitted | Document to be verified by Statutory Declaration by |
|------------------------|---|--|
| Person | A copy of the latest audited balance sheet, if any, relating to all housing developments undertaken by the person. | The person himself. |
| Body of persons | (i) A copy of an agreement between or amongst persons forming the body. (ii) A copy of the latest audited balance sheet, if any, relating to all housing developments undertaken by the body of persons. | Any of the persons forming the body. |
| Company | (i) A copy of Memorandum of Association. (ii) A copy of Articles of Association. (iii) A copy of the latest audited balance sheet. | A Director, Managing Director, Secretary or any Senior Officer of the Company. |
| Firm | (i) A copy of the partnership agreement, if any. (ii) A copy of the Certificate of Registration of Business. (iii) A copy of the latest audited balance sheet. | A partner. |
| Society | A copy of the rules or by-laws of the society. | President or Secretary. |

2.1 The Statutory Declaration verifying the above documents must stipulate that the provision of paragraph 6(1)(c) or 6(1)(d) of the Housing Development (Control and Licensing) Enactment 1978, as the case may be, have not been contravened and that the provisions of section 15 of the said Enactment will be complied with.

2.2 Particulars of all persons should include, in the case of --

- (i) a company; the name of the director, directors, manager or secretary;
- (ii) a society; the name of the president, secretary, treasurer or such other person in a position analogous to that of president, secretary or treasurer;
- (iii) a partnership; the names of all the partners; and
- (iv) a person or group of persons; the name of the person or the names of all persons within the group.

3. Particulars of the Developer:

- 3.1 Name of the Housing Developer:
.....
- 3.2 Registered Address:
.....
- 3.3 Telephone No.:
- 3.4 Fax No.:
- 3.5 E-mail Address:
- 3.6 Status of Organisation:
.....
(e.g. Limited company, partnership, etc.)
- 3.7 Date of Commencement of Business:
(to be supported by document)
- 3.8 Previous Licence No. and date of issue (if any):
.....
- 3.9 The following licence issued to me has since been revoked:
.....

4. Particulars of all Office-Bearers in the Organisation:

| Designation | Full Name (underline surname) | Address | Citizenship | I.C. No. | Occupation |
|-------------|----------------------------------|---------|-------------|----------|------------|
| | | | | | |
| | | | | | |
| | | | | | |
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| | | | | | |

(In the case of –

- (i) Limited Company Board of Directors
- (ii) Firm Proprietor or Partners
- (iii) Society or Body of Persons Office-Bearers).

5. Particulars of the Capital.

(for company incorporated under the Companies Act 1965 only)

| | | |
|----------------------------------|------|-----------|
| Authorised Capital (if any) = RM | | |
| Issued Capital (if any) = RM | | |
| Paid-up Capital (if any) | Cash | Otherwise |
| | RM | RM |

6. Name of the housing development:

.....

| 7. | Particulars of land to be developed | Particulars of the proposed Building | |
|----|-------------------------------------|--------------------------------------|--------------|
| | | Types of Building | No. of Units |
| | Lot No.: | | |
| | Area of Land: | | |
| | *Town/Village/Kampung: | | |
| | District: | | |
| | Nature of Land Title: | | |
| | Registered Owner(s): | | |
| | | | |
| | | | |
| | | | |
| | | | |

And *I/We hereby declare to the best of *my/our knowledge that the particulars given above are true. *I/We understand that any misrepresentation of the above particulars is an offence under the Housing Development (Control and Licensing) Rules 2008.

Date:

.....
*Signature of applicant and/or Common
 Seal of Company*

Application for a housing developer's licence
 Examined by:

Date:

.....
Signature/Designation

.....
(Name)

Recommendation

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....
Signature/Designation

Date:
(Name)

Application approved/rejected

.....

.....
(Controller of Housing)

Date:
(Name)

** Delete whichever is not applicable.*

STATUTORY DECLARATION

I

do solemnly and sincerely declare that -

1. i am one of the Director of
2. my company aforesaid is applying to the Controller of Housing, Ministry of Local Government and Housing, Kota Kinabalu, Sabah for a Developer's Licence under subsection 5(3) of the Housing Development (Control and Licensing) Enactment 1978.
3. the completed application form marked is true and correct.
4. attached to the application for a licence submitted by my company are the following documents:
 - (a) a copy of Memorandum of Association.
 - (b) a copy of Articles of Association, and
 - (c) a copy of the latest audited balance sheet of my company.
5. as required by subsection 5(3) of the said Enactment, I hereby verify the said documents as follows:
 - (a) the document marked is a copy of Memorandum of Association of my company.
 - (b) the document marked is a copy of Articles of Association of my company, and
 - (c) the document marked is a copy of the latest audited balance sheet of my company.
6. the provision of paragraph 6(1)(d) of the said Enactment has not been contravened.
7. i further undertake that the provisions of section 15 of the said Enactment will be complied with.

8. my Company is the registered legal and beneficial owner of the () parcels of land respectively held under
.....
..... (hereinafter collectively referred to as 'the Said Lands') which the Company is developing into a housing estate.

9. the Said Lands are on the date hereof free from all encumbrances EXCEPT a charge for RM in favour of
..... which has been lodged in for registration at the Central Land Registry
..... on

10. it is understood that if any of the above statements of fact is not true or is not accurate, the Controller of Housing may revoke the Developer Licence at any time.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declaration Act, 1960.

Declare in the State of Sabah this day of

}

Before me,

Magistrate/Commissioner for Oath.

(Note: This Appendix A is to be used in conjunction with Schedule A).

LETTER OF GUARANTEE OF COMPLETION OF HOUSING DEVELOPMENT BY DIRECTORS

To,

The Controller of Housing,
Ministry of Local Government and Housing,
88999 KOTA KINABALU.

In consideration of you granting a Developer's Licence, Advertisement and Sale Permit for the housing development project known as at C.L, T.L situated at to our company duly incorporated in Malaysia. Housing Developer, having its registered office at

1. I/We the undersigned being the Directors of the said company, housing developer, hereby jointly and severally guarantee the due performance of the several obligations of the said company, housing developer, and will ensure the full completion of the housing development project as aforesaid until the houses shall have been delivered to the purchasers and certified fit for occupation, within the stipulated period of completion, and in accordance with the Housing Development (Control and Licensing) Enactment 1978 and any rules made thereunder and any other conditions imposed by the Controller of Housing from time to time.

2. I/We further hereby agree that I/We shall jointly and severally indemnify the purchasers of the houses against all loss or damage caused to them or any of them arising or resulting from any breach of obligations by the said company, housing developer, or failure to complete the said housing development within the stipulated time of completion.

Dated

()) ())
 (Name of Guarantor,) Signature (Name of Guarantor,) Signature
 Director)) Director))

.....))
 (I/C. No./Passport No.)) (I/C. No./Passport No.))

.....))
 (Address)) (Address))

()) ())
 (Signature of Witness)) (Signature of Witness))

.....))
 (Name of Witness)) (Name of Witness))

.....))
 (I/C. No./Passport No.)) (I/C. No./Passport No.))

.....))

.....))
 (Address)) (Address))

- (Note: i. This Appendix B is to be used in conjunction with Schedule A.
 ii. To be signed by all directors.
 iii. This appendix must be duly stamped).

SCHEDULE C
HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978
HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008
(Subrule 4(2))

APPLICATION FOR RENEWAL OF HOUSING DEVELOPMENT LICENCE

To,

The Controller of Housing,
Ministry of Local Government and Housing,
88999 KOTA KINABALU.

*I/We the undersigned hereby apply for the renewal of the licence numbered and granted on in accordance with the provisions of the Housing Development (Control and Licensing) Enactment 1978 and the Housing Development (Control and Licensing) Rules 2008, and for the purpose of complying with such provisions. *I/We submit the following particulars:

1. Name of Housing Developer:
.....
2. Registered Address:
.....
3. Telephone No.: Fax No.:
4. E-mail Address:
5. Licence No.:
6. Date of Expiry/Date of Revocation:
.....
7. Name of Housing Development:
.....

8. Particulars of the land:

.....

| Lot No./Title | Locality | District |
|---------------|----------|----------|
| | | |

9. Particulars of all Office-Bearers of the Organisation:

| Designation | Name (underline surname) | Address | Citizenship | I.C. No. | Occupation |
|-------------|--------------------------------|---------|-------------|----------|------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

(In the case of –

- (i) Limited Company Board of Directors
- (ii) Firm Proprietor or Partners
- (iii) Society or Body of Persons Office-Bearers).

10. Indicate the status of the followings:

| | (YES) | (NO) |
|---|-------|-------|
| +(a) Change of Office-Bearers | | |
| +(b) Change of particulars of Capital of the Company | | |
| +(c) Change of Development Plan | | |
| +(d) Change of Building Plans... .. | | |
| +(e) Approval letter for Amended Development Plan | | |
| +(f) Approval letter for Amended Building Plans | | |
| +(g) Sales Record | | |
| +(h) Audited balance sheet submitted for the year | | |
| +(i) Audited balance sheet gazetted | | |
| +(j) Appointment under subsection 11(1) of the Enactment | | |
| +(k) Statement under paragraph 7(f) of the Enactment | | |
| +(l) Explanation pertaining to the delay of Completing the Houses | | |
| +(m) Letter of undertaking to compensate the Purchaser for the late delivery of houses, if any | | |
| +(n) Renewal fee of five hundred ringgit (RM500.00) per year | | |

11. And *I/We declare to the best of *my/our knowledge that the particulars given above are true. *I/We understand that any misrepresentation of the above particulars is an offence under the Housing Development (Control and Licensing) Rules 2008.

Date:
*Signature of Applicant and/or
Common Seal of Company*

FOR OFFICE USE ONLY

Application for renewal of developer's licence examined by:

.....
Signature/Designation

Date:
(Name)

Recommendation

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....
Signature/Designation

Date:
(Name)

Application approved/rejected

.....

.....

.....
Controller of Housing

Date:
(Name)

* Delete whichever is not applicable.
+ If yes, please attach further particulars.

SCHEDULE D

HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978

HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008
(Subrule 5(2))

APPLICATION FOR ADVERTISEMENT AND SALE PERMIT

To,

The Controller of Housing,
Ministry of Local Government and Housing,
88999 KOTA KINABALU.

*I/We the undersigned hereby apply for an advertisement and sale permit in accordance with the provisions of the Housing Development (Control and Licensing) Rules 2008, and for the purpose of complying with such provisions, *I/We submit the following particulars:

1. *(a)* a copy of the approved building plan;
 - (b)* two copies of each type of proposed advertisement;
 - (c)* a copy of an agreement to the effect that the land owner(s) agreed to abide by rule 10 of the Housing Development (Control and Licensing) Rules 2008 (if applicable);
 - (d)* a copy of the valuation report by a licensed valuer and particulars of the charge (if the land is charged to a person, body of persons, company or society other than a bank or a finance company licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983); and
 - (e)* advertising permit fee of two hundred fifty ringgit (RM250.00) per year.
2. Particulars of Developer and Housing Development:
 - (a)* Name of Housing Developer:
 -
 - (b)* Registered Address:
 -
 - (c)* Telephone No.:
 - (d)* Fax No.:
 - (e)* Housing Developer's Licence Number:
 - (f)* Valid from to

4. Particulars of the building:

| Types of Building | No. of Units | Price per Unit |
|-------------------|--------------|----------------|
| | | |
| | | |
| | | |
| | | |
| | | |

And *I/We declare to the best of *my/our knowledge that the particulars given above are true. *I/We understand that any misrepresentation of the above particulars is an offence under the Housing Development (Control and Licensing) Rules 2008.

Date:

.....
*Signature of Applicant and/or
 Common Seal of Company*

FOR OFFICE USE ONLY

| | (Yes) | (No) | (Remarks) |
|--|-------|------|-----------|
| 1. Approved building plan | | | |
| 2. 2 copies of each type of proposed advertisement... .. | | | |
| 3. Agreement under rule 11 (if applicable) ... | | | |
| 4. Particulars of the charge and valuation report (if applicable)... .. | | | |
| 5. Advertising permit fee of two hundred fifty ringgit (RM250.00) per annum | | | |

Application for Advertisement and Sale Permit examined by:

.....
Signature/Designation

Date:
.....
(Name)

Recommendation
.....
.....
.....
.....

.....
Signature/Designation

Date:
.....
(Name)

Application approved/rejected
.....

.....
Controller of Housing

Date:
.....
(Name)

**Delete whichever is not applicable.*



NEGERI SABAH

SCHEDULE E

HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978

HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008
(Subrule 5(4))

ADVERTISEMENT AND SALE PERMIT

Developer:

Business Address:

Telephone No.: Fax No.:

Name of Housing Project:

is hereby given the permit for the housing development under Rule 5 of the Housing Development (Control and Licensing) Rules 2008 and is restricted to:

| Items | Unit of Houses | Types of Houses | Lot No., Title No. |
|-------|----------------|-----------------|--------------------|
| | | | |
| | | | |
| | | | |
| | | | |

Subject to the following conditions:

| |
|--|
| Developer's Licence No.: |
| Date of Developer's Licence Issued: |
| Advertisement Permit No.: |
| Validity Period of Advertisement Permit: |
| Date of Permit Issued: |
| Expiry Date of Permit: |
| Amount of Payment: RM per year |
| Ringgit: only |

.....
Controller of Housing

Date:
.....

SCHEDULE F
HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978
HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008
(Subrule 9(1))

APPLICATION FOR RENEWAL OF ADVERTISEMENT AND SALE PERMIT

To,

The Controller of Housing,
Ministry of Local Government and Housing,
88999 KOTA KINABALU.

*I/We the undersigned hereby apply for the renewal of the advertisement and sale permit in accordance with the provisions of the Housing Development (Control and Licensing) Rules 2008, and for the purpose of complying with such provisions, *I/We submit the following particulars:

1. Two copies of each type of proposed advertisement.
2. Particulars of Developer and Housing Development:
 - (a) Name of Housing Developer:
 -
 - (b) Registered Address:
 -
 - (c) Telephone No.:
 - (d) Fax No.:
 - (e) E-mail Address:
 - (f) Previous Housing Developer's Licence No.:
 - (g) Valid from to
 - (h) Name of Housing Development:

(i) Location of Housing Development:

| Lot No./Title | Locality | District |
|---------------|----------|----------|
| | | |

3. Type proposed advertisement.

(*Mark "X" in the appropriate column):

| Type | Mark "X" |
|-----------|----------|
| Brochure | |
| Newspaper | |
| Signboard | |
| Others | |
| | |
| | |

4. Type and number of units of building proposed to be sold:

| Type of Building | Balance of Units to be sold | Price per Unit |
|------------------|-----------------------------|----------------|
| | | |
| | | |
| | | |

And *I/We declare to the best of *my/our knowledge that the particulars given above are true. *I/We understand that any misrepresentation of the above particulars is an offence under the Housing Development (Control and Licensing) Rules 2008.

Date:
*Signature of Applicant and/or
Common Seal of Company*

FOR OFFICE USE ONLY

Application for renewal of advertisement and sale permit examined by:

.....
Signature/Designation

Date:
(Name)

Recommendation
.....
.....
.....

.....
Signature/Designation

Date:
(Name)

Application approved/rejected

.....

.....

.....

Controller of Housing

Date: (Name)

** Delete whichever is not applicable.*

SCHEDULE G

HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978

HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008
(Subrule 12(1))

SALE AND PURCHASE AGREEMENT (LAND AND BUILDING)

Date :

Item :

1. Project :

2. Developer :

3. Purchaser : Name :
NRIC No. :
Address :
Income Tax No. :

4. Property : Lot No. :
Type :
Land Area :
Bumiputera Lot :

5. Purchase Price :

6. Developer's Licence :

7. Advertisement and Sale Permit :

8. Project Account : Bank No.: _____

9. Project Land : (CL/NT/PL)
Owner:

10. Bridging Financier :

11. Conversion Approval : Letter of Offer dated _____ reference
(Term of Title) Total Premium : RM
Paid : RM on
Term : From to

12. Project Land Surrendered : Under memorial number _____ dated _____

13. Development Plan Approval: Ref.: Dated:

-
14. Developer's Solicitor :
 Architect :
 Mechanical & Electrical Engineer :
 Civil and Structural Engineer :
 Land Surveyor :
15. Payments by Purchaser : (a) Purchase price.
 (b) Stamp duty for Agreement of forty ringgit (RM40.00).
 (c) Legal fees and stamp duty for loan.
 (d) Stamp duty and adjudication and registration fees for the transfer to be paid when title issued.
 (e) Legal fees to present transfer only when title issued.
 (f) Annual rent from the date of Occupation Certificate.
 (g) Assessments from the date of Occupation Certificate.
 (h) Administrative fee of five hundred ringgit (RM500.00) upon re-sale or re-financing.
 (i) Eight per centum (8%) interest on late payments, if any.
- Payments before collection of keys:-
- (j) Deposit, connection and meter fee for water and electricity to the Appropriate Authority (as specified by the Appropriate Authority).
16. Construction time : Twenty-four (24) months (to Occupation Certificate) from the date of this Agreement.
17. Defects liability period : Eighteen (18) months from the date of Occupation Certificate.
18. Price adjustment : To be calculated based on the same price per square foot as was used to calculate the purchase price herein.
19. Special terms (if any) :
- First Schedule : General Terms
 Second Schedule : Payment Schedule
 Third Schedule : Specifications
 Fourth Schedule : Plans
 Fifth Schedule : Special Terms (if any)

1. **Agreement**

In consideration of the payment of the purchase price the Developer and the Owner (where applicable) shall construct and dispose to the Purchaser the property, free from encumbrances and with vacant possession subject to the terms of this Agreement.

2. **Schedules**

The Schedules are an essential part of this Agreement. Words are defined as above and in the Schedules.

IN WITNESS WHEREOF the parties have set their hands the day and the year first above written.

The Common Seal of the Developer is hereunto affixed in the presence of:

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

Common Seal

* The Common Seal of the Landowner is hereunto affixed in the presence of:

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

Common Seal

* Signed by the Owner
in the presence of:



* The Common Seal of the Purchaser
is hereunto affixed in the presence of:

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :



* Signed by the Purchaser
in the presence of:



* *Delete whichever not applicable.*

FIRST SCHEDULE

GENERAL TERMS

1. The Developer covenants to be bound by all the provisions as stipulated in the Housing Development (Control and Licensing) Rules 2008 (hereinafter referred to as “the Housing Rules”) in particular Rule 12. Variations to such provisions are permitted in writing by the Controller. The headings are for ease of reference only.

(a) The property sold is free from industrial or agricultural conditions and residential use permitted

The property sold to the Purchaser is free from -

- (i) any agricultural or industrial condition expressed or implied; and
- (ii) any restriction against the construction of the property.

(b) No subsequent charges over the property without Purchaser’s consent

Immediately after this Agreement has been signed the Developer shall not subject the property sold to the Purchaser to any encumbrance without the prior approval of the Purchaser.

(c) The property free from encumbrances upon delivery of Occupation Certificate

The property shall be free from encumbrances immediately prior to the issuance of Occupation Certificate of the property to the Purchaser.

(d) Purchase price

The purchase price is stated in item 5 above.

(e) Payment of the purchase price

The purchase price shall be paid in the instalments and manner stipulated in the Second Schedule.

(f) The layout plan and area of the property

The layout plan particularly specifying the measurements, boundaries and areas of the property and the position of the property in the Project is stipulated in item 4 and in the Fourth Schedule.

(g) Position and area of lot

- (i) The parties hereto agree and declare that the position, measurement, boundaries and area of the property shown on the layout and or floor plans of the Developer are believed but not guaranteed to be correct. If it shall be found that the position, measurements, boundaries and area of the property in the document of title when issued are different from that shown on the layout and or floor plans, the purchase price of the property shall be adjusted equitably and at the rate as prescribed in item 18 above. A registered valuer shall be employed by the Developer to value the rate per square feet to be adjusted and the costs of the registered valuer's services shall be borne by the Developer.
- (ii) The Developer may only claim from the Purchaser any payment resulting from the adjustment up to a maximum which is equivalent to the value of two per centum (2%) of the total area of the property as shown in the final document of title.
- (iii) Any payment resulting from the adjustment and requiring to be paid by the party concerned shall be paid within seven (7) days of the issuance of the final document of title.

(h) Plans approved and cannot be changed

The plans for the Project and the property has been duly approved by the Appropriate Authority and no alterations to the approved plans shall be made or carried out except as may be required by the Appropriate Authority.

(i) Good workmanlike manner in accordance with plans and specifications

The property shall be constructed in a good workmanlike manner in accordance with the specifications and plans approved by the Appropriate Authority and agreed to by and between the Purchaser and the Developer. No changes thereto or deviation therefrom shall be made without the consent in writing of the Purchaser except as may be required by the Appropriate Authority. The Purchaser shall not be liable for the cost of such changes or deviations and in the event that the changes or deviations involve the substitution or use of cheaper materials or the omission of works originally agreed to be carried by the developer, the Purchaser shall be entitled to a corresponding reduction in the purchase price herein or to damages, as the case may be.

(j) Conformity with written laws

The property shall conform with all written laws for the time being enforced affecting the property and the Developer shall keep the Purchaser indemnified against all fines and penalties or losses incurred by reason of any breach of the provision of any written law.

(k) Roads, drains, water and sewerage mains at Developer's cost

The Developer shall, at its own cost and expenses, -

- (i) construct or cause to be constructed the infrastructure, including the roads, driveways, open spaces, electricity substation, drains, culverts, water mains and sewerage plants serving the Project;
- (ii) provide facilities and communal amenities including street lighting.

in accordance with the requirements and standards of the Appropriate Authority. On completion of the construction of the above infrastructure the Developer shall do everything possible within its power to have the same taken over and maintained by the Appropriate Authority but until they are so taken over the Developer shall maintain the same at its expense.

(l) Utility connection costs

The Developer shall, at its own costs and expenses, cause the connection of electricity, water and sewerage mains of the Appropriate Authority or the public authority with the internal electricity, water and sewerage mains of the property.

(m) Developer to bear subdivision costs

The Developer shall, at its own costs and expenses, apply and obtain the approval of the subdivision of the project land or property.

(n) Developer to procure Occupation Certificate

The Developer shall do all acts and things necessary to procure the issuance of the Occupation Certificate from the Appropriate Authority in respect of the property and shall, at its own costs and expenses, comply with all the requirements of the Appropriate Authority in the procurement of such Certificate and shall undertake to produce such Certificate to the Purchaser when issued.

(o) Completion twenty-four (24) months

The date of the delivery of vacant possession of the property to the Purchaser together with the Occupation Certificate for the property shall not be later than twenty-four (24) months after the date of the signing of this Agreement.

(p) Developer to procure subdivided or subsidiary title

The Developer shall use its best endeavour and take all necessary steps to obtain a separate issue of the document of title for the property for the Purchaser and shall upon the issue of the document of title and provided that the Purchaser has paid all monies due under this Agreement and has performed and observed the

terms and conditions of this Agreement, forthwith execute a valid and fit for registration Memorandum of Transfer of the property for the Purchaser, his heir or nominee or lawful assigns, as the case may be.

(q) Eighteen (18) months' defects liability period

- (i) Any defect, imperfection, shrinkage or other faults whatsoever in the property which shall become apparent within a period of eighteen (18) calendar months after the date the Purchaser takes vacant possession of the property, shall be repaired and made good by the Developer at its own cost and expenses within seven (7) days of its having received written notice thereof from the Purchaser. In the event of the Developer failing to do so, the Controller reserves the right to retain the deposit money until the said defects, imperfection, shrinkage or other faults in the property be repaired and made good by the Developer.
- (ii) For the purpose of this clause any defect, imperfection, shrinkage or other faults in the property shall mean any defect, imperfection, shrinkage or other faults which is due -
 - (aa) to defective workmanship or materials; or
 - (bb) to the property not having been constructed in accordance with the plans as approved or amended by the Appropriate Authority or in accordance with the specifications as described in this Agreement.
- (iii) In the event of any dispute arising as to whether any defect falls within the scope of this clause but without prejudice to the right of the Purchaser to seek legal redress the Developer's architect or engineers shall assist in determining the dispute.

(r) Eight per centum (8%) liquidated damages for delay

The Developer shall indemnify the Purchaser for any delay in the delivery of vacant possession of the property. The amount of the indemnity shall be calculated from day to day at the rate of eight per centum (8%) per annum of the purchase price commencing immediately from the date when vacant possession ought to have been delivered until the date of issuance of Occupation Certificate.

(s) Payment of outgoings

All outgoings in respect of the property including annual rent and assessments shall be paid by the Developer up to the date of issuance of the Occupation Certificate of the property and thereafter the same is to be borne by the Purchaser.

(t) Penalties to be paid by the Purchaser

- (i) Unless otherwise stated the Purchaser shall settle all payments required in this Agreement within fourteen (14) days of service of notice to do so.
- (ii) The Developer is entitled to impose simple interest at the rate of eight per centum (8%) per annum on a day to day basis on all outstanding dues up to the date of settlement. However such interest shall not be charged if the delay in payment is caused by the delay of the Developer's bridging financier in issuing the standard redemption statement, undertaking and completing the redemption arrangements or Developer's solicitor in preparing this Agreement for execution.
- (iii) If the Purchaser commits any breach of the terms of this Agreement, commits an act of bankruptcy, enters into any composition or arrangement with his creditors or being a company howsoever enters into liquidation, then the Developer shall be entitled to terminate this Agreement and thereafter -
 - (aa) the Developer shall be entitled to deal or dispose of the property sold in such manner as the Developer shall see fit as if this Agreement had not been entered into;
 - (bb) the part of the purchase price paid by the Purchaser to the Developer (excluding interest and other dues) shall be dealt with as follows:
 - (1) firstly, all interest calculated in accordance with item (t)(ii) hereof owing and unpaid shall be paid to the Developer;
 - (2) secondly, a sum equal to ten per centum (10%) of the purchase price shall be forfeited to the Developer; and
 - (3) lastly, the residue thereof, if any, shall be refunded to the Purchaser;
 - (cc) neither party shall have any further claim against the other; and
 - (dd) each party hereto shall pay its own costs in the matter.
- (iv) Breach by the Purchaser to pay any part of the purchase price for more than the said fourteen (14) days after becoming due shall entitle the Developer to serve the Purchaser fourteen (14) days notice to treat this Agreement as have been repudiated and unless the default is rectified, this Agreement shall, at the expiration of the said notice, be deemed to be terminated.
- (v) The Purchaser must pay up all dues and interest before being entitled to the title deed to the property or to consent for any assignment.

(u) **Right of access**

The Purchaser his heir, personal representative, assignee and his or their servants, agents, licensees and invitees shall have free rights and liberties to use the project land in common with all other persons having rights and liberties, all roads serving the Project or other land in the Project and to make all necessary connections and thereafter to use in a proper manner the drains, pipes, cables and wire laid or constructed by the Developer under such roads for the purpose of the supply of water, electricity and telephone services to and for drainage of water from the property. Such rights and liberties shall continue to apply notwithstanding the completion of this Agreement.

(v) **No increase in price**

The Developer shall not charge extra amount to the Purchaser resultant on the increase of cost of materials.

2. **Loans**

- (a) Purchaser to notify if Loan applied for. Within fourteen (14) days of the receipt of the stamped copy of this Agreement the Purchaser shall notify the Developer as to whether he is applying for a loan to finance the purchase price (hereinafter referred to as "the Loan") and the name and branch of the financier (hereinafter referred to as "the Financier").
- (b) No interest for the first two (2) months. If the Loan is to pay installment(s) of the purchase price that is already or about to become due, the Purchaser is allowed two (2) months from the date of this execution of this Agreement to pay such installment(s). The Developer is entitled to charge interest on any overdue installment(s) for late payment only after the two (2) months. The installment(s) not financed by the Loan shall be paid within the fourteen (14) days of being due.
- (c) Obligation to pay the purchase price despite Loan. The application, approval, rejection, withdrawal, processing and administration of the Loan and any assistance rendered by the Developer towards the Loan shall not relieve the Purchaser of his paramount obligation to pay the purchase price when due. The application for and release of the Loan is the responsibility of the Purchaser.
- (d) Loan from Federal or State Government or statutory authority. The Purchaser shall within fourteen (14) days after the receipt of the stamped copy of this Agreement inform in writing to the Developer of his intention of obtaining the Loan from the Government of Malaysia, State Government or any statutory authority providing loan facilities. If the Purchaser fails to obtain such loan for any reason whatsoever, the Purchaser shall be liable to pay to the Developer the whole of the purchase price or the portion thereof then outstanding.

3. **Purchaser's right to initiate and maintain action**

The Purchaser shall be entitled on his own volition and name to institute and maintain any action in relation to any matter arising from this Agreement and against any person before any court, tribunal or body. If this Agreement is assigned to a Financier then the Purchaser shall forthwith notify the Financier.

4. **Time essence of contract**

Time shall be the essence of the contract in relation to all provisions in this Agreement.

5. **Consent to assignment or subsale**

Provided the Purchaser is not in breach of the terms of this Agreement and until the title to the property is registered in the name of the Purchaser, the Developer shall give his consent in writing to any assignment or other disposal of the Purchaser's interest in the property. The consent is subject to the following terms:

- (a) the Developer is entitled to charge an administrative fee not exceeding five hundred ringgit (RM500.00);
- (b) the consent is conditional upon the Purchaser and/or his Financier settling all sums including interest stipulated in this Agreement;
- (c) all expenses in relation to such resale transfer assignment or otherwise shall be borne by the Purchaser;
- (d) the assignment to the Financier to secure the Purchaser's Loan to settle the purchase price shall not be subject to any administrative fee; and
- (e) refinancing by the Purchaser of the Purchaser's Loan shall be subject to administrative fee.

6. **No variation to the property by Purchaser and restriction in entering the project land**

- (a) The Purchaser shall not cause or allow any works to the property before the Occupation Certificate has been issued and without the prior written approval of the Developer. Any works resulting in a deviation from the approved plans shall additionally require the approval of the Appropriate Authority.
- (b) The Purchaser shall not enter the project land without the prior written approval and supervision of the Developer in the interest of safety. The Purchaser enters the project land at his own risk.
- (c) The Purchaser shall not howsoever interfere with the construction and completion of the Project.

- (d) Where the Developer agrees to carry out alterations and additional works for the Purchaser the Developer shall annex hereto an inventory of permissible alterations and additional works and their respective rates or charges. The Purchaser shall pay for the agreed alterations and additional works within fourteen (14) days of notice of completion of the same and such sums shall be dealt with as if forming part of the purchase price.

7. Maintenance of services

The Developer shall provide services, such as refuse collection, cleaning of public drains and grass cutting on the road reserves and maintenance of side-walks grounds lights and sewage plants until the same are taken over by the Appropriate Authority.

8. Manner of delivery of vacant possession

- (a) After the issuance of the Occupation Certificate by the Appropriate Authority and provided the Purchaser has paid all moneys and performed and observed the terms and covenants on his part to be performed and observed under this Agreement, the Developer shall let the Purchaser take possession (and keys to) of the property.
- (b) Upon the expiry of fourteen (14) days from the date of a notice from the Developer requesting the Purchaser to take possession of the property (whether or not the Purchaser has actually entered into possession or occupation of the property) the Purchaser shall be deemed to have taken delivery of vacant possession whereupon all risk shall pass to the Purchaser.

9. Insurance

It is the responsibility of the Developer to insure the Project and the property at its costs until possession to the property is delivered to the Purchaser.

10. Lodgment of caveat

Any caveat by the Purchaser and/or the Financier over the project land shall be strictly limited to the interest of the Purchaser as evidenced by this Agreement and shall not in any way prevent or delay the issuance and registration of the block and/or individual subdivided titles. Pursuant to the foregoing, the Purchaser hereby acknowledges that in the event such caveat is lodged over the project land, the Purchaser hereby consents or is deemed to have consented to the following as if such consent was expressly stated in the caveat:

- (a) the registration of the surrender of title or any dealing for the purpose of conversion, amalgamation, exchange of title and/or subdivision of the project land or any building thereon in accordance with the approved development, subdivision and other plans;

- (b) all dealings under the Land Ordinance (*Cap. 68*) and/or the Land (Subsidiary Titles) Enactment 1972 necessary for the issuance of the block and/or subdivided titles;
- (c) the vesting of the project land or the block title derived therefrom to the management corporation (if any); and
- (d) dealings in the project land by the Developer which does not affect the Purchaser's interest.

SUBJECT STRICTLY to the Purchaser's interest in the Project Land as notified in the caveat AND PROVIDED that such caveat shall be carried forward to the subdivided title of the property.

11. **Service of documents**

- (a) Any notice, request or demand requiring to be served by either party hereto to the other under this Agreement shall be in writing and shall be deemed to be sufficiently served -
 - (i) if it is sent by the party or his solicitors by A.R. registered post, addressed to the other party's address hereinbefore mentioned or his last known address and in such a case it shall be deemed to have received within seven (7) days if the addressee is in the same district as the sender and within fourteen (14) days if the addressee is not in the same district as the sender; or
 - (ii) if it is given by the party or his solicitors by hand or courier to the other party or his solicitors.
- (b) Any change of address by either party shall be communicated in writing to the other.

12. **Stamp duty and registration fees**

The stamp duty and registration fees together with any additional stamp duties for this Agreement and the transfer of the property shall be borne and paid by the Purchaser. Each party shall bear its own solicitor's costs. The legal fees for registering the transfer shall be borne by the Purchaser.

13. **Binding agreement**

This Agreement shall be binding upon the successors in title and assigns of the Developer and the heirs, personal representatives successors in title and permitted assigns of the Purchaser.

14. Waiver

Knowledge or acquiescence by the Developer of or in any breach of any of the conditions or covenants herein contained shall not operate as or be deemed to be waiver of such conditions or covenants or any of them and notwithstanding such knowledge or acquiescence, the Developer shall be entitled to exercise its rights under this Agreement and to require strict performance by the Purchaser of the terms and conditions herein.

15. Indemnity by Purchaser

For reasons of safety among others the Purchaser shall not be entitled to enter upon the project land while the property is in the course of construction. If the Purchaser so enters, whether or not with the knowledge of the Developer, the Developer shall not be in any way liable to the Purchaser, his agents, contractors, invitees, licensees or otherwise for any loss or damage or injury or death caused or occasioned directly or indirectly from the construction and completion of the Project and the Purchaser shall fully indemnify the Developer for any actions or proceedings in respect of the same.

16. Phased Development

The Purchaser hereby acknowledges and consents that the Project may form a part or phase of a larger and/or adjacent development (hereinafter referred to as "the Phased Development" which term shall include any further development on the project land and/or adjacent lands approved or commenced at any time) whereby -

- (a) the Phased Development may involve amalgamation of the Project; and
- (b) the roads, drains and other utilities serving the Project may be shared with the Phased Development.

17. New laws affecting housing development

The Purchaser shall not be liable to indemnify the Developer in the event of an introduction of new laws or the amendment to existing laws which shall impose on the Developer additional fees, charges or taxes, the payment of which shall be necessary for continuing and completing the development of the Project or any part or parts thereof in accordance with the building plan and description therein referred to and the due observance and performance by the Developer of its obligations and liabilities hereunder.

18. Special terms

This Agreement shall be construed subject to the Special Terms referred to in the Fifth Schedule.

19. Principal and secondary instruments

This Agreement and the Memorandum of Transfer referred to in clause 1(*p*) hereof are instruments employed in the same transaction for the sale and transfer of the Parcel to the Purchaser and for the purpose of subsection 4(3) of the Stamp Act 1949, the Memorandum of Transfer shall be deemed the principal instrument.

20. Definitions

Wherever used in this Agreement unless the context shall otherwise require, the following expressions shall have the following meanings:

- (a) "Appropriate Authority" means the Controller of Housing, any Government, semi or quasi-government, department or statutory body or agency or any authority for the time being directly or indirectly involved or affected by property development;
- (b) "Controller" means the Controller of Housing appointed under the Housing Development (Control and Licensing) Enactment 1978;
- (c) "Developer" includes its successors in title and permitted assign;
- (d) "plans" means the development plan, layout plan or other related plans of the Project approved by the Appropriate Authority;
- (e) "Memorandum of Transfer" shall have the same meaning assigned to it under the Land Ordinance (*Cap. 68*);
- (f) "Occupation Certificate" means the Certificate of Fitness for Occupation issued by the Appropriate Authority excludes temporary Occupation Certificate;
- (g) "Project" means the project described in item 1 and constructed on the project land and which the property is located;
- (h) "Purchaser" includes his heirs personal representatives successors in title and permitted assigns and where there are two or more persons included in the expression "the Purchaser" their liabilities under this Agreement shall be joint and several. Where the Purchaser is a company, the provisions contained herein which are primarily and literally applicable to the case of natural persons shall be construed and take effect as if the Purchaser is a natural person, and shall bind all of its assigns and successors-in-title. Accordingly, any references herein relating to bankruptcy shall thereafter be references relating to winding-up, liquidation, amalgamation or reconstruction, as the case may be, of the Purchaser;
- (i) "vacant possession" means the property has been issued with Occupation Certificate by the Appropriate Authority; and
- (j) words importing the masculine gender shall be deemed and taken to include the feminine and neuter genders and the singular to include the plural and vice versa.

SECOND SCHEDULE
PAYMENT SCHEDULE

| | Percentage of purchase price to be paid |
|--|--|
| 1. Upon execution of this Agreement including booking fee, if any. | 10% |
| 2. On completion of foundation works of the property. | 10% |
| 3. On completion of reinforced concrete framework of the property. | 15% |
| 4. On completion of brick walls of the property with doors and window frames in position. | 15% |
| 5. On completion of roofing and internal plastering of the property. | 15% |
| 6. On completion of electrical wiring and plumbing (without fittings) of the property. | 10% |
| 7. On completion of the roads, drains and sewerage works serving the property. | 15% |
| 8. Upon the issuance of a certificate by the Developer's architect certifying that the construction of the property has been duly completed in accordance with the relevant legislations, by-laws and rules, and that all conditions imposed by the Appropriate Authority, in respect of the issuance of the Occupation Certificate has been duly complied with. | 2.5% |
| 9. Within twenty-one (21) working days after receipt by the Purchaser of the written confirmation of the Developer's submission to and acceptance by the Appropriate Authority of the application for subdivision of the project land together with the as-built survey plan. | 2.5% |
| 10. On the date the Purchaser takes vacant possession. | 5% |
| TOTAL | <u>100%</u> |

Conditions:

1. Every claim shall be supported by a certified true copy of a certificate by the Project's architect certifying the progress of works on the property.
2. Every claim shall be served in accordance with clause 11 and shall become due upon service.
3. The claim or claims need not be in the order described above.

THIRD SCHEDULE
SPECIFICATIONS

FOURTH SCHEDULE
PLANS

FIFTH SCHEDULE
SPECIAL TERMS (if any)

SCHEDULE H
HOUSING DEVELOPMENT (CONTROL AND LICENSING) ENACTMENT 1978
HOUSING DEVELOPMENT (CONTROL AND LICENSING) RULES 2008
(Subrule 12(1))

SALE AND PURCHASE AGREEMENT
(BUILDING INTENDED FOR SUBDIVISION)

- Date : _____
- Item : _____
1. Project : _____
2. Developer : _____
3. Purchaser : Name : _____
NRIC No. : _____
Address : _____
Income Tax No. : _____
4. Parcel : Lot No. : _____
Block : _____
Level : _____
Type : _____
Area : _____
Bumiputera Lot : _____
Provisional Share Units : (to be allocated after Occupation Certificate)
Car Park : "_____" per unit
(accessory parcel may be applied for)
5. Purchase Price : _____
6. Developer's Licence : _____
7. Advertisement and Sale Permit : _____
8. Project Account : "Name of Bank" (_____) "Address"
Account No. _____
9. Project Land : "CL/NI/PL Town Lease, Location"
Owner : _____
10. Bridging Financier : _____
11. Conversion Approval (Term of Title) : Letter of Offer dated _____ reference
Total Premium : RM _____
Paid : RM _____ on
Term : From _____ to _____

12. Project Land Surrendered :
13. Development Plan Approval : Ref. Dated
14. Developer's Solicitor :
 Architect :
 Mechanical and Electrical Engineer :
 Civil and Structure Engineer :
 Land Surveyor :
15. Payments by Purchaser:
- (a) Purchase price.
 - (b) Stamp duty for Agreement of forty ringgit (RM40.00).
 - (c) Legal fees and stamp duty for loan.
 - (d) Stamp duty and adjudication and registration fees for the transfer to be paid when title issued.
 - (e) Legal fees to present transfer only when title issued.
 - (f) Administrative fee of five hundred ringgit (RM500.00) upon re-sale or re-financing.
 - (g) Eight per centum (8%) interest on late payments, if any.
- Upon issuance of Occupation Certificate and before keys can be collected:-
- (h) Service fee of ringgit (RM.....) per month (three (3) months in advance);
 - (i) Service fee deposit of six (6) months;
 - (j) Utility deposit of ringgit (RM.....);
 - (k) Annual rent and assessments;
 - (l) Deposit, connection and meter fee for water and electricity to the Appropriate Authority (as specified by the Appropriate Authority);
 - (m) Sinking fund of ringgit (RM.....) per month (three (3) months in advance).
16. Completion time : Twenty-four (24) months (to Occupation Certificate) from the date of this Agreement.
17. Defects liability period : Eighteen (18) months from the date of Occupation Certificate.

18. Price adjustment : To be calculated based on the same price per square foot as was used to calculate the purchase price herein.
19. Special terms (if any) :
- First Schedule : General Terms
- Second Schedule : Payment Schedule
- Third Schedule : Specifications, Services and Facilities
- Fourth Schedule : Plans
- Fifth Schedule : Special Terms (if any)
- Sixth Schedule : Deed of Mutual Covenants

1. Agreement

In consideration of the payment of the purchase price the Developer and the owner (where applicable) hereby dispose to the Purchaser the Parcel forming part of a subdivided building in the Project duly constructed at the expense of the Developer free from encumbrances and with vacant possession subject to the terms of this Agreement.

2. Schedules

The Schedules are an essential part of this Agreement. Words are defined as above and in the Schedules.

IN WITNESS WHEREOF the parties have set their hands the day and the year first above written.

The Common Seal of the Developer
is hereunto affixed in the presence of:

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

Common Seal

* The Common Seal of the Landowner
is hereunto affixed in the presence of:

Common Seal

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

* Signed by the Owner
in the presence of:

* The Common Seal of the Purchaser
is hereunto affixed in the presence of:

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

* Signed by the Purchaser
in the presence of:

* *Delete whichever not applicable.*

FIRST SCHEDULE

GENERAL TERMS

1. The Developer covenants to be bound by all the provisions as stipulated in the Housing Development (Control and Licensing) Rules 2008 (hereinafter referred to as "the Housing Rules") in particular Rule 12 subject to the variations as permitted below. Further variations are permitted only by the Controller in writing. The headings are for ease of reference only.

(a) The Parcel sold is free from industrial or agricultural conditions and residential use permitted (in the case of apartments only)

The Parcel sold to the Purchaser is free from -

- (i) any agricultural or industrial condition expressed or implied; and
- (ii) any restriction against the construction of the Parcel.

(b) No subsequent charges over the Parcel without Purchaser's consent

Immediately after this Agreement has been signed the Developer shall not subject the Parcel sold to the Purchaser to any encumbrance without the prior approval of the Purchaser.

(c) The Parcel free from encumbrances upon delivery of Occupation Certificate

The Parcel shall be free from encumbrances immediately prior to the issuance of Occupation Certificate of the Parcel to the Purchaser.

(d) Purchase price

The purchase price is stated in item 5 above.

(e) Payment of the purchase price

The purchase price shall be paid in the instalments and manner stipulated in the Second Schedule.

(f) The layout plan and area of the Parcel

The layout plan particularly specifying the measurements, boundaries and area of the Parcel and the position of the Parcel in the Project is stipulated in item 4 and in the Fourth Schedule.

(g) Purchase price adjustment

- (i) No error or misstatement as to the description of the area of the Parcel shall annul this sale.

- (ii) Such error or misstatement as to the description of the area of the Parcel shall entitle the Purchaser to an adjustment of the purchase price.
- (iii) If the area of the Parcel described in the subsidiary title when issued is less than the area described in item 4 by more than three per centum (3%) there shall be an adjustment of the purchase price for the difference (if any) in excess of the said three per centum (3%) calculated at the rate stated in item 18.
- (iv) There is no price adjustment if the area described in the subsidiary title when issued exceeds the area described in item 4.

(h) Plans approved and cannot be changed

The plans for the Project and the Parcel has been duly approved by the Appropriate Authority and no alterations to the approved plans shall be made or carried out except as may be required by the Appropriate Authority.

(i) Good workmanlike manner in accordance with plans and specifications

The Parcel together with all the common property shall be constructed in a good workmanlike manner in accordance with the specifications and plans approved by the Appropriate Authority and agreed to by and between the Purchaser and the Developer. No changes thereto or deviation therefrom shall be made without the consent in writing of the Purchaser except as may be required by the Appropriate Authority. The Purchaser shall not be liable for the cost of such changes or deviations and in the event that the changes or deviations involve the substitution or use of cheaper materials or the omission of works originally agreed to be carried by the developer, the Purchaser shall be entitled to a corresponding reduction in the purchase price herein or to damages, as the case may be.

(j) Conformity with written laws

The Parcel and the Project shall conform with all written laws for the time being enforced affecting the Parcel and the Developer shall keep the Purchaser indemnified against all fines and penalties or losses incurred by reason of any breach of the provision of any written law.

(k) Roads, drains, water and sewerage mains at Developer's cost

- (i) The Developer shall at its own cost and expense construct or cause to be constructed the infrastructure including all common property, roads, driveways, drains culverts, water mains and sewerage serving the Project in accordance with the requirements and standards of the Appropriate Authority.

-
- (ii) The Developer shall bear the cost for the maintenance of such infrastructure until such date when the Purchaser takes vacant possession of the Parcel.

(l) Utility connection costs

- (i) The Developer shall at its own costs and expenses cause the connection of electricity, water and sewerage mains of the Appropriate Authority or the public authority with the internal electricity, water and sewerage mains of the Parcel.
- (ii) The Purchaser shall be liable for and shall pay within fourteen (14) days from date of Occupation Certificate and as a condition for the collection of the keys to the Parcel the deposits for the installation of the water, electricity and other utility meters and services.

(m) Developer to bear subdivision costs

The Developer shall at its own costs and expenses apply for and shall obtain the approval of the subdivision of the project land to block or other titles and for the subdivision of the Building necessary for the issuance of the subsidiary title for the Parcel.

(n) Developer to procure Occupation Certificate

The Developer shall do all acts and things necessary to procure the issuance of the Occupation Certificate from the Appropriate Authority in respect of the Parcel and shall at its own costs and expenses comply with all the requirements of the Appropriate Authority in the procurement of such Certificate and shall undertake to produce such Certificate to the Purchaser when issued.

(o) Completion twenty-four (24) months

The date of the delivery of vacant possession of the Parcel to the Purchaser together with the Occupation Certificate for the Building and with completed common property and infrastructure shall not be later than twenty-four (24) months after the date of the signing of this Agreement.

(p) Developer and Parcel owner to procure subdivided or subsidiary title

The Developer shall use its best endeavour and take all necessary steps to obtain a separate issue of the document of title for the Parcel for the Purchaser and shall upon the issue of the document of title and provided that the Purchaser has paid all monies due under this Agreement and has performed and observed the terms and conditions of this Agreement, forthwith execute a valid and fit for registration Memorandum of Transfer of the Parcel for the Purchaser, his heir or nominee or lawful assigns, as the case may be.

(q) Eighteen (18) months' defects liability period

- (i) Any defect, imperfection, shrinkage or other faults whatsoever in the Parcel or in the building or in the common property which shall become apparent within a period of eighteen (18) calendar months after the date the Purchaser takes vacant possession of the Parcel, shall be repaired and made good by the Developer at its own cost and expenses within thirty (30) days of its having received written notice thereof from the Purchaser. In the event of the Developer failing to do so, the Controller reserves the right to retain the deposit money until the said defects, imperfection or other faults in the Parcel or in the building or in the common property be repaired and made good by the Developer.
- (ii) For the purpose of this clause any defect, imperfection, shrinkage or other faults in the Parcel or in the building or in the common property shall mean any defect, imperfection, shrinkage or other faults which is due -
 - (aa) to defective workmanship or materials; or
 - (bb) to the Parcel or the building or the common property not having been constructed in accordance with the plans as approved or amended by the Appropriate Authority or in accordance with the specifications as described in this Agreement.
- (iii) In the event of any dispute arising as to whether any defect falls within the scope of this clause but without prejudice to the right of the Purchaser to seek legal redress the Developer's architect or engineers shall assist in determining the dispute.

(r) Eight per centum (8%) liquidated damages for delay

The Developer shall indemnify the Purchaser for any delay in the delivery of vacant possession of the Parcel. The amount of the indemnity shall be calculated from day to day at the rate of eight per centum (8%) per annum of the purchase price commencing immediately after the date of the delivery of Occupation Certificate ought to have been procured as specified in this Agreement up to the date such delivery is made.

(s) Payment of outgoings

All outgoings in respect of the Parcel including annual rent and assessments shall be paid by the Developer up to the date of issuance of the Occupation Certificate of the Parcel and thereafter the same is to be borne by the Purchaser.

(t) Penalties to be paid by the Purchaser

- (i) Unless otherwise stated the Purchaser shall settle all payments required in this Agreement within fourteen (14) days of service of notice to do so.

-
- (ii) The Developer is entitled to impose simple interest at the rate of eight per centum (8%) per annum on a day to day basis on all outstanding dues up to the date of settlement. However such interest shall not be charged if the delay in payment is caused by the delay of the Developer's bridging financier in issuing the standard redemption statement, undertaking and completing the redemption arrangements or Developer's solicitor in preparing this Agreement for execution.
- (iii) If the Purchaser commits any breach of the terms of this Agreement, commits an act of bankruptcy, enters into any composition or arrangement with his creditors or being a company howsoever enters into liquidation, then the Developer shall be entitled to terminate this Agreement and thereafter -
- (aa) the Developer shall be entitled to deal or dispose of the Parcel sold in such manner as the Developer shall see fit as if this Agreement had not been entered into;
- (bb) the part of the purchase price paid by the Purchaser to the Developer (excluding interest and other dues) shall be dealt with as follows:
- (1) firstly, all interest calculated in accordance with item (i)(ii) hereof owing and unpaid shall be paid to the Developer;
- (2) secondly, an amount to be forfeited by the Developer as follows:
- (I) where up to fifty per centum (50%) of the purchase price is due/paid, an amount equal to ten per centum (10%) of the purchase price;
- (II) where more than fifty per centum (50%) of the purchase price is due/paid, an amount equal to twenty per centum (20%) of the purchase price;
- (3) lastly, the residue thereof, if any, shall be refunded to the Purchaser;
- (cc) neither party shall have any further claim against the other; and
- (dd) each party hereto shall pay its own costs in the matter.
- (iv) If the Purchaser is in breach of the payment of any part of the purchase price for more than the said fourteen (14) days after becoming due the Developer may serve the Purchaser fourteen (14) days notice to treat this Agreement as have been repudiated and unless the default is rectified, this Agreement shall, at the expiration of the said notice, be deemed to be terminated.
- (v) The Purchaser must pay up all dues and interest before being entitled to the title deed to the Parcel or to consent for any assignment.

(u) Right of access

- (i) The Parcel and all other parcels in the Project are sold with the free rights and liberties for the Purchaser or their servants, agents, licensees and invitees to use the common property in common with all other parcel owners subject to the Deed of Mutual Covenants in the Sixth Schedule hereof.
- (ii) The Developer and the Purchaser undertake that all parcel owners shall enter into covenants similar to that prescribed in this Agreement and further undertake that subsequent transferees or assignees shall similarly be bound by such covenants notwithstanding the delivery of vacant possession.

(v) No increase in price

The Developer shall not charge extra amount to the Purchaser resultant on the increase of cost of materials.

2. Loans

- (a) Purchaser to notify if Loan applied for. Within fourteen (14) days of the receipt of the stamped copy of this Agreement the Purchaser shall notify the Developer as to whether he is applying for a loan to finance the purchase price (hereinafter referred to as "the Loan") and the name and branch of the financier (hereinafter referred to as "the Financier").
- (b) No interest for the first two (2) months. If the Loan is to pay installment(s) of the purchase price that is already or about to become due, the Purchaser is allowed two (2) months from the date of the execution of this Agreement to pay such installment(s). The Developer is entitled to charge interest on any overdue installment(s) for late payment only after the two (2) months. The installment(s) not financed by the Loan shall be paid within the fourteen (14) days of being due.
- (c) Obligation to pay the purchase price despite Loan. The application, approval, rejection, withdrawal, processing and administration of the Loan and any assistance rendered by the Developer towards the Loan shall not relieve the Purchaser of his paramount obligation to pay the purchase price when due. The application for and release of the Loan is the responsibility of the Purchaser.
- (d) Loan from Federal or State Government or statutory authority. The Purchaser shall within fourteen (14) days after the receipt of the stamped copy of this Agreement inform in writing to the Developer of his intention of obtaining the Loan from the Government of Malaysia, State Government or any statutory authority providing loan facilities. If the Purchaser fails to obtain such loan for any reason whatsoever, the Purchaser shall be liable to pay to the Developer the whole of the purchase price or the portion thereof then outstanding.

3. Purchaser's right to initiate and maintain action

The Purchaser shall be entitled on his own volition and name to institute and maintain any action in relation to any matter arising from this Agreement and against any

person before any court, tribunal or body. If this Agreement is assigned to a Financier then the Purchaser shall forthwith notify the Financier.

4. **Time essence of contract**

Time shall be the essence of the contract in relation to all provisions in this Agreement.

5. **Consent to assignment or subsale**

Provided the Purchaser is not in breach of the terms of this Agreement and until the title to the Parcel is registered in the name of the Purchaser, the Developer shall give his consent in writing to any assignment or other disposal of the Purchaser's interest in the Parcel. The consent is subject to the following terms:

- (a) the Developer is entitled to charge an administrative fee not exceeding five hundred ringgit (RM500.00);
- (b) the consent is conditional upon the Purchaser and/or his Financier settling all sums including but not limited to interest stipulated in this Agreement;
- (c) all expenses in relation to such resale transfer assignment or otherwise shall be borne by the Purchaser;
- (d) the assignment to the Financier to secure the Purchaser's Loan to settle the purchase price shall not be subject to any administrative fee; and
- (e) refinancing by the Purchaser of the Purchaser's Loan shall be subject to administrative fee.

6. **No variation to the Parcel by Purchaser and restriction in entering the project land**

- (a) The Purchaser shall not cause or allow any works to the Parcel without the prior written approval of the Developer. Any works resulting in a deviation from the approved plans shall additionally require the approval of the Appropriate Authority.
- (b) The Purchaser shall not enter the project land without the prior written approval and supervision of the Developer in the interest of safety. The Purchaser enters the project land at his own risk.
- (c) The Purchaser shall not howsoever interfere with the construction and completion of the Project.
- (d) Where the Developer agrees to carry out alterations and additional works for the Purchaser the Developer shall annex hereto an inventory of permissible alterations and additional works and their respective rates or charges. The Purchaser shall pay for the agreed alterations and additional works within fourteen (14) days of notice of completion of the same and such sums shall be dealt with as if forming part of the purchase price.

7. Maintenance of services

From the date the Purchaser takes vacant possession of the Parcel until such time when it is taken over by the Appropriate Authority or the management corporation as the case may be the Purchaser shall pay a fair and justifiable proportion of the costs incurred for the maintenance of the infrastructure and common property of the Project.

8. Manner of delivery of vacant possession

- (a) After the issuance of the Occupation Certificate by the Appropriate Authority and provided the Purchaser has paid all moneys and performed and observed the terms and covenants on his part to be performed and observed under this Agreement, the Developer shall let the Purchaser take possession (and keys to) of the Parcel.
- (b) Upon the expiry of fourteen (14) days from the date of a notice from the Developer requesting the Purchaser to take possession of the Parcel (whether or not the Purchaser has actually entered into possession or occupation of the Parcel) the Purchaser shall be deemed to have taken delivery of vacant possession whereupon all risk shall pass to the Purchaser.

9. Insurance

- (a) It is the responsibility of the Developer to insure the Project and the Parcel at its cost until possession to the Parcel is delivered to the Purchaser or the management corporation is formed. Such responsibility will be shared between the Developer and the purchasers of the Project after the Occupation Certificate is issued. The perils insured shall be not less than that prescribed by the Land (Subsidiary Title) Enactment 1972.
- (b) After issuance of the Occupation Certificate the Purchaser shall pay a fair and justifiable proportion of the insurance premium determined by the provisional share units, if known. If such share units is not known, then as determined by the Developer's licensed land surveyor. Such premium shall be paid within fourteen (14) days of the service of notice to the Purchaser to do so.

10. Lodgment of caveat

Any caveat by the Purchaser and/or the Financier over the project land shall be strictly limited to the interest of the Purchaser as evidenced by this Agreement and shall not in any way prevent or delay the issuance and registration of the block and/or individual subsidiary or subdivided titles. Pursuant to the foregoing, the Purchaser hereby acknowledges that in the event such caveat is lodged over the project land, the Purchaser hereby consents or is deemed to have consented to the following as if such consent was expressly stated in the caveat:

- (a) the registration of the surrender of title or any dealing for the purpose of conversion, amalgamation, exchange of title and/or subdivision of the project land or any building thereon in accordance with the approved development, subdivision and other plans;
- (b) all dealings under the Land Ordinance (*Cap. 68*) and/or the Land (Subsidiary Titles) Enactment 1972 necessary for the issuance of the block and or subsidiary or subdivided titles;
- (c) the vesting of the project land or the block title derived therefrom to the management corporation (if any); and
- (d) dealings in the project land by the Developer which does not affect the Purchaser's interest.

SUBJECT STRICTLY to the Purchaser's interest in the project land as notified in the caveat AND PROVIDED that such caveat shall be carried forward to the subsidiary/ subdivided title of the Parcel.

11. **Service of documents**

- (a) Any notice, request or demand requiring to be served by either party hereto to the other under this Agreement shall be in writing and shall be deemed to be sufficiently served -
 - (i) if it is sent by the party or his solicitors by A.R. registered post, addressed to the other party's address hereinbefore mentioned or his last known address and in such a case it shall be deemed to have been received within seven (7) days if the addressee is in the same district as the sender and within fourteen (14) days if the addressee is not in the same district as the sender; or
 - (ii) if it is given by the party or his solicitors by hand or courier to the other party or his solicitors.
- (b) Any change of address by either party shall be communicated in writing to the other.

12. **Stamp duty and registration fees**

The stamp duty and registration fees together with any additional stamp duties for this Agreement and the transfer of the Parcel shall be borne and paid by the Purchaser. Each party shall bear its own solicitor's costs. The legal fees for registering the transfer shall be borne by the Purchaser.

13. **Binding agreement**

This Agreement shall be binding upon the successors in title and assigns of the Developer and the heirs, personal representatives successors in title and permitted assigns of the Purchaser.

14. Waiver

Knowledge or acquiescence by the Developer of or in any breach of any of the conditions or covenants herein contained shall not operate as or be deemed to be waiver of such conditions or covenants or any of them and notwithstanding such knowledge or acquiescence, the Developer shall be entitled to exercise its rights under this Agreement and to require strict performance by the Purchaser of the terms and conditions herein.

15. Indemnity by Purchaser

For reasons of safety among others the Purchaser shall not be entitled to enter upon the project land while the Parcel is in the course of construction. If the Purchaser so enters, whether or not with the knowledge of the Developer, the Developer shall not be in any way liable to the Purchaser, his agents, contractors, invitees, licensees or otherwise for any loss or damage or injury or death caused or occasioned directly or indirectly from the construction and completion of the Project and the Purchaser shall fully indemnify the Developer for any actions or proceedings in respect of the same.

16. Phased Development

The Purchaser hereby acknowledges and consents that the Project may form a part or phase of a larger and/or adjacent development (hereinafter referred to as "the Phased Development" which term shall include any further development on the project land and/or adjacent lands approved or commenced at any time) whereby -

- (a) the Phased Development may involve amalgamation of the Project; and
- (b) the roads, drains and other utilities serving the Project may be shared with the Phased Development.

17. Common facilities and services

- (a) The Developer shall, at its own cost and expense, construct or cause to be constructed the common facilities serving the Project and provide services and facilities specified in the Third Schedule.
- (b) The Developer shall bear all costs and expenses for the maintenance and management of the said services and facilities until such date when the Purchaser takes possession of the Parcel in the manner provided under clause 8.

18. Payment of Service Fee

- (a) The Purchaser shall be liable for and shall pay the Service Fee (as defined in the Sixth Schedule hereof) for the maintenance and management of the common property and for the services provided by the Developer in this Agreement prior to the establishment of a management corporation under the Land (Subsidiary Title) Enactment 1972.

-
- (b) From the date the Purchaser takes vacant possession of the Parcel, the Purchaser shall pay a fair and justifiable proportion of the costs and expenses for the maintenance and management of the common property and for the services provided. Such amount payable shall be determined according to the provisional share units assigned to the Parcel by the Developer's licensed land surveyors. The amount determined shall be the amount sufficient for the actual maintenance and management of the common property. The Purchaser shall pay six (6) month's deposit and three (3) months in advance in respect of the Service Fee and any payment thereafter shall be payable quarterly in advance.
- (c) Every written notice to the Purchaser requesting for the payment of Service Fee from the Developer shall be supported by a Service Fee statement of account issued by the Developer.
- (d) The Service Fee payable shall be paid within fourteen (14) days of the receipt by the Purchaser of the Developer's written notice requesting the same. If the Service Fee shall remain unpaid by the Purchaser at the expiration of the said period of fourteen (14) days, interest on the Service Fee shall commence immediately thereafter and be payable by the Purchaser, such interest to be calculated from day to day at the rate of eight per centum (8%) per annum.
- (e) The Developer may appoint a duly qualified person or agent to provide the services referred to in sub-clause (a) hereof and the Developer shall forthwith give written notice of such appointment to the Purchaser and all payments for the Service Fee to be paid by the Purchaser to such person or agent shall be deemed to be payment of the same to the Developer.
- (f) The Developer shall (in the event a person or agent is appointed by the Developer to provide the said services pursuant to sub-clause (e) hereof, the Developer shall cause such person or agent so to do) provide the Purchaser, with a copy of the annual audited accounts for the expenses incurred for the provision of the said services.
- (g) The Service Fee and all other moneys (including sinking fund and interest) shall be held by the Developer on trust for the parcel owners of the Project and for the avoidance of doubt the Developer shall have a duty to account the same to the purchasers.
- (h) The Service Fee shall be payable by the Purchaser regardless of whether the Purchaser is in occupation of the Parcel. All parcels in the Building shall be liable for service charges regardless of their status of ownership and occupation.
- (i) The quantum of the service charges inclusive of the share of any insurance premium and annual rent shall be determined and certified by a registered land surveyor or valuer valid as at the date of the commencement of construction of the Building and such certificate shall be produced to the Purchaser by the Developer upon request. Likewise any variation to the Service Fee shall be certified by a registered valuer or licensed land surveyor or any other body approved by the Controller.

19. Sinking fund

- (a) The Developer shall, upon the date the Purchaser takes vacant possession of the Parcel, open and maintain a separate sinking fund for the purposes of meeting the actual or expected liabilities in respect of the following matters:
 - (i) the painting or repainting of any part of the common property;
 - (ii) the acquisition of any movable property for use in relation with the common property;
 - (iii) the renewal or replacement of any fixture or fitting comprised in the common property; and
 - (iv) general repairs and upgrading works to the common property.
- (b) The Purchaser shall, upon the date he takes vacant possession of the Parcel contribute to the sinking fund in a fixed amount as specified in item 15(m) and thereafter such contribution shall be payable quarterly in advance. Any variation to the sinking fund shall be certified by a registered valuer/surveyor or any other body approved by the Controller.
- (c) Prior to the establishment of a management corporation under the Land (Subsidiary Title) Enactment 1972, all funds accumulated in the sinking fund shall be held by the Developer in trust for the Purchaser and the purchasers of the other parcels in the Project.
- (d) The Developer shall (and in the event a person or agent is appointed by the Developer to provide the services in subclause (a), the Developer shall cause such person or agent so to do) provide the Purchaser with a copy of the annual audited accounts for the expenses incurred for the provision of the said services.
- (e) The amount of sinking fund paid by or in the account of the Purchaser shall run with the Parcel.

20. New laws affecting the Project

The Purchaser shall not be liable to indemnify the Developer in the event of an introduction of new laws or the amendment of existing laws which shall impose on the Developer additional fees, charges or taxes, the payment of which shall be necessary for continuing and completing the development of the Project or any part or parts thereof in accordance with the building plan and description therein referred to and the due observance and performance by the Developer of its obligations and liabilities hereunder.

21. Management office

The Developer shall provide a management office with a minimum floor area of five hundred (500) square feet and proportionately to the development and an official

mail box (within the common property or to be owned by the management corporation and the location of the same shall be notified to the Purchaser at the same time as the delivery of the keys to the Parcel).

22. Special terms

This Agreement shall be construed subject to the Special Terms referred to in the Fifth Schedule.

23. Principal and secondary instruments

This Agreement and the Memorandum of Transfer referred to in clause 1(p) hereof are instruments employed in the same transaction for the sale and transfer of the Parcel to the Purchaser and for the purpose of subsection 4(3) of the Stamp Act 1949, the Memorandum of Transfer shall be deemed the principal instrument.

24. Definitions

Wherever used in this Agreement unless the context shall otherwise require, the following expressions shall have the following meanings:

- (a) “accessory parcel” means any parcel shown in the site plan and storey plan and accessory parcel plan as an accessory parcel which is used or intended to be used in conjunction with the Parcel, if any;
- (b) “Appropriate Authority” means any governmental authority including the planning authorities, Controller of Housing and any corporation or private agency licensed or delegated by the Appropriate Authority to undertake any of its duties or functions to provide electricity, telephone, sewerage services and other related services;
- (c) “Building” means the building forming part of the Project in which the Parcel is located and constitutes a part thereof;
- (d) “common property” means so much of the land as is not comprised in any parcel (including any accessory parcel), or any provisional block and the fixtures and fittings including lifts, refuse chutes, drains, sewers, pipes, wires, cables and ducts and all other facilities and installations used or capable of being used or enjoyed in common by all the purchasers, if any, and if approved in the Development Plan or other building plans by the Appropriate Authority;
- (e) “Controller” means the Controller of Housing appointed under the Housing Development (Control and Licensing) Enactment 1978;
- (f) “Developer” includes its successors in title and permitted assign;
- (g) “plans” means the development plan, layout plan or other related plans of the Project approved by the Appropriate Authority;

- (h) "Management Corporation" means the management corporation as defined under the Land (Subsidiary Title) Enactment 1972;
- (i) "Memorandum of Transfer" shall have the same meaning assigned to it under the Land Ordinance (*Cap. 68*);
- (j) "Occupation Certificate" means the Certificate of Fitness for Occupation issued by the Appropriate Authority excludes temporary Occupation Certificate;
- (k) "Parcel" means one of the individual units comprised in the subdivided building which is to be held under separate subsidiary title;
- (l) "Project" means the project described in item 1 and constructed on the project land and which the Parcel is located;
- (m) "Purchaser" includes his heirs, personal representatives, successors in title and permitted assigns and where there are two or more persons included in the expression "the Purchaser" their liabilities under this Agreement shall be joint and several. Where the Purchaser is a company, the provisions contained herein which are primarily and literally applicable to the case of natural persons shall be construed and take effect as if the Purchaser is a natural person, and shall bind all of its assigns and successors-in-title. Accordingly, any references herein relating to bankruptcy shall thereafter be references relating to winding-up, liquidation, amalgamation or reconstruction, as the case may be, of the Purchaser;
- (n) "vacant possession" means the Parcel has been issued with Occupation Certificate by the Appropriate Authority; and
- (o) words importing the masculine gender shall be deemed and taken to include the feminine and neuter genders and the singular to include the plural and vice versa.

SECOND SCHEDULE
PAYMENT SCHEDULE

| | Percentage of Purchase Price to be paid |
|--|--|
| 1. Execution of this Agreement including booking fee, if any. | 10% |
| 2. (a) The work below ground level including piling and foundation of the Building comprising the said Parcel. | 10% |
| (b) The reinforced concrete framework and floor slab of the Parcel. | 15% |
| (c) The walls of the Parcel with door and window frames placed in position. | 15% |
| (d) The roofing/ceiling, electrical wiring, plumbing (without fittings), gas piping (if any) and internal telephone trunking and cabling to the Parcel. | 10% |
| (e) The internal and external plastering of the Parcel. | 10% |
| (f) The sewerage works serving the Building. | 5% |
| (g) The drains serving the Building. | 5% |
| (h) The roads serving the Building. | 5% |
| 3. On issuance of the Certificate of Practical Completion. | 7.5% |
| 4. Upon issuance of the Occupation Certificate, seven point five per centum (7.5%) of the purchase price shall be paid, out of which, | |
| (a) to be released to the Developer; and | 5% |
| (b) to be released from the Project Account to the Developer upon written certification from the registered surveyor that the index and storey plans under the Land (Subsidiary Title) Enactment 1972 has been submitted to and accepted by the Appropriate Authority. | 2.5% |
| TOTAL. | <u>100%</u> |

Conditions:

1. Every claim shall be supported by a certified true copy of a certificate by the Project's Architect certifying the progress of works on the Parcel.
2. Every claim shall be served in accordance with clause 11 and shall become due upon service and shall be paid within fourteen (14) days of the service of the notice.
3. The claim or claims need not be in the order described above.

THIRD SCHEDULE
SPECIFICATIONS, SERVICES AND FACILITIES

FOURTH SCHEDULE
PLANS

FIFTH SCHEDULE
SPECIAL TERMS
[if any]

SIXTH SCHEDULE

DEED OF MUTUAL COVENANTS

NOW IT IS HEREBY MUTUALLY AGREED in addition to the terms and covenants in this Agreement as follows:

1. Covenants

- (a) The Purchaser and the Developer, for their mutual benefit, enter into the following covenants for the use and enjoyment of the Parcel, the common property and the Building in common with the other purchasers (hereinafter collectively called "the Other Purchasers" which term shall include any person deriving title under them or occupying the Building on their authority or licence) of parcels in the Building.
- (b) The provisions of this Deed are in addition of the terms and covenants in this Agreement and shall be in force until amended or superseded by the Management Corporation. Upon the issuance of subsidiary titles for the Building the term "Developer" herein shall be construed as "management company".
- (c) The parties are further bound by any other rules, by-laws or regulations imposed by the Appropriate Authority from time to time.
- (d) This Deed is given for mutual consideration with the purpose of regulating the day to day use and enjoyment of the Parcel, the common property, the facilities and the management and administration of the Building in common with the Other Purchasers.
- (e) This Deed shall bind the parties' personal representatives, successors-in-title, their permitted assigns, servants, tenants, agents, licensees and invitees.
- (f) Words and phrases used shall have the same meaning as defined in this Agreement unless provided. The meanings of the following are as follows:

| | |
|----------------|--|
| "Deposits" | means the deposits for Service Fee and Utilities; |
| "Service Fee" | means the fee which shall be paid by the Purchaser to a fund controlled by the Developer which is sufficient for controlling, managing and administering the common property, building maintenance and improvement and other sums required to be paid by the Developer as the manager; |
| "Sinking Fund" | means the fee to be utilised solely for the purposes of replacing and upkeeping any capital items in the Building for the common property; and |
| "Utilities" | means any utility which the Purchaser is entitled to obtain connection to such as water, electricity, telephone, gas, sewerage if any. |

2. Covenants on right and liberties of the Other Purchasers

- (a) The parties mutually covenant that the Purchaser and the Other Purchasers shall have free right and liberty in common to use the common property and, in a proper manner the drains pipes cables wires laid or constructed by the Developer. This right shall automatically cease once the Parcel is assigned, transferred or rented out whereupon such right shall be transferred to the transferee or occupier.
- (b) The Purchaser shall be responsible to procure his tenant, invitee or licensee to adhere to the provisions of this Deed and the Developer may elect to enforce the terms herein against either the Purchaser or the occupier concerned or to both.
- (c) In resolving any doubt as to whether any part of the Building or any item forms part of the common property, such part or item solely serving the Purchaser is excluded from the common property.

3. Service Fee and Deposits

From the date the Purchaser is entitled to possession of the Parcel the Purchaser shall duly and punctually pay to the Developer Service Fee and the Deposits and as a condition for the delivery of the keys to the Parcel. The Service Fee and the Deposits shall be proportionately increased in the event the charges for the water and other utilities are increased or raised and shall be held by the Developer free of interest and shall at all times be maintained at the required amount and shall run with the Parcel.

4. Covenants of the Purchaser

The Purchaser shall -

- (a) use the Parcel solely as a dwelling and shall not permit or allow anyone to use the same or any portion thereof for any other purpose;
- (b) permit the Developer and its agent(s) at all reasonable times and on reasonable notice being given (except in case of emergency when no notice is required) to enter the Parcel for the purpose of -
 - (i) inspecting the Parcel;
 - (ii) maintaining, repairing or renewing roofs, sewers, pipes, wires, cables, chutes and ducts used or capable of being used in connection with the enjoyment of any other parcels or common property;
 - (iii) maintaining, repairing or renewing the common property; or
 - (iv) executing any work or doing any act reasonably necessary for or in connection with the performance of its duties or enforcement of the provisions of this Agreement, laws or other by-laws affecting the Building;
- (c) forthwith carry out all work ordered in respect of the Parcel by the Appropriate Authority or such work for the benefit of the Building and the common property;

-
- (d) pay all annual rent, assessment charges and other outgoings which are payable in respect of the Parcel which have not been included in the Service Fee;
 - (e) repair and maintain the Parcel and all fixtures and keep it in a state of good repair and condition;
 - (f) not to use the common property in such manner as to interfere unreasonably with the use and enjoyment thereof by the Other Purchasers or their licensee(s), lessee(s) and agents;
 - (g) not to use the Parcel for any purpose which may be injurious to the reputation of the Building;
 - (h) not to bring into the parcel any substance which may affect the enforceability of the insurance policy for the Building or result in an increase of the premium or may endanger the Other Purchasers or otherwise cause a nuisance;
 - (i) not to throw or allow to fall any rubbish or thing of any description on the common property or any part thereof except in the refuse bins or in the refuse chutes provided in the Building, if any;
 - (j) not to keep any pets or other animal on the Parcel or the Building;
 - (k) not to make any alterations or decorations whatsoever to the exterior of the Parcel or change the colour thereof;
 - (l) not to install any electrical sockets plugs electricity power points electrical appliances or air-conditioning units or user with a high electricity consumption without the previous written consent of the Developer such consent not to be unreasonably withheld if the Purchaser shall at his own cost and expense obtain a certificate from the Developer's engineer certifying that such installation or user will not overload or cause damage to the power supply or to any of the existing electrical installations in the Building;
 - (m) not to make any alterations or additions to or affecting the structure or exterior of the Parcel or the appearance of the Parcel as seen from the exterior;
 - (n) not to install or erect any exterior lighting shade canopy or awning or other structure in front of or elsewhere outside the Parcel;
 - (o) not to use the Parcel or permit it to be used for any immoral, improper, offensive or unlawful purpose or otherwise in such manner or for such purpose as to cause nuisance or danger to the Other Purchasers or their licensee(s), lessee(s) and agent(s);
 - (p) not to store or place any thing on the common property or any other part of the Building;
 - (q) notify the Developer forthwith of any change in the ownership or occupation of the Parcel or of any other dealing with the Parcel of which he is aware;

- (r) comply with all rules and regulations set out by the Developer in connection with the occupation and use of the Parcel, common property or the Building generally;
- (s) after the defects liability period, unless already included as part of the Service Fee paid, pay the Developer on demand a fair and proper proportion (to be conclusively determined by the Developer) of the expense of cleaning, lighting, repairing, renewing, decorating, maintaining and rebuilding -
 - (i) any party walls, fences gutter drains roadways pavements entrance ways stairs and passage access ways and services areas which are or may be used or enjoyed by an occupier(s) of the Parcel or the Building in common with other person(s); and
 - (ii) the structural parts load bearing framework roof foundations joists and external walls of the Building not exclusively the Parcel;
- (t) promptly repair at the Purchaser's cost any liquid, water or sewerage leaks from the Parcel to the parcels below and it is assumed that any such leaks are from the pipes, floor or otherwise belonging to the Purchaser and not from the common property. Failure to repair or remedy will entitle the Developer to do so at the expense and account of the Purchaser;
- (u) give the Developer copies of any notices issued to the Parcel/Purchaser by the Appropriate Authority and to comply with the provisions of such notice;
- (v) use the car-park allotted and not to misuse guests car-parks or any driveway or access around the Building or to cause any obstruction. The Developer shall have the right to remove any vehicle parked in contravention of this covenant. Such removal shall be at the expense of the Purchaser;
- (w) notify the Developer in writing of his intention of moving into or moving out from the Parcel and shall abide by any directions given by the Developer in respect of such moving in or moving out;
- (x) generally to use the Parcel and the common property in all respects in accordance with the law of Malaysia; and
- (y) that any proposed alteration deviation improvement and addition in respect of the Parcel or structural work or works affecting the fixtures and structure of and to the Parcel shall be carried out only upon prior written consent from the Developer or Management Corporation and at the expense of the Purchaser who shall at his own cost and expense apply to the Appropriate Authority for the necessary permission for such alteration, deviation and addition provided always that the Purchaser shall in no event be entitled to erect any gate, awning, fencing, scaffolding, railing or any other similar structures in or about the common property and the Building.

5. Developer's covenants and entitlement

Pending the formation of the management corporation, the Developer shall control manage and administer, or appoint any third party to control, manage and administer, the common property for the benefit of all the Other Purchasers and the Purchaser. The Developer or such other third party shall -

- (a) except on the authority of an unanimous resolution, not grant any parcel owner the exclusive use and enjoyment of the common property or any part thereof unless such grant -
 - (i) shall be of a temporary nature;
 - (ii) shall not result in any radical alteration thereto the effect whereof shall change the character of the common property or any part thereof; and
 - (iii) shall not be detrimental to the general interest and enjoyment of the Other Purchasers;
- (b) maintain in a state of good and serviceable repair the fixtures and fittings (including lifts, if any) existing in the Building and used or capable of being used in connection with the enjoyment of more than one parcel or the common property;
- (c) keep clean and tidy the common property and where practicable, shall establish and maintain suitable lawns and gardens on the common property;
- (d) maintain, repair and (where necessary) renew roofs, sewers, pipes, wires, cables chutes, ducts and other amenities existing on the Parcel and used or capable of being used in connection with the enjoyment of more than one parcel or the common property;
- (e) on the written request of the Purchaser or their financiers, produce to the Purchaser or their financiers, as the case may be, (or to a person authorised in writing by the Purchaser) all policies of insurance effected by the Developer on the Building together with the receipts for the last premium paid in respect of the policies;
- (f) be permitted on notice being given to the Purchaser and the Other Purchasers to do repairs, maintenance or otherwise all other works on the Building and the Purchaser shall not object to any reasonable interference resulting from any noise or nuisance emanating from such works;
- (g) be entitled to expand the Project into subsequent phases which utilise the existing common property and facilities and which may incorporate new common property and facilities;
- (h) insure the Building to its replacement value in the event of damage by fire; and
- (i) on the written request of the Purchaser, the Developer shall produce to the Purchaser quarterly statement of account and yearly Audited Account pertaining to the Management Account.

In addition to the above, the Developer may make an agreement with the Purchaser or any Other Purchasers for the provision of amenities or services by the Developer to or in respect of the his parcel.

6. Upkeep and maintenance of Parcel

- (a) The Purchaser shall give notice to the Developer and the Other Purchasers and other occupiers of the Building of his intention to repair or replace any joints or beams on which the floors of the Parcel are laid and shall make good any damage to the ceiling, walls and floors of the other parcels affected thereby.
- (b) The Developer shall repair and maintain at the joint expense of all the other occupiers of the Building the party structures which shall include the entrances, walls, floors and ceiling separating one parcel from the other.

7. Further covenants

The Purchaser shall duly observe and comply with any rules made from time to time by the Developer pertaining to the Parcel, the Building and the said land (hereinafter referred to as "the House Rules"). Notice of the House Rules shall from time to time be given to the Purchaser in writing or left for the Purchaser at the Parcel. In the event of any conflict between the House Rules and any provisions of this Deed, the provisions of this Deed shall prevail.

8. Waiver and indulgence

Knowledge or acquiescence or any indulgence by the Developer of any breach of any of the conditions or covenants herein contained shall not operate as or be deemed to be a waiver of any right of the Developer. The Developer or the Other Purchasers on its behalf shall be entitled to exercise its rights under this Deed and to require strict performance by the Purchaser of the terms and conditions therein. If any of the provision of this Agreement becomes invalid, illegal or unenforceable in any respect under the law, the validity, legality and enforceability of the remaining provisions shall not in any way affected or impaired.

9. Additional easements

The following easements are hereby created in addition to any easement created under the Land Ordinance (*Cap. 68*) and the Land (Subsidiary Title) Enactment 1972:

(a) Support

Each parcel shall have an easement of support and necessity in favour of all other parcels in the Building and the common property.

(b) Utility services drainage

Easements are reserved under, through and over the Building as may be required for utility services and drainage in order to serve the Building. PROVIDED, however that such easement running through the Parcel shall be in accordance with the plans and specifications approved by the Appropriate Authority.

(c) Encroachments

If any portion of the common property encroaches upon the Parcel or if any encroachment shall hereinafter occur as a result of -

- (i) construction of any improvements approved or required by any governmental authority;
- (ii) any alterations or repair to the common property made by or with the consent of the Purchaser; and/or
- (iii) any repair or restoration of any parcel damaged by fire or otherwise;

then in any such event a valid easement shall exist for such encroachment and for the maintenance of the same so long as the construction repair and restoration works shall be carried out.

(d) Ingress and egress

An easement in favour of each purchaser and resident of the parcels, their guests and invitees shall exist for pedestrian traffic over, through and across sidewalks, paths, walks and other portion of the common property as may from time to time be intended and designated for such purposes and use.

10. Right to impose interest and disconnect utilities

If the Purchaser shall fail to pay any part of the Service Fee or charges for the Utilities and such failure to pay continue for a period of one (1) month, the Developer shall be entitled to exercise at any time any of the following rights:

- (a) to charge interest on overdue sums at the rate of eight per centum (8%) per annum compoundable with monthly rates or at such other rates as may from time to time be notified by the Management Corporation to the Purchaser;
- (b) after giving the Purchaser fourteen (14) days prior written notice and at the Purchaser's expense or account to disconnect or withhold the supply of the Utilities to the Parcel,

until such time as all overdue sums (including interest thereon) are settled in full by the Purchaser provided that the Developer or the management corporation shall be under no liability whatsoever to the Purchaser for any consequential losses.

11. Indemnity against public liability claims

The Purchaser shall at all times indemnify and keep indemnified the Developer or the management corporation against all actions proceedings claims costs charges expenses and demands in respect of any injury to the person or property of the family guests servants visitors invitees or licensees of the Purchaser while in or upon the Parcel, or for any such loss resulting from any breach on the part of the Purchaser of the covenants in this Deed.

12. Facilities

The Purchaser shall pay to the Developer fees for the use of certain facilities such as car-parks, swimming pool or other facilities at the rate to be determined from time to time. Where the Purchaser has by a tenancy, licence or otherwise allow a third party to occupy the Parcel then the right to use the facilities is vested only on the occupier to the exclusion of the Purchaser. However, the Purchaser shall be liable for all charges incurred by his tenant, licensee or otherwise or for any other sum including damages.

